

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

STAFF SUMMARY REPORT (Jack Gregg)
MEETING DATE: April 11, 2018

ITEM: 5B

SUBJECT: **Isis Properties, LLC; James K. Eu; and Ling Yu L. Eu; for the property located at 35 and 43 East Santa Clara Street, San Jose, Santa Clara County – Adoption of Site Cleanup Requirements**

CHRONOLOGY: The Board has not previously considered this item

DISCUSSION: The attached Revised Tentative Order (Appendix A) would set cleanup levels and require the dischargers to complete site investigations, submit a cleanup plan, and implement that plan.

The site is located in downtown San Jose just east of the Guadalupe Parkway. A dry cleaner operated in the basement of a hotel at the site from 1950 to 1969. The dry cleaning solvent tetrachloroethene (PCE) leaked from the dry cleaner, and PCE is now detected in soil, groundwater, soil gas, and indoor air at the site.

In 2015, Board staff required the property owner, Isis Properties, to submit a cleanup plan. In 2016, staff issued a notice of violation to Isis Properties for failure to submit a cleanup plan. In 2017, Isis Properties submitted a cleanup plan that proposed vapor intrusion mitigation and long-term monitoring. In January 2018, staff rejected the cleanup plan because it did not propose active cleanup (e.g., soil excavation, soil vapor extraction, enhanced bioremediation for groundwater).

Isis Properties submitted comments on the tentative order circulated for public comment (Appendix B). Its main comment was a request to add previous property owners as named dischargers to the tentative order. Its comments also included technical clarifications and requests to extend compliance dates for some of the tasks.

In our response to comments (Appendix C), we respond to the request to add dischargers by noting that we have insufficient information concerning those persons and/or entities. Therefore, we do not name additional dischargers in the tentative order. However, we will consider naming previous property owners in the future if their contact information is provided and if our subsequent research shows they should be named as dischargers. We also incorporated some of the requested technical clarifications and extended some of the compliance dates.

We expect this item to be uncontested.

**RECOMMEN-
DATION:**

Adopt the Revised Tentative Order

FILE No.

File No. 43S0564 (jhg)

Appendices:

A - Revised Tentative Order

B - Correspondence

C - Response to Comments

D – Location Map

Appendix A
Revised Tentative Order

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

REVISED TENTATIVE ORDER

ADOPTION OF SITE CLEANUP REQUIREMENTS for:

**ISIS PROPERTIES, LLC,
JAMES K. EU, AND
LING YU L. EU**

for the property located at:

35 AND 43 EAST SANTA CLARA STREET
SAN JOSE, SANTA CLARA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter Regional Water Board), finds that:

1. **Site Location:** The Bassler-Haynes Building, also known as the Dr. Eu Building, is located at 35 and 43 East Santa Clara Street in downtown San Jose (Site). The Site consists of two attached three-story buildings constructed in the late-1880s. Land use in this area is predominantly commercial, and the Site is bounded by streets and sidewalks on two sides and by commercial buildings on the other two sides.
2. **Site History:** Historical tenants of the Bassler-Haynes Building included several retail businesses including a jeweler, a clothing store, and a hotel. A dry cleaning operation associated with the hotel reportedly operated between 1950 and 1969 in the basement of the building. The second floor of the building is currently occupied; the basement, first floor, and third floor are unoccupied. In 1986, James K. Eu and Ling Yu L. Eu (the Eus) purchased the Site. On June 7, 2004, the Eus submitted Articles of Organization for Isis Properties, LLC, to the California Secretary of State. On September 3, 2004, the Eus submitted additional information identifying themselves as the only managers of the LLC. Isis Properties, LLC, is the current owner of the Site.
3. **Named Dischargers:** Isis Properties, LLC, is named as a discharger because it is the current owner of the property on which there is an ongoing discharge of pollutants, it has knowledge of the discharge or the activities that caused the discharge, and it has the legal ability to control the discharge. James K. Eu and Ling Yu L. Eu are named as dischargers because they owned the property during or after the time of the activity that resulted in the discharge, had knowledge of the discharge or the activities that caused the discharge, and had the legal ability to prevent the discharge. The above dischargers are collectively referred to as the "Dischargers."

If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the Site where it entered or could have entered waters of the State, the Regional Water Board will consider adding those parties' names to this order.

4. **Regulatory Status:** This Site is currently not subject to a Regional Water Board order.

5. **Site Hydrogeology:** Investigation of site hydrogeology has been constrained by high density development and limited by access constraints for drilling equipment. Six groundwater wells have been constructed in the basement of the Bassler-Haynes Building. The basement floor is about 6 feet below ground surface. Sediments beneath the basement include silts, sands, and clays down to an investigated depth of 26 feet below ground surface (bgs).

A perched interval of shallow groundwater (referred to as the “A1” interval) occurs at approximately 10 feet bgs. Monitoring wells MW-4, MW-5 and MW-6 are screened between 10 and 15 feet bgs and collect groundwater samples from the A1 interval. Regional shallow groundwater (referred to as the “A2” interval) occurs at approximately 20 feet bgs. Monitoring wells MW-1, MW-2 and MW-3 are screened between 21 and 26 feet bgs and collect groundwater samples from the A2 interval.

6. **Remedial Investigation:** Site investigations were conducted in 1998, 2004, and 2016. Perchloroethene (PCE) was detected in soil, groundwater, soil vapor, and indoor air and is the primary volatile organic chemical (VOC) detected. The PCE breakdown products trichloroethene (TCE) and cis-1,2-dichloroethene (cis-1,2-DCE) were also detected in groundwater. The extent of VOC contamination has been adequately characterized in soil and groundwater but has not been adequately characterized in soil gas or indoor air, as explained below.

Soil - PCE was detected in soil samples collected at the Site in 1998 at concentrations up to 4.1 milligrams per kilogram (mg/kg), which exceeds the environmental screening level (ESL) of 0.42 mg/kg. The extent of soil contamination has been adequately characterized.

Groundwater - PCE has been detected in groundwater samples taken from the A1 interval at concentrations up to 4,300 micrograms per liter ($\mu\text{g/L}$), and TCE has been detected at concentrations up to 75 $\mu\text{g/L}$. PCE has been detected in groundwater samples from the A2 interval at concentrations up to 430 $\mu\text{g/L}$ and TCE up to 57 $\mu\text{g/L}$. These PCE concentrations exceed the drinking water standard of 5 $\mu\text{g/L}$ (U.S. EPA and California maximum contaminant level). The extent of groundwater contamination has been adequately characterized. The VOC plume is about 200 feet wide and extends about 300 feet downgradient from the Site (to the north). PCE concentrations decrease by an order of magnitude in the deeper A2 interval, but restricted access and equipment limitations did not allow confirmation of unimpacted groundwater beneath that interval.

Soil Gas - PCE has been detected in soil gas samples at concentrations up to 2,870,000 micrograms per cubic meter ($\mu\text{g/m}^3$), which is greater than the commercial ESL of 2,100 $\mu\text{g/m}^3$. The soil gas monitoring wells have 3 to 4-foot-long well screens that are installed between depths of 2.5 to 7 feet below the basement floor (8.5 to 13 feet bgs). The extent of the soil gas plume is not defined toward the south, west, and north of the Site.

Indoor Air - PCE was detected in the basement indoor air at concentrations up to 18 $\mu\text{g/m}^3$, which is greater than the commercial ESL of 2.1 $\mu\text{g/m}^3$. PCE was detected at 60 $\mu\text{g/m}^3$ in an adjacent building to the northwest of the Site. The extent of indoor air exceedances over the ESL has not been defined.

7. **Risk Assessment:**

- a. **Screening Levels:** A screening level evaluation was carried out to evaluate potential environmental concerns related to identified soil, soil gas, indoor air, and groundwater impacts at the Site. Chemicals evaluated in the risk assessment include PCE, TCE, cis-1,2-DCE, and vinyl chloride, the primary chemicals of concern identified at the Site.

As part of the assessment, site data were compared to ESLs compiled by Regional Water Board staff for commercial land use, the current and likely future use of the property. The presence of chemicals at concentrations above the screening levels indicates that additional evaluation of potential threats to human health and the environment is warranted. Screening levels for groundwater address the following environmental concerns: 1) drinking water impacts (toxicity and taste and odor), 2) impacts to indoor air, and 3) migration and impacts to aquatic habitats. Screening levels for soil address: 1) direct exposure, 2) leaching to groundwater and 3) nuisance issues. Screening levels for soil gas address impacts to indoor air. Chemical-specific screening levels for other human health concerns (i.e., indoor-air and direct-exposure) are based on a target excess cancer risk of 1×10^{-6} for carcinogens and a target Hazard Quotient of 0.2 for noncarcinogens. Groundwater screening levels for the protection of aquatic habitats are based on promulgated surface water standards (or equivalent). Soil screening levels for potential leaching concerns are intended to prevent impacts to groundwater above target groundwater goals (e.g., drinking water standards). Soil screening levels for nuisance concerns are intended to address potential odor and other aesthetic issues.

- b. **Assessment Results:** Groundwater, soil, soil gas, and indoor air samples exceed the ESLs, as shown in the table below. Shaded boxes indicate media/constituent combinations where no exposure pathway exists.

Media / Constituent	Human health - direct	Leaching to ground water	Indoor air	Drinking water
Soil:				
PCE	X	X		
TCE				
cis-1,2-DCE				
Vinyl chloride				
Soil gas:				
PCE			X	
TCE				
cis-1,2-DCE				
Vinyl chloride				
Groundwater				
PCE			X	X
TCE			X	X
cis-1,2-DCE				
Vinyl chloride				
Indoor Air:				

Media / Constituent	Human health - direct	Leaching to ground water	Indoor air	Drinking water
PCE			X	
TCE				
cis-1,2-DCE				
Vinyl chloride				

* Note: An "X" indicates that the ESL for that particular constituent was exceeded. Absence of an "X" indicates that the ESL for that particular constituent was not exceeded.

c. **Conclusions:** Remedial measures need to be implemented at the Site to reduce the threat to water quality, public health, and the environment posed by the discharges of waste.

8. **Feasibility Study:** On August 4, 2017, Isis Properties, LLC, submitted a Remedial Action Plan (RAP) that evaluated the following alternatives for effectiveness, implementability, and cost:

1. No action
2. Vapor Intrusion Mitigation, Soil and Groundwater Management Plan, Monitored Natural Attenuation (MNA), Land-Use Control
3. In-Situ Groundwater Treatment, Soil-Vapor Extraction, MNA
4. Soil and Groundwater Removal, MNA.

9. **Remedial Action Plan:** The RAP proposed Alternative 2. On January 8, 2018, Regional Water Board staff issued a letter that rejected the RAP because Alternative 2 only includes vapor intrusion mitigation but does not include active remediation. Active remediation is needed to address the PCE concentrations in groundwater, soil gas, and indoor air at the Site.

10. **Basis for Cleanup Levels**

a. **General:** State Water Resources Control Board (State Water Board) Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge. It requires maintenance of background levels of water quality unless a lesser water quality is consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses, and will not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with Resolution No. 68-16.

State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304," applies to this discharge. It directs Regional Water Boards to set cleanup levels equal to background water quality or the best water quality which is reasonable, if background levels cannot be restored. In this instance, background levels cannot be restored, based on the nature of the contamination, the limitations of available cleanup methods, and the Regional Water Board's experience with many other similarly-impacted sites. The cleanup levels established in this Order are consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses of such water,

and will not result in exceedance of applicable water quality objectives. This Order and its requirements are consistent with the provisions of Resolution No. 92-49, as amended.

- b. **Beneficial Uses:** The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Board, the Office of Administrative Law, and U.S. EPA, where required.

Regional Water Board Resolution No. 89-39, "Sources of Drinking Water," defines potential sources of drinking water to include all groundwater in the region, with limited exceptions for areas of high TDS, low yield, or naturally-high contaminant levels. Groundwater underlying and adjacent to the Site qualifies as a potential source of drinking water.

The Basin Plan designates the following potential beneficial uses of groundwater underlying and adjacent to the Site:

- o Municipal and domestic water supply
- o Industrial process supply
- o Industrial service supply
- o Agricultural water supply

At present, there is no known use of groundwater underlying the site for the above purposes.

- c. **Basis for Groundwater Cleanup Levels:** The groundwater cleanup levels for the Site are based on applicable water quality objectives and are the more stringent of U.S. EPA and California primary maximum contaminant levels (MCLs). Cleanup to this level will protect beneficial uses of groundwater and will result in acceptable residual risk to humans.
- d. **Basis for Soil Cleanup Levels:** The soil cleanup levels for the Site are intended to prevent leaching of contaminants to groundwater and will result in acceptable residual risk to humans. The soil sampling depth beneath the Site was limited by constraints on the equipment that could be used inside the building basement. Soil cleanup levels are included in this Order in the event that additional soil sampling finds areas of elevated PCE in vadose zone soil under the building.
- e. **Basis for Soil Gas Cleanup Levels:** The soil gas cleanup levels for the Site are intended to prevent vapor intrusion into occupied buildings and will result in acceptable residual risk to humans.

f. **Basis for Indoor Air Cleanup Levels:** The indoor air cleanup levels for the Site are intended to prevent unhealthy levels of VOCs in indoor air as a result of vapor intrusion and will result in acceptable residual risk to humans.

11. **Future Changes to Cleanup Levels:** If new technical information indicates that the established cleanup levels are significantly over-protective or under-protective, the Regional Water Board will consider revising those cleanup levels.

12. **Risk Management:** The Regional Water Board considers the following human health risks to be acceptable at remediation sites: a cumulative hazard index of 1.0 or less for non-carcinogens and a cumulative excess cancer risk of 10^{-6} to 10^{-4} or less for carcinogens. The screening level evaluation for this Site found contamination-related risks in excess of these acceptable levels. Active remediation will reduce these risks over time. However, risk management measures are needed at this Site during active remediation to assure protection of human health. Risk management measures include engineering controls (such as vapor intrusion mitigation) and institutional controls (such as deed restrictions that prohibit certain land uses).

The following risk management measures are needed at this Site:

a. A deed restriction that notifies future owners of sub-surface contamination, prohibits the use of shallow groundwater beneath the Site as a source of drinking water until cleanup levels are met, and prohibits sensitive uses of the Site such as residences and daycare centers; and

b. A risk management plan for soil that provides procedures to be followed in the event of soil disturbance due to site redevelopment or building modifications.

13. **Basis for 13304 Order:** Water Code section 13304 authorizes the Regional Water Board to issue orders requiring dischargers to cleanup and abate waste where the dischargers have caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of pollution or nuisance.

14. **Basis for 13267 Technical Reports:** Water Code section 13267 authorizes the Regional Water Board to require dischargers to provide technical or monitoring reports. The burden of these reports, including costs, bears a reasonable relationship to the need for the report and the benefits to be obtained from the reports. Specifically, the reports required herein are necessary to ensure the protection of human health and the environment.

15. **Cost Recovery:** Pursuant to Water Code section 13304, the Dischargers are hereby notified that the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this order.

16. **California Safe Drinking Water Policy:** It is the policy of the State of California that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. This Order promotes that policy by requiring

discharges to meet maximum contaminant levels designed to protect human health and ensure that water is safe for domestic use.

17. **CEQA:** This action is an order to enforce the laws and regulations administered by the Regional Water Board. As such, this action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15321 of the Resources Agency Guidelines.
18. **Notification:** The Regional Water Board has notified the Dischargers and all interested agencies and persons of its intent under Water Code section 13304 to prescribe site cleanup requirements for the discharge and has provided them with an opportunity to submit their written comments.
19. **Public Hearing:** The Regional Water Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to sections 13304 and 13267 of the Water Code, that the Dischargers (or their agents, successors, or assigns) shall clean up and abate the effects described in the above findings as follows:

A. PROHIBITIONS

1. The discharge of wastes or hazardous substances in a manner that will degrade water quality or adversely affect beneficial uses of waters of the State is prohibited.
2. Further significant migration of wastes or hazardous substances through subsurface transport to waters of the State is prohibited.
3. Activities associated with the subsurface investigation and cleanup that will cause significant adverse migration of wastes or hazardous substances are prohibited.

B. CLEANUP LEVELS

1. **Groundwater Cleanup Levels:** The following groundwater cleanup levels shall be met in all wells identified in the attached Self-Monitoring Program:

Constituent	Level (µg/L)	Basis
PCE	5	MCL
TCE	5	MCL
Cis-1,2-DCE	6	MCL
Vinyl Chloride	0.5	MCL

2. **Soil Cleanup Levels:** The following soil cleanup levels shall be met in vadose-zone soils:

Constituent	Level (mg/kg)	Basis
PCE	0.42	Leaching to groundwater
TCE	0.46	Leaching to groundwater
Cis-1,2-DCE	0.19	Leaching to groundwater
Vinyl chloride	0.001	Leaching to groundwater

3. **Soil Gas Cleanup Levels:** The following soil gas cleanup levels shall be met in vadose-zone soils in commercial areas:

Constituent	Level ($\mu\text{g}/\text{m}^3$)	Basis
PCE	2,100	Human health – vapor intrusion
TCE	3,000	Human health – vapor intrusion
Cis-1,2-DCE	35,000	Human health – vapor intrusion
Vinyl Chloride	160	Human health – vapor intrusion

4. **Indoor Air Cleanup Levels:** The following indoor air cleanup levels shall be met in occupied commercial buildings:

Constituent	Level ($\mu\text{g}/\text{m}^3$)	Basis
PCE	2.1	Human health – inhalation
TCE	3.0	Human health – inhalation
Cis-1,2-DCE	35	Human health – inhalation

Vinyl Chloride	0.16	Human health – inhalation
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C. TASKS

1a. **REMEDIAL INVESTIGATION WORKPLAN**

COMPLIANCE DATE: May 31, 2018

Submit a workplan acceptable to the Executive Officer to define the extent of soil gas and indoor air exceeding cleanup levels. The workplan shall consider all relevant contaminants, exposure pathways, and receptors. It shall be designed so that its implementation shall produce site data needed to assess contamination threat to human health and the environment. The workplan shall specify investigation methods and a proposed time schedule. Work may be phased to allow the investigation to proceed efficiently, provided that this does not delay compliance.

1b. **COMPLETION OF REMEDIAL INVESTIGATION**

COMPLIANCE DATE: September 17, 2018

Complete tasks in the Task 1a workplan and submit a technical report acceptable to the Executive Officer documenting their completion. The technical report shall define the extent of soil gas and indoor air exceeding cleanup levels down to cleanup levels.

2a. **REMEDIAL INVESTIGATION WORKPLAN (ADDITIONAL PHASE)**

COMPLIANCE DATE: 60 days after required by Executive Officer

Submit a workplan acceptable to the Executive Officer to complete the definition of the vertical and lateral extent of subsurface pollution. The workplan shall consider all relevant contaminants, media (soil, soil gas, and groundwater), exposure pathways, and receptors. It shall be designed so that its implementation shall produce site data needed to assess contamination threat to human health and the environment. The workplan shall specify investigation methods and a proposed time schedule. The Executive Officer will require this workplan if the previous phase of the remedial investigation complied with the approved workplan but did not adequately define the vertical and lateral extent of soil, soil gas, and groundwater pollution (e.g., preliminary cleanup goals were exceeded at the most distant groundwater sampling points).

2b. **COMPLETION OF REMEDIAL INVESTIGATION (ADDITIONAL PHASE)**

COMPLIANCE DATE: According to schedule in task 2a workplan approved by the Executive Officer

Complete tasks in the Task 2a workplan and submit a technical report acceptable to the Executive Officer documenting their completion. The technical report shall define the vertical and lateral extent of pollution down to cleanup levels.

3. **REMEDIAL ACTION PLAN**

COMPLIANCE DATE: September 17, 2018

Submit a technical report acceptable to the Executive Officer containing:

- a. Summary of remedial investigation
- b. Summary of risk assessment
- c. Feasibility study evaluating alternative final remedial actions
- d. Recommended final remedial actions
- e. Implementation tasks and time schedule
- f. Fact sheet summarizing recommended final remedial actions

This remedial action plan must propose remedial work that has a high probability of eliminating unacceptable threats to human health and restoring beneficial uses of water in a reasonable time, with “reasonable time” based on the severity of impact to the beneficial use (for current impacts) or the time before the beneficial use will occur (for potential future impacts). The remedial action plan must address the full extent of contamination originating at the Site, including any contamination that extends beyond the source-property boundary.

4. **COMPLETION OF REMEDIAL ACTIONS**

COMPLIANCE DATE: January 31, 2019

Complete tasks in the Task 3 plan and submit a technical report acceptable to the Executive Officer documenting their completion. For ongoing actions, such as in-situ groundwater treatment and soil vapor extraction, the report shall document start-up as opposed to completion.

5. **WORKPLAN FOR ADDITIONAL TREATMENT AND/OR EXPANDED REMEDIATION SYSTEM (IF NEEDED)**

COMPLIANCE DATE: 60 days after workplan required by the Executive Officer

Submit a workplan acceptable to the Executive Officer for additional remediation that will substantially move the case towards case closure. The workplan shall describe all significant implementation steps and shall include an implementation schedule. The Executive Officer will require this workplan if monitoring results show that remediation to date is insufficient to reach case closure in a reasonable timeframe.

6. **IMPLEMENTATION OF ADDITIONAL TREATMENT AND/OR EXPANDED REMEDIATION SYSTEM (IF NEEDED)**

COMPLIANCE DATE: 90 days after Executive Officer approval of the Task 5 workplan

Complete tasks in the Task 5 workplan and submit a technical report acceptable to the Executive Officer documenting their completion. For ongoing actions, the report shall document system start-up as opposed to completion.

7. **RISK MANAGEMENT PLAN**

COMPLIANCE DATE: September 17, 2018

Submit a technical report acceptable to the Executive Officer containing a risk management plan for demolition, soil excavation, and disposal activities during future Site work such as utility repairs, renovations, or redevelopments.

8. **PROPOSED DEED RESTRICTION**

COMPLIANCE DATE: 60 days prior to the dischargers requesting case closure

Submit a proposed deed restriction, acceptable to the Executive Officer, whose goal is to limit onsite occupants' exposure to Site contaminants to acceptable levels. The proposed deed restriction shall prohibit the use of shallow groundwater beneath the Site as a source of drinking water until cleanup levels are met and prohibit sensitive uses of the Site such as residences and daycare centers. The proposed deed restriction shall name the Regional Water Board as a beneficiary and shall anticipate that the Regional Water Board will be a signatory. Isis Properties, LLC, shall be responsible for this task.

9. **RECORDATION OF DEED RESTRICTION**

COMPLIANCE DATE: 60 days after Executive Officer approval of the proposed deed restriction

Record the approved deed restriction and submit a technical report acceptable to the Executive Officer documenting that the deed restriction has been duly signed by all parties and has been recorded with the County Recorder. The report shall include a copy of the recorded deed restriction. Isis Properties, LLC, shall be responsible for this task.

10. **FIVE-YEAR STATUS REPORT**

COMPLIANCE DATE: September 17, 2023, and every five years thereafter

Submit a technical report acceptable to the Executive Officer evaluating the effectiveness of the approved remedial action plan. The report shall include:

- a. Summary of effectiveness in controlling contaminant migration and protecting human health and the environment
- b. Comparison of contaminant concentration trends with cleanup levels

- c. Performance data (e.g., groundwater volume extracted, chemical mass removed, mass removed per million gallons extracted)
- d. Summary of additional investigations (including results) and significant modifications to remediation systems
- e. Additional remedial actions proposed to meet cleanup levels (if applicable) including time schedule

If cleanup levels have not been met and are not projected to be met within a reasonable time, the report shall assess the technical practicability of meeting cleanup levels and may propose an alternative cleanup strategy.

11. PROPOSED CURTAILMENT

COMPLIANCE DATE: 60 days prior to proposed curtailment

Submit a technical report acceptable to the Executive Officer containing a proposal to curtail remediation. Curtailment includes system closure (e.g., well closure), system suspension (e.g., cease extraction but wells retained), and significant system modification (e.g., major reduction in extraction rates, closure of individual extraction wells within extraction network). The report shall include the rationale for curtailment. Proposals for final closure shall demonstrate that cleanup levels have been met or that the site qualifies for low-threat closure based on State Water Board Resolution 92-49 as amended and any associated Regional Water Board guidance.

12. IMPLEMENTATION OF CURTAILMENT

COMPLIANCE DATE: 60 days after Executive Officer approval of proposed curtailment

Implement the approved curtailment and submit a technical report acceptable to the Executive Officer documenting completion of the tasks identified in the proposed curtailment report.

13. EVALUATION OF NEW HEALTH CRITERIA

COMPLIANCE DATE: 90 days after evaluation report required by Executive Officer

Submit a technical report acceptable to the Executive Officer evaluating the effect on the approved remedial action plan of revising one or more cleanup levels in response to revision of drinking water standards, maximum contaminant levels, or other health-based criteria.

14. EVALUATION OF NEW TECHNICAL INFORMATION

COMPLIANCE DATE: 90 days after evaluation report required by Executive Officer

Submit a technical report acceptable to the Executive Officer evaluating new technical information that bears on the approved remedial action plan and cleanup levels for the Site. In the case of a new cleanup technology, the report should evaluate the technology using the same criteria used in the feasibility study. Such technical reports shall not be required unless the Executive Officer determines that the new information is reasonably likely to warrant a revision in the approved remedial action plan or cleanup levels.

15. **Delayed Compliance:** If the Dischargers are delayed, interrupted, or prevented from meeting one or more of the completion dates specified for the above tasks, the Dischargers shall promptly notify the Executive Officer, and the Regional Water Board may consider revisions to this Order.

D. PROVISIONS

1. **No Nuisance:** The storage, handling, treatment, or disposal of polluted soil or groundwater shall not create a nuisance as defined in Water Code section 13050, subdivision (m).
2. **Good O&M:** The Dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.
3. **Cost Recovery:** The Dischargers shall be liable, pursuant to Water Code section 13304, to the Regional Water Board for all reasonable costs actually incurred by the Regional Water Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. If the Site addressed by this Order is enrolled in a State Water Board-managed reimbursement program, reimbursement shall be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Dischargers over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.
4. **Access to Site and Records:** In accordance with Water Code section 13267, subdivision (c), the Dischargers shall permit the Regional Water Board or its authorized representative:
 - a. Entry upon premises in which any pollution source exists, or may potentially exist, or in which any required records are kept, which are relevant to this Order.
 - b. Access to copy any records required to be kept under the requirements of this Order.
 - c. Inspection of any monitoring or remediation facilities installed in response to this Order.

- d. Sampling of any groundwater or soil that is accessible, or may become accessible, as part of any investigation or remedial action program undertaken by the Dischargers.
5. **Self-Monitoring Program:** The Dischargers shall comply with the Self-Monitoring Program as attached to this Order and as may be amended by the Executive Officer.
6. **Contractor / Consultant Qualifications:** All technical documents shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.
7. **Lab Qualifications:** All samples shall be analyzed by State-certified laboratories or laboratories accepted by the Regional Water Board using approved U.S. EPA methods for the type of analysis to be performed. Quality assurance/quality control (QA/QC) records shall be maintained for Regional Water Board review. This provision does not apply to analyses that can only reasonably be performed onsite (e.g., temperature).
8. **Document Distribution:** An electronic version of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the Regional Water Board.

Electronic copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be uploaded to the State Water Board's GeoTracker database within five business days after submittal to the Regional Water Board. Guidance for electronic information submittal is available at:
http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

9. **Reporting of Changed Owner or Operator:** The Dischargers shall file a technical report on any changes in contact information, Site occupancy, or ownership associated with the property described in this Order.
10. **Reporting of Hazardous Substance Release:** If any hazardous substance is discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, the Dischargers shall report such discharge to the Regional Water Board by calling (510) 622-2369.

A written report shall be filed with the Regional Water Board within five working days. The report shall describe: the nature of the hazardous substance, estimated quantity involved, duration of incident, cause of release, estimated size of affected area, nature of effect, corrective actions taken or planned, schedule of corrective actions planned, and persons/agencies notified.

This reporting is in addition to reporting to the California Office of Emergency Services required pursuant to the Health and Safety Code.

11. **Periodic SCR Review:** The Regional Water Board will review this Order periodically and may revise it when necessary.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on _____.

Bruce H. Wolfe
Executive Officer

Compliance Notice: Failure to comply with the requirements of this Order may subject you to enforcement action, including but not limited to imposition of administrative civil liability under Water Code sections 13268 or 13350, or referral to the Attorney General for injunctive relief or civil or criminal liability.

Attachments: Site Figures
Self-Monitoring Program

Site Figures



Figure 1. Site Map – Downtown San Jose



Figure 2 – Dr. Eu Buildings at western corner of East Santa Clara Street and S. Second Street, San Jose

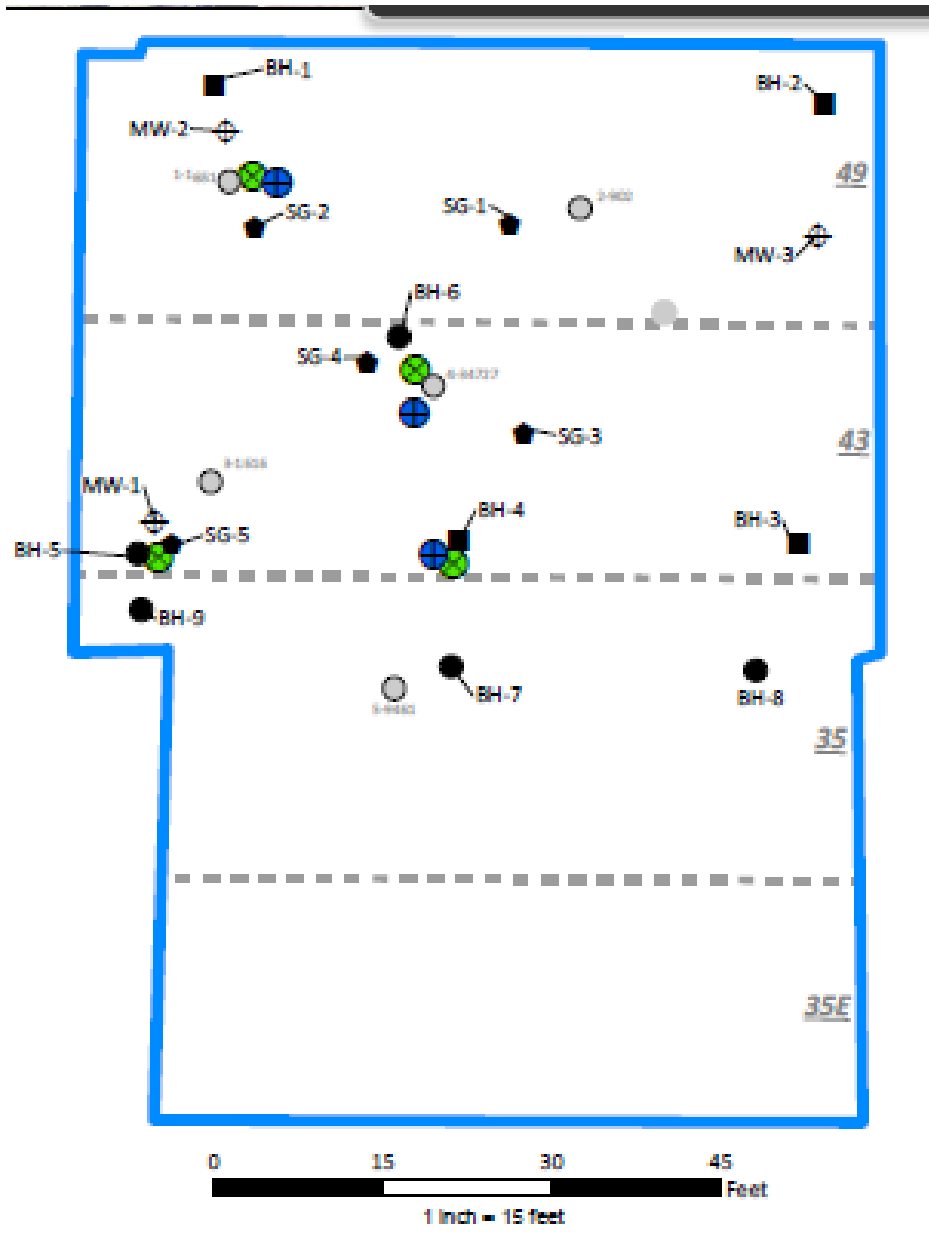


Figure 3 – Dr. Eu Building outline with well and boring locations

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

SELF-MONITORING PROGRAM for:

ISIS PROPERTIES, LLC,
JAMES K. EU, AND
LING YU L. EU

For the property located at:

35 AND 43 EAST SANTA CLARA STREET
SAN JOSE, SANTA CLARA COUNTY

1. **Authority and Purpose:** The Regional Water Board requires the technical reports identified in this Self-Monitoring Program pursuant to Water Code sections 13267 and 13304. This Self-Monitoring Program is intended to document compliance with Regional Water Board Order No. R2-2018-XXXX (site cleanup requirements).
2. **Monitoring:** The Dischargers shall measure groundwater elevations semiannually in all monitoring wells and shall collect and analyze representative samples of groundwater according to the following table:

Well #	Sampling Frequency	Analyses	Well #	Sampling Frequency	Analyses
MW-1	S	8260	MW-4	S	8260
MW-2	S	8260	MW-6	S	8260
MW-3	S	8260			

Key: S = Semiannual 8260 = EPA Method 8260 or equivalent

The Dischargers shall sample any new monitoring or extraction wells semiannually and analyze groundwater samples for the same constituents as shown in the above table. The Dischargers may propose changes in the above table; any proposed changes are subject to Executive Officer approval.

3. **Annual Monitoring Reports:** The Dischargers shall submit annual monitoring reports to the Regional Water Board no later than 30 days following the end of the annual period (e.g., report for the year due January 30). The first annual monitoring report shall be due on January 30, 2019. The reports shall include:
 - a. **Transmittal Letter:** The transmittal letter shall discuss any violations during the reporting period and actions taken or planned to correct the problem(s). The letter shall be signed by the Dischargers' principal executive officer or his/her duly authorized representative and shall include a statement by the official, under penalty of perjury, that the report is true and correct to the best of the official's knowledge.
 - b. **Groundwater Elevations:** Groundwater elevation data shall be presented in tabular form, and a groundwater elevation map shall be prepared for each monitored water-

bearing zone. Historical groundwater elevations shall be included in the second semiannual report each year.

- c. **Groundwater Analyses:** Groundwater sampling data shall be presented in tabular form, and an isoconcentration map shall be prepared for one or more key contaminants for each monitored water-bearing zone, as appropriate. The report shall indicate the analytical method used, detection limits obtained for each reported constituent, and a summary of QA/QC data. Historical groundwater sampling results shall be included in the annual report each year. The report shall describe any significant increases in contaminant concentrations since the last report and any measures proposed to address the increases. Supporting data, such as lab data sheets, need not be included (however, see record keeping - below).
 - d. **Groundwater Extraction:** If applicable, the report shall include groundwater extraction results in tabular form, for each extraction well and for the Site as a whole, expressed in gallons per minute and total groundwater volume for the quarter. The report shall also include contaminant removal results, from groundwater extraction wells and from other remediation systems (e.g., soil vapor extraction), expressed in units of chemical mass per day and mass for the quarter. Historical mass removal results shall be included in the annual report each year.
 - e. **Status Report:** The annual reports shall describe relevant work completed during the reporting period (e.g., site investigation, interim remedial measures) and work planned for the following annual period.
- 4. **Violation Reports:** If the Dischargers violate requirements in the Site Cleanup Requirements, then the Dischargers shall notify the Regional Water Board office by telephone as soon as practicable once the Dischargers have knowledge of the violation. Regional Water Board staff may, depending on violation severity, require the Dischargers to submit a separate technical report on the violation within five working days of telephone notification.
 - 5. **Other Reports:** The Dischargers shall notify the Regional Water Board in writing prior to any Site activities, such as construction or underground tank removal, which have the potential to cause further migration of contaminants or which would provide new opportunities for site investigation.
 - 6. **Record Keeping:** The Dischargers or his/her agent shall retain data generated for the above reports, including lab results and QA/QC data, for a minimum of six years after origination and shall make them available to the Regional Water Board upon request.
 - 7. **SMP Revisions:** Revisions to the Self-Monitoring Program may be ordered by the Executive Officer, either on his/her own initiative or at the request of the Dischargers. Prior to making SMP revisions, the Executive Officer will consider the burden, including costs, of associated self-monitoring reports relative to the benefits to be obtained from these reports.

Appendix B
Correspondence

March 12, 2018

Via E-Mail and U.S. Mail

Jack Gregg
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: Comments to Tentative Order – Isis Properties, LLC, James K. Eu, and Ling Yu L. Eu for the property located at 35 and 43 East Santa Clara Street, San Jose CA

Dear Mr. Gregg:

On behalf of Isis Properties, LLC, the current owner of the subject Bassler-Haynes building and related property (the “Property”), and James K. Eu and Ling Yu L. Eu (collectively, “the Eus”), we write to comment on the tentative order (the “SCR Order”) issued by California Regional Water Quality Control Board, San Francisco Bay Region (RWQCB), as follows:

1. Paragraph 2 (Site History) and paragraph 3 (Named Dischargers) – the SCR Order should specify that the following individuals or entities were owners of the property during the time of a “discharge” or “release” of perchloroethene (PCE) as those terms are defined by the RWQCB:
 - Martha F. Bollard owned the Property from 1950 to 1953;
 - Orchard Park Company, a Nevada corporation, was the owner of the Site from 1953 to 1965 and appears to have leased the Property to the hotel and dry cleaning operators that caused the discharge of PCE;
 - Arthur S. Chinchon and Elizabeth C. Chinchon¹ owned the Property in various capacities from 1965 to 1973; and,
 - Martha F. Bollard and Martha F. Lion (likely the same person) owned the Property in various capacities from 1974 to 1986.

Per the RWQCB’s definition of “Discharger,” each of these entities or individuals should be identified as “Named Dischargers” and be held responsible, and to the same legal standard,

¹ We also note that Arthur S. Chinchon was an officer of Orchard Park Company. Please see the attached corporate filing.

for the investigation and remediation of the PCE present at the Property. Please see the attached title history.

In addition, paragraph 2 of the SCR Order should note that the third floor of the building is presently unoccupied.

2. Paragraph 6 (Remedial Investigation): the date of the Indoor Air samples should be provided. Further, paragraph 6 indicates that vinyl chloride was detected in groundwater. Vinyl chloride was only detected at an off-site location and not at the Property. Please revise the paragraph accordingly
3. Paragraph 8 (Feasibility Study). The report was submitted on behalf of Isis Properties, not on behalf of the Eus.
4. Paragraph 9 (Remedial Action Plan) – the term “very high” should be delete as the term is subjective.
5. The Page 4 exposure pathways chart needs to be revised as follows:
 - cis-12 DCE and vinyl chloride in soil do not exceed criteria based on the DRAFT RAP
 - TCE and vinyl chloride do not exceed soil gas criteria in soil gas data based on the DRAFT RAP.
 - Cis-12 DCE and vinyl chloride do not exceed groundwater criteria for indoor air or drinking water
 - The “X” mark under the “Drinking Water” column should be deleted in the “Groundwater” row, as groundwater is not a constituent
6. Paragraph 12 (Risk Management) – the requirement to promptly record a deed restriction should be revised in this section, and throughout the SCR Order, to a reasonable date after the remedy is implemented because the Property’s conditions may be improved to make institutional controls unnecessary or substantially different in scope.
7. Section B Cleanup Levels - this section should be revised to state:

B. PRELIMINARY CLEANUP GOALS The following preliminary cleanup goals shall be used to guide remedial investigation and interim remedial actions, pending establishment of site-specific cleanup levels.

a. Groundwater: Applicable screening levels such as the Regional Water Board’s Environmental Screening Levels (ESLs) document.¹ Groundwater screening levels shall incorporate at least the following exposure pathways: groundwater ingestion and vapor intrusion to indoor air. For groundwater ingestion, use applicable water quality objectives (e.g. lower of primary and secondary maximum contaminant levels, or MCLs) or, in the

absence of a chemical-specific objective, equivalent drinking water levels based on toxicity and taste and odor concerns.

b. Soil: Applicable screening levels such as the ESLs document. Soil screening levels are intended to address a full range of exposure pathways, including direct exposure, nuisance, and leaching to groundwater. For purposes of this subsection, the discharger shall assume that groundwater is a potential source of drinking water.

c. Soil vapor: Applicable screening levels such as the ESLs document. Soil vapor screening levels are intended to address the vapor intrusion to indoor air pathway.

d. Indoor air: Applicable screening levels such as the ESLs document. Indoor air screening levels are intended to address the vapor intrusion to indoor air pathway.

8. Section C Tasks – the term “Remedial” in the titles to 1a and 1b should be replaced with “Soil Gas” because that is acknowledged in the SCR order as the only data gap.
9. Task 1a: the compliance date should be July 31, 2018 or ninety (90) days from the adoption of the SCR Order.
10. Task 1b: the compliance date should be October 31, 2018 or one hundred eighty (180) days from adoption of the SCR Order.
11. The SCR Order acknowledges that soil gas and indoor air at the only data gaps. Thus, Tasks 2a and 2b should be deleted.
12. Task 5: “If required by the RWQCB Executive Officer” should be added to the text.
13. Tasks 6-9: add “IF NECESSARY” to the title and “If required by the RWQCB Executive Officer” to the text.
14. Tasks 7-8: the timing of these submittals should be ninety (90) days after the schedule set forth in the approved RAP.
15. Task 10: the timing should be “5 years after RWQCB approval of the Final RAP and every 5 years thereafter until the RWQCB determines that no further action is necessary.”
16. Task 10: strike items c and e, as they are unwarranted and onerous.
17. Section D Provisions, paragraph 5 Self-Monitoring Program. For #2, the frequency of new monitoring wells should be revised to semi-annually. For #3, the frequency of the reports should be changed to annually.

If you have any questions regarding our comments, please do not hesitate to contact me. We look forward to working with you on this matter.

Very truly yours,



William D. Marsh

Enclosures (2)

cc (via e-mail only):

David Eu, Esq. – Isis Properties, LLC

William Carson – Terraphase Engineering

Paul D. Ciccarelli, Esq. – RWQCB Office of Enforcement

Attachment 1

SCHEDULE A

(continued)

25. Grant Deed:
- Grantor: Y. Zampiere, a single woman
Grantee: San Jose Abstract & Title Insurance Company, a corporation
Recording Date: February 14, 1936
Recording No.: 68699, Book 759 of Official Records, page 334
26. Grant Deed:
- Grantor: Harry Bercovich and Bertie Bercovich, husband and wife
Grantee: Adolph J. Baiocchi, Richard T. Bigotti and Richard V. Bressani
Recording Date: March 21, 1941
Recording No.: 213233, Book 1025 of Official Records, page 599
27. Corporation Grant Deed:
- Grantor: San Jose Abstract & Title Insurance Company, a corporation
Grantee: Martha Baicchi
Recording Date: September 19, 1945
Recording No.: 360322, Book 1298 of Official Records, page 69
28. Grant Deed:
- Grantor: Richard V. Bressani and Emma Bressani, his wife; Richard T. Bigotti and Laura Bigotti, his wife
Grantee: Martha F. Bollard, her sole and separate property
Recording Date: February 6, 1953
Recording No.: 857960, Book 2577 of Official Records, page 359
29. Grant Deed:
- Grantor: Martha F. Bollard, also know as Martha F. Baiocchi who acquired title as Martha F. Baiocchi, as her separate property
Grantee: Orchard Park Company, a corporation
Recording Date: February 6, 1953
Recording No.: 857961, Book 2577 of Official Records, page 360
30. Grant Deed:
- Grantor: Orchard Park Company, a corporation
Grantee: Arthur S. Chinchin and Elizabeth C. Chinchin, as joint tenants with right of survivorship
Recording Date: December 16, 1965
Recording No.: 2977119, Book 7213 of Official Records, page 598
31. Decree:
- Grantor: Estate of Arthur S. Chinchin, deceased
Grantee: Elizabeth C. Chinchin
Recording Date: July 24, 1972
Recording No.: 4308551, Book 9938 of Official Records, page 231

SCHEDULE A

(continued)

32. Decree:

Grantor: Estate of Arthur S. Chinchon, deceased
Grantee: Elizabeth C. Chinchon
Recording Date: February 7, 1973
Recording No.: 4447156, Book 0226 of Official Records, page 125

33. Decree:

Grantor: Estate of Martha Frain Bollard, also known as Martha F. Bollard
Grantee: Martha F. Lion
Recording Date: June 7, 1974
Recording No.: 4783382, Book 0935 of Official Records, page 160

34. Grant Deed:

Grantor: Elizabeth C. Chinchon, a widow
Grantee: Stanley Chinchon and Diane Chinchon, husband and wife as community property
Recording Date: March 28, 1985
Recording No.: 8363786, Book J303 of Official Records, page 1907

35. Grant Deed:

Grantor: Martha F. Lion, a married woman as her sole and separate property; Stanley Chinchon and Diane Chinchon, husband and wife; and A. Stanley Chinchon, as successor trustee of the Elizabeth C. Chinchon Trust, created by the will of Arthur S. Chinchon, deceased, probate case No. 75815, Superior Court, Santa Clara County
Grantee: James Kim/Tzong Eu and Ling Yu L. Eu, husband and wife
Recording Date: December 16, 1986
Recording No.: 9069190, Book J960 of Official Records page 1621

36. Grant Deed:

Grantor: James Kim/Tzong Eu and Ling Yu L. Eu, husband and wife
Grantee: Isis Properties, LLC
Recording Date: September 10, 2004
Recording No.: 17997247

This Guarantee does not cover:

1. Taxes, assessments, and matters related thereto.
2. Instruments, proceedings, or other matters which do not specifically describe said land.

END OF SCHEDULE A

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 467-21-045

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Beginning at the point of intersection of the Southwesterly line of Second Street with the Northwesterly line of Second Street with the Northwesterly line of Santa Clara Street; thence Southwesterly along the Northwesterly line of Santa Clara Street 91.86 feet; thence Northwesterly and parallel with the Southwesterly line of Second Street 68.75 feet; thence Northeasterly and parallel with the Northwesterly line of Santa Clara Street 91.83 feet to the Southwesterly line of Second Street; thence Southeasterly along the Southwesterly line of Second Street 68.75 feet to the point of beginning of this description, being a portion of Lot 8, in Block 2, range 2 North of Base line of the City of San Jose as that certain lot line adjustment that recorded April 12, 1993 as Instrument No. 11855682 of Official Records.

Attachment 2

976-28

LIST OF OFFICERS, DIRECTORS AND AGENT

OF

ORCHARD PARK COMPANY

A Nevada Corporation

For the Filing Period July 1, 1964 to July 1, 1965

DISSOLVED

To the Honorable Secretary of State of the State of Nevada:

As required by NRS 1957, sec. 78.150 to 80.180, as amended, I, Robert F. Foster (Name of Officer)

do hereby certify under corporate seal of said corporation, that I am the Secretary (Title of Officer) thereof; that the

following is a full, true and correct list of all the officers and directors of said corporation at the date of this certificate with their addresses, to-wit:

OFFICERS AND DIRECTORS	Post Office box or street and number, also city or town and state
J. Delbert Crumney President	1455 Echo Avenue, Fresno, Calif.
Marie C. Foster Vice President	2335 Adair Street, San Marino, Calif.
D. Clifford Crumney Asst. Secy Vice President	243 Denslowe Drive, San Francisco, Calif.
Robert F. Foster Secretary	2335 Adair Street, San Marino, Calif.
Arthur S. Chinchén Treasurer	1630 University Drive, San Jose, Calif.
Beth C. Chinchén Director	1630 University Drive, San Jose, Calif.
Paul L. Davies Director	1598 University Avenue, San Jose, Calif.
Faith C. Davies Director	1598 University Avenue, San Jose, Calif.
Ethel Elizabeth Crumney Director	243 Denslowe Drive, San Francisco, Calif.
Mary B. Crumney Director	1455 Echo Avenue, Fresno, Calif.

OFFICERS WHO ARE NOT DIRECTORS

NAME	Post Office box or street and number, also city or town and state

Furthermore, that the corporation's principal office in the State of Nevada is located at Two Ryland Street, City of Reno, County of Washoe, Nevada, and that NEVADA AGENCY AND TRUST COMPANY, a Nevada corporation, is the duly appointed resident agent of said corporation in charge of said office upon whom process can be served.

(Impress corporate seal here)

R. F. Foster (Name of Officer)

Secretary (Title)

CERTIFICATE OF ACCEPTANCE OF APPOINTMENT BY RESIDENT AGENT

NEVADA AGENCY AND TRUST COMPANY, a Nevada corporation, hereby accepts the appointment as Resident Agent of the above-named corporation.

In Witness Whereof, NEVADA AGENCY AND TRUST COMPANY has caused this certificate to be signed by its duly authorized officer, and to be sealed with the seal of the said corporation at Reno, Nevada, this 5th day of June, 1964

NEVADA AGENCY AND TRUST COMPANY, Resident Agent

By: [Signature] President - Secretary

NEVADA AGENCY AND TRUST COMPANY, Resident Agent TWO RYLAND STREET RENO, NEVADA

1964-65

Appendix C
Response to Comments

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

Response to Comments on
Tentative Order for Site Cleanup Requirements
35-43 East Santa Clara Street, San Jose, Santa Clara County

This document provides the response to comments received on the tentative order (TO) for Site Cleanup Requirements for the subject site.

On March 12, 2018, we received comments on the TO from Edgecomb Law Group representing Isis Properties, LLC, the current property owner, and James K. Eu and Ling Yu L. Eu (Eus). This document summarizes each comment and provides Regional Water Board staff's response.

1a) Comment: Include the following prior property owners as named dischargers:

- Martha F. Bollard owned the property from 1950 to 1953;
- Orchard Park Company, a Nevada corporation, owned the property from 1953 to 1965 and appears to have leased the property to the hotel and dry cleaning operators that caused the discharge of PCE;
- Arthur S. Chinchen was an officer of Orchard Park Company and Elizabeth C. Chinchen owned the property in various capacities from 1965 to 1973; and,
- Martha F. Bollard and Martha F. Lion (likely the same person) owned the property in various capacities from 1974 to 1986.

Response: Comment noted. At this time, we have insufficient information to recommend adding dischargers. Based on an internet search, it appears that some of the persons are deceased and the company is dissolved. We will evaluate an amendment to the order in the future to name additional dischargers if contact information is provided for the potential dischargers and if subsequent research shows they qualify as dischargers. Thus, no change was made to the TO.

1b) Comment: In finding 2, identify the third floor of the building as presently unoccupied.

Response: Comment noted. Finding 2 has been revised accordingly.

2a) Comment: In finding 6, provide the date of the indoor air samples.

Response: We disagree. Because of the large quantity of data collected at cleanup sites, we usually do not include the date of the data in findings. Thus, no change was made to the TO.

2b) Comment: In finding 6, delete the reference to vinyl chloride being detected in groundwater because there have been no such detections.

Response: We agree. Finding 6 has been revised accordingly.

3) Comment: In finding 8, change the entity that submitted the feasibility study from the Eus to Isis Properties.

Response: We agree. Finding 8 has been revised accordingly.

4) Comment: In finding 9, delete the term "very high" because it is subjective.

Response: We agree. Finding 9 was revised accordingly.

5) Comment: In finding 7b, revise the exposure-pathways table to reflect the following corrections:

- Cis-1,2-dichloroethene (DCE) and vinyl chloride in soil do not exceed criteria based on the remedial action plan (RAP)
- TCE and vinyl chloride do not exceed soil gas criteria based on the RAP
- DCE and vinyl chloride do not exceed groundwater criteria for vapor intrusion or drinking water
- The "X" mark under the "Drinking Water" column should be deleted in the "Groundwater" row, as groundwater is not a constituent

Response: Comment noted. Responses to comments below:

- DCE and vinyl chloride were not analyzed in soil samples; therefore the ESL exceedance noted in the table has been removed.
- TCE and vinyl chloride were not detected in soil gas; therefore the ESL exceedances noted in the table have been removed.
- DCE and vinyl chloride were not detected in groundwater above the ESL; therefore the ESL exceedances noted in the table have been removed.
- The X mark in the Drinking Water label row has been deleted.

6) Comment: Extend the compliance date for recording a deed restriction to after the cleanup is implemented.

Response: Comment noted. The compliance date for submitting a proposed deed restriction has been changed to 60 days prior to the dischargers requesting case closure.

7) Comment: Revise the cleanup levels to preliminary cleanup levels such as environmental screening levels that may be used to guide interim remedial actions pending the establishment of site-specific cleanup levels.

Response: We disagree. The TO requires a remedial action plan, not interim actions. The cleanup levels in the TO are consistent with environmental screening levels. Thus, no changes were made to the TO.

8) Comment: In task 1, change "Remedial" to "Soil Gas" because soil gas is the only data gap.

Response: We disagree. There are data gaps in both soil gas and indoor air data for this site. Remedial investigation is a convenient title for task 1 so that the titles can refer to both media requiring further investigation. This, no change was made to the TO.

9) Comment: In task 1a, extend the compliance date to be July 31, 2018, or 90 days from the adoption of the order.

Response: Comment noted. Since the Dischargers are already aware of the need for additional investigation through the TO and other means, have previously submitted investigation workplans for this site, and have already retained a consultant, 45 days should be adequate to submit the workplan. The compliance date for task 1a has been revised to May 31, 2018.

10) Comment: In task 1b, extend the compliance date to October 31, 2018, or 180 days from adoption of the order.

Response: Comment noted. The compliance date for task 1b has been revised to September 17, 2018, to allow 90 days to complete the investigation, plus an additional 15 days for staff to respond to the workplan.

11) Comment: Delete task 2 because the TO acknowledges that soil gas and indoor air are the only data gaps.

Response: We disagree. Task 2 is included in the event that new information obtained from the results of task 1 indicates that there are additional data gaps. Thus, no change was made to the TO.

12) Comment: In task 5, add the phrase, "If required by the Executive Officer."

Response: We disagree. The compliance date for task 5 is not a date certain; it is already a contingent date based on a requirement by the Executive Officer. Thus, no change was made to the TO.

13) Comment: In tasks 6 – 9, add "IF NECESSARY" to the title and "If required by the Executive Officer" to the text.

Response: Comment noted. In task 6, the requested language is already in the title, and the compliance date is already a contingent date. For task 7, the compliance date to submit a risk management plan (RMP) is a date certain, so task 7 is not contingent on the Executive Officer. The RMP is needed immediately for potential site work including utility repairs, renovations, or redevelopments. For task 8, the compliance date has been changed to 60 days prior to case closure. For task 9, the compliance date is already a contingent date.

14) Comment: For tasks 7 – 8, extend the compliance date to 90 days after the schedule in the approved RAP.

Response: We disagree. See response to comment 13 above.

15) Comment: For task 10, extend the compliance date to 5 years after approval of the RAP and every 5 years thereafter until the Water Board determines that no further action is necessary.

Response: We disagree. For task 10, the compliance date is a date certain, not a contingent date. The initial compliance date has been extended to September 17, 2023.

16) Comment: In task 10, delete items c and e (information on cleanup costs incurred), as they are unwarranted and onerous.

Response: Comment noted. Items c and e have been deleted.

17) Comment: In the Self-Monitoring Program, extend the frequency of monitoring potential new monitoring wells to semi-annually and the frequency of submitting monitoring reports to annually.

Response: Comment noted. These frequencies have been revised accordingly.

Appendix D
Location Map

Location Map –
Isis Properties, LLC - 33-45 East Santa Clara Street, San Jose, Santa Clara County

