

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

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Colorado Department
of Public Health
and Environment

June 18, 2008

Certified Mail # 7005 1820 0000 3208 3108

Return Receipt Requested

Mr. Jeffrie Herman, Executive Director
Boy Scouts of America, Denver Area Council
2901 W. 19th Avenue
Denver, Colorado 80204

RE: Shooting Range, Peaceful Valley Scout Ranch
Denver Area Council, Boy Scouts of America

Dear Mr. Herman:

As you are aware, the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division ("the Division") has reviewed information it has received regarding the alleged potential disposal of lead generated as a result of shooting range activities at the Peaceful Valley Scout Ranch in Elbert County, Colorado ("the site," "the facility"). We note the following findings:

- Evidence has been provided to the Division indicating that contamination in the form of lead pellets, clay target fragments and plastic debris has been identified on properties downgradient of and adjacent to the site. The contamination appears to be consistent with waste generated by the shooting range on the adjoining Peaceful Valley Scout Ranch.
- As noted in our September 19, 2007 letter, lead shot and other debris from the shooting range that have fallen, washed, or otherwise been deposited on adjacent properties not controlled by the Boy Scouts of America are considered to have been discarded and therefore abandoned, making them subject to Colorado laws governing the management and disposal of solid and hazardous waste. Leaching tests conducted on the lead pellets, such as the Toxicity Characteristic Leaching Procedure (TCLP), would almost certainly prove that this discarded debris is capable of failing the threshold concentrations used to define a characteristic hazardous waste for this metal. Discarding lead contamination and other debris into the environment in a manner that results in its migration beyond the property boundary of the shooting range constitutes disposal of a solid waste and possibly a hazardous waste. This activity and the potential impact to the environment,

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including surface water and ground water, appears to be in violation of the Colorado Hazardous Waste Act (25-15-101 C.R.S. *et seq.*, "the Act").

The information received indicates that investigations are needed to define the extent of this release to the environment on the affected property adjoining the Peaceful Valley Scout Ranch, followed by actions to remediate solid and hazardous waste and taking action to prevent a reoccurrence of this incident.

Three options are available to deal with the identified offsite contamination. The first and preferred approach is to conduct remedial activities in accordance with a process outlined in a voluntary Corrective Action Plan that you prepare and submit for Division approval. The Colorado Hazardous Waste Regulations, 6 CCR 1007-3, section 100.26, allow facilities to voluntarily develop work plans to investigate and remediate releases to the environment. The corrective actions proposed under such a plan may be conducted either in a phased manner (the results of the first phase determine the activities of subsequent phases) or in an integrated fashion (a process that will result in completing a specified activity, such as defining the full extent of contamination, without having to prepare intermediary plans or reports). Under this rule, the Division will review and respond to plans received within a relatively short time frame. A copy of the document entitled, "RCRA Integrated Corrective Action Plan Application Guidance Document and Checklist" is attached to this letter for your information and review, or may be downloaded from the Division's website at <http://www.cdphe.state.co.us/hm/icapapp.pdf>.

The second alternative would be for the Division and the Boy Scouts of America to enter into a Compliance Order on Consent. This is an agreement that describes the process by which releases are responded to. This agreement would outline procedures for the preparation and review of work plans and reports, describes a method for resolving procedural and technical disputes, and describes the procedure for terminating the corrective action process upon completion of all work. The Division would draft such an agreement and offer that agreement to Peaceful Valley Scout Ranch for negotiation of specific work elements.

In the event Peaceful Valley Scout Ranch is unwilling to enter into such an agreement, the third alternative for the Division to unilaterally issue a Compliance Order to Peaceful Valley Scout Ranch to perform the required investigation and cleanup.

In an effort to confirm that the investigation and, if necessary, remediation of the property in question will be dealt with in a timely and effective manner, we request that you sign and return this letter by not later than July 7, 2008. Doing so confirms that Peaceful Valley Scout Ranch will perform all necessary work voluntarily under the Corrective Action Plan process outlined in section 100.26 of the Colorado Hazardous Waste Regulations, and that such a plan will be provided to the Division within sixty (60) days of signing the letter. The signed letter should be returned to the Division at the following address:

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Ms. Caren Johannes
Colorado Department of Public Health and Environment
Hazardous Materials and Waste Management Division
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

You may call to request a meeting to discuss the matter with representatives of the Division. If we do not hear from you by July 7, 2008, we will assume that you are not interested in resolving this matter as outlined above and will refer the violations for further enforcement.

As noted in our September 19, 2007 letter, periodic cleanup of any contamination at the site will help reduce or eliminate the potential source of lead migration in soil, surface water and ground water, potentially saving the range owners and operators from having to conduct a costly and lengthy cleanup of the site in the future. Again, the Division recommends that you refer to guidance from the U.S. Environmental Protection Agency, the Interstate Technology and Regulatory Council and the Division for additional information to assist you in ensuring the range is operated in a fashion to put in place best management practices and minimize environmental impacts due to the use of lead shot at the site. In addition, the facility must take precautions to ensure that site runoff in this area is controlled to prevent migration of lead shot and shells from the permitted area.

Based on both electronic and written correspondence to the Division concerning the site, we are also aware that additional site investigation reports are either in final preparation or have been prepared concerning the facility and any potential on- and off-site impacts that may have occurred as a result of the shooting range operations. We request that complete copies of all site investigation reports concerning the facility, particularly work that has been completed on adjoining properties, be provided to us for review by not later than July 7, 2008. Unless this new information proves that an off-site release has not occurred, it is the expectation of the Division that one or the other of the above described mechanisms will be employed to characterize and remediate any releases that may have occurred.

If you have additional questions or concerns regarding this letter, please contact Caren Johannes at (303) 692-3347. Your legal counsel may contact David Kreutzer of the Colorado Attorney General's Office at (303) 866-5667.

Sincerely,



~~W. C. Johannes, Unit Leader~~

Hazardous Waste Corrective Action Unit
Hazardous and Solid Waste Compliance Program

cc: Mr. Steve Gerber, Boy Scouts of America, Denver Area Council
Ms.Carolynn White, Esq., Brownstein Farber Hyatt Schreck, P.C.
Mr. Richard Miller, Elbert County Planning Department

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I certify that I am authorized by the Boy Scouts of America, Denver Area Council to state that Peaceful Valley Scout Ranch will within the next sixty (60) days prepare and submit a Corrective Action Plan pursuant to section 100.26 of the Colorado Hazardous Waste Regulations, specifying the process by which the site in question will be fully investigated and, if deemed necessary, remediated. I have read the options outlined in the letter above and, on behalf of Peaceful Valley Scout Ranch, agree that the preferred path is the Corrective Action Plan process.

Name (Print): _____

Title (Print): _____

Telephone Number: _____

Signature

Date