



STATE OF NEVADA
Department of Conservation & Natural Resources
DIVISION OF ENVIRONMENTAL PROTECTION

Brian Sandoval, Governor
Leo M. Drozdoff, P.E., Director
Colleen Cripps, Ph.D., Administrator

February 11, 2011

Irwin Kushner
Herman Kushner Trust
294 Convention Center Drive
Las Vegas, NV 89109

Maryland Square Shopping Center, LLC
c/o Tim Swickard
Dongell Lawrence Finney LLP
770 L St., Suite 950
Sacramento, CA 95814

Subject: Proposed Schedule for Implementation of the Corrective Action Plan for Source Area Soil, Maryland Square Shopping Center

Facility: Al Phillips the Cleaner (former)
3661 S. Maryland Parkway
Las Vegas, NV
Facility ID: H-000086

Dear Mr. Kushner and Mr. Swickard:

The Nevada Division of Environmental Protection (NDEP) has reviewed the Proposed Schedule for Implementation of the Corrective Action Plan” (CAP) for Source Area Soil, prepared by Tetra Tech on behalf of the Herman Kushner Trust (Trust) and Maryland Square Shopping Center, LLC. (MSSC). This document was received electronically by the NDEP on February 2, 2011. The NDEP has reviewed the proposed schedule for implementation of the CAP and provides the following comments, along with requests clarification and/or additional information.

NDEP Comments

1. The NDEP notes “bench-scale test” listed under the task for “Pre-design Activities.” The question is bench-scale testing of what?
2. Add a task to “identify, test, and select borrow material” under “Pre-design Activities.”
3. Revise to “Permitting **and Notification**”
4. Address shoring and encroachment under “Permitting and Notification” or “Remedial Action”
5. Address erosion and run-off controls under “Permitting and Notification” or “Remedial Action”



6. Under "Remedial Action," include subtasks for decontamination (decon) and site security
7. For backfill ("backfill and compact soil"), please note that there must be adequate data on quality of the backfill material to allow a risk assessment to be conducted.
8. Regarding "mix chemical oxidant into bottom of excavation," will any monitoring points be installed to track effectiveness of the oxidant? What metrics are proposed to assess efficacy of the oxidant?

Other issues include the following:

1. Notify the NDEP case officer by e-mail and phone 5 business days in advance of the start of excavation
2. Please describe how use of oxidant will be documented.
3. Any proposed modifications to proposed work or schedule must be provided in writing to the NDEP when you become aware of the need for proposed changes to work or schedule. Such changes to work or schedule shall be accompanied by a detailed rationale supporting the need for the changes. Changes to the proposed work or schedule must be reviewed by the NDEP prior to implementing changes to work or schedule. The NDEP will determine whether specific NDEP concurrence with proposed changes is necessary.

Finally, with regard to the contingency footnotes at bottom of proposed schedule: The NDEP notes that delays due to the RP's internal discussions are not acceptable to the NDEP. For example, the assumption that "*the Trust will contract directly with the soil excavation and disposal firms.*" The failure of this assumption will not represent an adequate or acceptable rationale for delay.

NDEP Requirements

The NDEP requests that you begin implementation of the work proposed in the CAP for Source Area Soil (CAP dated December 14, 2010) consistent with the comments in this letter and the NDEP's previous letter dated January 5, 2011. Concurrently, you should respond to the NDEP's comments in this letter no later than **February 18, 2011**.

The NDEP expects to receive corrective action completion report documenting completion of the work by **September 8, 2011**.

If you have any questions or require additional information regarding this letter, contact me by telephone at (775) 687-9496 or e-mail at msiders@ndep.nv.gov.

Sincerely,



Mary A. Siders, Ph.D.
Bureau of Corrective Actions
Nevada Division of Environmental Protection
Fax (775) 687-8335

Maryland Square Shopping Center, LLC
c/o Mr. Tim Swickard
H-000086
February 11, 2011
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ec: Greg Lovato, Supervisor, Bureau of Corrective Actions, NDEP, Carson City, NV
Todd Croft, Supervisor, BCA, NDEP, Las Vegas, NV
Bill Frey, State of Nevada, Office of the Attorney General, 100 N. Carson Street, Carson City, NV 89701
Ebrahim Juma, Assistant Planning Manager [ejuma@cleanwaterteam.com]
Joseph R. Leedy, Principal Planner [jleedy@cleanwaterteam.com]
Kathryn L. Hoffmann, Planner [khoffmann@cleanwaterteam.com]

cc: Tamara Pelham, Tetra Tech EMI, 639 Isbell Road, Reno, NV 89509
Peter Krasnoff, P.E., WEST, Inc., 711 Grand Avenue, Suite 220, San Rafael, CA 94901
Lynne S. Stella, Manager of Environmental Services, General Growth Properties, Inc., 110 N. Wacker Drive, Chicago, IL 60606
Jason Gerber, Marquis and Aurbach, 10001 Park Run Drive, Las Vegas, NV 89145
Travis Harmon, Boulevard Mall, 3528 S. Maryland Parkway, Las Vegas, NV 89109
Nick Till, Prudential KRES-IPG, 127 E. Warm Springs Road, Las Vegas, NV 89119
Joe Blagg, Project Manager, Diversified Real Estate Group, 4255 Dean Martin Rd, Ste J, Las Vegas, NV 89103
Paul G. Roberts, Vice President and General Counsel, The Interface Group, 300 First Avenue, Needham, MA 02494
John Griffin, Kaempfer Crowell, 510 W Fourth St., Carson City NV 89703.
John Knott, CBRE, 3993 Howard Hughes Parkway, Suite 700, Las Vegas, NV 89169
Jan Greben, 1332 Anacapa, Suite 110, Santa Barbara, CA 93101
Alexander Robertson, 880 Hampshire Road, Suite B, Westlake Village, CA 91361
Kevin A. Brown, Thagard, Reiss & Brown, LLP, 5528 South Fort Apache Road, Las Vegas NV 89148
Dennis Campbell, Environmental Health Manager, Solid Waste and Compliance, Southern Nevada Health District, PO Box 3902, Las Vegas, NV 89127
Tamara Williams, Clark County Community Liaison, 3900 Cambridge Suite #111, Las Vegas, NV 89119
Jan Villaire, Coordinator, Environmental Compliance, Safety & Environmental Services, 1700 Galleria Drive, Bldg C, Henderson, NV 89014
Jeffrey T. Oberman, Levin & Oberman, 361 N. Canon Dr., Beverly Hills, CA. 90210
Glenn D. Phillips, The Travelers Companies, Inc., SLCU-Suite 160, 4650 Westway Park Blvd., Houston Texas 77041