



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

**Industrial Hygiene Review
and
Finding of Noncompliance
And Regulatory Misconduct
of an
Identified Illegal Drug Laboratory**

**24018 Deer Valley Road
Golden, Colorado**

Prepared by:

FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

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EXECUTIVE SUMMARY

Forensic Applications Consulting Technologies, Inc. (FACTs) was asked by an individual identifying himself as Jonathan Calley, to review two document packages prepared by Century Environmental Hygiene, LLC. Mr. Calley identified himself as the occupant of 24018 Deer Valley Road, Golden, CO, for which the documents pertained, and Mr. Calley provided FACTs with two documents for review for regulatory compliance and completeness. Specifically, Mr. Calley asked FACTs to review the following:

Final Report For Methamphetamine Testing and Remediation, 24018 Deer Valley Road, Golden, CO August 10, 2009 Project 1978.09 (Century Environmental Hygiene LLC, Prepared by James Dennison)

Preliminary Assessment For Methamphetamine, 24018 Deer Valley Road, Golden, CO January 16, 2009, Project 1978.09 (Century Environmental Hygiene LLC, Prepared by James Dennison)

Both of the documents mentioned above are already in the Public Domain and are documents of public record on file and available for public viewing with the Jefferson County Department of Health. There is no confidentiality associated with the reviewed documents or this review of those public records.

Upon reviewing the documents, FACTs finds the following:

General Findings

- Century Environmental Hygiene ignored and/or violated the provisions of Colorado Regulations 6 CCR 1014-3. Specifically, Century Environmental Hygiene violated and/or ignored the following sections:
 - 6 CCR 1014-3 Paragraph 4.2
 - 6 CCR 1014-3 Paragraph 4.3
 - 6 CCR 1014-3 Paragraph 4.4
 - 6 CCR 1014-3 Paragraph 4.5
 - 6 CCR 1014-3 Paragraph 4.6
 - 6 CCR 1014-3 Paragraph 4.7
 - 6 CCR 1014-3 Paragraph 4.9
 - 6 CCR 1014-3 Paragraph 4.10
 - 6 CCR 1014-3 Paragraph 4.11
 - 6 CCR 1014-3 Paragraph 6.0
 - 6 CCR 1014-3 Section 6.0.1
 - 6 CCR 1014-3 Section 6.0.3
 - 6 CCR 1014-3 Section 6.1
 - 6 CCR 1014-3 Section 6.1.1
 - 6 CCR 1014-3 Appendix A



- 6 CCR 1014-3 Mandatory Attachment to Appendix A
 - 6 CCR 1014-3 Paragraph 8.2
 - 6 CCR 1014-3 Paragraph 8.3
 - 6 CCR 1014-3 Paragraph 8.4
 - 6 CCR 1014-3 Paragraph 8.5
 - 6 CCR 1014-3 Paragraph 8.6
 - 6 CCR 1014-3 Paragraph 8.7
 - 6 CCR 1014-3 Paragraph 8.8
 - 6 CCR 1014-3 Paragraph 8.11
 - 6 CCR 1014-3 Paragraph 8.12
 - 6 CCR 1014-3 Paragraph 8.13
 - 6 CCR 1014-3 Paragraph 8.19
 - 6 CCR 1014-3 Paragraph 8.20
 - 6 CCR 1014-3 Paragraph 8.21
 - 6 CCR 1014-3 Paragraph 8.22
 - 6 CCR 1014-3 Paragraph 8.23
- The final verification sampling was not performed pursuant to State regulations and failed to show that the structure was properly decontaminated. In fact, the sampling that was performed, indicated that the structure was still noncompliant, but was falsely declared as compliant by Century Environmental Hygiene.
 - As of the date of this discussion, the residential structure located at 24018 Deer Valley Road, Golden, Colorado remains a noncompliant illegal drug laboratory that has not met the State of Colorado clean-up standards.
 - As of the date of this discussion, the residential structure located at 24018 Deer Valley Road, Golden, Colorado is a public health nuisance as defined by CRS §25-18.5-105 and pursuant to CRS §16-13-303 is a Class 1 public health nuisance.

Preliminary Assessment

- The work products (assessments) prepared by Century Environmental Hygiene (CEH) exhibited gross and profound lack of technical competency in the assessment of illegal drug labs and the relation of those assessments in the context of regulatory requirements.
- CEH has made abjectly false statements in its reports.
- The document identified as a “Preliminary Assessment” was not prepared in a manner consistent with applicable State Regulations.



- The work identified as a “Preliminary Assessment” failed to meet the minimum mandatory elements of a Preliminary Assessment and failed to comply with the following mandatory elements of a State mandated Preliminary Assessment:
 - 6 CCR 1014-3 Paragraph 4.2
 - 6 CCR 1014-3 Paragraph 4.3
 - 6 CCR 1014-3 Paragraph 4.4
 - 6 CCR 1014-3 Paragraph 4.5
 - 6 CCR 1014-3 Paragraph 4.6
 - 6 CCR 1014-3 Paragraph 4.7
 - 6 CCR 1014-3 Paragraph 4.9
 - 6 CCR 1014-3 Paragraph 4.10
 - 6 CCR 1014-3 Paragraph 4.11
 - 6 CCR 1014-3 Paragraph 6.0.1
 - 6 CCR 1014-3 Appendix A
 - 6 CCR 1014-3 Attachment to Appendix A (Mandatory)

- The document identified as a “Preliminary Assessment” was fatally flawed and is invalid.

- The document identified as a “Preliminary Assessment” was prepared by an individual who has an extended track record of performing fatally flawed assessments, and has, to our knowledge, never completed a Preliminary Assessment that is valid.

- The document identified as a “Preliminary Assessment” was not prepared by an organization demonstrated as being authorized to perform the work.

- The document identified as a “Preliminary Assessment” was not prepared by personnel demonstrated as being authorized or trained to perform the work.

Final Report for Methamphetamine Testing

- The work identified as a “Final Report for Methamphetamine Testing and Remediation” fails to meet minimum mandatory elements of final clearance sampling. Specifically, the following sections of the State regulations were either violated or ignored:
 - 6 CCR 1014-3 Section 6.0
 - 6 CCR 1014-3 Paragraph 8.2
 - 6 CCR 1014-3 Paragraph 8.3
 - 6 CCR 1014-3 Paragraph 8.4
 - 6 CCR 1014-3 Paragraph 8.5
 - 6 CCR 1014-3 Paragraph 8.6
 - 6 CCR 1014-3 Paragraph 8.7
 - 6 CCR 1014-3 Paragraph 8.8



- 6 CCR 1014-3 Paragraph 8.11
 - 6 CCR 1014-3 Paragraph 8.12
 - 6 CCR 1014-3 Paragraph 8.13
 - 6 CCR 1014-3 Paragraph 8.20
 - 6 CCR 1014-3 Paragraph 8.21
 - 6 CCR 1014-3 Paragraph 8.22
 - 6 CCR 1014-3 Paragraph 8.23
- Contrary to the statements made by CEH, the clearance sampling performed by CEH fails to demonstrate that the concentrations of methamphetamine in the property were below that permitted by State regulation and State statutes.
 - Contrary to the statements made by CEH, the clearance sampling performed by CEH demonstrated that the concentrations of methamphetamine in the HVAC system in the home were approximately twice the allowable legal limit.
 - The work identified as a “Final Report for Methamphetamine Testing and Remediation” is invalid, and cannot be used to meet regulatory obligations.
 - No valid final clearance sampling has been performed at the property.
 - During the final sampling, CEH failed to collect samples from locations as required by State regulations.
 - During the final sampling, CEH failed to collect minimum sample surface areas as required by State regulations.
 - During the final sampling, the samples were collected by an individual not known or demonstrated to be authorized or competent to perform the work as required by State regulations.
 - During final clearance sampling, samples were collected from prohibited surfaces.
 - Contrary to the statements made by CEH, the clearance sampling performed by CEH does not demonstrate that the property has been decontaminated.
 - Based on the available information, the structure at 24018 Deer Valley Road, Golden, CO remains a noncompliant illegal drug laboratory pursuant to State methamphetamine regulations and State statutes.
 - Based on the information provided, the property at 24018 Deer Valley Road, Golden, CO, remains contaminated with methamphetamine.
 - The work identified as a “Final Report for Methamphetamine Testing and Remediation” is fatally flawed and cannot be used by the property owner or the



previous seller or the person to whom the report was addressed (Mr. John Dagostino, Stonepipe Investments, LLC) to obtain statutory liability immunity.

- Claims made by the Principal of CEH in Appendix E, “Brief Bio,” are inflated, exaggerated or fabricated, and cannot be demonstrated as objective fact by the claimant.
- The invalid preparation and incomplete decontamination process of contaminated properties presents a serious health threat and civil liability threat to the Citizens of Jefferson County. Century Environmental Hygiene LLC, has exhibited an historical and extant track record for making false statements and false presentations in its methlab assessments, and for exhibiting gross technical incompetence. We recommend that all illegal drug lab related reports submitted by Century Environmental Hygiene LLC to the Jefferson County Department of Health be collected and reviewed in an effort to alert other property occupants and past clients of CEH that the work performed by CEH may be faulty and those occupants may be at risk of chemical exposures and civil liabilities.

The following discussion provides the rationale for our conclusions and opinions.

REVIEW OF THE PRELIMINARY ASSESSMENT

Authorized Personnel

The State of Colorado has several State statutes, and one regulation specifically pertaining to the assessment and remediation of methamphetamine contaminated properties. The statutes and regulations contain mandatory provisions.

One of the mandatory provisions, pursuant to state regulations promulgated by the Colorado State Board of Health and designated as “6 CCR 1014-3, *Regulations Pertaining To The Cleanup Of Methamphetamine Laboratories*” states that assessments of properties within the scope of the regulation can only be performed by authorized Industrial Hygienists meeting the definition of Section 24-30-1402 of the Colorado Revised Statutes. According to the regulations, during the assessment, the Industrial Hygienist must perform hypothesis testing wherein:

The strength of evidence needed to reject the hypothesis is low, and is only that which would lead a reasonable person, **trained in aspects of methamphetamine laboratories**, to conclude the presence of methamphetamine, its precursors as related to processing, or waste products.

To our knowledge, neither the author of the reports, (Mr. James Dennison) nor the individual performing the final clearance testing, (Mr. Paul Jaeckel) have specific knowledge of methamphetamine laboratories. The documentation provided by CEH contains nothing that would demonstrate that the personnel involved with the assessment work have any training specific to clandestine drug laboratories, or the pertinent



regulations. Nothing within the provided documentation demonstrates that the personnel involved with the assessment work are authorized to perform assessments of clandestine drug laboratories, pursuant to pertinent regulations. Considering the gross lack of technical competency exhibited by the authors of the report and the field sampling personnel, one may reasonably conclude that neither individual has received any training in the same. As discussed below, the authors have made many gross technical errors, omissions, and have exhibited a gross lack of technical competency in the realm of clandestine drug laboratory assessment.

FACTs has reviewed several reports^{1,2} from CEH and has found that CEH merely “plugs in” the same faulty language over and over in each of its reports regardless of site conditions and regardless of regulatory obligations. In each case, where FACTs has reviewed the work of CEH, FACTs has identified similar language pools and found similar fatal flaws and gross technical incompetence. FACTs has also provided oral courtroom expert witness testimony³ in a case involving CEH, wherein our testimony was that CEH failed to understand and follow the rudimentary elements of clandestine drug laboratory assessments, and failed to understand Colorado regulations and statutes regarding clandestine drug laboratories. CEH has, therefore, a long history of performing botched assessments in illegal drug laboratories. The assessment performed at the subject property similarly contains fatal flaws, and cannot be used as a legitimate Preliminary Assessment, or final report of compliance.

Statements of Qualifications

Section 8.21 of the Colorado Regulations explicitly requires the consultant to provide:

8.21 Consultant statement of qualifications, including professional certification or qualification as an industrial hygienist as defined in section 24-30-1402, C.R.S., and description of experience in assessing contamination associated with methamphetamine labs.

The CEH documentation provided to FACTs included two sections which could be construed as the mandatory Statement of Qualifications for the CEH personnel. However, neither section documented any legitimate training or knowledge specific to clandestine drug laboratories, and neither section documented any experience with regard to assessing contamination associated with methamphetamine labs. Furthermore, as described below, the information provided in Mr. Dennison’s section appears to be exaggerated and/or fabricated.

¹ Preliminary Assessment of an Identified Illegal Drug Laboratory, December 30, 2007, Columbine Apartments, Unit A107, 605 Wickes Ave., Craig, Colorado 81625, on file with Saed Tayyara, County Commissioner, 221 W Victory Way #130, Craig, CO 81625

² Industrial Hygiene Assessment And Notice of Noncompliance of an Unoccupied Illegal Drug Laboratory at 1812 E 164th Place Thornton, Colorado, April 23, 2009

³ City of Evans, Colorado vs. Patrice Wayne, Motions Hearing Documentation, April 5, 2006



“Brief Bio” of James E. Dennison

Nothing in State regulations require the consultant to provide a “Brief Bio” as part of the mandatory documentation. The language of the State regulations is clear in content and intent. The information provided in the documents authored by CEH fails to document that Mr. Dennison has had any training in clandestine drug laboratories, as required. The information provided in the “Brief Bio” simply states:

Attended meth lab training classes

There is no indication provided in the documentation that Mr. Dennison has attended any such classes. Indeed, given the gross technical incompetence exhibited in the CEH work at the subject property, and the statements made in his “Brief Bio” would indicate that Mr. Dennison has never received any legitimate training in the assessment of clandestine laboratories. For example, in his “Brief Bio,” Mr. Dennison claims that he

Sampled first known phenyl-2-propanone method meth lab

The phenyl-2-propanone method has been in existence since at least 1944,⁴ (and probably certainly before that) and if Mr. Dennison had received any legitimate training in clandestine drug laboratories, he would have been aware of that fact. We believe that the statement is a fabrication intended to mislead the reader into thinking that Mr. Dennison has experience beyond his actual knowledge. Since Mr. Dennison has not provided any information regarding the date or location of the P-2-P laboratory, we cannot confirm this claim. However, the assertion that Mr. Dennison was performing sampling at a time when he was not likely to have even been born is patently unsupported.

It is possible Mr. Dennison is referring to a P-2-P laboratory located at 19042 E 53rd Avenue, Denver, Colorado, wherein CEH performed some sampling. However, the laboratory in question was making the drug ecstasy, not methamphetamine. The work performed by CEH at that property was characteristically deficient, not compliant with state regulations, and ultimately the Preliminary Assessment⁵ and final clearance sampling was performed by FACTs, Inc. who ultimately issued the Decision Statement⁶ to release the property.

In his “Brief Bio” Mr. Dennison claims that he sampled an apartment building that was subsequently found to be the largest “meth lab” yet found in Colorado. Again, Mr. Dennison provides no information to support the claim. To our knowledge, the largest meth-lab yet discovered was that reported on the front page of the Denver Post⁷ at a Day

⁴ Crossley FS, Moore ML, *Studies on the Leuckart reaction*; J Org Chem 9, 5291 (1944)

⁵ Preliminary Assessment of an Identified Illegal Drug Laboratory 19042 E 53rd Avenue Denver, Colorado, December 10, 2008

⁶ Final Verification Sampling and DECISION STATEMENT of an Identified Illegal Drug Laboratory At: 19042 E 53rd Avenue Denver, Colorado, March 7, 2009

⁷ http://www.denverpost.com/golf/ci_9635055



Camp and which comprised of more than 14 structures, over 21,000 square feet of occupiable floor space, included two separate sewerage systems, and covered approximately two acres of land. FACTs, performed the Preliminary Assessment⁸ and Final Clearing Sampling and Decision Statement for that property.⁹

There is nothing in the “Brief Bio” that would satisfy the regulatory requirement that the consultant submit a “. . .statement of qualifications, including professional certification or qualification as an industrial hygienist as defined in section 24-30-1402, C.R.S., and description of experience in assessing contamination associated with methamphetamine labs.”

As an example of a legitimate Statement of Qualifications, the author of this review (Connell) has included a copy of his Statement of Qualifications in Appendix A of this discussion.

Furthermore, the information as provided is a violation of the Code of Ethics of the American Board of Industrial Hygiene which certifies Mr. Dennison and which requires the ABIH member to:

Provide accurate and truthful representations concerning all certification and recertification information.

Furthermore, the ABIH Code of Ethics requires its membership to:

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. Dennison has failed to demonstrate or document that he has any legitimate specialized knowledge in clandestine drug laboratories, and specifically methamphetamine laboratories.

Finally, in his “Brief Bio” Mr. Dennison makes the misleading and incorrect statement that “All submitted final reports have been accepted by all governing bodies (health departments)” There are two problems with this statement: 1) Mr. Dennison fails to note that pursuant to State Statute, Governing Bodies are required to receive all submitted

⁸ *Preliminary Assessment of an Identified Illegal Drug Laboratory 618 Park County Road 68, Bailey, Colorado*, July 15, 2008, On file with Tom Eisenman, Park County Development Services Coordinator, Environmental Health and Planning and Zoning, PO Box 1598, Fairplay CO 80440 and available at <http://forensic-applications.com/meth/FarmerPreliminaryAssessment.pdf>

⁹ *Final Verification Sampling and DECISION STATEMENT of an Identified Illegal Drug Laboratory 618 Park County Road 68, Bailey, Colorado*, October 7, 2008, On file with Tom Eisenman, Park County Development Services Coordinator, Environmental Health and Planning and Zoning, PO Box 1598, Fairplay CO 80440 and available at <http://forensic-applications.com/meth/FarmerPreliminaryAssessment.pdf>



reports, regardless of proficiency and regardless of content or compliance with regulations. If a ten year old child submitted a one-page document prepared in crayon and submitted the paper as a “Final Report” of an assessment, state statutes require the Governing Body to receive the report. By state statutes, the Governing Body is not required to approve or even read the submitted work; the Governing Body is merely required to receive the final report. It is for this reason, in his August 19, 2009 letter, Mr. Craig Sanders with the Jefferson County Department of Health and the Environment merely states that “based upon the representations made in this report...” Mr. Sander’s office is not required to read the submitted reports; only to receive submitted reports.

2) Some offices of the Governing Body exercise their statutory authority to review and then accept or reject the consultant’s report. Mr. Dennison’s work has been rejected in the past. For example, the City of Evans, Colorado (*Evans vs Wayne, 2006*) rejected Mr. Dennison’s reports upon review, and, again FACTs was retained by the City to perform the necessary work. The CEH statement, therefore, is patently untrue. FACTs is not aware of any assessment of a clandestine drug laboratory performed by CEH that has ever met with regulatory technical merit and/or met with minimum state statutory or regulatory requirements.

As a side note, “Governing Bodies” is a legal term, and does not, as implied in Mr. Dennison’s report, necessarily imply “health department.”

Paul Jaeckel, CEH Asbestos Technician

According to the documentation provided, Mr. Jaeckel performed the post-remediation sampling at the subject property. However, CEH failed to submit an SOQ for the technician and there is nothing in Mr. Jaeckel’s documentation that suggests Mr. Jaeckel has any training whatsoever or any knowledge whatsoever of clandestine drug laboratories or methamphetamine assessments. Indeed, considering the fact that Mr. Jaeckel failed to perform the mandatory sampling in an acceptable manner (as described below), it is reasonable to conclude that Mr. Jaeckel has never received the training that would allow him to perform the work in the first place.

In the documentation provided, Appendix E of the “Final Report for Methamphetamine Testing and Remediation,” Mr. Jaeckel identifies 47 training classes he attended, none of which pertained to methamphetamine or clandestine drug laboratories. Mr. Jaeckel identified that 80% of his classes (38 of the 47 listed) were asbestos inspection classes; six were lead inspection classes, and three dealt with the hazardous waste worker regulation. None of the training documentation provided by Mr. Jaeckel has anything to do with methamphetamine or clandestine drug labs.

Mr. Jaeckel’s work, in regard to the subject property, was grossly incompetent, and was performed in violation of State regulations and is invalid; and as such, the property seller did not comply with State regulation, or state statutes and thus has not met the necessary criteria to receive the liability immunity that would have been afforded to him had he hired a legitimate consultant to perform the work pursuant to state requirements.



PRELIMINARY ASSESSMENT

According to Colorado State Regulation 6-CCR 1014-3, following the discovery of an illegal drug lab as that term is defined in CRS §25-18.5-101, (which occurred when Law Enforcement Personnel identified an illegal methamphetamine cook in the downstairs room), and following “notification,” (which occurred and the property was placarded, when the property owner was notified that the material was methamphetamine) the property must either be demolished or a “Preliminary Assessment” must be conducted at that property to characterize extant contamination (if any), and to direct appropriate decontamination procedures (if any). Pursuant to these regulations, information obtained in the Preliminary Assessment, must be used as the basis for remediation, and must be the basis for any final clearance sampling.

The Preliminary Assessment must be conducted according to specified requirements¹⁰ and must contain specific elements. Failure to comply with the regulations may invalidate the PA. In the following section, we have presented a small portion of the errors, omissions, violations and fatal flaws associated with the CEH report. The following list of errors is not exhaustive, but is sufficient to demonstrate the entire report was prepared without regard to mandatory State regulations.

Failure to Comply with Mandatory Elements of a Preliminary Assessment

- Pursuant to State regulations, specific information must be included in the Preliminary Assessment (PA). CEH failed to comply with the following mandatory elements of a State mandated Preliminary Assessment:
 - 6 CCR 1014-3 Paragraph 4.2
 - 6 CCR 1014-3 Paragraph 4.3
 - 6 CCR 1014-3 Paragraph 4.4
 - 6 CCR 1014-3 Paragraph 4.5
 - 6 CCR 1014-3 Paragraph 4.6
 - 6 CCR 1014-3 Paragraph 4.7
 - 6 CCR 1014-3 Paragraph 4.9
 - 6 CCR 1014-3 Paragraph 4.10
 - 6 CCR 1014-3 Paragraph 4.11
 - 6 CCR 1014-3 Paragraph 6.0.1
 - 6 CCR 1014-3 Appendix A
 - 6 CCR 1014-3 Attachment to Appendix A (Mandatory)

Section 4.0 Preliminary Assessment

Information collected during the preliminary assessment shall include, but not be limited to, the following:

¹⁰ Section 4 of 6 CCR 1014-3



Paragraph 4.2 Law Enforcement Documentation

CEH failed to perform its duties and fulfill regulatory requirements by failing to determine if law enforcement documents were available. Pursuant to State regulations, the Industrial Hygienist is required to provide a:

Review of available law enforcement reports that provide information regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and observed areas of contamination or waste disposal.

In its report, CEH stated:

A meth lab action was reported by the current owner to have occurred at some date in the past, but police reports requested have not been provided at this time.

However, nowhere in the documentation has CEH documented whom they attempted to contact to receive Law Enforcement documents. Since, in the past, based on our previous reviews of CEH assessments, CEH has never actually made any documented attempts to contact any law enforcement agencies to receive information, we believe it is reasonable to conclude that CEH made no attempts to obtain law enforcement documents for this property.

In fact, for this property, law enforcement documentation is readily available to the public even on a walk-in basis at the Jefferson County Sheriff's office. Had CEH merely attempted to obtain documentation, they could have easily done so. FACTs personnel had no difficulty or delay in obtaining and reviewing the pertinent law enforcement documents.

Paragraph 4.3 Identification of Functional Spaces

CEH failed to perform its duties and fulfill regulatory requirements by failing to identify functional spaces within the subject property as required by regulation. Pursuant to this section of the regulations, the Industrial Hygienist is required to include:

Identification of structural features that may indicate separate functional spaces, such as attics, false ceilings and crawl spaces, basements, closets, and cabinets.

According to State regulations 6 CCR 1014-3 (Section 3)

"Functional space" means a space where the spread of contamination may be expected to occur relatively homogeneously, compared to other functional spaces. The "functional space" may be a single room or a group of rooms, designated by a consultant who, based on professional judgment, considers the space to be separate from adjoining areas with respect to contaminant migration. Other typical examples of functional spaces include a crawl space, an attic, and the space between a dropped ceiling and the floor or roof deck above.

In its report, CEH failed to perform the regulatory mandated identification of structural features that may indicate separate functional spaces. Instead, CEH ignored the regulatory requirements and merely stated:



Whole house, HVAC system, attic, and garage are identified functional spaces.

As described later, had CEH performed its regulatory obligations, it would have identified at least 30 distinct areas that may have been functional spaces, and CEH would have also discovered that the property contains at least two attics, and not one, as they reported. The structure consists of the following distinct areas:

- 1 **Balcony**
- 2 **Basement Stairs**
- 3 **Cubby room**
- 4 **Dining Room**
- 5 **Downstairs Bar**
- 6 **Downstairs Bathroom**
- 7 **Downstairs Bedroom**
- 8 **Downstairs Pantry**
- 9 **Downstairs Recreational Room**
- 10 **Downstairs Toilet Room**
- 11 **Foyer**
- 12 **Foyer hall**
- 13 **Kitchen**
- 14 **Laundry bathroom**
- 15 **Laundry Hall Closet**
- 16 **Laundry Room**
- 17 **Master Bathroom**
- 18 **Master Bedroom**
- 19 **North Attic**
- 20 **Parlor**
- 21 **South Attic**
- 22 **Stairs down to basement**
- 23 **Stairs up to second floor**
- 24 **Study**
- 25 **TV Room main floor**
- 26 **Upstairs Bedroom hallway**
- 27 **Upstairs common bathroom**
- 28 **Upstairs Southeast Bedroom**
- 29 **Upstairs Southwest Bedroom**
- 30 **Upstairs West Bedroom**

Some of these areas, such as the Study and the Living Room may be legitimately combined into a single Functional Space. However, considering the fact that the property has four distinct levels, including three distinct living levels separated by floors, it is difficult to understand how CEH could believe that the spaces were not "...separate from adjoining areas with respect to contaminant migration." A good explanation would be that CEH lacks any technical knowledge or experience needed to make such a professional decision, and therefore failed to make the proper distinction.



In fact, this house is not unique, and CEH appears to simply make the same determination for all structures they assess regardless of the structure being assessed and regardless of site conditions and regardless of the migration of contamination. The implications of this unlawful practice is addressed later.

Paragraph 4.4. Identification of manufacturing methods based on observations and law enforcement reports.

Since CEH appears to have failed to attempt to obtain law enforcement records as required, CEH could not have complied with this provision. Similarly, since CEH has not demonstrated knowledge of manufacturing processes (and has an history of providing erroneous information on manufacturing), we do not believe that CEH personnel would have sufficient technical competency to know if manufacturing took place, and if so, which method was used.

As it is, it is not clear why CEH presumed the Red Phosphorous method of production was used at the subject property and CEH offered no rationale for their presumption. It is important to note however, that since CEH presumed Red-P, had they known what the Red-P method means, they would have known the method involves iodine. Regulations (6 CCR 1014-3 (7.2) states:

If there is evidence of iodine contamination on materials or surfaces that will not be removed, surface wipe samples for iodine shall not exceed a concentration of 22 µg/100 cm².

Nowhere in the CEH documentation do we see where CEH has made any attempt to address this possible contaminant, and nowhere do we see that CEH even mentioned iodine in its report.

In fact, the readily available law enforcement documentation clearly identifies the manufacturing process, the location of the manufacturing in the property, the dates of law enforcement actions, and the chemicals identified at the property. Since there is no indication that CEH made any attempts to retrieve any law enforcement documentation, CEH entirely ignored this very important information.

Paragraph 4.5. Identification of chemicals used, based on observations, law enforcement reports, and knowledge of manufacturing method(s).

Since CEH appears to have failed to attempt to obtain law enforcement records as required, CEH could not have complied with this provision.

In fact, the readily available documentation for this subject property includes a wealth of information regarding the chemicals used and located by law enforcement at the property.



Paragraph 4.6 Identification of Areas of Contamination

CEH failed to perform its duties and fulfill regulatory requirements by failing to identify or recognize signs of contamination. Pursuant to State regulations the Industrial Hygienist is required to provide:

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, or cooking areas, or based on professional judgment of the consultant; or the consultant may determine that assessment sampling is necessary to verify the presence or absence of contamination. If the consultant determines that assessment sampling is necessary, such sampling shall be conducted in accordance with the sampling protocols presented in Appendices A and D. Sample analysis shall be conducted in accordance with the method requirements presented in Appendices B and D.

In this case, CEH merely stated in its report:

Signs of contamination. No specific signs of contamination were identifiable, as noted above.

In fact, readily available public records for this property indicate that readily visible staining and readily visible drug paraphernalia was widespread throughout the property. In fact, readily available public records indicate that it would have been difficult to walk through the property with one eye closed and not observe overt staining and overt signs of contamination.

Furthermore, readily available public records indicate that there was also widespread illegal drug paraphernalia throughout the house which would clearly indicate the potential for contamination. It is possible that the reason CEH failed to observe these and other indicators is that since they have received no known documentable training in illegal drug labs, they simply had no idea what they were observing and were incapable of understanding the significance of the observations.

In its report, CEH stated:

No staining on walls, floors or ceiling anywhere in the house that could be clearly attributed to meth production was observed (sic).

This is exactly the same language that we have seen appear in all methlab assessments produced by CEH, that FACTs has reviewed, regardless of actual site conditions.

Given the gross technical incompetence exhibited by CEH during this project, it is not clear if CEH would have had the technical expertise to have identified signs of contamination. In the past, on other projects (now within the public domain), FACTs has documented where CEH entirely failed to recognize specific staining, indicative of contamination, for its significance. Yet even in those cases, CEH used the same boiler-plate language in its reports.

Finally, the regulations clearly state that:



If the consultant determines that assessment sampling is necessary, such sampling shall be conducted in accordance with the sampling protocols presented in Appendices A and D.

Yet, samples collected by CEH not only clearly identified contamination, but the samples were not collected pursuant to Appendices A and/or D. In any event, FACTs is uncertain as to how samples indicating widespread contamination could not be signs of contamination. In fact, the language used by CEH appears in all of the CEH reports reviewed by FACTs, and CEH appears to merely make the statement for all structures regardless of actual site conditions.

4.7. Identification and documentation of chemical storage areas.

Pursuant to State regulations, the Industrial Hygienist is required to identify areas of chemical storage. In its report, CEH makes the statement:

Chemical Storage Areas. Unknown. It is presumed that if cooking occurred, chemicals could have been stored at any location in the building.

This is a common section of text that seems to appear in all CEH clandestine drug lab assessment reports regardless of actual site conditions. In fact, readily available public documents clearly identify areas of storage in the property, and clearly identify which chemicals were identified and where those chemicals were identified. Since, CEH appears to use the same boiler-plate language, it is reasonable to conclude that CEH never makes any attempt to fulfill this regulatory obligation.

Paragraph 4.9. Identification and documentation of cooking areas.

CEH has stated in their report that they presume the method of production was the “Red Phosphorous” method. Yet, no presumed location of production was given. Presumably if CEH presumed a method of production, they have also presumed a location. However, CEH has not addressed this issue in their report.

In any event, readily available public domain documents, including readily available law enforcement documents clearly and concisely identify where cooking operations in the structure occurred, and clearly provide information on the type of cooking process that occurred.

Again, this is the same language that seems to appear in all the methlab assessments produced by CEH, without regard for actual site conditions.

Paragraph 4.10. Identification and documentation of signs of contamination such as staining, etching, fire damage, or outdoor areas of dead vegetation

Since CEH failed to perform a functional space inventory, as described above, there is no indication in the CEH report that CEH attempted to identify signs of contamination. As



already demonstrated, CEH appears to prepare “reports” that are mostly “boiler plate” and do not reflect site conditions.

Readily available public domain documents clearly describe areas of fire damage in the structure. However, since CEH apparently did not perform an inspection of the property, and did not review any available public domain documents, they merely ignored this section of regulation. Nowhere in the CEH document do they mention the fire damage or the burn marks in the property.

Paragraph 4.11 Evaluation of the Plumbing System

CEH failed to perform its mandatory obligations by failing to meet the regulatory requirements of a plumbing inspection. Pursuant to State regulation, the Industrial Hygienist is required to provide:

Inspection of plumbing system integrity and identification and documentation of potential disposal into the sanitary sewer or an individual sewage disposal system (ISDS). ...

CEH explicitly shrugged responsibility for completing this regulatory obligation by stating in their report:

A plumber should inspect the plumbing system to verify integrity.

This statement regularly appears in all CEH methlab assessments we have seen as part of their standard boiler-plate reports. In fact, CEH was required by State regulation to have performed the inspection. The inspection is not only a mandatory requirement, it is also normal standard industry practice. It is difficult to understand how on the one hand, CEH could accept the professional obligation to perform a Preliminary Assessment, (which explicitly requires an inspection of the plumbing integrity), and at the same time fail to perform that regulatory and contractual obligation.

In its report, CEH also states:

If cooking occurred, waste could have been anywhere but would likely have included the sanitary sewer.

Again, this statement appears regularly in CEH reports, regardless of actual site conditions. Since CEH makes this observation, and it is the exclusive role of CEH to identify areas of contamination, it would be expected that CEH would have inspected the sanitary sewer, however, there was no documentation provided that indicated CEH met this regulatory obligation.

Paragraph 4.14 Photographic Record

During the Preliminary Assessment, the Industrial Hygienist is required to provide:

Photographic documentation of property conditions, including cooking areas, chemical storage areas, waste disposal areas, and areas of obvious contamination.



CEH explicitly shrugged responsibility for completing this regulatory and contractual obligation by failing to provide photographs of the manufacturing and storage locations, failing to provide photographs of site conditions, and by failing to provide photographs of areas of obvious contamination. One could reasonably conclude that an area of “obvious contamination” would include areas where wipe samples were positive for methamphetamine and where meth pipes and meth smoking trays were clearly visible. However, CEH did not even include photographs for each of those areas.

CEH failed to provide photographic documentation of site conditions for the following areas:

1	Balcony
2	Basement Stairs
3	Upstairs Bedroom hallway
4	Cubby room
5	Dining Room
6	Downstairs Bar
7	Downstairs Bathroom
8	Downstairs Bedroom (where the actual meth cook is known to have occurred)
9	Downstairs Pantry
10	Downstairs Recreational Room
11	Laundry Toilet Room
12	Foyer
13	Foyer hall
14	Laundry Hall Closet
15	Laundry Room
16	Laundry bathroom
17	Master Bathroom
18	Master Bedroom
19	North Attic
20	Parlor
21	South Attic
22	Stairs down to basement
23	Stairs up to second floor
24	Study
25	TV Room main floor
26	Upstairs common bathroom
27	Upstairs Southeast Bedroom
28	Upstairs Southwest Bedroom
29	Upstairs Central Bedroom



6.0 Sampling and Analytical Procedures.

In its report, CEH states that samples they collected during the initial assessment were collected "...in accordance with the requirements of 6 CCR 1014-3..." and "...were collected from non-porous surfaces ..."

In fact, neither statement is factual. CEH failed to perform its duties and fulfill regulatory requirements by failing to perform sampling pursuant to mandatory regulatory requirements. According to State regulations:

6.0.1 Except as provided in 6.0.2, assessment sampling shall be conducted as part of the preliminary assessment to characterize the nature and extent of contamination. Assessment sampling and laboratory analysis shall be conducted in accordance with Appendices A, B and D of these regulations.

We have addressed the CEH failure to comply in detail below.

Paragraph 6.1 Locations of Samples

State regulations require that samples be collected from:

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

In their report, CEH provides their standard boiler-plate statement that:

Sample locations were generally selected in a more or less random manner.

Nowhere in State regulations or in state statutes is there a provision for the collection of "more or less random sampling." "More or less random sampling" is not only not permitted, FACTs is not entirely sure that "more or less random" sampling is a known or accepted sampling theory. The language used in the CEH report is the same language FACTs has observed in all CEH reports on methlabs regardless of actual site conditions.

Elsewhere in the report, CEH provides another boiler plate text that frequently appears in its reports:

However, a reasonable effort was made to collect samples from random locations which supports the idea that the samples provide a representative indication of meth levels i.e. "average" meth levels.

If CEH had received appropriate training in State regulations and had been familiar with the same, CEH would have known that random sampling was prohibited by the regulations for the site conditions. If CEH had been competent in sampling theory, they would have been aware that the "random" sampling it performed could not have been used to predict "representative sampling." As even specified in Colorado's regulations:

Sampling Theory

The type of sampling used for stationary structures and vehicles described in this protocol is a type of sampling recognized as "authoritative" sampling. Authoritative



sampling is a nonstatistical sampling design that **does not** assign an equal probability of being sampled to all portions of the population. Consultants using this protocol will have a *a priori* knowledge of the property to be sampled. The *a priori* knowledge, in the hands of a competent consultant, permits immediate inclusion/exclusion of sampling areas, based on professional judgment. As such, the weight of validity of the data gathered with authoritative sampling is largely dependent on the knowledge and competency of the sampler.

The Colorado regulations continue with:

Biased Sampling

Biased sampling is the type of authoritative sampling that intends **not to estimate average concentrations** or typical properties, **but to estimate “worst” or “best” cases** (as described in ASTM Method D6051-96 (2001), Standard Guide for Composite Sampling and Field Subsampling for Environmental Waste Management Activities. As described later in this protocol, the aim of the consultant performing post-decontamination sampling is to demonstrate the worst-case scenario in the drug laboratory. The term “biased,” as used here, refers to the collection of samples with expected high concentrations. For example, a sample taken at the source of the actual “cook,” known release, spill or storage area could serve as an estimate of the “worst-case” concentration found in the functional space.

CEH has exhibited gross technical incompetency in understanding Colorado’s methlab regulations, and that lack of technical incompetence translated into gross errors and omissions during their work at the subject property.

State regulations (6CCR 1014-3 Mandatory Appendix A) requires samples to be collected from non-porous surfaces. In its report, CEH claims that “Samples were collected from non-porous surfaces...” However, in its report, CEH then identifies several samples, such as 0106059D-15 that were collected from a porous surfaces. The photo accompanying the report of the area of Sample 0106059D-15 clearly shows that an acceptable sample surface was in the immediate area and from which an acceptable sample could have been collected. CEH appears to have simply ignored the regulation and made abjectly false statements in its report regarding sampling. Again it would appear that CEH provides boiler-plate text in its reports without regard to actual site conditions or work performed.

Although not a fatal flaw, CEH failed to submit field blanks pursuant to State requirements. Pursuant to Appendix A, Sampling Procedures, the Industrial Hygienist is required to submit one field blank for every ten samples collected; this provision was not met. CEH submitted 14 samples but only submitted one blank.

Miscellaneous Observations

The CEH report claiming to be a “Preliminary Assessment” contains mysterious notations that do not appear to have any meaning, and are not explained anywhere in the text. For example, on Page 1, Item Number 3 cryptically states “See above.” A similar cryptic message appears for Item 12, found on Page 3. More mysterious is the notation on Page three that states:



15-18 Not applicable to PA.

These are the same mysterious notations we see in each CEH report we have reviewed, supporting the argument that CEH merely prints out the same “report” for all sites regardless of actual site conditions.

DECONTAMINATION

According to State regulations, decontamination is to be based on the Preliminary Assessment. In the contractor documentation, the remediators references the CEH “Preliminary Assessment remedial recommendations.” No such recommendations were present in the document identified as a Preliminary Assessment, and FACTs has not seen the referenced recommendations. Since CEH did not perform a Preliminary Assessment, it is very difficult to know if appropriate or proper decontamination was performed at this subject property.

Therefore the adequacy of the decontamination would have to be determined by the consulting Industrial Hygienist. Unfortunately in this case, the consulting Industrial Hygienist was CEH, who exhibited the same profound incompetence in the verification process as seen in the initial assessment.

This is not to question the remediation contractors, who would have followed the scope of work prepared by CEH, but rather to question the appropriateness of the CEH Scope of Work.

The issue of cross contamination is discussed below.

POST DECONTAMINATION ACTIVITIES

Following a remediation, the Industrial Hygienist is required by regulation to collect a specific number of samples, of a specific size from specific locations. If a Functional Space fails, that area is necessarily, by regulation, isolated and re-cleaned by the contractor.

According to regulation, if a Functional Space is not isolated, and is re-cleaned following a failed sample, all Functional Spaces contiguous with that area must also be re-sampled. This is because the act of re-cleaning that area can re-contaminate all other areas within the negative pressure containment.

For this property “verification sampling” was performed on two occasions and the contractor returned to the structure to perform re-cleaning following failed samples. However, the second suite of sampling was performed in an inexplicable “higgledy-piggledy” manner that did not focus on the areas that were re-cleaned by the contractor. Instead, areas that were already deemed by CEH to have “passed” were also re-sampled for no apparent reason.

At no time, did any of the verification sampling conform to State requirements.



Like the Preliminary Assessment, the elements of the post decontamination activities are mandated by State regulation. CEH failed to meet the necessary elements of the final activities, and as such, post remediation verification sampling in the property:

- has not been performed
- did not utilize trained personnel
- demonstrated that levels of methamphetamine in the property exceed regulatory thresholds
- did not conform to State regulatory requirements
- is fatally flawed and is invalid

The post decontamination sampling was performed by an individual with no documented drug lab training whatsoever, and no claimed training, and no documented experience and no claimed experience in clandestine drug lab assessments. As a result of using untrained personnel, the post decontamination samples were collected in a manner that is prohibited by State regulations and were not collected pursuant to State regulations as falsely claimed in the CEH documentation.

The final clearance sampling is invalid, and the decision statement is therefore similarly invalid.

Mr. Dennison signed a legal statement on Page 2 of his final report falsely stating that he performed the final clearance testing, however, elsewhere in the document, CEH states that Mr. Dennison did not collect the samples; that the samples were in fact collected by a completely untrained asbestos technician, Mr. Jaeckel.

Sampling Theory

According to Colorado regulations:

*In post-decontamination sampling, the hypothesis is made that the area is non-compliant, and data is collected to test the hypothesis. The role of the consultant in post decontamination sampling is **not** to demonstrate that the area is “clean,” but rather, using biased sampling, to diligently attempt to prove that the area is not clean. The lack of data supporting the hypothesis leads the consultant to accept the null hypothesis and conclude that the area is compliant.*

Pursuant to this requirement, CEH was obligated to diligently attempt to “prove” that the remediation was not successful. CEH failed to comply with mandatory sampling requirements as specifically described below. More generally, however, CEH simply stated that

Sample locations were generally selected in a more or less random manner.

This “generally” “more or less random” haphazard sampling technique explains why samples were not collected from the specific mandatory functional spaces, and why the samples were collected from prohibited surfaces, and why that mandatory minimum surface areas were not collected.



Failure to Collect Samples

CEH failed to collect samples that would have been required had the Preliminary Assessment been performed properly. According to State regulations:

For any given functional space, at least 500 cm² of surface shall be sampled, unless the area is assumed to be non-compliant.

In this case, CEH ignored the requirement to assign Functional Spaces (a practice common to CEH on all other meth-lab assessments we have seen performed by this consultant), and merely identified the whole house as a single functional space. In so doing, CEH eliminates the regulatory need to perform appropriate sampling to ensure public safety and to ensure that the property has been appropriately decontaminated. By ignoring the mandatory regulatory requirement for establishing functional spaces, CEH can appear to clear a property that may otherwise be contaminated by increasing the acceptability of a false negative response for the property as a whole.

That is, as one takes fewer and fewer samples from the property, the probability of finding a non-compliant sample in a contaminated property, goes down, and therefore, the probability of clearing an otherwise contaminated structure goes up.

In this way, CEH circumvents the regulations and eliminates his regulatory burden by violating State regulations under the guise of “professional judgment.” Such an approach might, in some circumstances, be valid, if the technique was performed for an articulable reason by a legitimate trained professional.

For example, in a small hotel room, with a separate bathroom, a legitimate Industrial Hygienist, based on a careful review of law enforcement documents and a thorough site investigation may conclude that the guest bedroom and the bathroom may constitute a single Functional Space.

However CEH has identified the “whole house” as a single functional space on this property and on every property for which CEH has prepared a “Preliminary Assessments” and as reviewed by FACTs. CEH routinely identifies whole houses as a single functional space, regardless of the size topography or specific site conditions. CEH has offered no articulable rationale for ignoring State regulations in its current report or for identifying an entire four level convoluted structure as a single functional space. Since CEH has not demonstrated any legitimate foundation for expertise in the area practiced, they cannot base the decision on an argument of “professional judgment.”

FACTs is aware that Mr. Dennison has, in the past, been fined by a regulatory agency for circumventing mandatory sampling requirements. Mr. Dennison, who at one time as a technician for this reviewer, stated that he was fined by the US EPA for improperly performing an assessment pursuant to mandatory regulations.

Consultant experience and training lies at the heart of Compliance Sampling to demonstrate compliance with 6 CCR 1014-3. The consultant is required, by state



regulation, to collect very specific samples from very specific locations that represent the highest possible contaminant concentrations. If the consultant, such as in this case, has no known or documentable training or knowledge in clandestine drug lab assessments and no documentable training or knowledge of the State regulations, they cannot conceivably perform the sampling in a manner that meets State requirements.

Failure to Collect Samples from Mandatory Locations

- CEH failed to collect samples from mandatory locations
- CEH failed to collect the minimum required surface area for each sample

According to Colorado Regulations, Mandatory Appendix A:

For drug laboratories, as defined in section 25-18.5-101, C.R.S., whose structural floor plan is not greater than 1,500 square feet, surface sampling shall be collected according to the following schedule.

- For any given *functional space*, at least 500 cm² of surface shall be sampled, unless the area is assumed to be non-compliant.

As already described, the structure had approximately 30 distinct areas. A legitimate, properly trained Industrial Hygienist, knowledgeable in the assessment of methamphetamine labs would attempt to meet the mandatory regulatory requirements and include an:

Identification of structural features that may indicate separate functional spaces, such as attics, false ceilings and crawl spaces, basements, closets, and cabinets.

According to State regulations 6 CCR 1014-3 (Section 3)

“Functional space” means a space where the spread of contamination may be expected to occur relatively homogeneously, compared to other functional spaces. The “functional space” may be a single room or a group of rooms, designated by a consultant who, based on professional judgment, considers the space to be separate from adjoining areas with respect to contaminant migration. Other typical examples of functional spaces include a crawl space, an attic, and the space between a dropped ceiling and the floor or roof deck above.

Therefore, based on a knowledge of illegal drug laboratories, and based on the information gained by reviewing the readily available law enforcement documents, a legitimately trained and knowledgeable Industrial Hygienist may determine the following Functional Spaces to be present in the structure.



Functional Space Number	Functional Space
1	Foyer, foyer hall and stairway up to bedrooms
2	Parlor and Study
3	Kitchen, Dining Room and Living Room
4	Laundry Toilet Room
5	Laundry Room and Laundry Hall Closet
6	Garage
7	Upstairs Southeast Bedroom
8	Upstairs Southwest Bedroom
9	Upstairs West Bedroom
10	Stairs up, Balcony, Hallway and Bathroom
11	Master Bedroom
12	Master Bathroom
13	Basement Stairs, basement hall, Cubby and Downstairs Pantry
14	Downstairs Bathroom
15	Downstairs Bar and Recreational Room
16	Downstairs Bedroom
17	North Attic
18	South Attic
19	Furnace Interior

Therefore, pursuant to State regulations, samples comprising of at least 500 square centimeters in each Functional Space were required to clear the property.

July 18, 2009 Verification Sampling

In the table below, we have reproduced the sampling data from the CEH report.

Sample Location	Functional Space	Sample ID	Area cm2
Main floor Kitchen cabinet shelf	3	071809PJ-03	100
Main floor Living room fireplace top shelf	3	071809PJ-04	100
Main floor Dining room North wall	3	071809PJ-05	100
Main floor Bathroom ceiling exhaust fan	4	071809PJ-06	100
Second floor West bedroom closet shelf	9	071809PJ-08	100
Second floor Master bathroom closet shelf	12	071809PJ-07	100
Basement bathroom ceiling exhaust fan	14	071809PJ-11	100
Basement Bar North side upper cabinet	15	071809PJ-09	100
Basement bedroom East wall closet shelf	16	071809PJ-10	100
Attic above Master bath – Collected from prohibited surface		071809PJ-12	500
HVAC Basement Utility room return duct	19	071809PJ-01	200
HVAC Basement supply duct	19	071809PJ-02	300
Field blank		071809PJ-13	--
Main floor intersection of Front and South hallways	1	080209PJ-07	100

Table 1
Table of Initial Final Sampling



When we eliminate the sample collected from a prohibited surface (a discussion of the shaded sample is given below), we see that at no time did CEH collect the mandatory 500 square centimeters from any of the areas except the HVAC system. Unfortunately, even for this sample area, CEH violated the sampling procedures for composite samples (discussed below).

The following table is a synopsis of the total surface areas of samples collected from each functional space pursuant to State regulations on July 18, 2009.

Surface Area Sampled cm²	Functional Space
100	Foyer, foyer hall and stairway up to bedrooms
0	Parlor and Study
300	Kitchen, Dining Room and Living Room
100	Downstairs Toilet Room
0	Laundry Room and Laundry Hall Closet
0	Garage
0	Upstairs Southeast Bedroom
0	Upstairs Southwest Bedroom
100	Upstairs West Bedroom
0	Stairs up, Balcony, Hallway and Bathroom
0	Master Bedroom
100	Master Bathroom
0	Basement Stairs, basement hall, Cubby and Downstairs Pantry
100	Downstairs Bathroom
100	Downstairs Bar and Recreational Room
100	Downstairs Bedroom
0	North Attic
0	South Attic
0	Furnace Interior (prohibited collection method)

Table 2
Table of Initial Final Sampling

Therefore, during the July 18, 2009 sample collection period, CEH entirely failed to follow mandatory regulations, and entirely failed to collect samples in a manner consistent with 6 CCR-1014-3.

A serious inconsistency arises with some of the samples identified in the CEH document in that the size identified in the report does not match the size of the samples in the photographs of the report. For example, Sample 071809PJ-12 is documented as being 500 square centimeters (collected from a prohibited surface), but the photograph depicting Sample 071809PJ-12, clearly displays a standard 2X4 framing timber. A standard “2X4” framing timber is actually about 1.5 inches by 3.3 inches. The timber in the photograph gives us a scale by which we can determine the size of the template used to collect the sample. Scaling the template with the visible timber we see that the template is approximately 93 square centimeters. This would be consistent with the statement in the CEH report that they used a 100 cm² template and not 500 cm³ as reported elsewhere in the report.



But CEH identifies Sample 071809PJ-12 as a discreet sample, not a composite sample; but since the template was only 100 square centimeters, CEH had to have either:

- 1) Applied the template five times (i.e. collected a five parted composite), or,
- 2) Incorrectly reported the surface area as 500 cm² when it was really 100 cm².

Only one of these two can be true, there is no other explanation. In any event, as already mentioned State regulation prohibits the collection of a sample from this surface since it is a porous surface, when clearly visible in the photographs, perfectly acceptable surfaces were readily available.

August 20, 2009

According to documentation provided by the clean-up contractor we see the following:

Daily Work Report – Methamphetamine Cleanup

Job Location: 24018 Deer Valley Road, Golden Colorado

Date: 07/23/2009

It's 5:00 PM; at the request of my boss, Mauricio Palacios, owner of U.S. Environmental, my crew and I arrived at 24018 Deer Valley Road, Golden Colorado. Mr. Palacios told me the results of the testing conducted by Mr. Jim Dennison were in; the results showed that the HVAC and attic had successfully passed. Everything was good except the kitchen, kitchen cabinets and the main floor bathroom which contained high levels of meth contamination. Given these facts, my crew and I started decontaminating all kitchen cabinets from the top and the bottom, all the exterior and interior of each cabinet. Furthermore, we cleaned the sinks and faucets. After, we continued by cleaning ceiling, walls, and floor of the kitchen; then toilet, sink, and finally we wiped down the floor. On this day, we only focused our cleaning on the kitchen and the main floor bathroom. We all departed the property at 7:00 PM

The sample results, however, as presented in the CEH report, demonstrate that the HVAC did not “pass” in fact the sample results indicate that the HVAC system FAILED (as described below). Furthermore, the referenced attic sample was collected from a prohibited surface (porous OSB), as described later.

If indeed, the verification sampling demonstrated that the kitchen and “main bathroom” required additional attention, those areas should have been isolated to prevent contamination migration; then re-cleaned and re-tested. However, that was not done, and apparently the areas were not isolated during re-cleaning. Therefore, although none of the July 18, 2009 samples met regulation anyway, the method of re-cleaning would have invalidated those samples.

Instead of re-sampling the re-cleaned areas, and instead of re-sampling the entire space as required by regulations, without any apparent rationale, CEH “more or less randomly” collected the following samples:



Sample Location	Functional Space	Sample ID	Area cm2
Main floor at intersection of Front and South hallways	1	080209PJ-07	100
Main floor Kitchen	3	080209PJ-01	100
Main floor Kitchen	3	080209PJ-02	100
Main floor bathroom	4	080209PJ-03	100
Second floor Southeast bedroom	7	080209PJ-04	100
Second floor Southwest bedroom	8	080209PJ-05	100
Second floor top of staircase	Prohibited Surfaces	080209PJ-06	100
Basement hallway		080209PJ-08	100
Field blank	NA	080209PJ-09	NA

Table 3
Table of Initial Final Sampling

Therefore, during the second verification sampling, CEH again entirely failed to perform its regulatory duties and entirely failed to collect the prescribed samples in a manner consistent with regulatory requirements, and even in a manner that is considered to be normal standard Industrial Hygiene practices and procedures.

CEH cannot attempt to claim that they met the 500 cm2 by collecting composites because State regulations read:

Any composite sampling must consist of like media, matrices or substrates. The mixing of media, matrices or substrates is not permitted.

Clearly, the samples represented above are mixed substrates.

Sample Locations

6.0 Sampling and Analytical Procedures.

CEH failed to perform its duties and fulfill regulatory requirements by failing to perform sampling pursuant to mandatory regulatory requirements. According to State regulations:

6.0.3 Post-decontamination clearance sampling shall be conducted to verify that cleanup standards have been met. Sample collection and laboratory analysis shall be conducted in accordance with the procedures set forth in Appendices A, B and D of these regulations

6.1. Locations of samples shall be based on information gathered during the preliminary assessment. Samples shall be collected from:

According to State regulations, samples must be collected from areas expected to have the highest levels of contamination. State regulations state:

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



In this case, the asbestos technician employed by CEH lacked any demonstrable knowledge of clandestine drug lab issues and, as such, failed to understand that the samples he collected were in violation of State regulations. Specifically, CEH failed to collect samples from areas expected to have the highest levels of contamination and instead collected samples from prohibited surfaces, and collected samples from areas expected to have the lowest levels of contamination in a “more or less random” (i.e. “sloppy and unintelligible”) fashion.

If requested, by the Governing Body, FACTs will describe in detail the rationale underpinning our conclusion that samples were collected from areas expected to have the lowest levels of residual methamphetamine contamination. Suffice to say at this point, since CEH has thus far exhibited extreme and profound incompetency, it is not surprising to see that their personnel entirely lacked the technical competency to understand where contamination would be expected to be the highest and where and why one would know that the selected sample locations represented samples collected from surfaces representing the lowest expected concentrations.

Samples from Porous Surfaces Prohibited

According to the Mandatory Appendix A of the State regulations:

Wipe sampling shall not be used to demonstrate that cleanup levels have been met on porous surfaces.

In fact, in their report CEH has clearly documented that three of their samples were collected from prohibited surfaces, and it is for that reason, those samples have been shaded out in the preceding tables and cannot be considered in the final verification.

Location	Date	Sample ID	Surface Material
Second floor top of staircase	8/20/2009	080209PJ-06	Particle board
Basement hallway	8/20/2009	080209PJ-08	Concrete
Attic above Master bath	7/18/2009	071809PJ-12	Oriented Strand Board

Table 4
Table of Initial Final Sampling

Samples in Excess of the Allowable Clearance Limit – HVAC System

In their report, CEH identifies collecting a composite sample from the HVAC System. However, what is not clear is if the sample was collected from the interior of the ducts or the exterior of the ducts. One of the photos in the CEH report clearly depicts that the sample template used by CEH was on the exterior of the duct. Presuming that the photo is an error, and the two HVAC samples were collected from the duct interior, we see that according to Colorado Regulations:

“Decision level” means that concentration, relative to the cleanup level, that shall be used to distinguish between compliant and non-compliant areas. The calculation for the decision level for composite samples is found in Appendix A, Composite Decision Level.



When we review the mandatory referenced language we see:

All individual samples (designated as *g*), from which any single composite is formed must be of equal volume (for liquids), equal surface area (for surface wipe sampling or vacuum sampling)

However, when we look at the samples collected from the HVAC system, we see that CEH collected unequal surface areas:

Sample Location	Functional Space	Sample ID	Surface Area cm2
HVAC Basement Utility room return duct	19	071809PJ-01	200
HVAC Basement supply duct	19	071809PJ-02	300

Reviewing the regulatory Composite Sample Decision Level, we see the following:

If composite sampling is used, the following procedure shall be used for detecting hot spots to determine if one or more of the individual samples making up the composite could exceed the cleanup level, but remain undetected due to “dilution” that results from the compositing process. The approach assumes the underlying distribution is normal and the composite samples were formed from equal-sized individual samples. In the following equations, CL represents the cleanup level that cannot be exceeded in any individual sample. It is assumed that the analytical limit of quantification, or quantitation limit (QL), is less than the cleanup level. For any laboratory result (X_i) from a composite sample formed from individual samples (*g*), the following rules shall be assumed:

1) If $X_i < \frac{CL}{g}$ then no individual sample (*g*) shall be deemed greater than the CL

2) If $X_i > CL$ then at least one sample *must* be, and as many as all individual samples *may* be greater than the CL

If it is determined that one or more individual samples making up the composite exceeds the cleanup level, all areas represented by the composite sample shall be considered to exceed the cleanup level unless a discrete sample of any individual area demonstrates that the cleanup level has been met in that area.

Ignoring for a moment the fact that CEH failed to follow mandatory regulations regarding composite samples and collected unequal sizes, we see that the above decision threshold for determining compliance is 0.25 µg/100 cm². CEH however, in their laboratory reports, identified finding a total of 0.42 µg/100 cm² in just one of their “single” composites alone.

However, in their report, CEH identified the size of their template as a 100 cm². When we look at the photograph of the sample location, we see the described template; we also see that there was only one sample collected for each of the designations. CEH has identified the template size exclusively as a 100 cm² template. However, in the table in their report, CEH erroneously identifies the sample sizes as 200 and 300 cm². Furthermore, the drawings provided in the report (which incidentally have been



mislabeled) explicitly indicate that there was only one sample location for 071809PJ-01 and 071809PJ-02.

Therefore, according to the CEH report, the 1.04 μg recovered from the HVAC return reported in the samples actually came from an area of only 200 cm^2 and not 500 cm^2 as reported by CEH. If so, the sample result is actually 0.52 $\mu\text{g}/100 \text{cm}^2$ which is twice the allowable limit for a composite sample and even exceeds the regulatory limit for a discreet sample.

Finally, regarding composites:

When collecting composite samples, the procedure outlined above shall be used with the following exceptions:

2. All individual samples that make up a composite sample must be placed in one sample container.

CEH failed to place the composites into one container, and instead placed the composites into two containers. This supports the argument that no samples were actually collected from the interior of the ducts at all, and the two samples are actually two discreet samples collected from the exterior of the duct work. Nowhere in their report does CEH actually state that the interior of the HVAC system was ever sampled.

Since it is the purpose of the HVAC system to move air uniformly through a structure, any contaminant in the HVAC system would have been a source point of contamination, and may have resulted in widespread re-contamination of the property, and the new occupant's personal belongings.

As a side note, in violation of regulatory Sections, §8.5, §8.6, §8.7, §8.13 and §8.19, the drawing provided in the documentation failed to depict that which is required for the drawings. For example, on the drawing for the upstairs, identified as "7/18/09" and mysteriously identified as "8/12/09," we see that there is no designation for the attic samples. It's difficult to understand how the CEH asbestos technician had predicted on 8/12/09 where the 8/20/09 samples were to be collected. The more one scrutinizes the drawings provided in the CEH reports, the more non-compliant and confusing the drawings become. For example, the floor plans in the initial report do not even agree with the floor plans in the final report and sample locations in the drawings do not match with the sample descriptions (e.g. in the cook room (downstairs bedroom), the sample collected from that room is described as:

Basement, bedroom, East wall, closet shelf

however the drawing depicts a sample from the west side of the room and not the east wall at all.)



Failure to Submit Field Blanks

According to regulations:

At least one sample media blank, treated in the same fashion but without wiping, should be submitted for every 10 samples collected.

Although not a fatal flaw, the failure to submit the correct number of blanks is a further example of the sloppy work and lack of understanding of good sampling protocols and the Colorado State regulations.

During the July 18, 2009 sampling period, CEH stated they collected 12 samples for which two field blanks should have been submitted. Only one blank was submitted.

Section 8 – Reporting Failure to Comply

According to State regulations, the final report must include, at a minimum, specific elements to be considered acceptable. Section 8 states:

A final report shall be prepared by the consultant to document the decontamination process and demonstrate that the property has been decontaminated to the cleanup levels listed in Section 7.0 of these regulations. The final report shall include, but not be limited to, the following:

Paragraph 8.3

According to State regulations:

8.3. If available, copies of law enforcement reports that provide information regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and observed areas of contamination or waste disposal.

CEH failed to include law enforcement documents. The law enforcement documents were readily available upon request. FACTs personnel had no difficulty in obtaining the necessary documents by merely walking into the Jefferson County Sheriff's Office and requesting the documents. CEH failed to comply with this portion of the regulations and failed to include the law enforcement documents.

Paragraph 8.4

CEH failed to comply with Paragraph 8.4 of the State regulations which reads:

8.4. A description of chemical storage areas, with a figure documenting location(s).

Nowhere in the provided documentation do we find where CEH has provided a drawing or description of the storage location where the methamphetamine was being stored. Even accepting for a moment the false argument that law enforcement documents were not available, or that other readily available public domain documents were not available, had CEH even performed a proper walkthrough of the house to determine functional



spaces, they would have seen ample visual evidence of storage of methamphetamine at the property. Of course, this assumes that the person walking through the property is properly trained and would have sufficient competency to be able to correctly interpret their observations. Clearly Mr. Jim Dennison, CIH, either entirely lacked sufficient technical competency to properly interpret the ample and overt signs of methamphetamine storage locations in the property or, he never bothered to walkthrough the property to make the mandatory observations.

Paragraph 8.6

CEH failed to comply with Paragraph 8.6 of the State regulations which requires the final report to include:

A description of cooking areas, with a figure documenting location(s).

CEH failed to include this figure in their final report.

Paragraph 8.7

Paragraph 8.7 of the State regulations requires the final report to include:

8.7. A description of areas with signs of contamination such as staining, etching, fire damage, or outdoor areas of dead vegetation, with a figure documenting location(s).

CEH failed to comply with this provision, and we do not see where this information was provided.

Paragraph 8.8

CEH failed to comply with Paragraph 8.8 which requires the Industrial Hygienist to include in the final report, the results of the plumbing integrity inspection. Paragraph 8.8 states:

8.8. The results of inspection of plumbing system integrity and identification of sewage disposal mechanism.

Since CEH explicitly states it lacks the technical competency to perform the plumbing inspection, it should have contracted that portion of the assessment out to a competent and properly trained Industrial Hygienist. There is no regulatory relief in the performance of this duty simply because the Industrial Hygienist lacks the technical competency to perform the work. Incidentally, CEH makes this same statement in all methlab assessments, FACTs has reviewed.

Paragraph 8.12

CEH failed to comply with Paragraph 8.12 of the State regulations which requires the final report to include:

8.12. A description of the analytical methods used and laboratory QA/QC requirements.

We do not see where CEH included this information in their final report.



Paragraph 8.13

CEH failed to comply with Paragraph 8.13 of the State regulations which requires the final report to include:

8.13. A description of the location and results of initial sampling (if any), including a description of sample locations and a figure with sample locations and identification.

As already mentioned, the drawings provided fail to identify the location of all the samples. (FACTs did not scrutinize the drawings in detail, and therefore, other errors may be present.)

Paragraph 8.14

CEH failed to comply with Paragraph 8.14 of the State regulations which requires the final report to include:

8.14. A description of the health and safety procedures used in accordance with OSHA requirements.

We do not see where CEH included this information in their final documentation.

Paragraph 8.19

CEH failed to comply with Paragraph 8.19 of the State regulations which requires the final report to include:

8.19. A description of the location and results of post-decontamination samples, including a description of sample locations and a figure with sample locations and identification.

We do not see where CEH included this information in their final documentation, for example the attic sample location has not been identified and the final drawings don't match the actual structure.

Paragraph 8.20

CEH failed to comply with the photographic documentation sections of the State regulations. According to State regulations:

8.20. Photographic documentation of pre- and **post-decontamination** property conditions, including cooking areas, chemical storage areas, waste disposal areas, areas of obvious contamination, sampling and decontamination procedures, and post-decontamination conditions.

CEH failed to collect photographs of post remediation property conditions. In its report, CEH merely collected 32 photographs; 20 of which were just close-up photographs of their sample templates. Based on these photos, we still don't know if the attic was remediated or not, since there are no adequate photographs of post-decontamination site conditions.



Paragraph 8.21

CEH failed to include the necessary information required by State regulation in the consultant's statement of qualifications. According to State regulations:

8.21. Consultant statement of qualifications, including professional certification or qualification as an industrial hygienist as defined in section 24-30-1402, C.R.S., and description of experience in assessing contamination associated with methamphetamine labs.

Please see our discussion titled "Authorized Personnel," at the beginning of this review for a description of how CEH has failed to comply with this provision.

Paragraph 8.22

CEH failed to comply with the provisions of Paragraph 8.22 which states that the Industrial Hygienist must provide:


8.22. Certification of procedures and results, and variations from standard practices.

The work performed by CEH at this property involved numerous deviations and variations from the State regulations, as described in this Critical Review. CEH failed to document those variations from regulation and Standard Industry Practices as required.

Further, in its "certification" CEH has patently provides false information when Mr. Dennison states:

Certification

I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3 §4, and that I conducted post-decontamination clearance sampling in accordance with 6 CCR 1014-3, §6. I further certify that the property has been decontaminated in accordance with the procedures set forth in 6 CCR 1014-3, §5, and that the cleanup standards established by 6 CCR 1014-3, §7 have been met as evidenced by testing I conducted.


James E. Dennison, Ph.D., CIH

As described in the preceding discussion:

1. Mr. Dennison did not conduct a preliminary assessment in accordance with 6 CCR 1014-3.
2. Mr. Dennison did not conduct post decontamination clearance sampling in accordance with 6 CCR 1014-3
3. There is no documentable evidence pursuant to regulation that the property has met the clean-up standards established by 6 CCR 1014-3
4. Mr. Dennison did not perform ANY post decontamination testing.



Paragraph 8.23

CEH made a false certification, and failed to meet the provisions of the requirements of Paragraph 8.23 of 6 CCR 1014-3 which require the consultant to provide:

8.23. A signed certification statement in one of the following forms, as appropriate:

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, § 4, and that I conducted post-decontamination clearance sampling in accordance with 6 CCR 1014-3, § 6. I further certify that the property has been decontaminated in accordance with the procedures set forth in 6 CCR 1014-3, § 5, and that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted.

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, §4. I further certify that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted."

On Page 2 of the document titled "Final Report for Methamphetamine Testing and Remediation (suggested date)" Mr. Dennison signed the following statement:

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, §4. I further certify that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted."

The signed statement is materially false for the following reasons:

- 1) The purported Preliminary Assessment, as demonstrated in the preceding discussion, was not performed in accordance with the provisions of 6 CCR 1014-3 §4
- 2) In the provided document, CEH clearly indicated that Mr. Dennison did NOT perform the post remediation testing necessary to determine compliance with the clean-up standards; the CEH document explicitly states that Mr. Jaeckel performed the post remediation testing.
- 3) As demonstrated in the preceding discussion, the clean-up standards, as established by 6 CCR 1014-3, §7, have not been met as evidenced by the testing that was conducted.

On Page 2 of the document titled "Final Report for Methamphetamine Testing and Remediation (suggested date)" Mr. Jaeckel signed the following statement:

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, §4. I further certify that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted."

The signed statement is materially false for the following reasons:



- 1) In the provided documents, CEH clearly indicated that Mr. Jaeckel did NOT perform a Preliminary Assessment, the CEH documentation purports that Mr. Dennison performed the (fatally flawed) Preliminary Assessment.
- 2) The purported Preliminary Assessment, as demonstrated in the preceding discussion, was not performed in accordance with the provisions of 6 CCR 1014-3 §4
- 3) The sampling, as demonstrated in the preceding discussion, was not performed in accordance with the provisions of 6 CCR 1014-3 §4
- 4) As demonstrated in the preceding discussion, the clean-up standards as established by 6 CCR 1014-3, §7 have not been met as evidenced by the testing that was conducted by Mr. Jaeckel.

DISCUSSION

The work performed by CEH exhibits a profound lack of technical competency. The work performed contained multiple violations of State regulations.

The work performed by Mr. Dennison constituted a violation of the Code of Ethics of the American Board of Industrial Hygienists and fails to meet a minimum standard of professional care.

The CEH work, since it does not meet the minimum elements of either a Preliminary Assessment or final clearance sampling, cannot be used for either.

Colorado Criminal Code – Fraud; Offering a false instrument for recording

One of two mental states necessarily must have been present in the performance of the CEH work: 1) Either CEH knew that the work it was performing was grossly deviant from mandatory State requirements or, 2) CEH was unaware of the fact that their work was grossly deviating from mandatory State requirements.

If CEH did not know that their work was grossly deviating from mandatory State requirements, then that is sufficient to surmise that they lacked the technical competency and authority to perform the work in the first place since it is their professional obligation to conform to those regulations and perform work pursuant to those regulations. Indeed, on two occasions CEH personnel have signed statements affirming on a legal document that the work they performed conformed to those regulations.

However, since FACTs has, in the past on other properties throughout the State of Colorado assessed by CEH, repeatedly pointed out the same deficiencies in CEH work, (as referenced in this discussion), one must surmise that CEH knowingly and willingly performed work that deviated grossly from mandatory State requirements.



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.

Pursuant to State statute, and state regulations, the mandatory “Preliminary Assessment” and the final report on post remediation sampling of an illegal drug lab is filed with the “Governing Body” with jurisdiction wherein the property is located. CEH explicitly states knowledge of that fact since they reference the Governing Body in their documentation and the submission of final reports to the same. On Page 3, of their initial report, CEH states:

Finally, meth clearance tests will need to be collected to verify that residue levels are less than the Cleanup Level, and a final report submitted to Jefferson County.

We recommend that the situation be forwarded to the District Attorney for proper evaluation, and to determine if the case raises to the level of criminal conduct.

CONCLUSIONS

The referenced documents that FACTs reviewed contained numerous errors and omissions. FACTs observed that the documentation provided documented fatal flaws associated with the CEH work, specifically:

- The document prepared by CEH purporting to be a Preliminary Assessment, exhibits gross technical incompetence, is fatally flawed, failed to comply with State Regulations, and fails to meet the minimum elements of a Preliminary Assessment, and cannot be used as a Preliminary Assessment.
- There is no competent or valid documentation, as described by regulation to determine if the property was remediated pursuant to Colorado Regulations Pertaining to the Cleanup of Methamphetamine.
- Final clearance sampling and post remediation activities were not performed in compliance with Colorado Regulations Pertaining to the Cleanup of Methamphetamine Laboratories.
- The “final clearance” sampling performed by CEH demonstrated that methamphetamine levels in the property are in excess of the mandatory cleanup levels.
- Post remediation sampling performed by CEH was performed in violation of Colorado regulations and is invalid.



- The subject property remains in a state of noncompliance with Colorado regulation 6 CCR 1014-3 and Colorado Statutes CRS 25-18.5-101 *et seq.*
- An illegal drug lab, as that term is defined in CRS §25-18.5-101, remains in existence at the subject property.
- An illegal drug lab, as that term is defined in CRS §25-18.5-101 has existed at the subject property from at least December 28, 2005, which was the date the methamphetamine laboratory was identified by Law Enforcement personnel.
- A Class 1 Public Nuisance, as defined in CRS §16-13-303(1) remains in existence at the subject property.
- A Class 1 Public Nuisance, as defined in CRS §16-13-303(1) has existed at the subject property from at least the date at which the law enforcement personnel identified the illegal drug laboratory at the property.
- “Discovery” and “Notification,” as those terms are used in CRS §25-18.5-103(1)(a) were issued on the date at which the law enforcement personnel identified the illegal drug laboratory at the subject property forward to the present date.
- To date, no final clearance sampling has been performed pursuant to mandatory regulations.
- If the property is sold as is, the seller would not receive the liability shield from toxic tort suits as described in CRS §25-18.5-103(2).

Due to the nature of the findings, FACTs has knowledge of a public threat and therefore an ethical, professional, and possibly a statutory duty to report the findings to the Governing Body.



APPENDIX A

STATEMENT OF QUALIFICATIONS





**FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.
CONSULTANT STATEMENT OF QUALIFICATIONS**

(as required by State Board of Health Regulations 6 CCR 1014-3 Section 8.21)

FACTs project name:	DVR	Form # ML15
Date August 25, 2010		
Reporting IH:	Caoimhín P. Connell, Forensic IH	

Caoimhín P. Connell, is a private consulting forensic Industrial Hygienist meeting the definition of an "Industrial Hygienist" as that term is defined in the Colorado Revised Statutes §24-30-1402. He has been a practicing Industrial Hygienist in the State of Colorado since 1987; and he is the contract Industrial Hygienist for the National Center for Atmospheric Research and has been involved in clandestine drug lab (including meth-lab) investigations since 2002.

Mr. Connell is a recognized authority in methlab operations and is a Certified Meth-Lab Safety Instructor through the Colorado Regional Community Policing Institute (Colorado Department of Public Safety, Division of Criminal Justice). Mr. Connell has provided over 200 hours of methlab training for officers of over 25 Colorado Police agencies, 20 Sheriff's Offices, federal agents, and probation and parole officers from the 2nd, 7th and 9th Colorado judicial districts. He has provided meth-lab lectures to prestigious organizations such as the County Sheriff's of Colorado, the American Industrial Hygiene Association, and the National Safety Council.

Mr. Connell is Colorado's only private consulting Industrial Hygienist certified by the Office of National Drug Control Policy High Intensity Drug Trafficking Area Clandestine Drug Lab Safety Program, and P.O.S.T. certified by the Colorado Department of Law; he is a member of the Colorado Drug Investigators Association, the American Industrial Hygiene Association (where he serves on the Clandestine Drug Lab Work Group), and the Occupational Hygiene Society of Ireland. Mr. Connell is an Subject Matter Expert for the Department of Homeland Security, IAB Health, Medical, and Responder Safety SubGroup, and he conducted the May 2010 Clandestine Drug Lab Professional Development Course for the American Industrial Hygiene Association.

He has received over 120 hours of highly specialized law-enforcement sensitive training in meth-labs and clan-labs (including manufacturing and identification of booby-traps commonly found at meth-labs) through the Iowa National Guard/Midwest Counterdrug Training Center and the Florida National Guard/Multijurisdictional Counterdrug Task Force, St. Petersburg College as well as through the U.S. Bureau of Justice Assistance (US Dept. of Justice). Additionally, he received extensive training in the Colorado Revised Statutes, including Title 18, Article 18 "Uniform Controlled Substances Act of 1992."

Mr. Connell is a current law enforcement officer in the State of Colorado, who has conducted clandestine laboratory investigations and 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 190 assessments in illegal drug labs, and collected over 1,700 samples during assessments (a 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, (State Board Of Health *Regulations Pertaining to the Cleanup of Methamphetamine Laboratories*) and was an original team member on two of the legislative working-groups which wrote the regulations for the State of Colorado. Mr. Connell 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 Colorado regulations. He has provided expert witness testimony in civil cases and 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, state officials and Federal Government representatives with forensic services and arguments against fraudulent industrial hygienists and other unauthorized consultants performing invalid methlab assessments.

Mr. Connell, who is a committee member of the ASTM International Forensic Sciences Committee, was the sole sponsor of the draft ASTM E50 *Standard Practice for the Assessment of Contamination at Suspected Clandestine Drug Laboratories*, and he is a coauthor of a 2007 AIHA Publication on methlab assessment and remediation.

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