1081403 - R8 SDMS

"Hook, Gene C. - Environmental Health" <Gene.Hook@ci.denver.co.us>

03/30/2005 04:21 PM

To Victor Ketellapper/EPR/R8/USEPA/US@EPA

cc George Weber <gw@gwenvironmental.com>, Wendy Hawthorne <whawthorne@nedenverhousing.org>, Glenn Tucker <gjt1@cdc.gov>, Dawn Tesorero/ENF/R8/USEPA/US@EPA, "Tafoya-Dominguez, Beverly - Environmental Health" <Beverly.Tafoya-Dominguez@ci.denver.co.us>, "Salas, Jason S - Environmental Health" <Jason.Salas@ci.denver.co.us>, Richard Lotz <richard.lotz@state.co.us>, Wendy OBrien/EPR/R8/USEPA/US@EPA, Michelle Smith <msmith@projectresourcesinc.com>, Michael Kosnett <Michael.Kosnett@uchsc.edu>, lumumbaphd@yahoo.com, Lorraine Granado <lorrgranado@yahoo.com>, "Litle, Bob" <BLitle@ASARCO.com>, Victor Ketellapper/EPR/R8/USEPA/US@EPA, Karen Kellen/ENF/R8/USEPA/US@EPA, Jennifer Chergo/OCP/R8/USEPA/US@EPA, "Hoff, Martha F - Environmental Health" <Martha.Hoff@ci.denver.co.us>, Gloria Shearer % Steve Reemts <stmartinplaza@qwest.net>, DouglasKay@aol.com, Derek Boer <derek.boer@state.co.us>, Patricia Courtney/OCP/R8/USEPA/US@EPA, "Vanderloop, Celia - Environmental Health" <Celia.Vanderloop@ci.denver.co.us>, "Barbara O'Grady" <barbara.ogrady@state.co.us>, "Arend, Chris" <Chris.Arend@mail.house.gov>, antthomas@juno.com, Jessica Sewell <jessica.sewell@mail.house.gov>, Kenneth Cotton/ENF/R8/USEPA/US@EPA, Jane Mitchell <jane.mitchell@state.co.us>, James Chapman <james.chapman@ci.denver.co.us>, Chris Poulet/RA/R8/USEPA/US@EPA, Jim and Karen Halberg Weaver <halbergweaver@members.mkl-mmaf.org>, Raquel Holguin <rholguin8@yahoo.com>, "Benerman, Bill - Environmental Health" <Bill.Benerman@ci.denver.co.us>

bcc

Subject DEH Comment Letter

Victor,
Attached is a Denver Environmental Health letter to EPA, commenting on the lead-based paint issue.
Thanks for your consideration.
Gene

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CITY AND COUNTY OF DENVER

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JOHN W. HICKENLOOPER
Mayor

March 29, 2005

Mr. Victor Ketellapper
U.S. Environmental Protection Agency
Region VIII
999 18th Street, Suite 500
Denver, CO 80202-2466

RE: EPA's proposal to address exterior lead based paint in the VB/I-70 Superfund site.

Dear Mr. Ketellapper:

We wish to provide comment on EPA's proposal to address lead-based paint in the VB/I-70 Superfund site that was summarized in your January 13, 2005 memorandum addressed to the VB/I-70 Working Group, and discussed during the January 27, 2005 Working Group meeting.

We wish to thank EPA and CDPHE for your proposal to address deteriorated exterior lead-based paint, in order to protect the soil remedy implemented at the VB/I-70 site, and applaud your willingness to investigate necessary options to provide needed public health protection. We concur that it would be ill-advised to remove and replace residential soils, and then allow those soils to be re-contaminated with deteriorated lead-based paint.

However, EPA's approach to the selection of properties that qualify for an abatement action appears to be inconsistent. EPA has proposed a methodology that provides for intervention if the amount of lead in deteriorated paint can be calculated to elevate the yard-wide average soil lead concentration above the Site cleanup level (i.e., above 400 ppm). The methodology assumes that lead in deteriorated paint is evenly distributed over the entire yard's surface, and that locations of elevated lead concentrations cannot be predicted. However, deteriorated paint from a building is likely to contaminate the soil surface within only one or two meters of the structure (i.e., in the dripline). Hence, EPA's assumption of a yard-wide distribution underestimates the amount of lead that would actually be present in soil near a structure, and that is readily available for contact by a young child.

We suggest this calculation methodology sets a poor precedent for Superfund and may not adequately protect public health, as the areas near a house are often the primary play space for a young child.

Further, in some cases, properties with smaller yards might qualify for a cleanup when those with a large yard would not qualify. In reality, the same concentration of lead would be present in the dripline of both properties. Therefore, this approach is inconsistent in protection of the remedy, as the remedy should be defined in terms of protection of public health.

We understand that CERCLA limits EPA's actions regarding the abatement of lead-based paint hazards. However, we are unaware of any EPA guidance that dictates how "protection of the remedy" is defined for this issue. Therefore, we respectfully suggest EPA explore options for an alternate approach that addresses predictable areas of higher lead concentration, protects public health, and yet meets the requirements of the Superfund program.

We would be happy to discuss this issue further with you. Thank you for the opportunity to provide these comments. If you have any questions, please contact Celia VanDerLoop at 720 865-5458, or me at 720 865-5469.

Sincerely,

Gene C. Hook
Division of Environmental Quality

cc: VB/I70 Working Group