

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

EXECUTIVE OFFICER SUMMARY REPORT
MEETING DATE: December 11, 2013

- ITEM:** 8
- SUBJECT:** **Mayhew Center, LLC, and Dean Dunivan, for the property located at 3301-3341 Vincent Road, Pleasant Hill, Contra Costa** – Adoption of Site Cleanup Requirements
- CHRONOLOGY:** December 2012 - Executive Officer issued an administrative civil liability order to Mayhew Center, LLC
- DISCUSSION:** The Revised Tentative Order (Appendix A) would require the named dischargers to complete site investigation, complete interim cleanup actions, and propose a final cleanup plan.

Separate Functions: To help ensure the fairness and impartiality of this enforcement proceeding, the functions of those Board staff members who are on the Cleanup Team have been separated from those who will be providing advice to the Board (Advisory Team). The Cleanup Team includes Ralph Lambert, Mary Rose Cassa, Stephen Hill, Dyan Whyte, and Tamarin Austin. The Advisory Team includes Yuri Won and Bruce Wolfe.

Background: The Mayhew Center site is located in a mixed residential and commercial area along the boundary of Pleasant Hill and Walnut Creek at the intersection of Mayhew Way and Vincent Road, east of I-680 and north of the Pleasant Hill BART station (see Appendix D – location map). The site covers approximately 3.5 acres and includes three 2-story industrial/office buildings.

The chlorinated solvent perchloroethylene (PCE) has been released at the site and has impacted shallow soil and groundwater. The release mechanism is not known, although the concentrations of PCE in soil suggest a release near the western property line in an area where debris, trash containers, and storage tanks have been present in the past.

Prior Investigations, Disputes, and Non-compliance: Site contamination was first discovered as a result of investigation efforts conducted for a nearby site, Hookston Station. Initial investigation by Mayhew Center, LLC, and the offsite property owner to the west (Walnut Creek Manor) found contamination on both sides of the property line. A federal lawsuit between the two resulted in a 2010 court order holding Mayhew Center, LLC, solely responsible for the contamination and

requiring cleanup on Walnut Creek Manor's property. The two parties continue to disagree over an access agreement and the details of cleanup. According to the Cleanup Team, these disputes, and inaction by Mayhew Center, LLC, have substantially blocked implementation of interim cleanup in the PCE source area. In addition, Mayhew Center, LLC, failed to comply with our April 2011 directive to complete the onsite investigation, for which I imposed administrative civil liability of \$16,942 in December 2012 when we received no comments on a publically-circulated settlement agreement and proposed order.

Need for Cleanup Order: The concentrations of PCE and its breakdown products in soil, groundwater, and soil vapor pose a potential threat to Mayhew Center building occupants, to offsite building occupants immediately to the northeast, and to any future use of shallow groundwater in the site vicinity. The highest groundwater PCE concentrations are more than 1,000 times the drinking water standard. Additional work is needed to quantify the potential threat to building occupants, delineate the groundwater plume, and clean up the contamination. According to the Cleanup Team, a Board cleanup order will provide additional pressure to clear away the current obstacles to cleanup.

Tentative Order Requirements: The Cleanup Team circulated a tentative order for public comment in mid-October. The tentative order names the current landowners Mayhew Center, LLC, and Dean Dunivan as dischargers. Prior owners are not named because there is insufficient evidence that they knew or should have known of the discharge or the activities that caused the discharge. The tentative order requires the named parties to complete the investigation, complete interim cleanup actions in the PCE source area, and propose a final cleanup plan.

Comments and Responses: We received comments from two parties representing Walnut Creek Manor: Brian Kelly and Environ (Appendix B). We did not receive any comments from the site owners. The Cleanup Team's response to comments is included as Appendix C. The key issue raised in these comments is whether or not the tentative order should strictly follow the federal court order. Walnut Creek Manor believes it should. The Cleanup Team disagrees, arguing that the Water Board is not bound by the federal court order, the tentative order is generally consistent with the court order and, more importantly, is consistent with Water Board policy. The Revised Tentative Order reflects minor changes made in response to comments. We anticipate that Walnut Creek Manor and possibly others may wish to contest this item.

RECOMMEN-
DATION:

I will have a recommendation following the public hearing.

File No. 07S0183
Appendices:

- A. Revised Tentative Order
- B. Public Comments
- C. Response to Comments
- D. Location Map