

**Wickham, Jerry, Env. Health**

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**From:** Ken Phares [kphares@ix.netcom.com]  
**Sent:** Thursday, September 13, 2012 6:03 PM  
**To:** Wickham, Jerry, Env. Health  
**Cc:** Denis L. Brown; Fred Duman; Peter Schaefer; Roya Kambin; Eric Hetrick; Brenda Evans; Bill Phua; Paul Valva; Judi Norris  
**Subject:** Re: Fuel Leak Case No. RO0000486 - Environmental Agreement For Purchase of 4255 MacArthur Blvd., Oakland (Former Shell Station 13-5701)

Jerry -

Thank you for your email, and for your comments during our subsequent phone conversation. We acknowledge that ACEH is not in a position to comment on a private agreement. For the reasons we discussed by phone today, however, the Buyer remains optimistic that a mutually acceptable arrangement can be made with the PRPs for the development and operation of commercial uses before completion of remediation.

Regards,

Ken

**Hugh K. Phares, III ("Ken")**  
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On 9/13/2012 3:55 PM, Wickham, Jerry, Env. Health wrote:

Ken,

Alameda County Environmental Health (ACEH) cannot provide comments on a private agreement. In general, evaluation and approval of development plans prior to case closure would be made following receipt of permitting agency approved development/construction plans from a responsible party.

Regards,  
Jerry Wickham  
Alameda County Environmental Health  
1131 Harbor Bay Parkway  
Alameda, CA 94502-6577  
phone: 510-567-6791  
[jerry.wickham@acgov.org](mailto:jerry.wickham@acgov.org)

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**From:** Ken Phares [<mailto:kphares@ix.netcom.com>]  
**Sent:** Friday, September 07, 2012 1:36 PM  
**To:** Denis L. Brown; Fred Duman; Erik C. Parrish  
**Cc:** Peter Schaefer; Roya Kambin; Eric Hetrick; Brenda Evans; Bill Phua; Paul Valva; Judi Norris; Wickham, Jerry, Env. Health  
**Subject:** Fuel Leak Case No. RO0000486 - Environmental Agreement For Purchase of 4255 MacArthur Blvd., Oakland (Former Shell Station 13-5701)

Denis and Fred -

As we discussed in separate conversations, I represent the Buyer of the referenced site. Attached is a draft Environmental Access and Indemnity Agreement among Shell, EMC, my client Hoi Liang ("Bill") Phua (the Buyer) and the Malone Trust (the Seller). The Buyer is requiring an agreement of this type to give some assurance that the property can be redeveloped after the close of the purchase escrow. To save time, I am circulating this draft prior to review by my client, and so must reserve his possible comments.

This former Shell site is vacant, and all building improvements have been removed. Exhibit A of the proposed Agreement shows approximately one-half of the former Shell site as a "building envelope" to which Buyer's construction of new buildings would be limited until closure or issuance of a "No Further Action" letter. By copy, Jerry, Denis, and Eric are requested to advise if this concept, and the location of the proposed envelope, are acceptable to permit the sale and redevelopment of the site during further investigation and remediation.

Kindly provide any questions, comments or suggested changes by Friday, September 14, 2012. Thank you.

Regards,

Ken

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