



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

April 4, 2012

Irwin Kushner
Herman Kushner Trust
252 Convention Center Drive, Ste 12A
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: **Community Involvement Plan, 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. Kushner:

The Nevada Division of Environmental Protection (NDEP) received the *Community Involvement Plan* (CIP) via e-mail on November 15, 2011. The CRP was prepared by Tetra Tech EM, Inc. (Tetra Tech) on behalf of the Herman Kushner Trust (Trust) and Maryland Square Shopping Center, LLC.

NDEP General Comments

The NDEP has a number of specific comments; included here as Attachment 1. These are mainly statements for clarification, as well as corrections to misstatements and noting some minor editorial errors.

NDEP Requirements

Please make the revisions to the final CIP per the comments provided in Attachment 1 to this letter, and provide the revised document by May 1, 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
April 4, 2012
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Sincerely,



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Nevada Division of Environmental Protection
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**NDEP Specific Comments on Community Involvement Plan for
the Maryland Square PCE Site, NDEP Facility ID #H-000086**

1. Page ES-i, 4th paragraph states: "Monitoring of indoor air concentrations was performed by NDEP at various times from 2007 to 2010, resulting in the installation of sub-slab depressurization systems in some homes."

The NDEP conducted two sets of indoor air sampling; in the fall of 2007 and in February-March of 2008. SSD systems were offered to 15 homeowners. SSD systems were installed in 14 homes in October/November, 2008. Post-mitigation testing in these 14 homes followed installation. Three systems were optimized and indoor air retested in 2009. The NDEP has responded to resident's operation and maintenance requests at various times since SSD system installation.

2. Page 1, 2nd paragraph states that "The remediation efforts are focused on soil and groundwater contaminated with tetrachloroethene (also known industrially as perchloroethene, or PCE)."

Please provide a longer list of common names for PCE to minimize confusion. Include tetrachloroethylene, perchloroethylene, and perc; all of which appear in the literature for the Site.

3. Page 1, 2nd paragraph states that "Comprehensive management of this Property includes continued groundwater and indoor air monitoring, along with mitigation at individual residences, as needed, until the remediation goals for indoor air quality and groundwater are achieved."

This sentence should refer to the Site, not "this Property." Also comprehensive management includes active remediation of soil at the source area and groundwater across the Site, not just monitoring and home mitigation.

4. Section 1.2, Description of the Project, contains a rather incomplete description of the property ownership and dry cleaning operations, stating:

"The Property was first developed in 1969 as a shopping center that included a dry-cleaning facility. APTC took over the dry-cleaning business operations later that same year, and continued to operate the drycleaning facility until 2000. The Property was owned by the Trust until 1999, when the Trust transferred the property to an entity which it formed for purposes of holding title to the property, MSSCLLC. Subsequently, MSSCLLC transferred the property to Clark County School District. Thereafter (in about 2005) Clark County School District transferred the property to Maryland Square, LLC. The present owner, Maryland Square, LLC, has no relationship to the Trust or MSSCLLC."

Although the following should not be used verbatim in the CIP, it offers a more complete description. The following text is from **Judicial Order, Document 390, filed July 22, 2010**, which stated that:

"The Shopping Center has been owned by five different entities since 1968, all named as Defendants in the present suit. Defendant Herman Kishner, doing business as Maryland Square Shopping Center, was owner of the Shopping Center in 1968. The Herman Kishner Trust, created in 1969 by defendant Herman Kishner, is the successor-in-interest to defendant Herman Kishner with respect to the Shopping Center. Defendant Maryland Square Shopping Center Limited Liability Company is a limited liability company organized under the laws of Nevada and is the successor-in-interest to the Herman Kishner

Trust with respect to the Shopping Center. In 2002, the Clark County School District purchased the Shopping Center from defendant Maryland Square Shopping Center Limited Liability Company. In 2005, defendant Maryland Square LLC purchased the Shopping Center from the Clark County School District and is the current owner of the Shopping Center.

An Al Philips the Cleaners dry cleaning facility was operated in the Shopping Center from 1969 to 2000 and was operated by two different entities, also named as Defendants. Defendant Shapiro Brothers Investment Company ("Shapiro Brothers") is a dissolved Nevada corporation that operated the dry cleaning facility at the Shopping Center from approximately 1968 through 1984. Shapiro Brothers leased the dry cleaning facility from the owner. In 1984, Johnson Group, Inc., the predecessor of DCI USA, Inc. (collectively referred to herein as the "DCI Defendants") purchased the dry cleaning business from the Shapiro Brothers. DCI operated a dry cleaning facility at the site until approximately 2000, and leased the site until approximately 2003."

5. Page 3, 1st complete paragraph states that "The indoor air monitoring program will be continued until concentrations of PCE in indoor air reach acceptable limits as determined by the NDEP (NDEP 2008)."

The above is incomplete. Actually, the indoor air monitoring program will maintain and monitor existing and any additional installed SSD systems "until Remediation Standards for PCE in **groundwater and** indoor air have been met." See NDEP comments and responses to comments (RTCs) in the June 28, 2011 "Work Plan for Mitigation of Indoor Air and Well Water."

6. Page 3, Table 1. We already know this schedule is not being met. NDEP requests suggestions on how this can best be communicated in the CIP.
7. Figure 2 needs to be updated to include the most recent data for the plume.
8. Appendix B, page B-1, last paragraph states that "Any updates to the Site will be presented by NDEP during these meetings. To find the date and location of the next community meeting, go to County Commissioner Giunchigliani's monthly electronic community newsletter, which can include updates to the Maryland Square PCE Site.

This is not quite correct. The NDEP will not be presenting at every meeting held by Chris G. The NDEP may request Chris G. to help facilitate community meetings held by the NDEP.

9. Page C-1, "NDEP Responsibilities for Community Involvement" states that NDEP will be responsible for providing "email and address changes to the mailing list to the Trust." The NDEP will provide any such information if made aware of such changes; however, the Trust is responsible for maintaining and updating the contact list.
10. Page C-2, last paragraph states that "...throughout this process, NDEP will work with selected residents to request collection of indoor air samples, install subslab depressurization systems as needed, and sample and modify subslab depressurization systems as needed.

This is not quite correct. Although the NDEP will notify residents of the offer to sample indoor air, all logistics will be coordinated and performed by the responsible parties. Residents may contact the NDEP

at any time with questions or concerns about the sampling, mitigation or any other issues related to the Site.

Minor Editorial Comments

11. ES, paragraph 2 and Section 1.2, paragraph 5. The first paragraph of the Executive Summary properly uses the word “historical,” but following sentences improperly use the word “historic” instead of “historical.” There is a difference in meaning of these two words; “historic” is a momentous event in history, “historical” refers to any event that occurred in the past.
12. Page 1, 2nd paragraph. “...and cleanup of the PCE-plume in the groundwater at the Site.” PCE plume should not be hyphenated in this usage.
13. Section 5.0, Definition of Terms. There is a typographic error for “NAC”
14. Appendix A. Greg Lovato is now **Bureau Chief** for the Bureau of Corrective Actions
15. Appendix C, bullets at bottom of C-1. There is a formatting problem with the bullets; please correct.