



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

August 10, 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: Waste Management Plan, Addendum to the CAP for Source Area Soil, Maryland Square Shopping Center  
Petition for Contained-in Determination**

**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 received and reviewed the Waste Management Plan Addendum to the Corrective Action Plan (CAP) for Source Area Soil dated August 5, 2011 for soils contaminated with tetrachloroethylene (PCE) and (potentially) trichloroethylene (TCE), "listed" hazardous wastes. The addendum was submitted to NDEP by Tetra Tech EM Inc (Tetra Tech) on behalf of the Herman Kushner Trust (Trust), for a "contained-in determination." This letter provides a "contained-in determination" based on the criteria described in this letter.

The NDEP is authorized by the U.S. Environmental Protection Agency (EPA) to approve a "contained-in determination" on a case-by-case basis for media contaminated with listed wastes [FAXBACK 11393]. The determination that any given volume of contaminated media does not contain or no longer contains hazardous waste is called a "contained-in determination." Decisions that media do not or no longer contain listed hazardous waste are typically made on a case-by-case basis considering the risks posed by the contaminated media. EPA has advised that "contained-in determinations" be made using "conservative, health-based levels derived assuming direct exposure pathways."

This "contained-in determination" is being requested for soil generated during excavation of source area soil, as described in the CAP for Source Area Soil (Tetra Tech, 2010), with concentrations of PCE less than the Land Disposal Restriction (LDR) Universal Treatment Standard (UTS) of 6,000 micrograms per kilogram ( $\mu\text{g}/\text{kg}$ ).



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According to the request for a contained-in determination and the Waste Management Plan, soil generated from the referenced facility will be managed appropriately as either hazardous waste or non-hazardous waste in the following manner:

- Soil generated during excavation activities that contains concentrations of PCE that exceed the LDR UTS of 6,000  $\mu\text{g}/\text{kg}$  will be transported to a permitted Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste landfill.
- Soil generated during excavation activities that contains concentrations of PCE less than the LDR Universal Treatment Standard of 6,000  $\mu\text{g}/\text{kg}$ , will be transported to Las Vegas Paving Corporation for thermal treatment and recycling.

Based on the information provided by the Trust and their certified environmental manager (CEM), Tamara Pelham of Tetra Tech, NDEP concurs with the request for a "contained-in determination" at the referenced facility for excavated soils with the following concentration thresholds:

- Soil generated during excavation activities that contains concentrations of PCE less than the LDR UTS of 6,000  $\mu\text{g}/\text{kg}$ .

Please be advised that any changes in the waste stream encountered at this location will void the terms of this "contained-in determination." If you have any further questions please call the case officer, Mary Siders at (775) 687-9496 and [msiders@ndep.nv.gov](mailto:msiders@ndep.nv.gov) or Mike Richardson, Supervisor, Compliance & Enforcement Branch, Bureau of Waste Management, Las Vegas Office.

Sincerely,



Mary A. Siders, Ph.D.  
Environmental Scientist III  
Remediation Branch  
Bureau of Corrective Actions  
NDEP Carson City



Mike Richardson  
Supervisor  
Bureau of Waste Management  
NDEP-Las Vegas Office

cc: Greg Lovato, Supervisor, Bureau of Corrective Actions, NDEP, Carson City, NV  
Todd Croft, Supervisor, BCA, NDEP, Las Vegas, NV  
Mike Richardson, Supervisor, Bureau of Waste Management, NDEP, Las Vegas, NV

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