

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,
STATE OF COLORADO**

**INDEPENDENT ACCOUNTANTS' REPORT ON
APPLYING AGREED-UPON PROCEDURES RELATING TO THE
ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR STATE BENEFICIARIES**

FOR THE PERIOD FROM OCTOBER 2, 2017 THROUGH JUNE 30, 2021



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INDEPENDENT ACCOUNTANTS' REPORT

Colorado Department of Public Health and Environment and the Legislative Audit Committee
Denver, Colorado

We have performed the procedures enumerated below on compliance with the terms and requirements for reimbursement relating to the Environmental Mitigation Trust Agreement for State Beneficiaries as of and for the period covered from October 2, 2017 to June 30, 2021. The Colorado Department of Public Health and Environment (CDPHE) is responsible for compliance with the terms and requirements for reimbursement from the Environmental Mitigation Trust Agreement for State Beneficiaries.

CDPHE has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of determining compliance with the terms and requirements for reimbursement from the Environmental Mitigation Trust Agreement for State Beneficiaries. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

Background:

As a result of the First and Second Partial Consent Decrees from *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), the *Environmental Mitigation Trust Agreement for State Beneficiaries* was established which provides \$2,925,000,000 to fund Eligible Mitigation Actions that reduce emissions of nitrogen oxides as listed within the *Environmental Mitigation Trust Agreement for State Beneficiaries*. The State of Colorado is allocated \$68,739,918 of the total amount. The *Environmental Mitigation Trust Agreement for State Beneficiaries* was filed on October 2, 2017 and the CDPHE submitted its first funding request on December 20, 2018. As of June 30, 2021, CDPHE incurred \$9,489,208 in expenditures for Eligible Mitigation Actions funded. As part of the requirements of the *Environmental Mitigation Trust Agreement for State Beneficiaries*, CDPHE is responsible for establishing a plan for reviewing and auditing expenditures funded, however, specific requirements on how audits are to be conducted or deadlines for audits to be completed are not outlined.

The procedures and the associated findings are as follows:

1. Obtain copies of all funding requests (*Environmental Mitigation Trust Agreement for State Beneficiaries*, Appendix D-2, Attachment A – Funding Request and Direction) submitted by CDPHE to the State Trust.
 - a. For each funding request, observe that the certifications required in 5.2 of the *Environmental Mitigation Trust Agreement for State Beneficiaries* were signed by a representative of CDPHE.
 - b. For each funding request containing proposed expenditures exceeding \$25,000, observe that a detailed cost estimate was included.

Results: For the 13 funding requests obtained relating to the period from October 2, 2017 to June 30, 2021, the requests contained the required certifications, were signed by a representative of the CDPHE, and contained detailed cost estimates for proposed expenditures exceeding \$25,000. No findings or exceptions noted.

2. Obtain a listing from the Colorado Operations Resource Engine (CORE) recorded through the end of fiscal year 2021 of all expenditures reimbursed to the CDPHE through the Settlement Trust.
 - a. For expenditures recorded in CORE greater than \$15,000, obtain the supporting documentation for the expenditure. Agree the amount of the expenditure to the supporting documentation.

Results: From the expenditure detail from CORE relating to the period from October 2, 2017 to June 30, 2021, we noted that 60 expenditures exceeded \$15,000. For 59 of the expenditures, we obtained the CDPHE Reimbursement Invoice Form requesting reimbursement from CDPHE which agreed to the expenditure amount within CORE. The remaining transaction was for the Colorado Department of Public Health's administrative costs and the spreadsheet calculating the administrative costs was obtained, noting that the calculated amount agreed to the expenditure in CORE. No findings or exceptions noted.

- b. If the expenditure recorded in CORE relates to reimbursement of costs incurred by another entity outside of CDPHE, obtain supporting documentation for the requested reimbursement of costs greater than \$15,000 from the other entity. Agree the expenditure amount from the request for reimbursement submitted by the other entity to the supporting documentation.

Results: For the 59 expenditures exceeding \$15,000 requesting reimbursement from CDPHE, we noted that these expenditures were all to either the Regional Air Quality Council (RAQC), Colorado Energy Office (CEO), or Colorado Department of Transportation (CDOT). These three entities were reimbursing other entities for costs relating to eligible mitigation actions. We obtained the supporting documentation for entities requesting reimbursement from RAQC, CEO, and CDOT along with the percentage reimbursed for all 59 expenditures. No findings or exceptions noted.

- c. For each expenditure greater than \$15,000, observe that the description of the goods or services from the supporting documentation agrees to an Eligible Mitigation Action from Appendix D-2 from the Environmental Mitigation Trust Agreement for State Beneficiaries.

Results: For the 60 expenditures exceeding \$15,000, the descriptions from supporting documentation of the expenditures were matched to Eligible Mitigation Actions from Appendix D-2 of the *Environmental Mitigation Trust Agreement for State Beneficiaries*. No findings or exceptions noted.

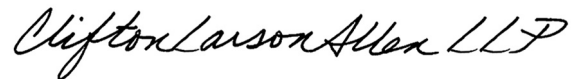
3. Inquire of CDPHE management if any Eligible Mitigation Actions were terminated or completed prior to June 30, 2021.
 - a. If any Eligible Mitigation Actions are noted as completed, inspect the support showing the unused Eligible Mitigation Actions funds returned to the State Trust in accordance with Section 5.2.17 of the Environmental Mitigation Trust Agreement for State Beneficiaries.

Results: Based on inquiry of knowledgeable personnel at CDPHE, no Eligible Mitigation Actions were terminated or completed as of June 30, 2021. No findings or exceptions noted.

We were engaged by CDPHE to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the AICPA. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the CDPHE's compliance with the terms and requirements for reimbursement relating to the Environmental Mitigation Trust Agreement for State Beneficiaries. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of CDPHE and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

This report is intended solely for the information and use of the Colorado Department of Public Health and Environment, the Colorado Office of the State Auditor, and the Legislative Audit Committee and is not intended to be, and should not be, used by anyone other than these specified parties. However, upon release by the Legislative Audit Committee, this report is a public document.

A handwritten signature in cursive script that reads "CliftonLarsonAllen LLP".

CliftonLarsonAllen LLP

Greenwood Village, Colorado
April 5, 2022

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