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OFFICIAL RECORDS
MARIN COUNTY CALIFORNIA
JAMES J. DAL BON

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COVENANT OF DEED RESTRICTION

Recording Requested By:

Pacific Gas and Electric Company

When Recorded, Mail To:

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DOCUMENT TO:

TOM MARTINEZ
PG&E
111 STONY CIRCLE
SANTA ROSA, CA 95401-9599

COVENANT AND AGREEMENT
TO RESTRICT USE OF PROPERTY

Pacific Gas and Electric Company
San Rafael, California

This Covenant and Agreement ("Covenant") is made as of the
fourteenth day of July, 1989 by Pacific Gas and Electric
Company, ("Covenantor"), a California Corporation which is the
Owner of record of certain property situated in San Rafael,
State of California, described in Exhibit A attached hereto and
incorporated herein by this reference ("the Property") and by
the California Department of Health Services, with reference to
the following facts:

- A. This property contains hazardous substances.
- B. Description of Facts.

B.1. Contamination of the Property. The Property was
the site of a gas manufacturing facility which operated from
1875 until its dismantling in 1960. Disposal of waste residues
from the gas manufacturing process in low-lying marsh areas of

1 the Property during this period resulted in contamination of
2 soil and groundwater by polynuclear aromatic hydrocarbons
3 (PNAs), also known as polycyclic aromatic hydrocarbons (PAHs).

4 Fuel storage facilities were formerly located within the
5 Property. A gasoline station formerly located at the southwest
6 corner of Second Street and Lincoln Avenue was leased by PG&E to
7 an independent operator. PG&E fueling facilities were formerly
8 located south of Second Street, between Brooks Street and
9 Lindaro Avenue. Two above-ground gasoline tanks and one
10 underground diesel tank were formerly located centrally in the
11 portion of the Property bounded by Lindaro Avenue, Second
12 Street, Lincoln Avenue, and the railroad right-of-way. Trace
13 contamination of gasoline constituents, including benzene, toluene
14 ethylbenzene and xylene have been found in soils in the vicinity
15 of these fueling facilities and may be intermingled with the
16 residues from the gas manufacturing process. In December, 1986
17 the above-ground and underground tanks from fueling facilities
18 formerly located within the Property were removed, together with
19 surrounding soil containing elevated levels of fuel
20 constituents, for offsite disposal at a Class I landfill.

21 B.2. Exposure Pathways. The contaminants addressed in
22 this Covenant have been found in soils and groundwater on the
23 Property. Exposures can take place via in-place contact,
24 surface-water runoff, and wind dispersal, resulting in dermal
25 contact, inhalation, or ingestion by humans. The risk of public
26 exposure is lessened by distance from contaminants, shortened
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1 length of time of exposure, containment of contaminants and
2 mitigation measures to control exposure. The purpose of the
3 mitigation measures which have been used at the Property is to
4 eliminate any significant risks to human health or the
5 environment. A description of potential human health effects
6 of contaminants found on the site is described in Exhibit B
7 attached hereto and incorporated herein by this reference.

8 B.3. Adjacent Land Uses and Population Potentially
9 Affected. The Property is located in a downtown commercial area
10 of the City of San Rafael. Businesses within a two block radius
11 of the Property include restaurants, auto repair shops, a
12 sporting goods store, office buildings, banks, and a PG&E
13 substation. The Property is adjacent to the tennis courts,
14 baseball field, and Marin Wildlife Center located in Albert
15 Park. The Property is located 300 meters (2/10 mile) from the
16 Davidson Middle School. The Property is bisected by Lindaro
17 Avenue which has heavy vehicle and pedestrian traffic. There
18 are no private residences within a two block radius of the
19 Property.

20 C. Covenantor has made full and voluntary disclosure
21 to the Department of the presence of hazardous substances on the
22 Property, and Covenantor has conducted extensive sampling of the
23 Property.

24 D. Covenantor desires and intends that in order to
25 protect the present or future public health and safety, the
26 Property shall be used in such a manner as to avoid potential
27 harm to persons or property which may result from hazardous

1 substances which have been deposited on unspecified portion(s)
2 of the Property.

3 ARTICLE I

4 GENERAL PROVISIONS

5 1.1 Provisions to Run With the Land. This Covenant
6 sets forth protective provisions, covenants, restrictions, and
7 conditions, (collectively referred to as "Restrictions"), upon
8 and subject to which the Property and every portion thereof
9 shall be improved, held, used, occupied, leased, sold,
10 hypothecated, encumbered, and/or conveyed. Each and all of the
11 Restrictions shall run with the land, and pass with each and
12 every portion, of the Property, and shall apply to and bind the
13 respective successors in interest thereof. Each and all of the
14 Restrictions are imposed upon the entire Property unless
15 expressly stated as applicable to a specific portion of the
16 Property. Each and all of the Restrictions are for the benefit
17 of and enforceable by the Department in accordance with
18 applicable law.

19 1.2 Concurrence of Owners Presumed. All purchasers,
20 lessees, or possessors of any portion of the Property shall be
21 deemed by their purchase, leasing, or possession of such
22 Property, to be in accord with the foregoing and to agree for
23 and among themselves, their heirs, successors, and assignees,
24 and the agents, employees, and lessees of such owners, heirs,
25 successors, and assignees, that the Restrictions as herein
26 established must be adhered to for the benefit of future Owners
27 and Occupants and that their interest in the Property shall be

1 subject to the Restrictions contained herein.

2 1.3 Incorporation Into Deeds and Leases. Covenantor
3 desires and covenants that the Restrictions set out herein shall
4 be incorporated in and attached to each and all deeds and leases
5 of any portion of the Property.

6 ARTICLE II

7 DEFINITIONS

8 2.1 Department. "Department" shall mean the California
9 State Department of Health Services and shall include its
10 successor agencies, if any.

11 2.2 Improvements. "Improvements" shall mean all
12 buildings, roads, driveways, regradings, and paved parking
13 areas, constructed or placed upon any portion of the Property.

14 2.3 Occupants. "Occupants" shall mean Owners and those
15 persons entitled by ownership, leasehold, or other legal
16 relationship to the exclusive right to occupy any portion of the
17 Property.

18 2.4 Owner or Owners. "Owner" or "Owners" shall mean
19 the Covenantor and/or its successors in interest, including
20 heirs, and assigns, who hold title to all or any portion of the
21 Property.

22 2.5 Director. "Director" shall mean the Director of
23 the California Department of Health Services or his or her
24 designee.

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ARTICLE III

DEVELOPMENT, USE, AND CONVEYANCE OF THE PROPERTY

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3 3.1 Restrictions on Development and Use. Covenantor
4 promises to restrict the use of the Property as described in
5 said Exhibit A as follows:

6 a. Development of the Property shall be restricted to
7 commercial or office space.

8 b. No residence for human habitation shall be
9 permitted on the Property.

10 c. No hospitals shall be permitted on the Property.

11 d. No schools for persons under 21 years of age shall
12 be permitted on the Property.

13 e. No day care centers for children or day care
14 centers for Senior Citizens shall be permitted on the Property.

15 f. The entire area shall be covered with buildings,
16 parking, walkways or landscaping (hereinafter collectively
17 referred to as "Cap") to prevent offsite migration of
18 contaminants, and prevent exposure to onsite workers.

19 g. No grading or excavation on the Property that would
20 permanently expose contaminated soils shall be permitted.

21 h. Any contaminated soils brought to the surface by
22 grading, excavation, trenching, or backfilling shall be managed
23 in accordance with Consent Order Docket Number: HSA 89/90-002
24 agreed to by Covenantor and the Department and all applicable
25 provisions of state and federal law.

26 i. All uses and development of the property shall
27 preserve the integrity of the slurry wall, groundwater

1 extraction system, groundwater treatment system, and groundwater
2 monitoring system installed on the Property pursuant to the San
3 Francisco Bay Regional Water Quality Control Board (RWQCB) Waste
4 Discharge Requirements Order Number 85-80 adopted on
5 June 19, 1985, except as approved by the RWQCB. In addition,
6 Covenantor promises to comply with the following requirements:

7 j. The Owner shall notify the Department and the RWQCB
8 of each of the following: 1) The type, cause, location and date
9 of any disturbance to the Cap which could affect the ability of
10 the Cap to contain subsurface hazardous substances on the
11 Property and 2) The type and date of repair of such disturbance.
12 Notification to the Department shall be made by registered mail
13 within five (5) working days of both the discovery of cap
14 disturbance and the completion of repairs.

15 k. The Department or the RWQCB shall have access to
16 the Property for the purposes of inspection, surveillance,
17 or monitoring, as provided for in Chapters 6.5 and 6.8 of the
18 Health and Safety Code and Chapter 4 of Division 7 of the Water
19 Code.

20 3.2 Conveyance of Property. The Owner or Owners shall
21 provide a thirty (30) days advance notice to the Department of
22 any sale, lease, or other conveyance of the Property or an
23 interest in the Property to a third person. The Department
24 shall not, by reason of the Covenant, have authority to approve,
25 disapprove, or otherwise affect any sale, lease, or other
26 conveyance of the Property except as otherwise provided by law
27 or by reason of this Covenant.

1 well-being, or safety of the public.

2 Upon making a decision to approve or deny the proposed
3 amendment, the director shall issue and cause to be served the
4 decision and findings of fact on the owner of the land, the
5 legislative body of the city or county in whose jurisdiction the
6 land is located, and upon any other interested persons. If the
7 Department agrees to the proposed amendment, the director and all
8 of the owners of the land shall execute an instrument reflecting
9 this agreement, shall particularly describe the real property
10 affected by the instrument, and the owner shall record the
11 instrument in the county in which the land is located within ten
12 (10) days of the date of execution.

13 4.2 Termination. Any Owner or, with the Owner's
14 consent, an Occupant of the Property or a portion thereof may
15 apply to the Department for a termination of the Restrictions as
16 they apply to all or any portion of the Property on the ground
17 that the substances no longer create a significant existing or
18 potential hazard to present or future public health or safety.
19 Any application shall contain sufficient evidence for the
20 Department to make a finding upon any or all of the following
21 grounds:

22 a. The hazardous substances which caused the land to
23 be contaminated have since been removed or altered in a manner
24 which precludes any significant existing or potential hazard to
25 present or future public health.

26 b. New scientific evidence is available concerning
27 either of the following:

- 1 1. The nature of the hazardous substances
- 2 contamination;
- 3 or
- 4 2. The geology or other physical environmental
- 5 characteristics of the contaminated land.

6 Upon making a decision to approve or deny the
7 proposed termination, the director shall issue and cause to be
8 served the decision and findings of fact on the owners of the
9 land, the legislative body, and the city or county in whose
10 jurisdiction the land is located, and upon any other interested
11 person. If the Department approves, in writing, the proposed
12 termination of the Restrictions, the director and all of the
13 owners of the land shall record or cause to be recorded, a
14 termination of the Restrictions which shall particularly
15 describe the real property subject to the Restrictions and which
16 shall be indexed by the recorder in the grantor index in the
17 name of the record title owner of the real property subject to
18 the Restrictions, and in the grantee index in the name of the
19 Department.

20 4.3 Term. Unless terminated in accordance with paragraph
21 4.2 above, by law or otherwise, this Covenant shall continue in
22 effect in perpetuity.

23 ARTICLE V
24 MISCELLANEOUS

25 5.1 No Dedication Intended. Nothing set forth herein
26 shall be construed to be a gift or dedication, or offer of a
27 gift or dedication, of the Property or any portion thereof to

1 the general public or for any purposes whatsoever.

2 5.2 Notices. Whenever any person gives or serves any
3 notice, demand, or other communication with respect to this
4 Covenant, each such notice, demand, or other communication shall
5 be in writing and shall be deemed effective 1) when delivered,
6 if personally delivered to the person being served or to an
7 officer of a corporate party being served or official of a
8 government agency being served, or 2) three (3) business days
9 after deposit in the mail if mailed by United States mail,
10 postage paid certified, return receipt requested:

11 To: "Covenantor"
12 Pacific Gas and Electric Company
13 Attention: Redwood Region General Services
14 Manager
111 Stony Circle
Santa Rosa, CA 95401-9599

15 Copy to: California Department of Health Services
16 Toxic Substances Control Division
17 Technical Support Unit
714/744 P Street
Post Office Box 942732
Sacramento, CA 94234-7320

18 Copy to: California Department of Health Services
19 Toxic Substances Control Division
20 Attention: PG&E-San Rafael Project Officer
5850 Shellmound Street, Suite 100
Emeryville, CA 94608

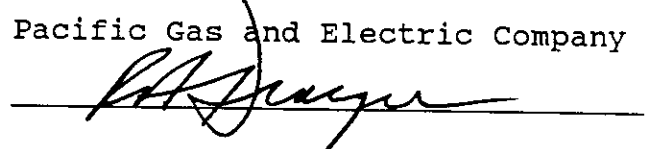
21 5.3 Partial Invalidity. If any portion of the Restrictions
22 set forth herein or terms is determined to be invalid for any
23 reason, the remaining portion shall remain in full force and
24 effect as if such portion had not been included herein.

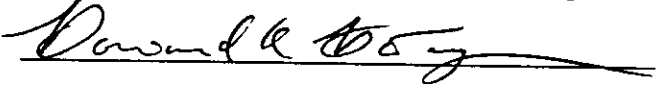
25 5.4 Article Headings. Headings at the beginning of each
26 numbered article of this Covenant are solely for the convenience
27 of the parties and are not a part of the Covenant.

1 5.5 Recordation. This instrument shall be executed by the
2 Covenantor and by the Chief of the Region 2, Toxic Substances
3 Control Division of the California Department of Health
4 Services. This instrument shall be recorded by the Covenantor
5 in the County of Marin within ten (10) days of the date of
6 execution.

7 5.6 References. All references to Code sections include
8 successor provisions.

9
10 IN WITNESS WHEREOF, the parties execute this Covenant as of the
11 date set forth above.

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13 Covenantor: Pacific Gas and Electric Company
14 By: 
15 Richard A. Draeger
16 Title: Vice President - General Services
17 Date: July 18, 1989

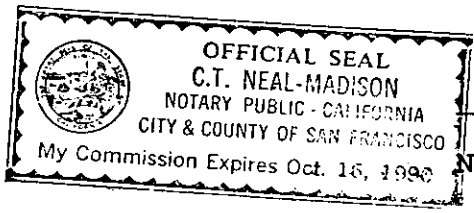
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20 Agency: State of California
21 Department of Health Services
22 By: 
23 Howard K. Hatayama
24 Title: Section Chief, Region 2
25 Toxic Substances Control Division
26 Date: July 18, 1989

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1 STATE OF CALIFORNIA)
2 CITY AND)
3 COUNTY OF SAN FRANCISCO)

4 On July 18, 1989 before me, the undersigned, a Notary
5 Public in and for said state, personally appeared _____
6 Mr. R. A. Drzejer, personally known to me or proved to me on the
7 basis of satisfactory evidence to be the person who executed the
8 within instrument as Covenantor of the corporation that
9 executed the within instrument, and acknowledged to me that such
10 corporation executed the same pursuant to its bylaws or a
11 resolution of its board of directors.

12
13 WITNESS my hand and official seal.



14
15
16 C.T. Neal-Madison

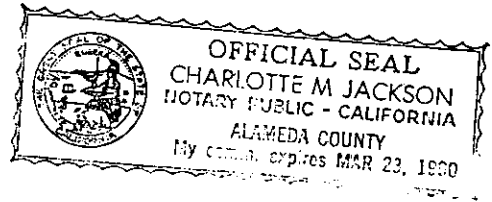
17 Notary Public in and for said
18 County and State
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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA)

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On July 18, 1989 before me, the undersigned, a Notary Public in and for said state, personally appeared Howard K. Hatayama, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as Chief of the Region 2, Toxic Substances Control Division of the Department of Health Services, the Agency that executed the within instrument, and acknowledged to me that such agency executed the same.

WITNESS my hand and official seal.



Charlotte M. Jackson
Notary Public in and for said
County and State

EXHIBIT "A"
Legal Description of Premises

PARCEL ONE
Easterly of Lindaro Street

Beginning at the most southerly corner of the parcel of land described and designated 2 in the deed from the City of San Rafael to Pacific Gas and Electric Company recorded September 16, 1938 in Book 369 of Official Records at page 348, Marin County Records and running thence along the southwesterly boundary line of said parcel of land designated 2

(1) north 54° 38.0' west 15.74 feet

to the southwesterly corner of said parcel of land designated 2; thence leaving the southwesterly boundary line of said parcel of land designated 2 and running along the westerly boundary line of said parcel of land designated 2

(2) north 7° 15.0' east 18.66 feet, and

(3) north 8° 53.0' east 367.52 feet

to the most northerly corner of said parcel of land designated 2, said most northerly corner being a point in the easterly boundary line of the parcel of land described in the deed from Pacific Gas and Electric Company to the City of San Rafael dated April 6, 1937 and recorded in Book 341 of Official Records at page 128, Marin County Records; thence leaving the westerly boundary line of said parcel of land designated 2 and running along the easterly boundary line of the parcel of land described in said deed dated April 6, 1937

(4) north 8° 53.0' east 53.72 feet, and

(5) north 6° 45.0' east 300.78 feet

to a point in the southerly boundary line of Second Street, said southerly boundary line being in part the northerly boundary line of the parcel of land conveyed by James L. Flood and Maud L. Flood to Pacific Gas and Electric Company by deed dated June 30, 1925 and recorded in Book 73 of Official Records at page 155, Marin County Records, and of the parcel of land described in the deed from Thomas F. Smith and wife to Pacific Gas and Electric Company dated September 27, 1951 and recorded in Book 702 of Official Records at page 402, Marin County Records; thence leaving the easterly boundary line of the parcel of land described in said deed dated April 6, 1937 and running along the southerly boundary line of Second Street

(6) south 83° 33.0' east 429.90 feet

to the most westerly corner of the parcel of land described in the deed from Pacific Gas and Electric Company to the City of San Rafael dated September 20, 1960 and recorded in Book 1507 of Official Records at page 378, Marin County Records; thence leaving said southerly boundary line of Second Street and running along the general westerly boundary line of the parcel of land described in said deed dated September 20, 1960

(7) southerly on a curve to the right with a radius of 10.00 feet, through a central angle of 90° 00'00 and tangent at the northwesterly terminus thereof to the preceding course, an arc distance of 15.71 feet; thence

(8) south 6° 27.0' west 299.32 feet; thence

(9) southerly on a curve to the left with a radius of 527.00 feet, through a central angle of 14° 58' 30" and tangent at the northerly terminus thereof to the preceding course, an arc distance of 137.73 feet

EXHIBIT "A"
Legal Description of Premises (Continued)

PARCEL ONE (Continued)

to the most southerly corner of the parcel of land described in said deed dated September 20, 1960 said most southerly corner being also the most northerly corner of the parcel of land described in the deed from the City of San Rafael to Pacific Gas and Electric Company dated May 15, 1960 and recorded in Book 1507 of Official Records at page 381, Marin County Records; thence leaving the general westerly boundary line of the parcel of land described in said deed dated September 20, 1960 and running along the easterly boundary line of the parcel of land described in said deed dated May 15, 1960

(10) southeasterly on a curve to the left with a radius of 527.00 feet, through a central angle of $21^{\circ} 10' 36''$ and tangent at the northwesterly terminus thereof to a line which has a bearing of north $8^{\circ} 31.5'$ west, an arc distance of 194.78 feet;

thence leaving the easterly boundary line of the parcel of land described in said deed dated May 15, 1960 and running along the southeasterly boundary line of the parcel of land described in said deed dated May 15, 1960

(11) southwestery on a curve to the right with a radius of 431.70 feet, through a central angle of $16^{\circ} 32' 00''$ and tangent at the northeasterly terminus thereof to a line which has a bearing of north $54^{\circ} 31.5'$ east, an arc distance of 124.56 feet

to a point in the easterly boundary line of the parcel of land conveyed by said deed dated June 30, 1925; thence leaving the southeasterly boundary line of the parcel of land described in said deed dated May 15, 1960 and running along the easterly boundary line of the parcel of land conveyed by said deed dated June 30, 1925

(12) south $11^{\circ} 05.0'$ west 11.51 feet
to the southeasterly corner of the parcel of land conveyed by said deed dated June 30, 1925 and running along the southerly boundary line of the parcel of land conveyed by said deed dated June 30, 1925

(13) westerly on a curve to the right with a radius of 495.85 feet
to a point in the easterly boundary line of said parcel of land designated 2; thence running along the easterly boundary line of said parcel of land designated 2

(14) south $6^{\circ} 45.0'$ west 25 feet, more or less,
to the point of beginning.

EXHIBIT A
Legal Description of Premises (Continued)

PARCEL TWO
Westerly of Lindaro Street

Beginning at the intersection of the southerly boundary line of Second Street, a city street, with the westerly boundary line of Lindaro Avenue, a city street, and running thence along the westerly boundary line of said Lindaro Avenue,

- (1) south 6° 45.0' west 299.22 feet; thence
- (2) south 8° 53.0' west 405.54 feet to a point in the northerly boundary line of the Northwestern Pacific Railroad Right of Way; thence along said Right of way,
- (3) north 54° 38.0' west 389.82 feet; thence
- (4) north 6° 27.0' east 276.90 feet; thence
- (5) south 83° 33.0' east 237.90 feet; thence
- (6) north 6° 45.0' east 239.00 feet to a point in the southerly boundary line of said Second Street; thence along the southerly boundary line of said Second Street,
- (7) south 83° 33.0' east 120.85 feet, more or less, to the point of beginning; said point of beginning bears south 73° 30' 26" west 35.91 feet distant from the found 1-3/4 inch bronze rod accepted as marking the intersection of the centerline of said Lindaro Avenue with the southerly curb line of said Second Street as shown upon the map filed for record in Volume 2 of Surveys at page 83, Marin County Records.

PARCEL THREE
San Rafael Substation

Beginning at the northwest corner of the parcel of land conveyed by F. M. Neely and wife to Pacific Gas and Electric Company by deed dated October 28, 1921 and recorded in Book 11 of Official Records at page 209, Marin County Records, and running thence along the westerly boundary line of said parcel of land

- (1) south 6° 27.0' west 230.00 feet;
thence leaving the westerly boundary line of said parcel of land
- (2) south 83° 33.0' east 237.90 feet;
thence
- (3) north 6° 45.0' east 239.00 feet
to a point in the northerly boundary line of said parcel of land; thence running along the northerly boundary line of said parcel of land
- (4) north 83° 33.0' west 239.15 feet, more or less, to the point of beginning.

PARCEL FOUR
North Bay Division Office

All of that real property situated in the City of San Rafael, County of Marin, State of California, more particularly described as follows:

The parcel of land bounded on the north by the southerly line of Third Street, on the west by the easterly boundary line of Brooks Street, on the south by the northerly boundary line of Second Street and on the east by the westerly boundary line of Lindaro Street.

Exhibit B
Deed Restriction
Pacific Gas & Electric - San Rafael

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The Property is known to contain hazardous substances including benzene, ethylbenzene, toluene, xylene, lead and polynuclear aromatic hydrocarbons, including benzo(a)pyrene and naphthalene. These substances have been contained by the installation of a slurry wall, a site Cap, a system of groundwater monitoring wells, and a water treatment system. If this containment system were to be damaged by unauthorized excavation, destruction of the groundwater extraction system, or impairment of the groundwater treatment system, occupants of the Property could be exposed to the contained chemical compounds, but the exposure would not likely present significant human health risks.

The risk assessment prepared by Harding Lawson Associates ("Final Risk Appraisal, San Rafael Retail Project," dated June 21, 1989 concluded that the pavement and buildings associated with the retail project would mitigate virtually all potential dust emissions from the Property. Volatilization of hazardous substances is not expected to be a significant route of exposure, considering that all landscaped areas will be backfilled with at least two feet of clean soil and vapor barriers and sealants will be used under the buildings to further minimize any potential emissions. Calculated exposure levels to onsite workers and visitors following construction of the retail project are well below the generally accepted risk

Exhibit B

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threshold of one in one million.

The risk assessment performed by Decision Focus Inc. ("Risk Assessment of the San Rafael Gas Plant Site, Phase I: Baseline, Phase II, Trenching", dated June, 1989) concluded that as the site currently stands (without construction of the retail project) the lifetime cancer risks to all potentially exposed populations are well below the one in a million level.

Should the additional mitigation measures associated with the retail project be disturbed for any reason, the worst case with regard to the lifetime cancer risks would revert to the conclusion of the risk assessment prepared for the baseline conditions, which would still be below the one in a million level.