



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

February 17, 2006

Shannon Metcalf
Building Department
City of Evans
1100 37th Street
Evans, CO 80620-2036

Dear Ms. Metcalf:

This afternoon, Friday, February 17, 2006, we received a nine page fax from you containing documents related to a property located at 3509 Montrose Street, Evans Colorado.

The documents included:

- 1) A fax cover sheet
- 2) Analysis report from Greeley/Weld County Forensic Laboratory (Lab case #149471), October 13, 2005, two pages signed by Larry Pederson
- 3) Report titled "Preliminary Assessment Report" from Century Environmental Hygiene, LLC, dated February 13, 2006, signed by James Dennison.

According to Colorado State Statute (CRS §25-18.5-103), whenever a methlab has been discovered and the property owner notified of the discovery, the property owner must comply with State Board of Health Regulation 6 CCR 1014-3 *Regulations Pertaining To The Cleanup Of Methamphetamine Laboratories*.

Pursuant to those regulations (§4.0), a preliminary assessment must be conducted by an industrial hygienist who is "trained in aspects of methamphetamine laboratories,"¹ (has received specialized training in methlab processes and procedures). The preliminary assessment must be performed in accordance with section §6.7 of those regulations. The preliminary assessment must be performed prior to the commencement of property decontamination (§4.0). Information gained during the preliminary assessment must be the basis for property decontamination and clearance sampling (§4.0). Finally, certain information required in the final documentation can only be provided by the consultant performing the preliminary assessment, and must be provided.

After review of the information provided to us by the City of Evans, it is evident the work performed by Century Environmental Hygiene, LLC, (CEH), does not meet minimum requirements for a preliminary assessment as defined by State regulations. Further, it

¹ *Pre-decontamination Sampling*, Mandatory Attachment to Appendix A, 6 CCR 1014-3

would appear that the consultant who performed the work did not meet the minimum training requirements necessary to authorize him to perform the work. Furthermore, the work performed does not meet standard industry practices.

Attached to this letter is an appendix which delineates the deficiencies associated with the preliminary assessment performed by CEH. Although we believe the assessment was fatally flawed, we do not anticipate any difficulty in performing the field work on Tuesday, February 21, as requested by the City of Evans, Building Department.

In order to satisfy State regulations, we will need to obtain the following documents from the individual who performed the remediation at 3509 Montrose Street.:

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

§8.15. A description of the decontamination procedures used and a description of each area that was decontaminated.

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

§8.17. A description of the encapsulation procedures used and a description of the areas and/or materials where encapsulation was performed.

§8.18. A description of the waste management procedures used, including handling and final disposition of wastes.

We can arrange to get those documents directly from the property owner, or if you have those documents, perhaps you could make copies for us. I look forward to meeting with you on Tuesday.

Sincerely,

Caoimhín P. Connell
Forensic Industrial Hygienist



Appendix A
Deficiencies Associated with the
Preliminary Assessment
3509 Montrose Street
Evans, Colorado

In the following discussion, we have laid out the deficiencies we identified in the available documentation associated with the report titled “Preliminary Assessment Report” from Century Environmental Hygiene, LLC, dated February 13, 2006.

Statement of Qualifications

§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.

We did not find the SOQ for the consultant in the preliminary assessment. The post decontamination report must (§8.21) include the SOQs of the original consultant who performed the preliminary assessment. Furthermore, the post decontamination assessment must be based on the preliminary assessment. Therefore, if the individual who is performing the post decontamination sampling, cannot confirm the original IH was “trained in aspects of methamphetamine laboratories²”, the post decontamination report lacks foundation.

Throughout the document, it is apparent the CEH consultant lacked the proper training to perform the necessary work, and may not have met the necessary training requirements to meet the definition of an authorized “consultant.” For example, the CEH consultant indicates a fundamental lack of understanding regarding the State regulations when CEH states (Page 2):

“... the reliability of the presumable field test is unknown. Therefore, the following observation is not intended to suggest that our assessment supported the contention that a meth lab exists, such evidentiary assessment are (sic) outside the scope of our work.”

In fact, the State regulations are very clear in specifying that it is not the role of the IH to determine if a meth-lab existed, rather, the role of the IH is to use any and all available evidentiary information to test the hypothesis of the mere *presence* of methamphetamine related materials and:

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.³

² *Pre-decontamination Sampling*, Mandatory Attachment to Appendix A, 6 CCR 1014-3

³ *Pre-decontamination Sampling*, Mandatory Attachment to Appendix A, 6 CCR 1014-3



The regulations clearly state:⁴

In pre-decontamination sampling, the assumption (hypothesis) is made that the area is clean i.e. “compliant,” and data will be collected to find support for the hypothesis. Data (such as samples) are collected to “prove” the area is compliant. Sampling, if it is performed, is conducted in the areas with the highest probability of containing the highest possible concentrations of contaminants. Any data that disproves the hypothesis, including police records, visual clues of production, storage, or use or documentation of drug paraphernalia being present, is considered conclusive, and leads the consultant to accept the null hypothesis and declare the area non-compliant.

Additionally, CEH indicates that it is not “trained in aspects of methamphetamine laboratories” by making the statement:

“ ... the reports of phosphine and phosgene would correlate with the red phosphorous method of meth production.”

Phosgene gas is not associated in any way with the Red-Phosphorous method of methamphetamine production.

Description of property

§4.2 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.

§4.7. Identification and documentation of chemical storage areas.

§4.8. Identification and documentation of waste disposal areas.

§4.9. Identification and documentation of cooking areas.

The CEH report states:

4. Chemical storage areas. Chemical storage areas were not clearly indicated in the police report.

5. Waste Disposal Areas. No waste disposal areas were located.

6. Cooking areas. No information is available in the Police Report that provides any clues on the cooking areas.

In fact, the available law enforcement documentation clearly and explicitly addresses chemical storage areas, and waste storage areas and, to a person “*trained in aspects of methamphetamine laboratories,*” the law enforcement documentation clearly indicate the cook areas. The available law enforcement documents clearly addresses each of these issues; CEH incorrectly and erroneously addressed these issues in the preliminary assessment.

⁴ *Pre-decontamination Sampling*, Mandatory Appendix A Sampling Methods and Procedures, 6 CCR 1014-3



Functional space inventory:

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

The State regulations require that final sampling include at least one sample from each functional space, as determined during the preliminary assessment. A functional space inventory was not performed at the property by CEH.

Identification and documentation of areas of contamination.

§4.6 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...

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

CEH reported:

No specific signs of contamination were noted. No staining, fire damage, or dead vegetation was noted.

However, yellow staining indicative of cook areas and iodine was present in the house, and to a person “*trained in aspects of methamphetamine laboratories*” considerable evidence of potential contamination surrounding the property is visible in photographic records. Identification and documentation of areas of contamination were not appropriately addressed in the preliminary assessment.

Plumbing system inspection

4.11. Inspection of plumbing system integrity and identification and documentation

CEH states:

“No signs of plumbing system integrity were noted.”

However, photographic records indicate that the integrity of the plumbing system had been significantly compromised, even to the extent the toilet had been removed, and was sitting in the bathtub. We do not believe this section of the regulation was properly addressed.

Photographic Record

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

Since these areas were not properly identified by the consultant, an adequate photographic record of the areas was not made.



Sampling

CEH indicates composite sampling in it's three page report, however, we were unable to locate any record of the composite samples in the documentation provided.

CEH states in it's report that a field blank was submitted "*with each batch of samples except for the final sample.*" However, the CEH documentation provided to us contained no record of any field blanks, and contained no record of a final sample, and further contains documentation of only one batch of samples. None of the field sampling sheets indicated the presence of a field blank.

CEH states that the locations of samples collected by Weld County were unknown and therefore not provided. However, public records indicate that the sample locations were known and properly documented.

Vehicles

Consistent with Colorado HB 04-1182, the Colorado Revised Statutes (CRS §25-18.5-101), defines a "Drug laboratory" as:

...the areas where controlled substances, as defined by section 18-18-102, C.R.S., have been manufactured, processed, cooked, disposed of, or stored **and all proximate areas that are likely to be contaminated** as a result of such manufacturing, processing, cooking, disposing, or storing.

Furthermore, also pursuant to CRS §25-18.5-101, property effected by and included in the State methlab regulations means:

...anything that may be the subject of ownership, including, but not limited to, land, buildings, structures, and vehicles.

Law enforcement documents clearly indicate the presence of methamphetamine and drug paraphernalia in the Green Ford Pick-up associated with the property. Therefore, CEH needed to address the vehicle as a separate drug lab or a functional space of the real property located at 3509 Montrose Street, pursuant to the Mandatory Appendix A which states:

Where the drug laboratory is located in a structure other than a single-family dwelling, the potential of fugitive emissions must be considered. For example, if the functional space was located in an hotel room, and evidence of contamination extended into the corridor, the elevator, the lobby, and one adjacent room, there would be four separate functional spaces to evaluate: 1) The primary hotel room, 2) the corridor/elevator complex 3) the lobby, 4) the adjacent hotel room.

Although there are two vehicles associated with the property, and CEH was aware of the vehicle wherein methamphetamine and paraphernalia were located, CEH entirely failed to address either vehicle.

Personal Belongings

The State regulations do not exempt personal belongings.



Regulation 6 CCR 1014-3(3) addresses personal belongings as property:

(3) "Property" means anything that may be the subject of ownership or possession, including, but not limited to, land, buildings, structures, vehicles and personal belongings.

Section 5.8 of 6 CCR 1014-3 states:

5.8.1 Personal property must either be decontaminated to the cleanup levels specified in section 7.0 of this regulation, or properly disposed in accordance with these regulations.

5.8.2 Personal property that will not be disposed of must be sampled in accordance with procedures described in Appendix A of this regulation. Discrete samples must be collected from each individual item, except as provided in 5.8.3.

Although the residence contained considerable chattels, we do not see that CEH addressed this portion of the regulations in any way.

