

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

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

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
TDD Line (303) 691-7700      (303) 692-3090  
Located in Glendale, Colorado

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

April 7, 2008

Editor  
Glendale Cherry Creek Chronicle  
P.O. Box 460429  
Glendale, CO 80246

Recent articles in the Glendale Cherry Creek Chronicle regarding redevelopment proposals for the landfill at the former Lowry Air Force Base contain serious factual errors about the regulatory role of the Colorado Department of Public Health and Environment (CDPHE).

CDPHE has no involvement in land use decisions at this or any other environmental cleanup site, other than to ensure continuing protectiveness of the environmental remedy. Any planned development for this landfill property must be approved by the cities of Denver and Aurora, not the State. CDPHE's role is to ensure that any remaining environmental contamination does not pose a risk to human health and the environment.

CDPHE is responsible for ensuring that the landfill cover, constructed as the environmental remedy by the Air Force at the time of closure, remains protective. The Air Force, meeting all requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), chose to implement a standard remedy, capping the site with a soil cover. This cover meets regulatory requirements to keep precipitation from seeping into the landfill materials. CDPHE approved construction of this cap and required post-closure maintenance and monitoring of methane gas and groundwater to ensure the remedy remains effective.

An environmental covenant approved by CDPHE was also required as part of the remedy. This covenant restricts any future use of the property that would disturb the current cover, and the owner has chosen to fence the property to protect the integrity of the cover. Unless the current or future owner decides to remove all of the waste from the site, there will always be a covenant on this property. Although the privatization agreement transferred cleanup responsibility to Lowry Reuse Authority, Lowry Assumption, LLC, and its insurer, the Air Force retains ultimate liability for the waste it left behind, and must approve any changes to the remedy as long as the landfill materials remain in place.

State Law does not prohibit property owners from implementing an alternative remedy as long as the alternative remains protective, and is approved by CDPHE. Environmental covenants may be modified at any site, in accordance with specific requirements spelled out by law, as long as those changes continue to protect human health and the environment. To date, no plans to change the current remedy have been submitted.

Thank you for this opportunity to clear up factual errors and to clarify CDPHE's role in regulating environmental cleanup activities at the former Lowry AFB.

Sincerely,

Jeffrey Deckler  
Remedial Programs Manager  
Hazardous Materials and Waste Management Division