



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

June 22, 2012

Irwin Kushner
The Herman Kushner Trust
252 Convention Center Drive, Ste 12A
Las Vegas, NV 89109

Maryland Square Shopping Center, LLC,
The Herman Kushner Trust,
Herman Kushner d/b/a Maryland Square Shopping Center, and
Irwin Kushner, Jerry Engel, and Bank of America, N.A. as Trustees for The Herman Kushner Trust
c/o Tim Swickard
Dongell Lawrence Finney LLP
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361 N. Canon Dr.
Beverly Hills, CA. 90210

Maryland Square, LLC
c/o Shan Davis
Shan Davis & Associates
410 S. Rampart Blvd., Ste. 390
Las Vegas, NV 89145

Subject: Response of the Herman Kushner Trust to NDEP's Request for Detailed Description of Work Implemented to Date on the Corrective Action Plan for Groundwater at the Maryland Square PCE Site

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

Dear Sirs:

On April 16, 2012, the Nevada Division of Environmental Protection (NDEP) sent you a letter requesting that you provide a detailed account of all preparations and work conducted toward performing the work described in the Corrective Action Plan (CAP) for Groundwater. The April 16th letter required that your response be submitted to the NDEP no later than **April 30, 2012**.



Specifically, NDEP's April 16 letter requested that you *"provide details for the time period of September 15, 2011 to the date of this letter (April 16, 2012) covering all facets of planning, preparation and permitting. Please provide a detailed chronology and description of the communications and negotiation efforts conducted to achieve access to Boulevard Mall. Please include dates of permitting requests and dates of bid requests sent for drilling and other subcontracted work. Please also include the specific date on which the Trust contracted and authorized Tetra Tech to perform the work as described in the Groundwater CAP."*

Further, NDEP's April 16 letter explicitly noted that *"The NDEP has provided ample time for planning and preparation to conduct the field work for the Groundwater CAP. It has been known for more than a year that access to the Boulevard Mall property would be required to perform the characterization and pilot testing."*

Pursuant to your request for an extension to respond to NDEP's request, NDEP granted an extension from April 30 to May 8, 2012. On **May 8, 2012**, Mr. Steven Parsons sent a letter to Ms. Jasmine Mehta, Deputy Attorney General; this letter contained a table "Timeline Detailing Work and Delays on Maryland Square Pilot Study Work." Although this table included some extraneous information, it did not provide all the information requested. Moreover, the letter indicated that the requirements for access by Boulevard Mall were not unreasonable, and yet, no agreement had been reached.

The NDEP considered the May 8, 2012 submittal to be nonresponsive and requested a telephone call with Mr. Parsons, Mr. Russell, and Mr. Vandenburg for further explanation. That teleconference took place on Tuesday, June 5, 2012. During that telephone call, at which the NDEP's Chief of the Bureau of Corrective Actions, Greg Lovato, and the NDEP's counsel, Carolyn Tanner and Jasmine Mehta, were also present, counsel for the Trust verbally explained their version of some of the delay caused by lack of access to the Boulevard Mall's property. Counsel for the NDEP requested all written communications reflecting those delays and the reasons therefore, which Mr. Russell said he would provide by the end of the week. Mr. Russell subsequently sought and received an extension to Wednesday, June 20, 2012, to provide the information.

On June 20, 2012, Mr. Russell sent a letter via e-mail to Ms. Mehta with a further explanation of the delays. The supporting documentation was sent by Federal Express to Ms. Mehta and arrived on June 21, 2012. The supporting document is rather voluminous and will take a few days to review. In the meantime, the deadline for the Groundwater Corrective Action Report detailing the results of all pilot studies and work proposed in the Groundwater CAP (June 14, 2011) and accompanying Addendum (August 25, 2011) remains unchanged. The Corrective Action Report for Groundwater is due to the NDEP on **June 29, 2012**.

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
Fax (775) 687-8335

Maryland Square Shopping Center, LLC
Mr. Tim Swickard and Mr. Irwin Kishner
H-000086
June 22, 2012
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