



75 Talamine Ct. Colorado Springs, Co. 80907 phone: 719-634-0611

Montezuma-Cortez School District RE1
400 N. Elm
Cortez, CO 81321

Dear School Board and other interested Parties:

I am writing on behalf of Iron Mountain Demolition with respect to the issues raised by the letter which was delivered to many people regarding the delivery of clean-fill material to a property in Montezuma County.

First, I would like to extend our deep regret for the commotion caused by a decision we made for disposition of certain material. I fully understand the problems caused by Mr. Robbins' accusations, whether substantiated or not, and I note that we, also, have gone through levels of anxiety and concern. I am one who chooses carefully what battles to fight, and I can say without hesitation that this is not a battle I would have selected, had I had any inkling of the flurry of activity that resulted.

After considerable reflection and further exploration, we would like to offer our explanation and justification of our choices in this matter.

As I represented in my letter of June 16th, 2017, Iron Mountain operated under the sincere belief that our actions were legal and responsible. Nothing we have learned since the publication of the letter so far has altered that opinion, although we will await the outcome of certain investigations. Most of the accusations of Mr. Robbins can be dealt with by reviewing the extensive documentation of the removal and clearances for hazardous materials. Obviously, we would have not considered Mr. Fish's request unless we were comfortable of this fact. The suggestions that this was to save money is an equally incorrect assertion, as I shall explain below.

This choice was made partially in consideration of the School District's request that we work with locals as much as possible. When Mr. Fish approached us and requested that we send the fill to him, we wanted to assist his need, and to utilize his trucking, but we also proceeded with our due diligence:

History of Iron Mountain Demolition:

- We were contracted in part due to our references. We offer these, and to many others as well, as testament to the fact that we are as reputable as any demolition contractor with whom I am familiar.
- We are reputed, rightfully, to be conscientious and abide by regulations as we understand them.
- We have no violations with any agency.
- We do not try to cut corners to save money. We perform with integrity.

Origin of the fill site:

- Attached is a letter from Mr. Robert Fish acknowledging that he contacted us and requested this material. We did not solicit this site as an alternate fill site. Initially, our proposal was predicated on recycling the concrete and block material at D&L Construction. However, we were pleased to have the opportunity to assist a local landowner, instead of using another local source.

Appropriate fill site and Absence of financial motivation:

Patrick Meade, the CEO of Iron Mountain, personally visited the site to assure himself that this was a legitimate request, and that there were no issues to be dealt with. As I noted in my previous letter, we wanted to be sure there was no water, that it was private land, and that it was already a fill site.

- He did discuss with the landowner that there was not any material to cover the clean-fill with (Commonly referred to simply as “cover” or “daily cover”).
 - Mr. Fish agreed, but felt his equipment might not be reliable enough to excavate for this cover material. At our own expense, we told Mr. Fish that we would call for a Cat D-5 dozer to be shipped from Colorado Springs to assist. We did not have an operator, so we simply loaned him a piece of equipment.
 - Just for information, it costs roughly \$2000.00 each way to bring heavy equipment over the distance and 2 passes. By contrast, the total amount that I had attributed for the tipping cost of recycling the concrete was well under \$4000.00. This means that at best we would break even, but certainly there was no financial advantage to us. We did not ask Mr. Fish to pay for this equipment.
 - We calculate our out-of-pocket cost for trucking to be about \$55.00 / hour. We contracted with 2 locals at a higher rate than we would have paid in-house. Mr. Fish, hauling to his own fill area, charged us about \$75.00 / hour, and for a smaller truck than we would have used. Again, it was not in our financial interest, but to meet expectations of the bidding documents, and engender a friendly relationship with the community.
- Mr. Meade ascertained that this was already a fill site. He made a reasonable assumption that Mr. Fish, through the years, had already been vetted for bringing in clean fill, since it was obviously already filled, as are many other properties on the same road. We have since ascertained that Mr. Fish has been bringing fill to a dry area for several years.

- He noted that the area was 50-100 ft. from the nearest water. We have since ascertained that there is no connective waterway nor is this a wetland (which would have been obvious on the site visit.)
- We had a long discussion with Cara from the Army Corp of Engineers (ACE) in Durango. While she has yet to make a site visit, our discussion of the location while viewing Google Earth together with her suggested that this was previous fill area, was not wet, was not a drainage, and would not have required a permit. We await her final statement. We have arranged to meet with her and Mr. Fish in the near future.

Hazardous Materials:

- We were aware of the extensive testing performed by agents of the school district, and had copies of all inspections and the clearances for asbestos and the mercury containing floor, which was appropriately abated by others.
- We had obtained the required permit from the State of Colorado, and were able to show him that the material was clean fill.

Construction Debris:

- We did not send regulated solid waste to Mr. Fish.
- We sent only clean fill that is exempt from solid waste regulatory oversight.
 - Please review the documents from the State of Colorado that I have attached, and highlighted.
- We are cognizant of the push by the federal and state governments for “landfill diversion,” and we have performed many LEED projects with great success at re-use and recycling. This was a further effort to achieve our corporate policy
- As Mr. Fish noted in the attached letter, we fully and conscientiously complied with the request that the material contain only concrete, block, and brick.
- Mr. Fish also approved the tipping of asphalt, but we do not place asphalt material anywhere but a recycling center. While we could construe the exclusions of CDPHE to include asphalt, our company policy is to treat it as a material that does not benefit the environment as it degrades.
- There are many questions raised in emails from CDPHE Air Quality. I am not going to address them here, but allow me to state that we would be going way beyond the norm, beyond accepted practice, and beyond what is required by other contractors, to adhere to these. For the duration of this project scope, we obliged and followed the School District’s request to send all remaining material to the landfill. In that sense, we are satisfying the comments of the air quality division. This issue will be further vetted at a later date.

In conclusion, I wish to reiterate that Iron Mountain Demolition has to date acted in accordance with the regulations as we understand them. We feel that we will be vindicated as each agency reviews the circumstances and its own regulations. We sincerely hope that Mr. Fish will also be vindicated, as we certainly have no desire to see this project cause harm to a local rancher.

Sincerely,

Michael Dyer

VP, Iron Mountain Demolition

719-323-0961

mdyer@ironmountaincs.com

Fish LLC

25160 Road G, Cortez, CO 81321

June 15, 2017

Iron Mountain Demolition

ATTN: Dennis

75 Talamine Ct.

Colorado Springs, CO 80907

Dear Dennis,

When I read in the Cortez Journal that the contract to demolish high school had been awarded to Iron Mountain Demolition, I contacted your company about work for my truck. I told Dennis at Iron Mountain that I have a farm south of Cortez that has an area that needs clean concrete and asphalt fill for leveling the land.

On my first day at the jobsite, I discussed with Terry, the equipment operator, that the concrete going to our farm had to be kept free of wood, fiberglass, or anything other than concrete, brick and asphalt. There has been no evidence of anything being used on the Fish farm that has not met our requirements.

June 15, 2017 we were informed that a person filed a complaint as to our project which has shut down the project and perhaps jeopardized our arrangement. I want to be completely cooperative in satisfying any requirements that our efforts in this project are compliant with all laws and environmentally safe.

Sincerely,

Bob Fish



**Colorado Department
of Public Health
and Environment**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

6 CCR 1007-2, PART 1

REGULATIONS PERTAINING TO SOLID WASTE SITES AND FACILITIES

This Title Page does not constitute an official part of any regulation. Information contained in the chronology on this title page commences with amendments adopted by the Solid and Hazardous Waste Commission beginning in 2007 and is provided solely for informational and historical purposes.

AMENDED: 2/21/17 EFFECTIVE: 4/14/17

Amendment of Section 9.1.2(B) – Elimination of Partial Exemption for Impoundments Managing Coal Combustion Residuals (CCR)

AMENDED: 11/15/16 EFFECTIVE: 12/30/16

Deletion and Replacement of Existing Section 14 Composting Regulations with New Section 14 Composting Regulations; and the Associated Additions and Revisions to Section 1.2 Definitions

AMENDED: 11/15/16 EFFECTIVE: 12/30/16

Amendment of Section 10 Waste Tire Regulations (Sections 10.4.2(J); 10.11.6; and 10.12.5)

AMENDED: 11/17/15 EFFECTIVE: 12/30/15

Amendment of Section 10.12.5 (Rebate Amount)

AMENDED: 5/19/15 EFFECTIVE: 6/30/15

Addition of Section 1.7.7 Regulations (Paint Stewardship Program Fees) and the Associated Additions to Section 1.2 Definitions

AMENDED: 11/18/14 EFFECTIVE: 1/14/15

(Deletion and Replacement of Existing Section 10 Regulation (Waste Tire Facilities and Waste Tire Haulers) with New Section 10 Regulations (Waste Tires); the Amendment of Section 16 (Materials Prohibited From Disposal); the Associated Additions and Revision to Section 1.2 Definitions; and the Repeal of 6 CCR 1007-2, Part 4 (Regulations Pertaining to the Waste Tire Processor and End User Reimbursement Program)

- 1.3.7 Solid waste disposal sites and facilities that are exempted from certificate of designation requirements under provisions of Section 1.4 of these regulations shall comply with the applicable standards of these regulations, unless permitted or operated in compliance with regulations pursuant to the "Colorado Mined Land Reclamation Act", Title 34, Article 32, Section 101, et seq., CRS, as amended; or the "Hazardous Waste Act", Title 25, Article 15, Parts 1, 2, and 3, CRS, as amended.
- 1.3.8 Technical guidelines, including specific technical factors, may be developed and issued by the Department to assist applicants, local governments, and the public.
- 1.3.9 (A) All solid waste disposal sites and facilities are reviewed and approved for a specific owner/operator; a specific waste stream; a specific design; a specific operation plan. Significant changes to the above are required to be approved by the Department. Such approval or denial shall become a part of the operating record. The information describing changes relating to the above items shall be submitted and described in appropriate detail and in a clear and concise format. This is required in order to maintain current information and status on sites and facilities for monitoring and enforcement purposes.
- (B) Sites and facilities subject to 40 CFR Part 258 shall submit a compliance information applicable to their site for the compliance plan per Section 3.0.
- (C) Nothing in this section shall preclude any review action by the local governing authority under 30-20-100.5 et seq. or appropriate local ordinance or rule.
- 1.3.10 Statements of the basis and purpose for these regulations have been prepared and adopted by the board of health, and hereby incorporated into these regulations by reference, pursuant to the "Colorado Administrative Procedures Act", Title 24, Article 4, Section 103, C.R.S. 1973, as amended. A statement of basis and purpose for each change in the regulations is drafted to give the reasons for the regulatory change enacted. Copies are on file with the Department.
- 1.3.11 These regulations shall apply to all solid waste disposal sites and facilities as provided for in CRS 30-20-100.5 and herein.
- (A) The minimum standards (Section Two) shall apply to all sites and facilities.

- (1) Hazardous debris as defined in Part 268 of these regulations that has been treated using one of the required extraction or destruction technologies specified in Table 1 of § 268.45 of these regulations; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or
 - (2) Debris as defined in Part 268 of these regulations that the Director, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.
- (g)(1) A hazardous waste that is listed in Subpart D of this part solely because it exhibits one or more characteristics of ignitability as defined under § 261.21, corrosivity as defined under § 261.22, or reactivity as defined under § 261.23 is not a hazardous waste, if the waste no longer exhibits any characteristic of hazardous waste identified in Subpart C of this part.
- (2) The exclusion described in paragraph (g)(1) of this section also pertains to:
- (i) Any mixture of a solid waste and a hazardous waste listed in Subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (a)(2)(iv) of this section; and
 - (ii) Any solid waste generated from treating, storing, or disposing of a hazardous waste listed in Subpart D of this part solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (c)(2)(i) of this section.
- (3) Wastes excluded under this section are subject to Part 268 of these regulations (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.
- (4) Any mixture of a solid waste excluded from regulation under § 261.4(b)(7) and a hazardous waste listed in subpart D of this part solely because it exhibits one or more of the characteristics of ignitability, corrosivity, or reactivity as regulated under paragraph (a)(2)(iv) of this section is not a hazardous waste, if the mixture no longer exhibits any characteristic of hazardous waste identified in Subpart C of this part for which the hazardous waste listed in Subpart D of this part was listed.

(h) Reserved

§ 261.4 Exclusions.

- (a) **Materials which are not solid wastes.** The following materials are not solid wastes for the purpose of this Part:
- (1)(i) Domestic sewage; and
 - (ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.
 - (2) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended.
 - (3) Irrigation return flows.
 - (4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.

- (5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.
- (6) Inert materials deposited for construction fill or topsoil placement in connection with actual or contemplated construction at such location or for changes in land contour for agricultural and mining purposes, if such depositing does not fall within the definition of treatment, storage, or disposal of hazardous waste.
- (7) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in § 261.1(c) of these regulations;
- (8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:
 - (i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - (ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - (iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and
 - (iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.
- (9) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in § 261.1(c) of these regulations.
- (10)(i) Spent wood preserving solutions that have been used and are reclaimed and are reused for their original intended purpose; and
 - (ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.
 - (iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in paragraphs (a)(10)(i) and (a)(10)(ii) of this section, so long as they meet all of the following conditions:
 - (A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;
 - (B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - (C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - (D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W of these regulations, regardless of whether the plant generates a total