



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

December 17, 2014

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

Maryland Square, LLC  
c/o Franklin H. Levy  
Lawson & Weitzen, LLP  
88 Black Falcon Avenue  
Boston, MA 02210

Maryland Square Shopping Center, LLC  
c/o Thomas E. Vandenburg  
Dongell Lawrence Finney LLP  
707 Wilshire Blvd, 45th Floor  
Los Angeles, CA 90017

Neil Beller  
7408 West Sahara  
Las Vegas, Nevada 89117

Subject: **Third Quarter 2014 Groundwater Monitoring and Sampling Report**

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

Dear Messrs. Kishner, Swickard, Levy and Beller:

The Nevada Division of Environmental Protection (NDEP) has reviewed the *Third Quarter 2014 Groundwater Monitoring and Sampling Letter Report* prepared by Cardno ATC Associates, Inc. (Cardno ATC) on behalf of the Herman Kishner Trust (Trust) and Maryland Square Shopping Center, LLC (MSSC LLC), dated October 30, 2014 and received in hard copy on November 4, 2014.

### **NDEP Comments**

The NDEP had previously commented on the anomalous data received for first-quarter 2014 samples of groundwater collected across a broad swath of monitoring wells. No specific field or laboratory error was found that explained the dramatic decreases in PCE concentrations in a number of wells that quarter. The NDEP found that these first-quarter 2014 data were highly anomalous and inconsistent with historical data, and informally rejected these data, pending further investigation.

It now appears that the third-quarter 2014 samples have produced another round of anomalous data, although some different wells also appear to be affected this time. The report discusses the phenomenon, noting that “groundwater elevations decreased across groundwater monitoring wells” and suggesting that the sampling



procedure, combined with the decrease in groundwater levels, may have produced samples from a different stratigraphic interval, which resulted in sampling of a different zone with different concentration of PCE. The report stated that *“A potential reason for the inconsistent sampling results has to do with the pump depth placement between quarters. Historically, in accordance with NDEP approved sampling techniques, Cardno ATC has measured the depth to water and total depth of the well, and if the well screen was not submerged we would place the pump depth halfway between the depth to water measurement and total depth measurement. With changing groundwater depths, this would result in the pump drawing water from a potential pathway of a higher or lower permeable zone which could result in higher or lower concentrations over time. Due to the heterogeneous soil conditions present at across the site, it is possible that the pump depth could have been placed in a higher or lower permeability zone that led to varying PCE results.”*

The NDEP analyzed the concentration and water-level data to evaluate merit of this water-level hypothesis, and found that the data were still inconsistent with previous data, even taking water level into account. Additionally, the NDEP notes that water levels varied inconsistently across the site: Water-levels went up in some wells and down in others for the two time-periods evaluated (March 2013 vs March 2014, and September 2013 vs September 2014). In particular, wells MW-5 and MW-6 (in September, 2014) and wells MW-19 and MW-20 (in March, 2014) showed *increases* in water levels, while other wells in these areas did not. Wells in the area of MW-5 and MW-6 have shown more than a decade of tracking together with respect to water levels, so it is highly anomalous for water levels in these two wells to suddenly behave differently from all the other wells in the western parking lot of the mall.

The subject report also speculates that changing direction of vertical gradients may be at least partly responsible for changes seen in PCE concentrations in different depths of multi-depth and nested wells, stating that: *“...vertical gradients have changed to downward in some of the nested wells indicating that PCE may be also migrating vertically and that concentrations could alter with depth of screen or length of the screen (greater than 10 feet impacts the effectiveness of low flow sampling).”* Table 2-1 in the subject report shows downward vertical gradients in all but two of the well pairs evaluated. A downward gradient may reasonably be expected to result in higher concentrations of PCE in the deeper-screened wells, as the main shallow portion of the plume migrates downward.

## **NDEP Requirements**

Due to the inexplicable changes in water levels and PCE concentrations in some wells, and the potential for tampering with site monitoring wells, the NDEP requires that you evaluate types of high-security, tamper-proof well seals for selected flush mounted wells. Wells requiring high-security, tamper-proof caps include the following: MW-5, MW-6, MW-6D series, MW-13, MW-14, MW-14I, MW-19, MW-19I, MW-19D series, MW-20, MW-40 CMT, MW-18, MW-23, MW-25, MW-26, MW-27, MW-32, and MW-39. Also consider placing some sort of custody seal or marking on each well following sampling; seals should be complete and unbroken when the next monitoring event returns to each well.

The NDEP also requires that future samples collected from wells MW-5, MW-6, MW-19 and MW-20 be analyzed for the full suites of volatile organic compounds via EPA Method 8260B. These data will be evaluated for chlorinated disinfection by-products and compared against previous full-suite data for these wells.

Please provide responses to NDEP comments in the next quarterly report. Also, please feel free to evaluate the monitoring well network and monitoring frequency, and provide recommendations for changes to the monitoring program, with rationale to back up your recommendations.

The Fourth Quarter 2014 Groundwater Monitoring Report is due by **January 30, 2015**.

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](mailto:msiders@ndep.nv.gov)

Sincerely,



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

cc: Scott Smale, Supervisor, BCA, NDEP, Carson City, NV  
Todd Croft, Supervisor, BCA, NDEP, Las Vegas, NV  
Wayne Klomp, State of Nevada, Office of the Attorney General, 100 N. Carson Street, Carson City, NV  
Ebrahim Juma, Assistant Planning Manager [ejuma@cleanwaterteam.com](mailto:ejuma@cleanwaterteam.com)  
Joseph R. Leedy, Principal Planner [jleedy@cleanwaterteam.com](mailto:jleedy@cleanwaterteam.com) \  
Paul Klouse, Environmental Health Manager, Environmental Compliance Section, Southern Nevada Health District, 330 S Valley View Blvd, Las Vegas, NV 89107 [klouse@snhdmail.org](mailto:klouse@snhdmail.org)  
Andy Chaney, Environmental Health Supervisor, Environmental Compliance Section, SNHD [chaney@snhdmail.org](mailto:chaney@snhdmail.org)  
Donna Houston, Sr. Environmental Health Specialist, Environmental Compliance Section, SNHD [houston@snhdmail.org](mailto:houston@snhdmail.org)  
Jacqueline Reszetar, Director of Environmental Health, SNHD [reszetar@snhdmail.org](mailto:reszetar@snhdmail.org)  
Ric Jimenez, Chair, Maryland Pkwy Coalition [ric.jimenez@rouseproperties.com](mailto:ric.jimenez@rouseproperties.com)  
Roland Sansone, Boulevard Mall, [Roland@sansonecompanies.com](mailto:Roland@sansonecompanies.com)  
Timo Kuusela, General Manager - Boulevard Mall, 3528 S Maryland Pkwy, Las Vegas, NV 89169  
[Timo@sansonecompanies.com](mailto:Timo@sansonecompanies.com)  
Jeffrey R. Diver, P.C., 2S741 Crimson King Lane, Glen Ellyn, IL 60137 [JeffDiver@comcast.net](mailto:JeffDiver@comcast.net)  
David B. Kuhlman, Procopio, Cory, Hargreaves & Savitch LLP, [david.kuhlman@procopio.com](mailto:david.kuhlman@procopio.com)  
Robert G. Russell, Procopio, Cory, Hargreaves & Savitch LLP, 525 B Street, Suite 2200, San Diego, CA 92101  
[bob.russell@procopio.com](mailto:bob.russell@procopio.com)

Maryland Square Shopping Center, LLC  
Kishner, Swickard, Levy and Oberman  
H-000086  
December 17, 2014  
Page 4 of 4

Steven J. Parsons, Law Offices of Steven J. Parsons, 7201 W. Lake Mead Blvd., Suite 108, Las Vegas, Nevada 89128-8354  
[steve@sjplawyer.com](mailto:steve@sjplawyer.com)

Paul G. Roberts, Vice President and General Counsel, The Interface Group [proberts@tigmass.com](mailto:proberts@tigmass.com)

Jerry Tidball, Key Golf Management, Las Vegas National Golf Club [kgmjerry@yahoo.com](mailto:kgmjerry@yahoo.com)

Coy Wood, General Manager, Las Vegas National Golf Course [coy@lasvegasnational.com](mailto:coy@lasvegasnational.com)

Chris Giunchigliani, County Commissioner [CHRISG@ClarkCountyNV.gov](mailto:CHRISG@ClarkCountyNV.gov)

Senator Ruben Kihuen, Nevada State Legislature [Ruben.Kihuen@sen.state.nv.us](mailto:Ruben.Kihuen@sen.state.nv.us)

Assemblywoman Heidi Swank, Nevada State Legislature [Heidi.Swank@asm.state.nv.us](mailto:Heidi.Swank@asm.state.nv.us)

Tamara Williams, Clark County Community Liaison, 3900 Cambridge Suite #111, Las Vegas, NV 89119  
[TGW@ClarkCountyNV.gov](mailto:TGW@ClarkCountyNV.gov)

Peter Krasnoff, P.E., WEST, Inc., 711 Grand Avenue, Suite 220, San Rafael, CA 94901 [peterk@westenvironmental.com](mailto:peterk@westenvironmental.com)

Andrew Stuart, Senior Project Manager, Cardno ATC, 2925 E. Patrick Lane, Suite M, Las Vegas, NV 89120  
[andrew.stuart@cardno.com](mailto:andrew.stuart@cardno.com)

cc: Joe Blagg, Project Manager, Diversified Real Estate Group, 4255 Dean Martin Rd, Ste J, Las Vegas, NV 89103

John Griffin, Kaempfer Crowell, 510 W Fourth St., Carson City NV 89703.

Jan Greben, 125 E. De La Guerra St, Ste 203, Santa Barbara, CA 93101-7204

Alexander Robertson, 32121 Lindero Canyon Rd, Ste 200, Westlake Village, CA 91361

Jan Villaire, Coordinator, Environmental Compliance, Safety & Environmental Services, 1700 Galleria Drive, Bldg C, Henderson, NV 89014

Glenn D. Phillips, The Travelers Companies, Inc., SLCU-Suite 160, 4650 Westway Park Blvd., Houston Texas 77041

Clark County Emergency Management, 500 S. Grand Central Parkway 6th Floor, P.O. Box 551713, Las Vegas, NV 89155