

## Concerns of 6800 Kilmer Street Landfill

1. lack of legislation governing landfills closed prior to late 1960's
2. how the current Voluntary CleanUp (VCUP) including the flow charts were developed
3. sections of VCUP demonstrate leniency to developers
4. Colorado Department of Public Health and Environment (CDPHE) oversight?

## Research

### Legislative History

The [Resource Conservation and Recovery Act \(RCRA\)](#) is our nation's primary law governing the disposal of solid and hazardous waste. RCRA was signed into law on October 21, 1976 to address the increasing problems the nation faced from our growing volume of municipal and industrial waste. RCRA was an amendment to the Solid Waste Disposal Act of 1965, which was the first statute that specifically focused on improving solid waste disposal methods.

Since 1976, RCRA has been amended and strengthened by Congress including in November 1984 with the passage of the federal Hazardous and Solid Waste Amendments (HSWA). Among other mandates, these amendments to RCRA required phasing out [land disposal of hazardous waste](#), [corrective action for releases](#) and waste minimization. Waste minimization refers to the use of source reduction and/or environmentally sound recycling methods prior to treating or disposing of hazardous wastes.

RCRA has been amended on two occasions since HSWA:

1. Federal Facility Compliance Act of 1992 – strengthened enforcement of RCRA at federal facilities.
2. Land Disposal Program Flexibility Act of 1996 – provided regulatory flexibility for land disposal of certain wastes.

<https://www.epa.gov/rcra/history-resource-conservation-and-recovery-act-rcra>

RCRA mainly applies to active facilities, although, through §7003, it can address the serious problem of abandoned and inactive facilities. These abandoned facilities also may be covered under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). (Find RCRA at 42 U.S.C. §6901 et seq. and its implementing regulations at 40 CFR Parts 240-282.)

<https://www.epa.gov/fedfacts/resource-conservation-and-recovery-act-rcra>

The Colorado Department of Public Health and Environment recently began creating an inventory of landfills that closed after 1967, when the state passed the Colorado Solid Waste Act and began regulating them. **Most of the closed landfills in Colorado shut down under looser requirements than currently exist, purposefully ceasing operations ahead of 1993 federal rules that ramped up environmental standards.**

About 90 landfills in Colorado opted to close instead of meet the standards. State officials intend to inspect each of them to determine whether they were closed properly and present “a low risk to the people and the environment.”

The site visits of those landfills, many now closed for 25 years, have not yet begun.

<https://coloradosun.com/2018/09/17/where-does-colorados-trash-go/>

During the 1960s, there were minimal environmental regulations regarding landfills and their closure protocol.

<https://www.epa.gov/norwood/what-year-was-landfill-closed-what-if-any-regulations-would-landfill-have-complied>

## (VCUP)Program overview

Properties that sit untouched because of their real or perceived contamination can be rehabilitated using our Brownfields Program in conjunction with the Voluntary Cleanup and Redevelopment Program.

- These programs provide public and private property owners with the resources to facilitate cleanups, as well as assurances against regulatory enforcement.
- Because the Voluntary Cleanup and Redevelopment Program provides both federal and state remedial plan approval in one step, banks will accept a "No Action Determination" letter from the program as assurance that we or the U.S. Environmental Protection Agency won't order a costly, conventional cleanup. This eases concerns of environmental liability when involved in property transfers.
- **Cleanup decisions are based on existing standards and the proposed use of the property, but we provide no construction or cleanup oversight. The actual cleanup and verification are the owner's responsibility.**
- To receive the EPA's assurances that it won't take Superfund action as specified in the Memorandum of Agreement (MOA), the owner must submit a completion report as a new application for a No Action Determination so we can review and concur that the plan has been completed as approved.

<https://cdphe.colorado.gov/voluntary-cleanup>

## CDPHE data

"For example, a given manufacturing facility may have a RCRA permit to properly manage hazardous waste, or a facility with known contamination may be under a RCRA Corrective Action Order to ensure appropriate cleanup. Other sites across the state are being cleaned up under the CERCLA. **For some sites, however, an appropriate regulatory framework does not exist. For example, contamination which predates the RCRA statute would not be subject to RCRA authority.** In 1994, the Colorado General Assembly passed the VCUP, which formalized a non-regulatory process for cleaning up certain types of sites. The VCUP program operates under the CDPHE Hazardous Materials and Waste Management Division. The VCUP program is very streamlined, such that VCUP staff handle all VCUP applications, regardless of the regulatory program(s)..."

<https://cdphe.colorado.gov/voluntary-cleanup>

## Historical Background for 6800 Kilmer Street Landfill

**December 2021**-neighbors and business owners in area near 6800 Kilmer Street Landfill notified by City of Arvada of Administrative Approval for development of a RV storage lot

**February 2022**- neighbors from Forest Springs, Geos, and Westwoods Mesa communities formed a non profit Friends of Ralston Creek Neighborhoods (FRCN) [frcneighborhoods.org](http://frcneighborhoods.org)

**February 2022**-present-FRCN members researched "closed unregulated landfills" on Environmental Protection Agency (EPA) website, Jeffco Environmental Department documents from 1980 and 2013, Freedom of Information Act (FOIA) documents from 1982 and 1991

### **December 2021**-present

#### Developer #1

received Administrative approval for proposed RV storage lot  
exchange of plan submittal-City Staff comments reached a delay March 2022;  
applied for extension September 2022 which expired March 21, 2023; no update on City website  
applied for VCUP January 2022 and withdrew application approximately September 2022  
did not renew contract with project management company

#### Developer #2 (also owner of landfill)

contract with project management company  
resumed re-development of landfill after Developer #1 withdrew from project  
performed soil and groundwater/surface water sampling as required by CDPHE

Results of FRCN research presented to CDPHE Department-complete CDPHE letter 12.01.22

<https://www.frcneighborhoods.org/document-library/>

1. The CDPHE will require any future VCUP applicant to generate current data on the property to include surface water and groundwater to evaluate potential runoff or leachate of contaminants. The specific details of the future sampling and assessment activities are to be determined, pending submittal of a VCUP application to the CDPHE.
2. Historical Site Data. While the data included in those reports provides historical insight, it will be important to collect current site data. Characterization efforts will be designed with consideration of site history and previous data.
3. Opportunities for Public Engagement The CDPHE will require that any future applicant hold a public meeting to address the concerns raised by the public. The public meeting will be followed by a public comment period for a minimum of 30-days, during which time the public and residents living near the site may provide comments regarding any new applicant's plans for the property.