

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

ADVISORY TEAM SUMMARY REPORT  
MEETING DATE: November 14, 2018

**ITEM:** 7

**SUBJECT:** **Union Oil Company of California, Inc., and Novato Properties LLC, for the property located at 7455 Redwood Boulevard, Novato, Marin County – Adoption of Site Cleanup Requirements**

**CHRONOLOGY:** The Board has not previously considered this item.

**DISCUSSION:** The Revised Tentative Order (Appendix A) would establish site cleanup requirements (SCR) for a contaminated former Unocal gas station site in Novato. The SCR would set residential cleanup levels and require the named dischargers to prepare and implement a corrective action plan to meet those cleanup levels.

*Separate Functions:* The Cleanup Team, consisting of Water Board staff overseeing this site, is separated from the Advisory Team staff, who are advising the Board. The Cleanup Team includes Bruce Wolfe, Lisa Horowitz McCann, Tamarin Austin (legal counsel), Stephen Hill, Laurent Meillier, and John Jang. The Advisory Team includes Thomas Mumley, Marnie Ajello (legal counsel), and Celina Hernandez.

*Background:* The site is located in downtown Novato. Union Oil Company of California (Unocal) operated a gas station at the site from 1953 to 1992. In January 1992, Unocal ceased operations at the site and removed all associated facilities and some polluted soil. In 2005, Unocal merged with Chevron U.S.A., Inc. (Chevron). The site is currently owned by Novato Properties LLC. The City of Novato (City) has initiated a process of rezoning the site from commercial to mixed-use residential. The City's General Plan, including this rezoning, is scheduled for adoption in May 2019, and the Environmental Impact Report for the General Plan is being prepared.

Petroleum-related compounds including Total Petroleum Hydrocarbons as Gasoline (TPH-g), benzene, ethylbenzene, and naphthalene have been released at the site and have impacted soil, groundwater, and soil vapor. Unocal previously conducted some cleanup activities to address petroleum releases at the gas station. The Cleanup Team asserts these activities did not adequately clean up the pollution and recommends additional cleanup.

*Tentative Order Comments:* The Cleanup Team circulated a tentative order for public comment on May 10, 2018. The comment period ended on June 29, 2018. The Cleanup Team received comments from representatives of Chevron, Chevron's consultant, and the current owner, Novato Properties LLC

(Appendix B) and made some revisions to the tentative order in response to these comments. The Cleanup Team's response to comments is contained in Appendix C. Below is a summary of the key issues raised in the comments received:

*Applicability of Low-Threat Closure Policy:* Chevron argues that the criteria for low-threat closure under the State Water Board's [Low-Threat Underground Storage Tank Case Closure Policy](#) (LTC Policy) have been met, and that it is inappropriate for the Cleanup Team to require additional cleanup. The Cleanup Team responds that six of the LTC Policy criteria have not been met. These include: (1) free product removal; (2) secondary source removal; (3) absence of a nuisance; (4) groundwater media-specific criteria; (5) vapor intrusion to indoor air media-specific criteria; and (6) direct contact and outdoor air media-specific criteria. Chevron and its consultant dispute the Cleanup Team's findings on the site's failure to meet these criteria.

*Residential versus Commercial Cleanup Levels:* Chevron argues that the site is currently zoned for commercial use, the City's proposed rezoning to allow residential use on the second floor and above is uncertain, and therefore, cleanup levels for the site should be based on commercial use. The Cleanup Team responds that residential cleanup levels are more appropriate. Under the LTC Policy, low-threat vapor intrusion criteria apply to sites where buildings for human occupancy are reasonably expected to be constructed in the future. The Cleanup Team asserts that it is reasonable to expect that residential units will be constructed based upon the surrounding property use, the ongoing rezoning process by the City, and Novato Properties LLC's redevelopment plans. The Cleanup Team notes City officials' confirmation that the rezoning process is underway, that there has been no public opposition to rezoning to date, and that rezoning is expected to be completed in May 2019. Ms. Carla Ravipati, the majority owner of Novato Properties LLC, has stated that once the rezoning is finalized, Novato Properties LLC plans to redevelop the site with commercial use on the ground floor and residential use on the upper floors.

The Revised Tentative Order would maintain cleanup levels based on residential use but allows some flexibility for the dischargers to propose alternate soil vapor cleanup levels based on attenuation between the ground-floor commercial use and the upper-floor residential use.

*Mitigation Measures versus Cleanup:* Chevron argues that the LTC Policy's vapor intrusion criteria allow dischargers to use mitigation measures, such as institutional or engineering controls, in lieu of cleanup. Chevron's consultant asserts that interim remedial measures have reduced previously elevated concentrations of pollutants and that free product and secondary sources have already been removed to the extent practicable. The Cleanup Team disagrees with Chevron regarding the success of interim remedial measures to date and asserts that active cleanup is necessary for the following reasons:

- Significant vadose-zone cleanup is needed to meet soil vapor screening levels in the Policy for both residential and commercial use scenarios.

- [State Water Board Resolution No. 92-49](#) states that the Regional Water Board shall concur with any investigation and cleanup proposal that has a “*substantial likelihood to achieve compliance, within a reasonable time frame.*” Without additional remediation, compliance with the cleanup levels for soil, groundwater, and soil vapor would not occur in a reasonable time. Resolution No. 92-49 prefers “*permanent cleanup and abatement solutions which do not require ongoing maintenance, wherever feasible*”. Cleanup permanently removes the source of contamination of vapor intrusion to indoor air, while vapor mitigation measures require regular, ongoing activities including inspections, maintenance/repairs, and possibly indoor air sampling. The site is currently vacant, and there are no impediments to conduct cleanup work.
- Guidance documents from the Department of Toxic Substances Control and U.S. EPA recommend cleanup action to address vapor intrusion rather than solely relying on vapor mitigation measures.

*Timeframe to Conduct Cleanup:* Chevron argues that cleanup work should be completed in conjunction with redevelopment activities. The Cleanup Team has changed the Revised Tentative Order to allow cleanup work to be completed in conjunction with redevelopment activities. However, the Revised Tentative Order retains a hard deadline (December 31, 2019) for completion of cleanup regardless of the status of redevelopment, which the Cleanup Team finds is consistent with the reasonable timeframe required by Resolution No. 92-49.

*Board Hearing:* The Advisory Team anticipates that this item will be contested at the Board meeting by Chevron and possibly others. Each party (including the Cleanup Team) is allotted up to 15 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement at the hearing.

**RECOMMEN-  
DATION:**

The Advisory Team will have a recommendation following the hearing testimony.

File No. 21-0203 (JMJ)

Appendices: A – Revised Tentative Order  
 B – Correspondence  
 C – Cleanup Team Response to Comments

APPENDIX A  
REVISED TENTATIVE ORDER

APPENDIX B  
CORRESPONDENCE

APPENDIX C

CLEANUP TEAM RESPONSE TO COMMENTS