

Rocky Mountain Peace & Justice Center

Working for Nonviolent Social Change for Over 20 Years

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October 3, 2007

Stevan Simich and Lori Windle, Co-Chairs
Valmont Butte Heritage Association

Dear Stevan and Lori:

Thank you for giving us this opportunity to share with you and your Board of Directors some very disturbing information that was presented to the entire RMPJC staff earlier this week regarding Valmont Butte and its historical record of land transfers and contamination. Based on our preliminary conversations, it is apparent that this is information members of the VBHA may not be aware of, though extremely important in view of the pending purchase of the land by Trust for Public Lands.

As you may not be aware, I was hired by RMPJC in July 2006 to coordinate a newly focused effort, the *Nuclear Nexus Project: Working to End Local Hazards and the Global Threat*. This effort is designed to educate citizens about the lesser known sites in the Denver/Boulder metropolitan area that may have been impacted either by wastes from the Rocky Flats Nuclear Weapons Plant or other nuclear materials integral to the circle of nuclear weapons, from mining and milling to waste disposal, cradle to grave. Prior to my joining the RMPJC staff, I taught Environmental Ethics and other courses with an emphasis on environmental justice and military-related toxic hazards affecting our communities here at home, including case studies of numerous sites where Native American lands have been exploited for radioactive materials mining, nuclear weapons testing and/or waste disposal. Integral to my curricula were opportunities for students to engage in in-depth research about selected local environmental hazards and any related policy controversies using various research techniques taught, including use of state and federal public records acts.

In 1998, one student group opted to research Valmont Butte for their semester project. The students' interest was prompted by one student, who'd reported he'd bicycled to the Butte and while going around the perimeter, noticed a number of half buried 55-gallon barrels with cemented contents, corroded, along with an apparent project to cover up the site's contents as it was being readied for sale, priced at \$3 million. Each semester, following evaluation, the students' "Pollution Profiles" are shelved as a publicly available reference at the University of Colorado Environmental Center Library, on the 3rd floor of the UMC. Local reporters over the years since 1996 have routinely been made aware of the various student research projects and invited to review any key findings and recommendations the students may have made.

As the buried wastes were so obvious, and a faded radioactive symbol was noted on a sign posted, it seemed apparent that any prospective buyer in the course of their due diligence would readily become aware of the same records including the deed history and complete history of environmental assessment from EPA and CDH records that my students had acquired. Unfortunately, it appears that this may not have been the case when the City of Boulder acquired the radioactive land in 2000.

As I reside in Denver, I do not regularly follow the news in Boulder papers and so was personally unaware of this land acquisition by the City of Boulder when it occurred, and only learned of it recently upon reading a story in the *Daily Camera* about a pending sale of the land by Boulder to a non-profit entity, perhaps for end use or ownership by community groups and Native Americans. This prompted my interest in reviewing a file copy of a report one of my student groups had submitted for their semester project in 1998, selecting the Valmont Butte site for study.

Given RMPJC's association as a supporting partner to the Valmont Butte Heritage Alliance and shared goals for protecting land considered sacred by Native Americans from further development and degradation, I brought this matter to the RMPJC staff for discussion at our most recent staff meeting, where it was decided we should bring the issue to the Alliance for

Following is a brief synopsis of the key information obtained by University of Colorado at Boulder students for their semester project report on their selected topic, the Valmont Butte site for my "Environmental Ethics: Race, Class & Pollution Politics" class in the Fall 1998. As noted above, this and other "Pollution Profile" reports done by my students from 1996 – 2005 are available for public review at CU Boulder.

Many of my students' reports over the years, once reviewed by journalists or others, have become the focus of public scrutiny for improved decision-making over the environmental matters researched. In this case, however, it appears that when the City of Boulder was considering acquisition of the Valmont Butte property in 2000, the same agency records which the students had previously obtained were surprisingly not produced or referenced by city staff as part of a thorough due diligence search of records about the site's history for the edification of Boulder City Councilpersons as they were preparing to vote on the acquisition. It seems that Boulder residents who have now as a result become the liable parties for this site would have had the right to expect city officials to review and consider the full record about the site's history, since they'd been easily accessed by 19 and 20 year old students with no prior experience obtaining documents for review under public records laws.

Of significance from documents obtained for the student's "*Valmont Butte: Toxic Mess for Sale*" report:

* In 1941, Morse Bros. Machinery sold the Valmont Butte property to General Chemical Company.ⁱⁱ

* In 1971, the owner of the Valmont Butte at that time, Allied Chemical Corporation, accepted radioactive soil for free from a site in Boulder where low to moderate income housing was being built, and the project halted when soil radiation readings 20,000 times above normal background were recorded.ⁱⁱⁱ Records show that 150 truckloads of this contaminated soil were dumped at Valmont, while 25 barrels of the most contaminated material were shipped to a nuclear site in Nevada. In that article, the Valmont property was referred to as an "approved disposal site."

* In 1967, Colorado Department of Health Radiological Health Specialist Al Hazle notified Glen E. Allen of General Chemical on Valmont Road of the results of radiation analyses they had taken the prior month from the company's "mill tailings pond and from wells in the vicinity." The pond at the pump house was found to have a level of gross alpha radiation at 290 picocuries per liter (pCi/L) (plus or minus 33) (*Note: a picocurie is a measure of radiation; under present standards the acceptable level of gross alpha is 15 pCi/L.*) Radium 226 was also documented in the pond, at 11.0 (plus or minus 0.6). The private well of one residence across the street from one of the pond dams was noted to have gross alpha radiation at 64.0 (plus or minus 10.7) and radium 226 at 0.18 (plus or minus 0.13). "Because of the nature of water supplies and your tailings pond as a possible source of this radioactivity, I feel we should repeat this sampling on a routine basis." (*Note: In 1967, the resident's well did not exceed potable water guidelines under the standards of those times, but it does exceed today's standards or 15.0 pCi/L, or about 4 times higher than is presently allowable.*)

* In 1970, Al Hazle of CDH wrote to Harry Puttuck of Allied Chemical, notifying him of fluoride and radiation tests taken from the onsite pond and domestic wells from 8 residences along Valmont Road.^{iv} All had detectable levels of radium 226, and all had gross alpha radiation levels at many times above the level measured in the drinking water tap supplying the Allied Chemical Company's office. Four domestic wells showed gross alpha radiation levels above that which would be considered safe by today's standards.

* In 1971, Allied accepted 150 truck loads of soil radioactively contaminated at 20,000 times above background area soil at no charge from a site where low-income housing was being constructed in Boulder.

- * In 1972, The Colorado Health Department did an inspection of the industrial wastewater discharge and found that the excess tailings pond water was being pumped to the PSCo Valmont cooling ponds.^v
- * In 1972, The Colorado Health Department found that there were two unpermitted discharge points at the Allied Valmont Mill, one to the irrigation ditch northwest of the mill and another from the tailings pond to the Public Service Valmont Plant cooling ponds, with the notation that the “tailings pond excess is pumped to PSCo Valmont cooling ponds.” CDH recommended that “further surveillance” be conducted. Boulder Creek was noted as the receiving stream.^{vi} This letter was copied to the Boulder City-County Health Department.
- * In 1973, the Boulder City-County Health Department issued a “Special Environmental Health Report,”^{vii} investigating a “complaint by the Sheriff’s Department that Allied Chemical was discharging chemicals into ditch along the road.” On inspection, it was found that the liquid had a pH of greater than 8.0. The health official placed dye into the stream and found that it crossed under the road “and empties into a holding pond locate near the park on Valmont Rd. near the KOA Campground. From the pond the water empties into a ditch and then into Boulder Creek.”
- * In 1975, CDH’s Water Quality Control Division wrote to Mr. Charles Fountain of Englewood “RE: Holding Pond Requirements for the Allied Chemical Company, Boulder, Colorado.” In it, the following recommendation was made: “The pond should be totally sealed so that there is zero seepage loss from the pond. This will require installation of an impervious liner.”^{viii}
- * In 1976, Michael Jelen sold to Tusco, Inc., a Nevada Corporation for \$10.00 the property at Valmont described as the same premises conveyed to General Chemical Company by deed of Morse Bros. Machinery in 1941.^{ix}
- * In 1982, the Colorado Department of Health submitted the Hendricks Milling Site of Boulder, Colorado (the Valmont Butte) to EPA Region VIII as a candidate for possible cleanup under the Superfund Program.^x
- * In 1982, the EPA and Colorado Health Department jointly conducted a radiation study of the area.^{xi} According to their analyses, the considered the background levels to be 25-30 MR (millirem, another way of measuring radiation). The highest radiation readings found were along the northern boundary of the site, parallel to Valmont Road. The highest reading in that vicinity was 900 MR, or a level 30-36 times higher than the background level recorded. From the names of EPA staffers present, I recognized them to be with the EPA Region VIII’s Superfund program at that time.
- * February 11, 1983, a company called Strategic Metals International Inc., which operated at a facility at 11728 Highway 93 adjacent to the Rocky Flats Nuclear Weapons Plant, wrote to the Boulder County Health Department^{xii} about its plan with Hendricks Mining Company “to place mineral tailings from our operation into his tailings pond” with Hendricks’ agreement. “This will be an ongoing project,” the letter stated, and “We anticipate to be placing 25 tons per week within two months, and 50 tons per week in six months.” Further the letter stated, “These concentrates will be treated in our Rocky Flats facility for precious metal extraction, neutralized with calcium hypochloride (bleach) to destroy all free cyanide to less than .05 parts per million, and pumped as a slurry into a holding tank for placement in the holding pond.” (Note: This letter was copied to Al Hazle of CDH, who at that time headed the state’s radiation division.)
- * In 1983, the Colorado Health Department seems to threaten, if not execute a “Notice and Claim Against Allied Chemical Corporation for Costs and Damages Pursuant to 42 U.S. C. 9612.”^{xiii} (Note: this was under the federal Superfund law, which was passed in 1980). In the notice and claim (unsigned, unexecuted), CDH alleges that the company was operating a facility “at the time hazardous substances were disposed of, contracted, agreed or otherwise arranged for the disposal at the facility and accepted hazardous substances for transport to the facility at Valmont, substances including, but not limited to, radium and progeny. And “there have been releases of hazardous substances from said facility into the soil and groundwater “within and around the facility.” The described releases resulted in losses and damages “in the amount of \$50 million per release.”

* In 1983, The Colorado Department of Health corresponded with Boulder's County Health Department "RE: Radioactive contamination near the Justice Center."^{xiv} This was prompted by radiation readings found between 100-200 times normal background near the bicycle path on the east side of the Justice Center. One suggestion was to see if Hendricks Mining (Valmont Butte) would take it, though no record as to the final disposition of this radioactive soil was obtained by the students for their report. A copy of this correspondence was provided to the City of Boulder's then City Manager Robert Westdyke and Planning Director Edward Gawf.

* In 1985, the Boulder County Health Department's Sanitarian wrote up a "Special Environmental Health Report"^{xv} in which residents to the north of the Hendricks Mill site were interviewed. One resident related, "when the tailings pond on the other side of Valmont Butte was installed, their old well became unusable (taste)." The well was described as 18 feet deep. It also was noted: "The Butte Ditch flows close to the well." Samples were collected on the day of the visit to two resident's homes on the north side of Valmont Drive, later shown to be radioactive

* September 1, 1987, Colorado Brick Company, President, Gerald Gunning, sold to Tusco, Inc., a Nevada Corporation, vacant land described as Parcel J - 0.019 acre, in Section 22 and Parcel T - 8.742 acres in Section 22^{xvi}

* On July 13, 1994, Loren E. Smith, President of Valmont Butte Corporation sells 1/3 or the undivided interest in three parcels of land at Valmont Butte for \$10.00 to Lincoln Trust Company FBO William Smith, excepting easements and rights of way of record.

* Also on July 13, 1994, Tusco, Inc., a Nevada Corporation sells to the Valmont Butte Corporation, a Colorado Corporation, three parcels of land within Sections 22 & 23, and including all mineral and water rights, and 84 shares of the Jones and Donnelly Ditch Company. Amount paid: \$10.00. This was signed by J.W. LaFollette, President, Tusco, Inc.

* December 2, 1998, students in my "Environmental Ethics" class photographed the Hendricks site from the fence line. One student while looking down below the cemetery saw over 10 55-gallon drums, partially buried and badly corroded, with their cemented contents exposed. He also observed during his walk around the entire perimeter a very old faded sign on the fence with a barely visible radioactive symbol on it. Another sign indicated it was for sale, for \$3 million, by Tim Smith.

Subsequent to this time, the City of Boulder bought the property, in a deal approved by the Boulder City Council on August 15, 2000 for \$2.54 million.

Upon my own review of these and other records from my own research over the last two weeks since first learning of the city's ownership of the Valmont Butte site and present plans for sale to another party, I have found additional documents of interest.

The Colorado Secretary of State's records reveal that the Valmont Butte Corporation, founded in May 1994, ceased filing its required corporate reports to the state in 2004 and subsequently lost its status as a state-registered corporation. The VBC was recorded as dissolved in September 2005. The corporation was later reinstated in March 2007.

From reviewing currently available City of Boulder reports about the environmental conditions at this site from their contractor and other reports accessed on-line, it is remarkable that none reference the prior official agency reports by the EPA/CDH and/or Boulder County Health Department which found not only evidence of high radiation levels on-site, but off-site groundwater impacts to domestic wells north of the site, and at levels several times about that which would be considered safe under current standards.

As radium and other radionuclides commonly associated with high gross alpha readings are extremely long-lived, it does not seem plausible that they simply disappeared given the continuing presence of a source on-site, just covered up at present. Further, a more recent EPA test that found arsenic in a well but concluded it “could not be attributed to the site” is curious, given the toxic metal constituents on-site.

Also disturbing is that no party of record has taken action to determine the full extent of the contaminant plume through further well testing, despite evidence since 1982 of offsite migration to both ground and surface from site contaminants. Thus, the extent of impact to downgradient groundwater offsite has yet to be determined. Without such a determination, there can be no assessment of potential future liabilities by the current or prospective owner of the site. Certainly, what any party who owns or seeks to own the land should be concerned about is the potential for some downgradient farms and/or residences to have been or become adversely impacted by contaminated groundwater or other media migrating from the site, with associated risks to public health, wild or domesticated animals, crops being grown, and the environment.

These obvious contradictions in EPA and State of Colorado records, and even denials of facts previously known from their own prior testing is disturbing, but a phenomenon documented at other sites now being poorly regulated, and most notably in recent years by the Owens administration at the state level and at the federal level by the Bush administration. The result is that current claims by EPA and the CDPHE, proven false by their own records and tests from previous years, as evidenced by records obtained by my students from Boulder County Health Department files, cannot be relied upon.

In view of the information we have provided, we are confident that the Valmont Butte Heritage Alliance will agree that any sale of the Valmont Butte property to the Trust for Public Lands or any other party should not move forward at this time. Instead, we invite your support for an alternative plan that would include:

- 1. A comprehensive investigation into the City of Boulder’s 2000 acquisition of extensively contaminated and radioactive land with offsite impacts for over \$2.5 million from a party that – deed records show – previously acquired the Valmont Butte site property in 1996 for \$10;**
- 2. Full assessment of the wastes from all on and offsite generators and transporters of hazardous wastes who should be identified as potentially liable parties. Among them are any mining operations whose radioactive tailings were hauled to the site for disposal, generators of radium-contaminated sites around Boulder which were apparently relocated to the Valmont Butte site in deals with the city, and, as the aforementioned records show, the former Strategic Metals International, Inc. from its site near Rocky Flats which sent wastes from its operations there.**
- 3. Full off-site assessment of the spread of radioactive contamination in all media, including groundwater;**

4. **Full consideration of options for removal of the radioactive waste in lieu of simply covering up the site's hazards (aka "capping"), given past evidence of migration of radiation in groundwater to offsite locations and potential for future offsite migration of contaminated soil by wind erosion and burrowing animals;**
5. **A comparison of the level of remediation proposed for the Valmont Butte Site in Boulder to the Shattuck Radioactive Waste Site in Denver, which in the end was remediated to a more protective level due to close neighborhood oversight and well-organized civic organizational analysis and action. Shattuck, though a designated Superfund Site, had only been covered-up (aka "capped") with a cement cover, to the dismay or surrounding residents who pushed for the radioactive waste dump to be fully excavated with the contents removed to a facility licensed to accept radioactive wastes. Ultimately, the citizens, with the assistance of the US EPA Hazardous Waste Ombudsman's Office, and after an extensive investigation, prevailed in winning a more comprehensive clean-up for their community. The final result was permanent removal of the source of ongoing radioactive migration to groundwater from the site bringing wider community and environmental health benefit long term.**
6. **An environmental justice analysis of why a site of such cultural significance to Native Americans was allowed to become so extensively contaminated in the past without adequate enforcement of existing state and federal laws, and at present, with the contemplated sale to an intermediary, the Trust for Public Lands, with announced plans to resell the land to Native American tribes, and/or community organizations, when records show an inadequate remediation and apparent failure to disclose the full extent of known hazards and offsite contamination documented and related potential liabilities by sellers/purchasers of the property.**

As you know, the Rocky Mountain Peace & Justice Center fully supports the Valmont Butte Heritage Alliance in seeking to preserve a site considered sacred by the Native American community. We likewise want to prevent further adverse impacts to the site from development or additional polluting activities which would pose increased risks to surrounding residents, wildlife and sustaining land uses.

Additionally, RMPJC has long been noted for our work advocating full protection of public and environmental health at sites where persistent radiological threats are posed - not only at Rocky Flats and other locations in the Denver/Boulder metropolitan region, but at other sites around the nation and around the globe wherever unnecessary risks from exposures to windblown or waterborne radioactive contaminants are posed from improperly managed nuclear materials, poorly assessed hazards and incomplete clean-ups. Given this experience, we feel we can be an effective ally in any efforts by Valmont Butte Heritage Alliance members and others to call for a halt to any pending sale of the Valmont Butte under these conditions, given the need for comprehensive assessment of actual environmental conditions and related liabilities for proper corrective action in the long-range interests of public and environmental health.

Thank you for your attention to these concerns. And thank you for your dedication and persistence in working for the preservation of the Butte. We look forward to hearing from you in the very near future as to your desires for moving forward.

Sincerely,

(original signed by)

Adrienne Anderson

Coordinator

The Nuclear Nexus: Working to End Local Hazards and the Global Threat

A Project of the Rocky Mountain Peace & Justice Center

P.S. Just wanted to give you a clarification on some of the info about the deed history on property at Valmont Butte from students' research. One of the transactions in 1994 indicates a sale for \$10; two additional ones indicate transfers between parties occurred for \$10 "and other goods and consideration." This means that there may have been more behind the deals, but it is undisclosed as to what or how much it is. Further research underway, with an effort to put it all in a form that members of the general public can more easily understand.

Best,

Adrienne

ⁱ ***“Valmont Butte: Toxic Mess for Sale,”*** unpublished report, compiled by University of Colorado at Boulder students D. Bryan, J. Fabbri, L. Bruns, L. Roth, S. Sheron, S. Jones and T. Chenoweth for semester project in “Environmental Ethics: Race, Class & Pollution Politics” course, December 1998.

ⁱⁱ Warranty Deed

ⁱⁱⁱ Tom Meier, “Time Bombs and Radiation: West Arapahoe and West Pearl,” Boulder History Museum, Spring 1994, as cited in unpublished CU Boulder student report for Adrienne Anderson’s “Environmental Ethics” class, “Valmont Butte: Toxic Mess for Sale,” by students Dorothy Bryan, Juliet Fabbri, Laura Bruns, Lauren Roth, Sam Sheron, Steve Jones and Tucker Chenoweth, December 1998.

^{iv} Letter from Al Hazle, CDH Health Physicist, to Harry Puttuck, Allied Chemical, November 10, 1970, with copy to Boulder City-County Health Department.

^v “Industrial Waste Water Facility Inspection Sheet,” Colorado Health Department Radiation Control Division, by E.B. Pugsley interviewing Allied employee R.L. Goble, John Perry President, August 17, 1972

^{vi} Letter from Colorado Health Department, E.B. Pugsley, District Engineer, to Allied Chemical, August 22, 1972.

^{vii} “Special Environmental Health Report,” Boulder City-County Health Department, regarding Allied Chemical Company, by D.R. Akin, Sanitarian, March 8, 1973.

^{viii} Letter from CDH Water Quality Division’s Derald E. Lang to Charles Fountain re: “Holding Pond Requirements for the Allied Chemical Company,” August 25, 1975.

^{ix} Deed December 28, 1967 from Michael Jelen to Tusco, Inc., a Nevada Corporation, for \$10.00.

^x CDH “Sampling Plan, Hendricks Milling, Boulder Colorado,” 5/13/82.

^{xi} Boulder County Health Department, “MR Meter Survey of Hendricks Milling Site Formerly Allied Chemicals – Settling Pond.” September 14, 1982.

^{xii} Letter from Strategic Metals International Inc., John F. Widirstky, Executive Vice President to Rick Hay, Boulder County Health Department, February 11, 1983.

^{xiii} “Notice and Claim Against Allied Chemical Corporation for Costs and Damages Pursuant to 42 U.S. C. 9612.”

^{xiv} Letter from Al Hazle, Colorado Department of Health to John Donnelly, M.D., Director, Boulder County Health Department, Subject, "Radioactive Contamination Near the Justice Center," August 24, 1983 (as obtained by students in their report, op.cit.)

^{xv} "Special Environmental Health Report," Geo. Mathews, Sanitarian, Boulder County Health Department, April 11, 1985.

Subsequent e-mail

From: a2020@earthlink.net
Subject: Deed history on Valmont Butte
Date: October 19, 2007 7:37:00 PM MDT
To: ojibwelw@hotmail.com, stevansimich@yahoo.com
Cc: rmpjc@earthlink.net

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