



# STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION  
**BUREAU OF CORRECTIVE ACTIONS**

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*Jim Gibbons, Governor*

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*Leo M. Drozdoff, P.E., Administrator*

August 28, 2008

Mr. Irwin Kishner  
Herman Kishner Trust  
300 S Fourth St.  
Las Vegas, NV 89101

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
7007 0220 0003 5225 6661

**Subject: Maryland Square PCE Site  
Notice of NDEP Intent to Continue Use of Contingency Account for  
Hazardous Materials to Address Area Affected by Spill or Accident, Pursue  
Cost Recovery  
Additional Site Assessment and Corrective Action Necessary**

**Facility:** Al Phillips the Cleaner (former)  
3661 S. Maryland Pkwy  
Las Vegas, NV

**NDEP ID#: H-000086**

Dear Mr. Kishner:

This letter provides notice to the Herman Kishner Trust ("HKT") that the Nevada Division of Environmental Protection ("NDEP") is taking or planning to take the following actions related to the above-referenced facility ("Site"): 1) use state funds to install mitigation systems at residences in the vicinity of the Site with detections of PCE in indoor air above the NDEP action level; 2) seek cost recovery from all potentially responsible parties for past and future costs expended by NDEP in addressing indoor air contamination caused by releases of PCE from the Site. This letter also provides notice that the NDEP has determined additional site assessment and corrective action is needed at the Site and that the NDEP considers the HKT responsible for ensuring that the required work described in section 3 below is completed.

Although DCI Management Inc. ("DCI") has previously taken responsibility for addressing releases from the Site, the NDEP has received notice that DCI and its parent company National Drycleaners Inc. filed for bankruptcy under Chapter 11 with the US Bankruptcy Court for the District of Delaware on July 7, 2008. DCI has also stopped negotiations with NDEP regarding an agreement for performance of additional Site work and reimbursement to NDEP for past and future expended state funds. Additionally, DCI's Certified Environmental Manager has stopped work at the Site, including performance of ongoing groundwater monitoring and reporting.

Based on the NDEP's evaluation of current Site conditions we have determined that additional work is needed to prevent human exposure to PCE contamination and to prevent additional degradation of waters of the state. Please note that failure by one potentially responsible party to perform the work described in section 3 below does not excuse or relieve the requirement for other potentially responsible parties to perform this work.

As described in our June 19, 2007 letter to you (attached), the NDEP considers the HKT



potentially responsible for perchloroethylene ("PCE") soil and groundwater contamination caused by releases from the Site. The NDEP also considers the HKT potentially responsible for indoor air contamination of PCE caused by releases from the Site that may present a threat to human health.

### **1. Indoor Air Investigation, Mitigation, and Re-Testing**

To date, the NDEP has expended approximately \$160,000 to determine whether PCE contamination in groundwater underlying the neighborhood between the Boulevard Mall and Las Vegas National Golf Course poses a potentially unacceptable human exposure. The investigation of indoor air in the Paradise Palms neighborhood occurred in two phases between September of 2007 and March of 2008 and included sampling indoor air in 97 residences and two neighborhood schools.

As described in the Indoor Air Information Update provided on March 31, 2008 to residents in the area and posted on NDEP's Maryland Square PCE website ([http://www.ndep.nv.gov/pce/doc/2008\\_spring\\_ia\\_v4\\_e\\_version.pdf](http://www.ndep.nv.gov/pce/doc/2008_spring_ia_v4_e_version.pdf)), a number of homes were found to contain concentrations of PCE vapors that exceeded the NDEP's long-term health-protective level of 32 µg/m<sup>3</sup>. The NDEP has offered to install mitigation systems free of charge to residents who have concentrations in their homes above this level. The NDEP will also perform post-installation indoor air sampling in these homes, following the same protocols used for the initial indoor air sampling effort. The NDEP will expend additional state funds performing this work, which we expect to complete by October 2008.

### **2. Cost Recovery Status and Plans**

As described in our June 19, 2007 letter, the NDEP plans to seek cost recovery for state expenditures from all parties that are determined to be responsible parties for contaminant release(s) from the Site. Upon completion of the indoor air mitigation and indoor air re-testing, the NDEP may also refer the matter to State Attorney General to recover these funds from responsible parties, pursuant to Nevada Revised Statutes ("NRS") 459.760.

### **3. Additional Site Assessment and Corrective Action Needed**

During the August 15, 2007 meeting with representatives of potentially responsible parties, the NDEP described additional site assessment and corrective action needed to address release(s) from the Site. Since that time, additional delineation of the extent of groundwater contamination and ongoing groundwater monitoring were completed by DCI, but no additional work has been completed by the parties to develop or implement an interim groundwater remedy.

PCE contamination in groundwater underneath the Boulevard Mall and the Paradise Palms neighborhood remains at concentrations above the state action level. Additionally, future water and land use plans at the Las Vegas National Golf Course property may alter groundwater flow dynamics in this area. Therefore, the NDEP has determined that reduction of PCE concentrations in groundwater in the area under the Boulevard Mall property is necessary to prevent potential future exposures to PCE in indoor air and further degradation of waters of the state.

The NDEP has expended \$26,000 to date completing a preliminary evaluation of applicable

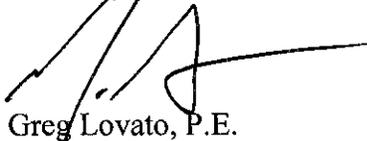
remedial technologies and approaches. However, additional resources are needed to perform the field investigation and testing necessary to select an appropriate interim groundwater remedy.

NDEP finds that the following actions are required to address releases from the Site, as provided by Nevada Administrative Code 445A.227 and 445A.22725:

- a) Evaluate options, design, construct, operate and maintain a remedy to reduce concentrations of PCE in groundwater at the east end of the Boulevard Mall;
- b) Provide a workplan and schedule to conduct mitigation of on-site soils, following data and recommendations presented in the *Source Area Soil Assessment Report* (URS, 2-23-07) consistent with comments in NDEP's March 2, 2007 letter (see at [http://www.ndep.nv.gov/pce/doc/ms\\_source\\_area\\_soil\\_assessment\\_2-07.pdf](http://www.ndep.nv.gov/pce/doc/ms_source_area_soil_assessment_2-07.pdf) and <http://www.ndep.nv.gov/pce/record/2007-03-02.pdf>); and
- c) Continue groundwater monitoring and reporting consistent with the NDEP letter to DCI dated April 8, 2008 (see at [http://www.ndep.nv.gov/pce/record/ndep\\_letter\\_4\\_8\\_2008.pdf](http://www.ndep.nv.gov/pce/record/ndep_letter_4_8_2008.pdf));

Please contact the undersigned at (775) 687-9373 or email [glovato@ndep.nv.gov](mailto:glovato@ndep.nv.gov) if you have any questions regarding this letter or wish to arrange a meeting individually or jointly with other parties receiving this letter to discuss these matters with the NDEP and Attorney General's office.

Sincerely,



Greg Lovato, P.E.  
Supervisor, Remediation and Certification Branch  
Bureau of Corrective Actions

Enclosure: June 19, 2007 NDEP Letter

cc: w/o enc

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