



**FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.**

**Regulatory Audit  
of**

**Preliminary Assessment Report  
by**

**Koch Environmental Health, Inc.  
Ranch At Bear Creek  
Building 10, Unit 183  
3324 S Field Street  
Lakewood, Colorado  
(179 Regulatory Violations  
of 6 CCR 1014-3)**

Prepared by:

**FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.**

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November 30, 2015

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## EXECUTIVE SUMMARY

Forensic Applications Consulting Technologies, Inc. (FACTs) is a private S-Corporation in the State of Colorado offering classical Industrial Hygiene services to its clients.

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

This review pertains to the document identified as:

POTENTIAL METHAMPHETAMINE-AFFECTED PROPERTY PRELIMINARY ASSESSMENT  
REPORT

PREPARED FOR:

RANCH AT BEAR CREEK  
3324 S. FIELD STREET  
LAKEWOOD, COLORADO

PROJECT:

RANCH AT BEAR CREEK APARTMENTS  
BUILDING 10, UNIT 183  
3324 S. FIELD STREET LAKEWOOD, COLORADO  
KEH PROJECT NUMBER 07006-013  
JANUARY 21, 2015

The purpose of this review is to document regulatory violations associated with regulatory work regarding the assessment of methamphetamine affected properties (6 CCR 1014-3). The level of scrutiny employed in this review is that which has been established by the Colorado Department of Public Health and Environment.

For this regulatory audit, FACTs has identified no fewer than 179 total individual regulatory violations.

This particular consultant, Koch Environmental Health, has an history of regulatory violations under 6 CCR 1014-3.<sup>1,2</sup>

## REVIEW OF THE DOCUMENT

FACTs obtained a copy of the report under review through the Colorado Open Records Act (CORA) directly from the Colorado Department of Public Health and Environment (CDPHE).

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<sup>1</sup> 1533 N. Monroe Street, Loveland, CO, [http://www.forensic-applications.com/meth/KEH\\_Rpt\\_review\\_M.pdf](http://www.forensic-applications.com/meth/KEH_Rpt_review_M.pdf)

<sup>2</sup> 1812 164th Place, Thornton CO, <http://forensic-applications.com/meth/164thCriticalReview.pdf>



During the performance of a Preliminary Assessment, the Consultant is required by regulations to perform specific mandatory tasks and provide specific mandatory documentation.

In reviewing the Preliminary Assessment report by Koch Environmental Health, Inc., for 3324 S Field Street, Bldg. #10, Unit 183 ,Lakewood, Colorado (the subject property), the following regulatory violations have been identified:

## **Failure to Comply with Section 4**

During the performance of a Preliminary Assessment the Consultant is required to perform specific actions and provide specific information. The regulations are not optional, and the Consultant is not at liberty to waive any portion of the regulations.

4.0 Preliminary Assessment. A preliminary assessment of all methamphetamine-affected properties shall be conducted in accordance with this section and Section 6.1.2 of these regulations, ...The Consultant shall personally inspect the subject property to gather all of the information necessary to prepare a Preliminary Assessment Report (other than the legal description of the subject property and the background information described in Section 4.2), and shall document information collected through photographs, notes, and other appropriate methods. The Consultant shall evaluate the information collected during the preliminary assessment and record his or her observations and findings in a Preliminary Assessment Report. The Preliminary Assessment Report shall include, but not be limited to, the following, to the extent available and applicable:

### ***Violation of Paragraph 4.1***

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.1 Subject property description, including physical address, legal description, number and type of structures present, description of adjacent and/or surrounding properties, and any other observations made.

Nowhere in the KEH report for 3324 S. Field Street, Bldg, #10, Unit #183, Lakewood, CO (the subject property) do we find the number and type of structures present, or a description of adjacent and/or surrounding properties.

### ***Violation of Paragraph 4.2***

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.2 Summary of information from review of available law enforcement reports regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and areas of contamination, or waste disposal.

Nowhere in the KEH report, do we see where KEH attempted to identify the availability of law enforcement documents for the subject property. In his report, Mr. Koch stated:



*KEH is unaware of the existence of an El Paso Intelligence Center or EPIC form related to methamphetamine manufacturing at this address. KEH reviewed the US Department of Justice National Clandestine Laboratory Database and found the subject address not listed at the time of generation of this report.*

The El Paso Intelligence Center (EPIC) has nothing to do with the property in question, and EPIC is not a law enforcement agency with jurisdiction over the property. The El Paso Intelligence Center (EPIC) is a Federal DEA and U.S. Customs Service Center assisting in the identification of drug traffickers and illegal alien trafficking along the U.S. - Mexico border and is headquartered at Biggs Army Airfield in Texas.

By contrast, the subject property in question is located in Lakewood, Colorado, which is in Jefferson County, Colorado. As such, the law enforcement agencies with jurisdiction over this subject property are the Lakewood Police Department and the Jefferson County Sheriff's Office. We do not see anywhere in the KEH report where Mr. Koch documented any attempt to contact these law enforcement agencies to determine if any law enforcement documents were available for review.

#### ***Violation of Paragraph 4.3 (Four violations)***

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.3 Description of structural features in all buildings, such as attics, false ceilings, crawl spaces, and basements, including:

4.3.1 If the building has an attic, a description of the integrity of the building ceiling (i.e., attic floor), any signs of access, storage, manufacturing, or venting into the attic (e.g., holes cut in ceiling for the purpose of venting gases from a cook), and a description of observations of the ducting associated with all bathroom and kitchen exhaust vents. If preliminary assessment sampling is conducted, include the results of sampling in accordance with Section 6 of this Part 1.

Nowhere in his report, has Mr. Koch complied with this requirement. In his report, Mr. Koch states:

*The property is a residential rental property with no attic or crawlspace; thus, no soil samples were collected.*

Although we would not expect soil samples to be collected from an attic, Mr. Koch has failed to note that the structure does, in fact, have an attic. Since Mr. Koch failed to note that there is an attic associated with the subject property it follows that he also neglected to include information regarding if the attic in the structure is a common attic or isolated by firewalls.

There is no description of the building ceiling as required.

There is no description of "...ducting associated with all bathroom and kitchen exhaust vents."



There is no description of "...or venting into the attic."

There is no description of "...the integrity of the building ceiling."

There is no description of "...signs of access, storage..."

### **Violation of Paragraph 4.3.2**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.3.2 A description of the integrity of the building floor, and if there is a crawl space, a description of any signs of access, storage, venting, or disposal related to methamphetamine manufacturing, integrity of any vapor barriers, and any signs of disposal onto the soil of the crawl space.

One of the photographs taken by Mr. Koch at the subject property clearly shows a floor penetration for a duct. Therefore, the ductwork must necessarily run through some kind of sub-floor conduit or crawlspace, and yet, Mr. Koch has failed to describe a sub-floor conduit or crawlspace.

### **Violation of Paragraph 4.5**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.5 Identification of manufacturing methods based on the Consultant's observations and law enforcement reports, if available.

Since Mr. Koch made no documented attempts to obtain any pertinent law enforcement documents from appropriate law enforcement agencies, Mr. Koch could not have complied with this requirement.

### **Violation of Paragraph 4.11 Common Areas (Two Violations)**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.11 For properties with multi-unit buildings, identification and documentation of other units and common areas where contamination may have spread or been tracked.

For this subject property - which is part of a large, multi-unit complex - there is a common, covered, stairway and common entryway where contamination may have spread or been tracked.

Also, KEH failed to note that the subject property has adjoining units into which fugitive emissions may have occurred.



### **Violation of Paragraph 4.11.1 Shared Attic**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.11.1 If contamination above the standard is identified in any unit in a multi-unit structure with shared attics (i.e., open space with no fire walls), the shared attic spaces shall be investigated to determine whether they are also contaminated. If access is not available to inspect or sample shared attic spaces, the owner of the contaminated unit or their representative shall give notice to the owner(s) of the shared attics and the owners and tenants of the units that are immediately below the shared attic spaces that methamphetamine contamination may be present. Notice shall also be given to the homeowners' association (HOA), if one has been established. The consultant shall document any limitations on access in the final report.

As already discussed, Mr. Koch failed to note that the building in question does have an attic. As will be described below, Mr. Koch failed to comply with the mandatory sampling requirements for this property, and failed to obtain any samples pursuant to regulations. Therefore, while it is now established that the property does contain methamphetamine, and the building does have an attic, it is impossible to know if “... *contamination above the standard is identified in any unit in a multi-unit structure with shared attics...*” since that determination must be based on lawful samples. According to State regulations:

If the Consultant determines that assessment sampling is appropriate, such sample collection and analysis shall be conducted in accordance with the assessment level sampling protocols and other requirements of Section 6 of this Part 1.

### **Violation of Paragraph 4.15**

During the performance of a Preliminary Assessment the Consultant is required to perform specific activities including:

4.15 If assessment sampling is conducted, it shall be conducted in accordance with Section 6 of this Part 1.

The consultant is required to conduct assessment sampling in accordance with Section 6. Mr. Koch failed to comply with this requirement as delineated later in this audit as presented in the discussion of Section 6.

### **Violation of Paragraph 4.15.1 via 6.3.1 (Two violations)**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.15.1 a description of the sampling procedures used, including sample collection, handling, and QA/QC;

6.3.1 A single pair of gloves may be used to collect each aliquot that will be part of a single composite sample. Use a new pair of gloves for each set of composite samples.



Nowhere in the KEH report, does Mr. Koch identify that he used any kind of hand protection and nowhere does Mr. Koch identify the use of gloves. Therefore, cross contamination issues are probable.

QA/QC procedures are not even mentioned in the report.

### **Violation of Paragraph 4.15.3**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.15.3 results of sampling, including a description of sample locations and a computer generated figure illustrating the layout of the building(s) ...

The situs represented by the address given contains approximately 13 buildings and yet, nowhere in the KEH report has Mr. Koch provided a computer generated figure illustrating the layout of the buildings or any adjoining units.

### **Violation of Paragraph 4.16**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:

4.16 Documentation of personal property assessment and ...

Nowhere in the KEH report do we find any assessment or discussion or mention of any personal property.

### **Violation of Paragraph 4.17**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information. In his report, Mr. Koch has explicitly claimed he performed clearance sampling in accordance with 6 CCR 1014-3, Part 1, § 6.

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

Yet according to State regulations if one is conducting clearance sampling:

4.17 If clearance sampling is conducted during the preliminary assessment, it shall be conducted in accordance with Section 6 of this Part 1. Documentation of clearance sampling shall include:

### **Violation of Paragraph 4.17.1**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information including:



4.17.1 A description of the sampling procedures used, including sample collection, handling, and QA/QC.

Nowhere in the KEH discussion do we find a description of sample collection and handling and QA/QC as required. For example, as already discussed, it would appear that Mr. Koch failed to use gloves and therefore, introduced cross-contamination issues.

#### **Violation of Paragraph 4.17.4**

During the performance of a Preliminary Assessment the Consultant is required to provide specific information. In his report, Mr. Koch has explicitly claimed he performed clearance sampling in accordance with 6 CCR 1014-3, Part 1, § 6.

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

4.17.4 Documentation of variations from standard practices.

Nowhere in the documentation do we see where Mr. Koch has identified any of variations as identified in this audit.

#### **Violation of Section 6**

During the performance of a Preliminary Assessment and/or Clearance Sampling, the Consultant is required to perform specific tasks pursuant to specific protocols.

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

#### **Failure to Comply with Paragraph 6.2.3 (20 violations)**

During the performance of a Preliminary Assessment and/or Clearance Sampling, the Consultant is required to perform specific tasks pursuant to specific protocols including:

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

No rough sketch (or computer generated drawing) is provided for the following 20 samples that were/should have been collected:

1. 183-01-1 Interior front door below handle Living room complex
2. 183-05-1 Furnace filter Closet
3. 183-05-2 W wall of closet
4. 183-05-3 Top of door at return vent Closet
5. 183-05-4 Exterior of furnace Closet
6. 183-06-1 Exterior storage unit door
7. 183-06-3 Exterior storage unit center of w wall
8. 183-06-4 Exterior storage unit center of s wall
9. Attic
10. Attic
11. Attic



12. Attic
13. Foyer
14. Foyer
15. Foyer
16. Foyer
17. Furnace
18. Furnace
19. Furnace
20. Furnace

### **Failure to Comply with Paragraph 6.2.5 (25 violations)**

During the performance of a Preliminary Assessment and/or Clearance Sampling, the Consultant is required to perform specific tasks pursuant to specific protocols including:

6.2.5 Use a new set of clean, non-powdered impervious gloves for each sample to avoid contamination of the sample media by previous samples and to prevent contact with the substance.

Nowhere in the report has Mr. Koch documented the use of gloves for any of the 25 samples.

### **Violation of Paragraph 6.2.7, 6.2.9, 6.2.10 (24 Violations)**

According to State regulations:

6.2.7 Wipe the surface using one of the following methods:

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

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

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

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

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

According to Mr. Koch in his report:

*KEH employed the "S" method of wipe sampling described in section 6.2.7 of 6 CCR 1014-3.*

That is, Mr. Koch failed to employ the "concentric" method, or indeed any second pass or third pass at all, as required.



On February 19, 2015, FACTs officially requested a variance from the provisions of 6.2.7 through 6.2.10, especially where it was practically impossible to comply with this bizarre sampling requirement. In her response to our request,<sup>3</sup> Ms. Brisnehan explicitly rejected this variance from the regulations:

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

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

Therefore, according to Ms. Brisnehan with the CDPHE, any areas whose samples are collected using exclusively the “S” wipe method have not been assessed and are rejected by the CDPHE. Since Mr. Koch collected 24 such samples for six areas, according to the CDPHE, none of the aliquot were valid, and none of the areas thus “cleared” are valid.

### **Violation of Paragraph 6.2.12.5**

According to mandatory State regulations, during the performance of the work the Consultant is required to perform specific tasks including:

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

For this project, the documentation provided by Mr. Koch indicates that Mr. Koch collected six four-part composites but submitted a single media for the field blank, in violation of this requirement.

### **Violation of Paragraph 6.2.14**

According to mandatory State regulations, during the performance of the work the Consultant is required to provide specific information in the report including:

6.2.14 Maintain a Chain-of-Custody Record covering the time of sample collection through final disposition. ... At a minimum, the Chain-of-Custody Record shall include the following:

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



## **Violation of Paragraph 6.2.14.2**

6.2.14.2 subject property address;

On the submitted chain-of-custody, Mr. Koch failed to place the property address, and instead used the address of just the building wherein the residence is located. The address provided by Mr. Koch on his Chain-of-Custody is applicable for 105 individual residences at the same location.

## **Violation of Paragraph 6.2.14.2**

6.2.14.3 sampler name and contact information;

Nowhere on the chain-of-custody has the identity of the person who collected the samples been provided.

## **Violation of Paragraph 6.2.14.6 (7 violations)**

6.2.14.6 number of sample aliquots

This information is missing from Mr. Koch's chain of custody.

## **Violation of Paragraph 6.2.14.9 (7 violations)**

6.2.14.9 sample matrix

This information is missing from Mr. Koch's chain of custody.

## **Violation of Paragraph 6.2.14.11**

6.2.14.11 sample preservatives

This information is missing from Mr. Koch's chain of custody.

## **Violation of Paragraph 6.3.2 (18 violations)**

According to mandatory State regulations, during the performance of the work the Consultant is required to perform specific tasks including:

6.3.2 Use a separate piece of sample media for each aliquot.

As already mentioned, Mr. Koch failed to provide a description of his sampling method and the documentation provided indicates Mr. Koch appears to have used a single wipe to collect the four separate aliquots for each composite sample. Since there were 24 aliquots, there should have been 24 individual pieces of sample media. The documentation indicates only 7 individual pieces of media were used and therefore, for six samples, the consultant used the same piece of medium to collect three sets of aliquots (18 violations).

## **Violation of Paragraph 6.3.6 (3 violations)**

According to mandatory State regulations, during the performance of the work the Consultant is required to perform specific tasks including:



6.3.6 Collect all individual aliquots from 100 cm<sup>2</sup> sampling areas.

As already mentioned, Mr. Koch failed to properly document all his sampling locations, and therefore, we cannot know the location of all samples. However, the photographic documentation provided by Mr. Koch clearly indicates that at least three of his samples were not 100 cm<sup>2</sup> as claimed:



Given the convoluted topography of the surfaces, it would have been physically impossible to know the surface area of the first and third samples as depicted in the above photographs, and impossible to collect 100 cm<sup>2</sup> from the template used for the second location.

### ***Violation of Paragraph 6.5***

According to mandatory State regulations, during the performance of the work the Consultant is required to perform specific tasks including:

6.5 Vapor Sample collection procedures. If the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, vapor samples for mercury **shall** be collected in accordance with the procedures for sample collection described in NIOSH Method 6009 as incorporated in Section 9 of this Part 1.

In his report, Mr. Koch disingenuously states:

*The P2P method of methamphetamine manufacture could not be confirmed at the subject property and it is unknown by KEH if methamphetamine manufacturing was even conducted at the property based on the evidence derived during the Preliminary Assessment, thus sampling for surface lead or mercury vapors was not conducted at this property*

As already documented Mr. Koch appears to have made no effort to obtain, review or even ascertain the availability of law enforcement documents – therefore, there was no effort on the part of Mr. Koch to confirm whether or not a P2P manufacturing method was actually used on site.

### ***Violation of Paragraph 6.8***

According to the regulations, upon the performance of a Preliminary Assessment, the Consultant is required to perform specific tasks, including:



## 6.8 Assessment level sampling protocols for buildings and personal property.

6.8.1 Except as provided in Section 6.8.2 below, the Consultant **shall** conduct sampling for methamphetamine that meets the clearance level sampling protocols of Section 6.9 in all rooms of a methamphetamine-affected property as part of the preliminary

The exception cited (§6.8.2) is that sampling is not required if the Consultant assumes the item is noncompliant and is not being cleared. For this property that exception was never employed. Therefore, all the sampling was required to be in compliance with Section 6.9. However as provided above, and in further detailed below, none of the sampling performed at the property was compliant with regulations.

### ***Violation of Paragraph 6.9***

According to the regulations, upon the performance of a Preliminary Assessment, the Consultant is required to perform specific tasks, including:

**6.9 Clearance level sampling protocols for buildings and personal property.** The Consultant **shall** conduct clearance level sampling of any subject property that meets the definition of a methamphetamine-affected property, or that is suspected of being a methamphetamine-affected property as provided in Sections 3.2, 3.3 or 3.4 of this Part 1, to verify that cleanup standards have been met. ... Samples shall be collected according to the following criteria:

As documented below, Mr. Koch failed to perform the sampling pursuant to the mandatory requirements.

### ***Violation of Paragraph 6.9.1***

According to the regulations, upon the performance of a Preliminary Assessment, the Consultant is required to perform specific tasks, including:

6.9.1 Except as provided in Section 6.9.1.1, at least 400 cm<sup>2</sup> of surface area shall be sampled from every room, attic, and crawl space.

As already discussed, Mr. Koch failed to collect any samples from the attic (and indeed, failed to even notice the existence of the attic).

### ***Violation of Paragraph 6.9.4 (3 Violations)***

According to the regulations, upon the performance of a Preliminary Assessment, the Consultant is required to perform specific tasks, including:

6.9.4 For buildings and structures that have forced air ventilation systems, at least 400 cm<sup>2</sup> of surface area of the ventilation system shall be sampled, unless the entire ventilation system is removed. Samples **shall** be collected from accessible areas within the heat exchanger unit, inside the cold air return system, from inside the supply air system, and from one other location selected at the Consultant's discretion. The Consultant will visually inspect accessible portions of the ventilation system and review photo documentation to verify that the system has been cleaned and is free of debris.



For this property, Mr. Koch failed to collect the following samples from the ventilation system as required:

1. within the heat exchanger unit
2. inside the cold air return system
3. inside the supply air system

Therefore, the ventilation system was never cleared and remains contaminated as of November 30, 2015.

### **Violation of Paragraph 6.9.4 Photo-documentation not Provided**

Nowhere in his written documentation do we see where Mr. Koch visually inspected accessible portions of the ventilation system or reviewed photo documentation to verify that the system had been cleaned and is free of debris.

### **Violation of Paragraph 6.9.7 (Six violations)**

According to the regulations, upon the performance of a Preliminary Assessment, the Consultant is required to perform specific tasks, including:

6.9.7 The interior of major appliances (microwaves, refrigerators, freezers, ovens, and dryers) must be sampled using discrete samples. The exterior of major appliances may be sampled using composite samples.

In his report, Mr. Koch has presented the following photograph:



In this photograph, we can clearly see:

- 1) A dishwasher
- 2) A stove
- 3) A refrigerator

Yet, in violation of regulations, there are no samples collected from

- 1) the dishwasher
- 2) the stove
- 3) the refrigerator

Furthermore, although FACTs disagrees with the **interpretation** of the State of Colorado CDPHE, Ms. Brisnehan (CDPHE) insists that the above cited regulations **requires** that the exterior of each appliance be sampled. Mr. Koch entirely failed to sample the exterior of the following appliances:

- 1) the dishwasher
- 2) the stove
- 3) the refrigerator

### **Violation of Paragraph 6.9.11 (33 Violations)**

As already described, none of the samples collected by Mr. Koch at the subject property were valid, however, according to regulations:

6.9.11 ...Samples shall be collected from surfaces that have a reasonable potential to contribute to human exposure, including:

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

In his report, Mr. Koch has documented that he collected samples from areas expected to have the **lowest** levels of contamination, such as the areas under door handles, kitchen sink basin, bathroom sink basin and bathroom tub basin.

Since Mr. Koch failed to properly document the locations of all his samples, we cannot know the actual number of violations of this section. However, based on the documentation we can know that the following samples were not collected pursuant to §6.9.11:

1. No sample collected as required (Attic)
2. No sample collected as required (Attic)
3. No sample collected as required (Attic)
4. No sample collected as required (Attic)
5. 183-04-1 (Bathroom)
6. 183-04-2 (Bathroom)
7. 183-04-4 (Bathroom)
8. 183-05-1 (Closet)
9. 183-05-2 (Closet)
10. 183-05-3 (Closet)
11. 183-05-4 (Closet)



12. 183-06-1 (Exterior Storage)
13. 183-06-2 (Exterior Storage)
14. 183-06-3 (Exterior Storage)
15. 183-06-4 (Exterior Storage)
16. No sample collected as required Foyer
17. No sample collected as required Foyer
18. No sample collected as required Foyer
19. No sample collected as required Foyer
20. No sample collected as required Furnace
21. No sample collected as required Furnace
22. No sample collected as required Furnace
23. 183-01-1 Kitchen complex
24. 183-01-2 Kitchen complex
25. 183-01-4 Kitchen complex
26. 183-02-1 Northeast Bedroom
27. 183-02-2 Northeast Bedroom
28. 183-02-3 Northeast Bedroom
29. 183-02-4 Northeast Bedroom
30. 183-03-1 Northeast Bedroom
31. 183-03-2 Northeast Bedroom
32. 183-03-3 Northeast Bedroom
33. 183-03-4 Northeast Bedroom

### ***Violation of Paragraph 7.2***

According to the regulations, the Consultant is required to perform specific tasks to clear a property. In his report, Mr. Koch explicitly states he conducted clearance sampling. Therefore, pursuant to Section 7.2:

7.2 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 cm<sup>2</sup>.

As already described, Mr. Koch entirely failed to determine the availability of law enforcement documents, and otherwise failed to address the presence of iodine. Therefore, since Mr. Koch failed to address these issues, it was otherwise impossible for Mr. Koch to comply with Section 7.2 of the regulations.

### ***Violation of Paragraph 7.3***

According to the regulations, the Consultant is required to perform specific tasks to clear a property. In his report, Mr. Koch explicitly states he conducted clearance sampling. Therefore, pursuant to Section 7.3:

7.3 If the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface wipe samples for lead shall not exceed a concentration of 40 µg /ft<sup>2</sup>, and vapor samples for mercury shall not exceed a concentration of 1.0 µg /m<sup>3</sup>.

As already described, Mr. Koch entirely failed to determine the manufacturing process and failed to determine the availability of law enforcement documents, and otherwise failed to address the presence of a P2P laboratory. Therefore, since Mr. Koch failed to



address these issues, it was otherwise impossible for Mr. Koch to comply with Section 7.3 of the regulations.

## **Colorado Consumer Protection Act**

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

We believe that Mr. Koch has violated the Colorado Consumer Protection Act, and as a result, the registered owner of this subject property, and the general public, have been harmed.

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

In his report, Mr. Koch makes the following statement:

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

And yet, as documented in this audit, the work at this subject property was definitely not performed pursuant to 6 CCR 1014-3 as claimed.

According to Colorado Revised Statute §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.

One of two mental states necessarily must have been present in the performance of the KEH work at the subject property: 1) Either Mr. Koch knew that the work he was performing was grossly incompetent and not in compliance with State Regulations (as demonstrated above) or, 2) Mr. Koch was unaware of the fact that his work was deviating from mandatory State requirements.



The State of Colorado, through the CDPHE, has explicitly certified that Mr. Koch is knowledgeable of the regulations. Therefore, Mr. Koch had to have been performing the work knowing the same was not compliant with the regulations.

Pursuant to State statute and state regulations, the “Preliminary Assessment Report” must be filed with the State of Colorado (indeed the report we reviewed was obtained from the State of Colorado through the Colorado Open Records Act) Therefore, we believe the facts objectively establish that Mr. Koch was aware of such recording and was aware of the false statements made therein.

## **CONCLUSION**

For this regulatory audit, FACTs has identified no fewer than 179 individual regulatory violations committed by Koch Environmental Health in their Preliminary Assessment for the property located at 3324 So. Field St., Lakewood, Colorado.



# Appendix A

## Reviewer's Statement of Qualifications





## Forensic Applications Consulting Technologies, Inc. Consultant Statement of Qualifications

FACTs project name:	Field	Form # ML15
November 30, 2015		

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

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

From 2009, Mr. Connell served as the Industrial Hygiene Subject Matter Expert on the Federally funded Interagency Board (Health, Medical, and Responder Safety SubGroup), and was elected full member of the IAB-HMRS in 2011 where he now serves. He is the only private consulting Industrial Hygienist in Colorado certified by the Office of National Drug Control Policy High Intensity Drug Trafficking Area Clandestine Drug Lab Safety Program, and P.O.S.T. certified by the Colorado Department of Law.

He has received over 194 hours of highly specialized law-enforcement sensitive training in drug lab operation, and under supervision of the US DEA, he has manufactured methamphetamine using a variety of street methods. He has received highly specialized drug lab assessment training through the Iowa National Guard, Midwest Counterdrug Training Center and the Florida National Guard Multijurisdictional Counterdrug Task Force, St. Petersburg College, Rocky Mountain HIDTA, as well as through the US NHTSA, and the U.S. Bureau of Justice Assistance (US Dept. of Justice) and he is currently ARIDE Certified.

Mr. Connell is a current sworn law enforcement officer 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 607 assessments of illegal drug labs in CO, SD, NE, OK, and collected over 5,492 samples during assessments (a partial detailed list of drug lab experience is available on the web at): <http://forensic-applications.com/meth/DrugLabExperience2.pdf>



# Multijurisdictional Counterdrug Task Force Training

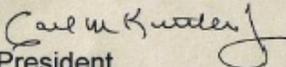


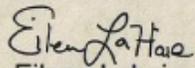
This is to certify that  
**Caoimhin P. Connell**

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

**Rural Patrol**

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

  
President  
St. Petersburg College

  
Eileen Lahaie  
MCTFT Director

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

Midwest Counterdrug Training Center



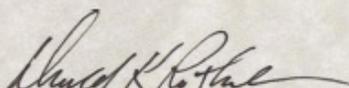
# Certificate of Training

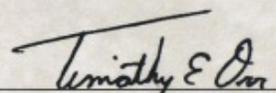
This certifies that

**Caoimhin Connell**

Has successfully completed the  
**Clandestine Laboratory Certification**

Cheyenne, WY  
40 Training Hours  
2-6 August 2004

  
Network Environmental Systems, Inc.

  
LTC Timothy E. Orr  
Commandant



# Center *for* Task Force Training™

THIS IS TO CERTIFY THAT

*Caoimhin P. Connell*

HAS SUCCESSFULLY COMPLETED 20 HOURS OF TRAINING IN

**METHAMPHETAMINE INVESTIGATION MANAGEMENT**

MARCH 20-22, 2006

DENVER, COLORADO

Domingo S. Herraiz  
Director, Bureau of Justice Assistance

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



## State and Local Anti-Terrorism Training

THIS IS TO CERTIFY THAT

**Caoimhin P. Connell**

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

**June 1, 2006**

**Denver, Colorado**

Domingo S. Herraiz  
Director, Bureau of Justice Assistance



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

*Rocky Mountain  
High Intensity Drug Trafficking  
Area*



*Certifies that*



*Caoimhín Connell*

*has attended*

*4 hours of*

*Hash Oil Extraction: The Scene and The Patient*

*Aurora, CO*

*July 25, 2014*

*Training Manager, Rocky Mountain HIDTA*

*Director, Rocky Mountain HIDTA*



[www.nesglobal.net](http://www.nesglobal.net)

*Certificate of Completion*

*Caoimhin Connell*

*has successfully completed training in*

*Advanced Clan Labs: Beyond the Basics*

*presented by*

*NES, Inc.*

*1141 Sibley Street Folsom, CA 95630*

*Instructor - Brian Escamilla*

*04/28/14 04/30/14*

*Date*

*Contact Hours:24*

This certifies that

*Caoimhin P Connell*

Has met the requirements for the online course

*Expert Testimony Training for the Prosecutor and Scientist*



11-07-2012

Certificate Number: 1109778763

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



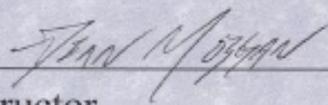
## Park County Sheriff's Office Certificate of Completion

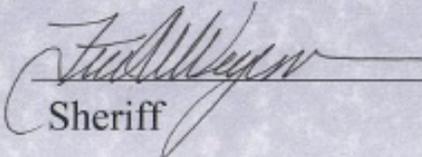
# Caoimhin Connell

has completed an 8 hour course in:

### Crime-scene Approach and Evidence Collection

Completed this 29th day of April, 2009

  
Instructor

  
Sheriff

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



*Certifies that*



**Caoimhín P. Connell**

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

Training Manager, Rocky Mountain HIDTA

Director, Rocky Mountain HIDTA

***Certificate of Completion***

*This Will Certify That*

***Caoimhín P. Connell***

*Successfully Completed*

**Prescription Drug Crimes**

7 Hours Completed

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

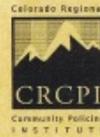
**P. Ritch Wagner**  
Instructor



Director, Law Enforcement Liaison & Education



**COPS**  
COMMUNITY ORIENTED POLICING SERVICES  
U.S. DEPARTMENT OF JUSTICE



# Certificate of Training

This is to certify that  
Caoimhin Connell

(Name)

Park County Sheriff's Office

(Agency)

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

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

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



## Colorado Law Enforcement Officers' Association



This is to certify that

**CAOIMHIN CONNELL**

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

hosted by **Loveland Police Department**

on **February 28 – March 1, 2011**

Tom Finelle  
Tom Finelle, CLEOA President

M. A. [Signature]  
ARIDE Instructor

# State of Colorado



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

**CAOIMHIN PADRAIG CONNELL**

**August 27, 2008**

Date

VIN INSP— **0952**

Number

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

*Bill Ritter Jr.*

Governor

*John W. Suthers*

Attorney General, Board Chairperson

## Certificate of Completion Intoxilyzer 9000 Operator Certification Course

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

**Caoimhin P Connell**

User ID: **841645**

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

**February 21, 2013**

Certificate Date

*Jeffrey A. Groff*

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



*David A. Butcher*

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

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



# Certificate of Achievement

awarded to:

**Caoimhin P. Connell**

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

June 1st, 2005

Date

Signed

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

## CERTIFICATE OF COMPLETION

COLORADO LAW ENFORCEMENT ASSOCIATIONS TRAINING PROJECT

*This Certifies That*

**Caoimhin Connell**

Has Attended the

**CLEAT 40-HOUR**

**Train the Trainer Course**

Hosted by Breckenridge Police Department  
August 14-18, 2006

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



John L. Kammerzell  
Executive Director  
Police Officer Standard & Training



Donald E. Christensen  
Executive Director  
County Sheriffs of Colorado



COLORADO AUTO THEFT INVESTIGATORS



SINCE 1973

This is to certify that

**Caoimlin P. Connell**

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

Presented this 24th day of May, 2008

*Chris Fox*

CATI President

*[Signature]*

VIN Inspector Training Coordinator

State of Colorado



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

**CAOIMHIN PADRAIG CONNELL**

**May 6, 2004**

Date

B- 10670

Number

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

*Phil Owen*

Governor

*Ken Salazar*

Attorney General, Board Chairperson

**Rocky Mountain  
High Intensity Drug Trafficking  
Area**



*Certifies that*



**Caoimhín Connell**

*has attended*

*16 hours of*

**MCTC / RMHIDTA Indoor Marijuana Grows**

**Centennial, CO**

**August 28-29, 2014**

*Training Manager, Rocky Mountain HIDTA*

*Director, Rocky Mountain HIDTA*

**CERTIFICATE OF TRAINING**

THIS IS TO CERTIFY THAT

**Caoimhín Connell**

Has completed 4 hours of successful training for

The Hazards of Hash Oil Extraction

Held at IRIS Fire Investigations in Englewood, CO

on this 7<sup>th</sup> day of November, 2014

Robert K. Toth  
IRIS Fire Investigations, President



**COLORADO**  
Department of Public  
Health & Environment

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

December 30, 2014

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

**Consultant Interim Authorization Approval**

Dear Caoimhin Connell:

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

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

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

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_

12/30/2014





**COLORADO**  
Department of Public  
Health & Environment

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

December 30, 2014

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

**Consultant Firm Interim Authorization Approval**

Dear Forensic Applications Consulting Technologies Inc:

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

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

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

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

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

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

Approved By: \_\_\_\_\_

Date: 12/30/2014

