

**LEWIS  
BRISBOIS  
BISGAARD  
& SMITH LLP**  
ATTORNEYS AT LAW

One Sansome Street, Suite 1400  
San Francisco, California 94104  
Telephone: 415.362.2580  
Fax: 415.434.0882  
www.lbbslaw.com

ROBERT FARRELL  
DIRECT DIAL: 415.438.6685  
E-MAIL: FARRELL@LBBSLAW.COM

May 25, 2012

File No.  
29815.3

**BY E-MAIL**

Kent Aue, PG, CEG, CHG  
Engineering Geologist  
San Francisco Bay Regional Water Quality  
Control Board ("RWQCB")  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Re: Michael McInnis, et al. v. Jewel Hirsch, et al.  
Solano County Superior Court Case No. FCS 033636

Dear Mr. Aue:

Confirming our conversation, the comments/proposed revisions to the RWQCB's Tentative Order for the 712 Madison site were submitted timely by E2C Remediation, but were not in a format which allowed the RWQCB to post them along with the comments of the other parties. At your request, here are the Tomasini/RX Daughters' comments/proposed revisions to the RWQCB's Tentative Order for the 712 Madison site:

Under the "Remedial Investigation" section of the Tentative Order (pages 3–6), we propose the following revisions<sup>1</sup>:

- 1) The first full paragraph on page 4 should be revised to read:

Soil samples were collected from six shallow borings along the sanitary sewer line that services the Property. Soil samples were also collected from five additional 60-foot deep borings in the vicinity of the Site. **A total of sixty-**

---

<sup>1</sup> Language which is proposed to be deleted is bracketed and quoted. Proposed new language is underlined and bolded

one (61) soil samples were analyzed and forty seven (47) of those samples were reported as non-detected. Groundwater samples were collected from each of three monitoring wells installed at each of the five boring locations, in addition to a sample from a previously installed well. Soil and groundwater samples collected were submitted to a laboratory for VOC analysis.

- 2) The second full paragraph on page 4 should be revised to read:

Currently there are 17 groundwater monitoring wells associated with this Site: 6 upper shallow zone wells; 5 lower shallow zone wells; 1 medium zone well; and 5 intermediate zone wells. Laboratory analytical reports for soil samples collected from the borings at the well locations document detectable concentrations of [delete "the VOCs"] PCE [delete "trichloroethylene (TCE), dichloroethylene (DCE), and vinyl chloride in some samples"] in site source area borings B-2, B-3, WS-2, and in sewer line boring SL-3.

Trichloroethylene (TCE), dichloroethylene (DCE) and Vinyl Chloride (VC) were only detected in sewer line sample SL-3. No

detectable VOC concentrations were reported in soil samples from all other soil borings, except for WS-3 @ 40 feet at a concentration of 0.064 milligrams per kilogram (mg/kg) ( detection limit 0.05 mg/kg).

Groundwater samples from wells in the shallow upper and shallow lower zones downgradient of the Site were reported to contain concentrations of VOCs, although at significantly lower concentrations than those

reported in source area wells. Additionally, samples from downgradient wells were reported to contain significantly higher PCE and TCE daughter products.

Groundwater samples from downgradient wells in the intermediate zone contained PCE at concentrations ranging from non-detected (nd<0.500 micrograms per liter (ug/l)) to 22.8 ug/l, a decrease from the source area

wells by more than two orders of magnitude [delete "above the California maximum contaminant levels (MCL) of 5 micrograms per liter (ug/L)(equivalent to parts per billion (ppb)) for this compound]. Well WS-3, located to the east of the source area, but directly downgradient (southeast) of sewer line soil boring SL-3, was reported to contain moderately high concentrations of PCE, TCE and DCE. VOCs were not

reported in groundwater samples from the wells upgradient of the Site.

- 3) The first full paragraph on page 5 should be revised to read:

The Site investigation report submitted to the Regional Water Board by the current property owners in February 2012 indicates that contaminant plumes in the shallow upper, shallow lower, and intermediate groundwater zones extend offsite to the southeast, **but attenuate rapidly as evidenced by the low to non-detected concentrations reported in groundwater samples from WS-5 in every water-bearing zone.** Groundwater samples from the shallow lower zone well approximately 15 feet from the building at the Site (WS-2-SL) were reported to contain in excess of 18,000 ug/L PCE, 2 ug/L TCE, and 3 ug/L DCE. Reported contaminant concentrations in a groundwater sample from shallow lower zone well WS-5-SL approximately 100 feet from the Site were lower. PCE was reported at 183 mg/L in groundwater at that location. These data indicate that these contaminants are migrating vertically through water-bearing strata and downgradient away from the Site.

- 4) The second full paragraph on page 5 should be revised to read:

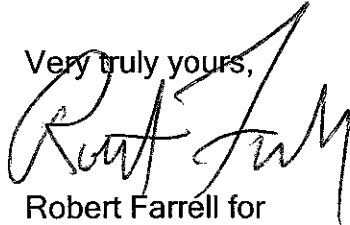
Based on the high concentrations of the contaminants reported in groundwater samples from monitoring wells at the Site, the contaminant plumes in the shallow and intermediate groundwater zones **appear to** extend downgradient beyond the current monitoring well network. The extent of these contaminant plumes is currently [delete "unknown"] **being evaluated**. The remedial investigation for this Site is [delete "currently incomplete"] **on-going as** several data gaps remain. Contaminant pathways and potential sensitive receptors have not been fully identified and evaluated, and the extent of contamination in soil and groundwater has not been sufficiently characterized. Further remedial investigation is needed at this Site to delineate contaminant migration pathways, identify and evaluate potential sensitive receptors, and better characterize the vertical and lateral extent of contamination in soil and groundwater downgradient of the Site.

We would appreciate the RWQCB posting the Tomasini/RX Daughters comments to the 712 Madison Tentative Order along with the comments received from the other parties for consideration by the RWQCB in shaping the final version of the Order.

Kent Aue  
May 25, 2012  
Page 4

Thank you for your cooperation. Please contact me at your convenience if you have any questions or want to discuss this matter in more detail.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert Farrell", written over the closing "Very truly yours,".

Robert Farrell for  
LEWIS BRISBOIS BISGAARD & SMITH LLP

RF:mc

cc: All counsel (by e-mail)