

# 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

May 4, 2011

Irwin Kishner  
Herman Kishner 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: 1st Quarter 2011, Groundwater Monitoring Report, Maryland Square Shopping Center**  
**Facility: Al Phillips the Cleaner (former)**  
3661 S. Maryland Parkway  
Las Vegas, Nevada  
Facility ID: **H-000086**

Dear Mr. Swickard and Mr. Kishner:

The Nevada Division of Environmental Protection (NDEP) has reviewed the **Groundwater Monitoring Report for 1st Quarter 2011**, prepared by Tetra Tech EM, Inc. (Tetra Tech) on behalf of the Herman Kishner Trust and Maryland Square Shopping Center, LLC, dated April 20, 2011 and received electronically by the NDEP on April 21, 2011.

## NDEP Comments

1. The transmittal letter accompanying the 1<sup>st</sup> Quarter 2011 Groundwater Monitoring Report stated *"The letter from NDEP BCA to the Herman Kishner Trust, dated January 6, 2011, on the 3rd Quarter 2010, Groundwater Monitoring Report, Maryland Square Shopping Center states: "The NDEP notes that quarter-to quarter fluctuations in concentrations and water levels convey little useful information, and may actually be opposite to longer-term trends. For this reason, the NDEP discourages such comparisons... ." However, the letter from NDEP to the Herman Kishner Trust, dated February 3, 2011, on the 4th Quarter 2010, Groundwater Monitoring Report, Maryland Square Shopping Center states: "Several factors not taken into account in Section 3 include ... (2) the variability in concentrations of tetrachloroethylene (PCE) reported for each well from quarter to quarter... . Please consider and discuss these in the next quarterly groundwater monitoring report" These statements are contradictory. Therefore Tetra Tech has provided Table 3 which allows a comparison of the quarter to quarter data by the reader, but does not provide any additional discussion or draw conclusions from this data."*



To clarify this apparent contradiction, please note that the NDEP’s complete comment stated “*Several factors not taken into account in Section 3 include (1) application of a large volume of irrigation water at the golf course, especially during the summer months, and the effect of this irrigation on water levels in the shallow groundwater (which shows a pronounced seasonal periodicity in water levels measured in wells near the golf course); and (2) the variability in concentrations of tetrachloroethylene (PCE) reported for each well from quarter to quarter, as well as in duplicate samples (15.4% relative percent difference [RPD] for the sample pair collected from well MW-19 on November 2, 2010), which suggests significant vertical variation in concentrations of the dissolved-phase PCE. Such vertical variability is not unexpected, especially considering the heterogeneity of the geologic deposits. Please consider and discuss these in the next quarterly groundwater monitoring report.*”

The NDEP was noting that the PCE concentrations in duplicate samples collected during a single sampling event showed significant differences (greater than 15%), which may be the result of vertical variability (i.e., stratification), and that this same vertical variability could explain at least some of the observed variation in PCE concentrations from quarter to quarter within each well. This is why the NDEP has requested that statistical trend tests be applied to evaluate whether concentrations show increasing or decreasing trends over time, as such tests are a more reliable indicator of real trends than a quarter-to-quarter comparison. As such, the NDEP’s comments were not contradictory, but stress that comparing PCE data from the current quarter with data from the previous quarter for each well is a not reliable indicator of trends in concentration.

2. Section 1, Introduction. The first paragraph states that “*Groundwater monitoring in the first quarter 2011 was conducted in general accordance with established protocol<sup>1</sup>.*”

Footnote 1 in the above quote refers to three letters from the NDEP, including a letter dated February 10, 2010 commenting on the 4<sup>th</sup> quarter 2009 report; this NDEP letter provided a schedule for sampling frequency for wells across the site. However, in a letter dated June 10, 2010, the NDEP stated that “*Sampling of well MW-11 had been discontinued due to presence of petroleum product in the well; however, this well was sampled in the first quarter of 2010. Because no product was found during 1st quarter 2010, annual sampling of this well can resume, as for the other wells in which PCE was not detected. Please continue to follow the agreed-upon sampling frequency for the monitoring wells, with the exception to change the frequency from “discontinued sampling” to “annual sampling” for MW-11.*” The NDEP’s June 10, 2010 letter also included the following table, which indicated the revised sampling frequency:

Sampling Frequency	Monitoring Wells
Discontinue	MW-4
Change freq.	Begin sampling MW-11 annually, in the 3 <sup>rd</sup> Quarter of each year
Annual	MW-3, MW-7, MW-8, MW-10, MW-12, MW-15, MW-16, MW-21, MW-22, MW-24
Semi-annual	MW-1, MW-2, MW-5, MW-6, MW-9, MW-13, MW-14, MW-17, MW-28, MW-29
Quarterly	MW-18, MW-19, MW-20, MW-23, MW-25, MW-26, MW-27, MW-30; MW-31; MW-32, MW-33

As a follow-up, the NDEP’s September 10, 2010 letter stated that “*Although not all wells are sampled on a quarterly basis, the water-level elevations should be measured in all wells quarterly. During future*

*monitoring events, please collect water-level measurements from all wells. In addition, as stated in, please collect groundwater samples annually from well MW-11 in the fourth quarter, not the third quarter, as stated in the NDEP letter dated June 10, 2010 (see sampling schedule below)."*

Annual	MW-3, MW-7, MW-8, MW-10, MW-11, MW-12, MW-15, MW-16, MW-21, MW-22, MW-24
Semi-annual	MW-1, MW-2, MW-5, MW-6, MW-9, MW-13, MW-14, MW-17, MW-28, MW-29
Quarterly	MW-18, MW-19, MW-20, MW-23, MW-25, MW-26, MW-27, MW-30; MW-31; MW-32, MW-33

3. Section 2.1, Sampling Schedule. The first paragraph in Section 2.1 states that *"Based on the observed site conditions, NDEP has directed monitoring of the site-related groundwater monitoring well network as outlined in its response letter to the Converse report titled "Groundwater Monitoring Report, 3rd Quarter 2009, Maryland Square Shopping Center," dated December 22, 2009 (NDEP 2009). The quarterly monitoring schedule was also reiterated to Tetra Tech by NDEP in February 2010."*

See the NDEP response to Comment 2, which references later NDEP letters (June 10, 2010; September 10, 2010; January 6, 2011) regarding sampling frequency June 10, 2010.

4. Section 3, Discussion. Paragraph 2 states that *"Groundwater elevations tended to rise west of Boulevard Mall (MW-1-3, 5-10, 12-14, and 17) compared with fourth quarter (November) 2010 data, but generally declined east of the Boulevard Mall, including the eastern parking lot, the central and eastern portions of the residential neighborhood, and at monitored locations within the golf course area (monitoring well locations MW-16, 18-25 and 26-33). Monitoring well MW-26, located in the residential area, is the only well which did not follow this trend, exhibiting a slightly lower groundwater elevation (decreasing by less than 0.1 foot)."*

According to Table 3 and Table A-1 in the subject report, water levels generally showed a decrease west of Boulevard Mall and an increase east of Boulevard Mall; just the opposite of what is stated in the text. This may be a cut and paste error that carried text over from a previous report.

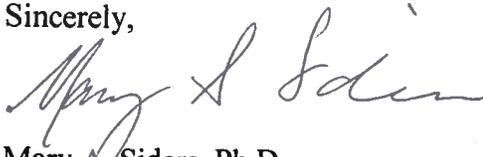
## **NDEP Requirements**

1. As requested in the NDEP comment letters on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Quarter, 2010 Groundwater Monitoring Reports (see NDEP letters dated June 10, 2010, September 10, 2010 and January 6, 2011), **please sample well MW-11 annually.** The data in Table A-2 of the subject report show that well MW-11 has not been sampled since February, 2010, despite requests to do so in three NDEP letters.
2. Unless a schedule modification is agreed to by the NDEP, please provide future quarterly reports on the following schedule:
  - a. Groundwater Monitoring Report for the Second Quarter, 2011 – **July 29, 2011**
  - b. Groundwater Monitoring Report for the Third Quarter, 2011 – **October 28, 2011**
  - c. Groundwater Monitoring Report for the Fourth Quarter, 2011 - **January 30, 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.

Maryland Square Shopping Center, LLC  
Mr. Tim Swickard and Mr. Irwin Kishner  
H-000086  
May 4, 2011  
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Sincerely,



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