

Response to San Mateo County's Comments Dated January 16, 2014,
for the LC Property, Located at 1620 S. Delaware Street, San Mateo, Claim #3222

Comment 1: The Fund's use of recently (but not the most recent) submitted soil data specifically eliminates the maximum concentrations of contaminants in soil which actually fail the direct contact and outdoor air exposure pathway of the State Water Resources Control Board's (SWRQC) Low Threat Closure Policy (LTCP) under all land use scenarios.

Response 1: The most recent data, now available, was submitted after the Fund staff completed their review but not before Fund Manager and our Attorney reviewed the document. Historical soil data is not relevant for evaluating current risk because petroleum naturally degrades over time.

Comment 2: The concentration of the most recently submitted soil vapor samples also fail the LTCP for vapor intrusion pathway under all land use scenarios.

Response 2: Using the Petroleum Vapor Intrusion to Indoor Media Specific Criteria option B, Fund staff conducted an evaluation of Site specific risk and found that there are no buildings at the Site and no full time employees work at this open air coin operated carwash. Therefore, there is no risk to indoor air intrusion.

Comment 3: Finally, the historical risk assessments the Fund's RSR relies upon to justify its conclusion of proposed closure under the LTCP is incomplete (fails to evaluate direct contact exposure pathway and the utility worker receptor as indicated by the Fund) and incorrect (uses incorrect toxicity values for benzene).

Response 3: As stated above using the existing Risk Assessments in the file and using option B for both Media Specific Criteria for Indoor Air and Direct Contact. The Fund staff conducted a professional assessment of site-specific risk from potential exposure to petroleum constituents was performed by Fund staff. The assessment found that there is no significant risk of petroleum vapors or direct contact adversely affecting human health due to the lack of buildings on the Site, the Site being paved and no full time employees, therefore, these pathways are incomplete.

Comment 4: The unstated assumption by the Fund is that any change in land use, even from currently unoccupied commercial to occupied commercial will result in the Site being reopened. In essence, the SWQRCB is limiting the future use of this property to this specific type of commercial land use.

Response 4: The case was evaluated based on the Policy Criteria for current land use. Should a change in land use be proposed and approved by the local agency, presumably the developer will be required to meet various requirements that apply at that point in time.

Additionally, the LTCP required " Notification Requirements – Municipal and county water districts, water replenishment districts, special act districts with groundwater management authority, agencies with authority to issue building permits for land affected by the petroleum release, owners and occupants of the property impacted by the petroleum release, and the owners and occupants of all parcels adjacent to the impacted property shall be notified. By providing notice to the Building Department future land developers will be made aware of the potential petroleum hydrocarbons in the soil.

Comment 5: The RSR is dated August 2013 but is signed by the Fund Manager on December 5, 2013. A Soil Vapor Probe Installation report was submitted to GeoTracker on August 29, 2013 but was not used in the RSR as explained in email correspondence with Bob Trommer in December 2013.

Response 5: Email response dated 12/20/2013 from Bob Trommer stated “ The RSR was dated August 2013, because that was when the RSR was completed and I reviewed and signed off on the report. It then had to be reviewed and approved by both the Fund Manager and our attorney prior to the Fund Manager’s signature.” “ Consequently and data collected at the end of August or later was not included in the RSR.

Comment 6: The Fund’s RSR statement that the Site meets the Vapor Intrusion to Indoor Air criteria under Policy Criterion 2b is not valid because the risk assessments referenced as justification were prepared prior to the collection of soil vapor samples which subsequently fail the LTCP.

Response 6: In addition to the Risk Assessment in the case record, a professional assessment of site-specific risk from potential exposure to petroleum constituents was performed by Fund staff. The assessment found that there is no significant risk of petroleum vapors adversely affecting human health due to the lack of buildings on the Site and no full time employees. Therefore, the pathway is incomplete.

Comment 7: The Fund needs to justify their proposed closures based on the scientifically-based peer-reviewed LTCP criteria rather than, the more commonly selecting the option that they, as a regulator, do not believe it is a problem for human health, safety, and the environment.

Response 7: As stated above a professional assessment of site-specific risk from potential exposure to petroleum constituents was performed by Fund staff. The assessment found that there is no significant risk adversely affecting human health.

Comment 8: The City of San Mateo and a majority of the bay-side county is under intense pressure to redevelop and provide more housing of all kinds. The Fund’s RSR fails to mention the redevelopment site in the very near vicinity of the Site and how that may affect the potential future groundwater, vapor intrusion and direct contact exposure pathways (and adjacent based on possible near dewatering activities) at the Site.

Response 8: Because of notification requirements in the LTCP, the local agency(s) will require, presumably the developer to meet various requirements that apply at that point in time, if the naturally biodegradable petroleum hydrocarbons remain.

Comment 9: A particular concern is the lack of evaluation of the utility (construction) worker receptor, the failure to use California–specific toxicity factors, and the lack of evaluation of direct contact (direct ingestion and dermal contact) exposure pathway is the risk assessments.

Response 9: A professional assessment of site-specific risk from potential exposure to petroleum constituents was performed by Fund staff. The assessment found no significant risk of contact with petroleum hydrocarbon soil to adversely affect human health. The Site is paved lot with a coin operated carwash which prevents incidental dermal contact or ingestion

exposures. In addition, any construction activities at or near the Site will involve a permit which would require construction workers to have protective clothing and/or equipment to prevent accidental exposure to any residual petroleum constituents.

Comment 10: Resolution 2012-0016 clearly states when the Executive Director can and cannot close a tank case or require closure of a tank case pursuant to Health and Safety Code section 25299.39.2 of section 25296.40. Under number 7, the Executive Director may close or require the closure of any underground storage tank case if the case meets the criteria found in the State Water Board's LTCP adopted by the State Water Board Resolution No. 2012-0016. As stated above, this case clearly does not meet the LTCP in any justifiable way. Therefore, the Executive Director cannot legally require closure of this tank case.

Response 10: As stated in the RSR and in the responses above the Fund does believe this case meets the criteria of the LTCP.