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July 18, 2012

VIA E-MAIL AND U.S. MAIL

Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water
Quality Control Board
Suite 1400
1515 Clay Street
Oakland CA 94612

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Re: Walnut Creek Manor Statement of Interested Party as to Administrative Civil Liability Complaint No. R2-2012-0022, Mayhew Center, LLC

Dear Mr. Wolfe:

On behalf of Walnut Creek Manor LLC (“WCM”), we write to provide comments as an Interested Party with respect to the above-referenced Administrative Civil Liability Complaint, and to expressly request that the undersigned as counsel for WCM be provided prompt and timely notice of all correspondence, filings and other matters relevant to this Complaint .

Today we were informed that Mayhew Center, LLC waived the 90 day hearing requirement with respect to the Complaint. As a consequence and as stated in the referenced Complaint the schedule of “Important Deadlines,” including to submit an Interested Party Statement, appears no longer to be applicable. However, enforcement counsel suggested that today’s listed date for Interested Party submission may still apply. Therefore, in an effort to provide input on this matter of significant importance to WCM, and subject to the right to supplement and provide additional information and further written policy statements, WCM submits the following in support of the need for a strong and decisive action against the discharger, Mayhew Center, LLC and its managing member, Mr. Dean Dunivan (collectively “MC”). MC has a long history of delay, inaction and violating orders regarding the PCE contamination existing at and emanating from its property. To impose anything less than the

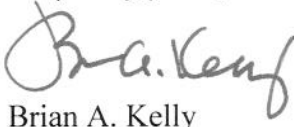
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most stringent civil liability allowed would send a message to the community that failure to comply with Regional Board orders is acceptable.

WCM is a seniors-only housing development that shares a property boundary with the discharger MC. Since May 2003, the Regional Board has sought technical reports from MC regarding the known PCE contamination emanating from its property. Despite the passage of almost a decade, and the first Notice of Violation to MC as early as September 27, 2005, the PCE contamination has not been remediated by MC. Instead, MC has challenged, ignored or delayed in response to the long history of Regional Board orders. In addition, MC began a campaign to wrongly accuse WCM and its senior citizen residents of causing the PCE contamination on the MC property. Despite the clear evidence to the contrary, WCM was forced to turn to the Courts to resolve this matter. Following a trial before U.S. District Court Judge Claudia Wilkin and a jury, on June 1, 2009 the jury unanimously determined that MC was the sole source of the PCE found at its property and that MC's inaction and negligence had allowed the PCE to migrate onto and damage the WCM property. Following the jury verdict, on October 2, 2009, the Court declared that the MC property was the sole source of the PCE contamination. Further, on November 23, 2010, the Court issued the attached Injunction Order requiring among other things that MC "remediate, cleanup and abate the PCE contamination present in soil vapor, soil and groundwater." Notwithstanding an extensive history of Regional Board Orders dating to 2003, the findings of the jury, a federal district judge and a specific injunction order, MC has done very little to comply with orders or to investigate and remediate the PCE contamination. (See, e.g., the Regional Board's files, including the attached correspondence to the Regional Board dated February 23, 2010 (from Union Pacific's counsel), July 9, 2010, September 22, October 27, 2011 and June 11, 2012 regarding the more recent history of delay)

As an Interested Party, WCM submits that significant civil liability penalties are warranted and an enforcement action should be taken to the fullest extent to obtain prompt remediation.

Very truly yours,



Brian A. Kelly

BAK:meh
Enclosures

cc: Milt Eberle (*via e-mail*)
Dean Dunivan (*via e-mail*)
Eric R. Haas, Esquire (*counsel for Mayhew Center, via e-mail*)
The Regional Board Prosecution Team, c/o Laurent Meillier
(LMeillier@waterboard.ca.gov)