

Hugo, Susan, Env. Health

From: Steve Kalmbach [SKalmbach@PULTE.com]
Sent: Wednesday, November 28, 2001 11:00 AM
To: 'Susan Hugo'; 'Ravi Arulanantham'
Subject: FW: Liquid Sugar - Emeryville

Again, please see below.

-----Original Message-----

From: WESLEY.SKOW@LW.com [mailto:WESLEY.SKOW@LW.com]
Sent: Wednesday, November 28, 2001 11:23 AM
To: Steve Kalmbach
Subject: RE: Liquid Sugar - Emeryville

There is (and should be) just one deed restriction. The goal here is to have one document that will memorialize the County's rights for all time, regardless of who owns the property. In order to be valid and binding the deed restriction must be executed by the current owner. The draft deed restriction (Section 1.1) provides that the deed restriction will run with the land and will bind future owners of the property according to its terms. Accordingly, when Pulte acquire the property, the deed restriction (if properly executed by 6598 Hollis and recorded) will apply to Pulte. The same will hold true when Pulte transfers the property to the HOA, etc.

-----Original Message-----

From: Steve Kalmbach [mailto:SKalmbach@PULTE.com]
Sent: Wednesday, November 28, 2001 7:47 AM
To: 'Wesley Skow'
Subject: FW: Liquid Sugar - Emeryville

Need your assistance again.

-----Original Message-----

From: maryarulanantham [mailto:arulanantham@home.com]
Sent: Tuesday, November 27, 2001 9:14 PM
To: Steve Kalmbach; 'Hugo, Susan, Env. Health '
Cc: 'Ravi Arulanantham (E-mail) '; 'Ignacio Dayrit (E-mail) '; 'James Clark (E-mail) '; 'Mark Arniola (E-mail) '
Subject: Re: Liquid Sugar - Emeryville

If I understand this correctly that we have two deed restrictions- one before the sale and one after the sale? I need a simple clarification on the following statement by Steve - once the transaction closes Pulte Homes becomes the new owner and will be shown accordingly on the deed restriction -how? May be I am not reading it correctly (most of the time this is the case).

Let's talk tomorrow. However, tomorrow is Regional Board monthly meeting, and I am going to be occupied and we need to work out some time to resolve this matter.

Warm Regards to All
ravi

----- Original Message -----

From: "Steve Kalmbach" <SKalmbach@PULTE.com>
To: "'Hugo, Susan, Env. Health '" <SHugo@co.alameda.ca.us>
Cc: "'Ravi Arulanantham (E-mail) '" <RA@rb2.swrcb.ca.gov>; "'Ravi Arulanantham (E-mail) '" <arulanantham@home.com>; "'Ignacio Dayrit (E-mail) '" <idayrit@ci.emeryville.ca.us>; "'James Clark (E-mail) '" <jclark@ccarey.com>; "'Mark Arniola (E-mail) '" <marniola@lowney.com>

Sent: Tuesday, November 27, 2001 7:02 PM
Subject: RE: Liquid Sugar - Emeryville

> Susan - I was informed by our attorney that the current owner of the
> property ("6598 Hollis") has to be shown on the deed restriction.
However,
> once the transaction closes Pulte Homes becomes the new owner and will be
> shown accordingly on the deed restriction, since the deed restriction runs
> with the land.
>
> In terms of your questions below, Pulte is responsible for the deed
> restriction, and for implementing the RMPs.
>
> Let's talk in the morning in you still have questions.
>

> Thanks, Steve

> -----Original Message-----

> From: Hugo, Susan, Env. Health
> To: Steve Kalmbach
> Cc: Ravi Arulanantham (E-mail); Ravi Arulanantham (E-mail); Ignacio Dayrit
> (E-mail); James Clark (E-mail); Mark Arniola (E-mail)
> Sent: 11/27/01 9:10 PM
> Subject: FW: Liquid Sugar - Emeryville

> Steve;

> Why did you change Pulte as covenantor?

> Who is the new covenantor "6598 Hollis" and why is it that the
> covenantor
> changed the last minute?

> Who is responsible for the deed restrictions? Pulte or 6598 Hollis?

> Who is responsible for implementing the Risk Management Plans ;
> Operations
> and Maintenance RMP and Construction RMP?

> I talked to Mark today regarding changes to the Operations and
> maintenance
> RMP and Construction RMP. I need to see the final version.

> -----Original Message-----

> From: Steve Kalmbach [mailto:SKalmbach@PULTE.com]
> Sent: Tuesday, November 27, 2001 3:49 PM
> To: 'Susan Hugo'
> Subject: FW: Liquid Sugar - Emeryville

> Susan - Here is the final version of the deed restriction. Please let
> me
> know what time you want our notary to be at your office tomorrow.

> Thanks, Steve

> -----Original Message-----

> From: WESLEY.SKOW@LW.com [mailto:WESLEY.SKOW@LW.com]
> Sent: Tuesday, November 27, 2001 4:47 PM
> To: Steve Kalmbach
> Subject: Liquid Sugar - Emeryville

>
>
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> attorney work product for the sole use of the intended recipient. Any
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7031 Koll Center Parkway, Suite 150 Pleasanton, CA 94566
Ph: 925-249-3200 Fax: 925-485-0391



FAX

TO Susan Hugo @ ACHA

FROM Steve Kalmbach

FAX # 510.337.9335

OF PAGES 4 , including cover sheet

RE Liquid Sugar, Emeryville

DATE 11/27/01

URGENT

PER YOUR REQUEST

CALL TO DISCUSS

FOR YOUR REVIEW

COMMENTS

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL and may also be subject to the attorney-client privilege or may constitute privileged work product. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the agent or employee responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately and return the original message to us at the address above via U.S. Postal Service. Thank you.

SCHEDULE A*LIQUID SUGAR
EMERYVILLE, CA*

Order No: 911830 MG

Your Ref:

1. The estate or interest in the land hereinafter described or referred to covered by this report is:

A FEE

2. Title to said estate or interest at the date hereof is vested in:

6598 HOLLIS, A CALIFORNIA GENERAL PARTNERSHIP

3. The land referred to in this report is situated in the State of California, County of Alameda and is described as follows:

SEE ATTACHED DESCRIPTION

Page 1
Order No. 911830

DESCRIPTION

CITY OF EMERYVILLE

PARCEL 1:

LOT 67, BLOCK 5, MAXWELL TRACT, FILED SEPTEMBER 19, 1872, MAP BOOK 5, PAGE 21, ALAMEDA COUNTY RECORDS.

PARCEL 2:

LOT 95, BLOCK 5, MAXWELL TRACT, FILED SEPTEMBER 19, 1872, MAP BOOK 5, PAGE 21, ALAMEDA COUNTY RECORDS.

PARCEL 3:

LOT 96, BLOCK 5, MAXWELL TRACT, FILED SEPTEMBER 19, 1872, MAP BOOK 5, PAGE 21, ALAMEDA COUNTY RECORDS.

EXCEPTING THEREFROM, THAT PORTION THEREOF CONVEYED TO THE SOUTHERN PACIFIC COMPANY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERN LINE OF 65TH STREET, FORMERLY DALTON AVENUE, DISTANT THEREON 190 FEET WESTERLY FROM THE INTERSECTION THEREOF WITH THE WESTERN LINE OF VALLEJO STREET, FORMERLY MAPLE STREET; THENCE NORTHERLY, PARALLEL WITH SAID LINE OF VALLEJO STREET, 155 FEET; THENCE AT RIGHT ANGLES WESTERLY, PARALLEL WITH SAID LINE OF 65TH STREET, 25 FEET; THENCE SOUTHWESTERLY, IN A STRAIGHT LINE, 159.6 FEET, MORE OR LESS, TO A POINT ON SAID NORTHERN LINE OF 65TH STREET; THENCE EASTERLY ALONG SAID LAST NAMED LINE, 63 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

BEGINNING AT A POINT ON THE SOUTHERN LINE OF 66TH STREET, FORMERLY HALLETT AVENUE, DISTANT THEREON WESTERLY, 215 FEET FROM THE INTERSECTION THEREOF WITH THE WESTERN LINE OF VALLEJO STREET, FORMERLY MAPLE STREET, AS THE SAID STREET AND AVENUE ARE SHOWN UPON THE MAP HEREINAFTER REFERRED TO; RUNNING THENCE EASTERLY ALONG SAID LINE OF 66TH STREET, 60.356 FEET; THENCE SOUTH $6^{\circ} 41' 8-5/10''$ WEST, 166.028 FEET; THENCE SOUTH $75^{\circ} 41' 8-5/10''$ WEST, $857/1000$ OF A FOOT; THENCE NORTH $14^{\circ} 18' 51-5/10''$ WEST, 155 FEET TO THE POINT OF BEGINNING.

BEING PORTIONS OF LOTS NUMBERED 65 AND 66 IN BLOCK NUMBERED 5, AS THE SAID LOTS AND BLOCK ARE SHOWN ON "MAP OF THE MAXWELL TRACT, ALAMEDA COUNTY, CALIFORNIA", FILED SEPTEMBER 19, 1872, IN BOOK 5 OF MAPS, AT PAGE 21, IN THE OFFICE OF THE COUNTY RECORDER OF THE SAID COUNTY OF ALAMEDA.

PARCEL 5:

BEGINNING AT A POINT ON THE SOUTHERN LINE OF 66TH STREET, FORMERLY HALLETT AVENUE, DISTANT THEREON WESTERLY, 215 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE WESTERN LINE OF VALLEJO STREET, FORMERLY MAPLE STREET; RUNNING THENCE WESTERLY ALONG SAID LINE OF 66TH STREET, 75 FEET; THENCE AT RIGHT ANGLES, SOUTHERLY 155 FEET; THENCE AT RIGHT ANGLES, EASTERLY 75 FEET; THENCE AT RIGHT ANGLES, NORTHERLY 155 FEET TO THE POINT OF BEGINNING.

BEING THE WESTERN SEVENTY-FIVE FEET OF LOT NUMBERED 66 IN BLOCK NUMBERED 5, AS SAID LOT AND BLOCK ARE SHOWN ON "MAP OF THE MAXWELL TRACT, ALAMEDA COUNTY,

Page 2
Order No. 911830

DESCRIPTION

CALIFORNIA", FILED SEPTEMBER 19, 1872, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, IN BOOK 5 OF MAPS, AT PAGE 21.

PARCEL 6:

BEGINNING AT A POINT IN THE SOUTHERN LINE OF 66TH STREET, FORMERLY HALLETT AVENUE, DISTANT THEREON SOUTH 75° 41' 08.5" WEST, 154.644 FEET FROM THE WESTERN LINE OF VALLEJO STREET, FORMERLY MAPLE STREET; THENCE SOUTH 6° 41' 08.5" WEST, 166.03 FEET TO THE SOUTHERN LINE OF LOT 66 IN BLOCK 5, AS SHOWN ON THE MAP HEREINAFTER REFERRED TO; THENCE NORTH 75° 41' 08.5" EAST ALONG SAID SOUTHERN LINE, 21.42 FEET; THENCE NORTH 6° 41' 08.5" EAST, 166.03 FEET TO THE SOUTHERN LINE OF 66TH STREET; THENCE SOUTH 75° 41' 08.5" WEST THEREON, 21.42 FEET TO THE POINT OF BEGINNING; BEING A PORTION OF LOTS 65 AND 66 IN BLOCK 5, AS SHOWN ON THE MAP ENTITLED "MAP OF THE MAXWELL TRACT, ALAMEDA COUNTY, CALIFORNIA", FILED SEPTEMBER 19, 1872, IN THE OFFICE OF THE RECORDER OF SAID COUNTY OF ALAMEDA.

CERTIFICATE OF COMPLIANCE BY THE CITY OF EMERYVILLE RECORDED SEPTEMBER 2, 1999, SERIES NO. 99-337958, OFFICIAL RECORDS.

ASSESSOR'S PARCEL NO. 049-1509-023

Hugo, Susan, Env. Health

From: Hugo, Susan, Env. Health
Sent: Thursday, October 04, 2001 6:10 PM
To: Seng, Victoria, Env. Health
Cc: Levi, Ariu, Env. Health
Subject: Deposit for CO#0000201
Importance: High

Hello Vicky;

I need to verify if a check was submitted for a SLIC site - Liquid Sugar located at 1269 66th Street in Emeryville, CA 94608 (CO#0000201). They claim that a check for \$ 3,150.00 from Pulte Homes was submitted on April 10, 2001. Please confirm. I can not locate this info in Envision.

How will I know if a check has been processed for a site?

Thanks

Susan L. Hugo
Environmental Health Department
(510) 567-6780

Envision for Windows

1269 66TH STREET EMERYVILLE CA 94608

CO0000201

EE0000057 4/10/01 11:53:41 5502
 EE0000057 4/11/01 : :

PULTE HOMES
 7031 KOLL CENTER PKWY STE 150
 PLEASANTON CA 94566-3281
 (925)249-3218 (925)485-0391

SLIC - PROPOSED RESIDENTIAL USE (LIVE / WORK UNITS).

Information Location Financial Referral Dates/Agencies Daily Activities Violations Invoices

Envision for Windows

GRIBI Associates*Geological and Environmental Consulting Services***FACSIMILE TRANSMITTAL**

To: SUSAN HUGO, ACDEH Fax No.: (510)337-9335
RAVI ARULANANTHAM, RWQCB Fax No.: (510)622-2460

From: JIM GRIBI
Phone: (707)748-7743
Fax: (707)748-7763

Attached please find a letter providing our evaluation of PCE impacts at the former LSI (Pulte) site.

Thanks!

Jim

LOWNEY ASSOCIATES
Environmental / Geotechnical / Engineering Services

Fax Transmittal

COH

Mountain View Office
405 Clyde Avenue
Mountain View, CA 94043
Tel: 650.967.2365
Fax: 650.967.2785

Oakland Office
167 Filbert Street
Oakland, CA 94607
Tel: 510.267.1970
Fax: 510.267.1972

Fullerton Office
251 E. Imperial Hwy., #470
Fullerton, CA 92835
Tel: 714.441-3090
Fax: 714 441-3091

San Ramon Office
2258 Camino Ramon
San Ramon, CA 94583
Tel: 925.275.2550
Fax: 925.275.2555

To: Alameda County Dept. of Environmental Health

From: Mark Arniola

Attn: Susan Hugo

Date: June 27, 2001

Fax: (510) 337-9335

Pages: 3 (Including Cover)

CC:

Project: 1274 65th Street and 1269 66th Street

Job #: 1424-4

Please notify us if you received this fax in error by calling the office indicated above.

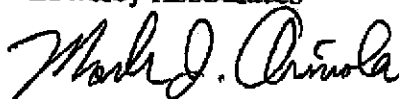
Remarks: Urgent For your review Reply ASAP Please comment

Dear Susan,

The corrected letter summarizing the conclusions of our meeting yesterday is on the following pages.

Thank you,

Lowney Associates



Mark J. Arniola
Senior Project Geologist

Mail copy to follow: Yes No Time Sent: _____ Sent By: _____

LOWNEY ASSOCIATES
 Environmental/Geotechnical/Engineering Services

Mountain View

Oakland

San Ramon

Fulerton

 June 27, 2001
 1424-4

Ms. Susan Hugo
 ALAMEDA COUNTY HEALTH AGENCY
 DIVISION OF ENVIRONMENTAL PROTECTION
 DEPARTMENT OF ENVIRONMENTAL HEALTH
 1131 Harbor Bay Parkway, 2nd Floor
 Alameda, California 94502

RE: 1274 65TH STREET AND
 1269 66TH STREET
 EMERYVILLE, CALIFORNIA

Mr. Ravi Arulanantham
 CALIFORNIA ENVIRONMENTAL PROTECTION
 AGENCY
 CALIFORNIA REGIONAL WATER QUALITY
 CONTROL BOARD
 SAN FRANCISCO BAY REGION
 1515 Clay Street, Suite 1400
 Oakland, California 94612

Dear Ms. Hugo and Mr. Arulanantham :

This letter summarizes the conclusions of our June 26, 2001 meeting in Emeryville. In attendance with us were Steve Kalmbach and Dennis O'Keefe of Pulte Home Corporation, Ignacio Dayrit of the City of Emeryville, Jim Grihi of Grihi Associates, current property owner John Boshard, and James Clark of Cornish and Carey Commercial.

After discussion of the environmental concerns at the site it was concluded that no further action for the proposed residential development at 1274 65th Street and 1269 66th Street would be approved by the Alameda County Environmental Health Department and RWQCB if the following items were completed.

- 1) Two locations with total lead above the agreed upon action level of 255 parts per million (ppm) were detected in soil on the property. Soil in an approximately 5 foot by 5 foot area surrounding these locations will be excavated to a depth of approximately 3 feet and disposed at an appropriate waste disposal facility.
- 2) The upper ³2 feet of soil in the proposed garden area will be excavated and replaced with clean fill.

Pb clean up goal 255

*I need description of the
 development plan*

Pulte Home Corporation

1274 65th Street and 1269 66th Street

3a) Documents outlining vapor barrier construction specifications and a statement about the residual volatile organic compounds (VOCs) in the ground water at the northeast corner of the property would be prepared.

3b) The documents would be attached to the CC&RS and Disclosure Statement presented to all future owners of the units in the northeast corner of the site.

Please reply to let us know if you agree with this summary of the conclusions of the meeting. If you have any questions, please call and we will be glad to discuss them with you.

Very truly yours,

LOWNEY ASSOCIATES



Mark J. Arniola, R.G., R.E.A.
Senior Project Geologist

Copies: Addressees (2)
Pulte Home Corporation (2)
Attn: Dennis O'Keefe
Attn: Steve Kalmbach

OK, 1424-4 ACEHD letter

LOWNEY ASSOCIATES
Environmental / Geotechnical / Engineering Services

Fax Transmittal

Mountain View Office
405 Clyde Avenue
Mountain View, CA 94043
Tel: 650.967.2365
Fax: 650.967.2785

Oakland Office
167 Filbert Street
Oakland, CA 94607
Tel: 510.267.1970
Fax: 510.267.1972

Fullerton Office
251 E. Imperial Hwy., #470
Fullerton, CA 92835
Tel: 714.441-3090
Fax: 714.441-3091

San Ramon Office
2258 Camino Ramon
San Ramon, CA 94583
Tel: 925.275.2550
Fax: 925.275.2555

To: Alameda County Dept. of Environmental Health
Attn: Susan Hugo
Fax: (510) 337-9335
CC:

From: Mark Arniola
Date: June 27, 2001
Pages: 3 (Including Cover)
Project: 1274 65th Street and 1269 66th Street
Job #: 1424-4

Please notify us if you received this fax in error by calling the office indicated above.

Remarks: Urgent For your review Reply ASAP Please comment

Dear Susan,

The letter summarizing the conclusions of our meeting yesterday is on the following pages.

Thank you,

Lowney Associates



Mark J. Arniola
Senior Project Geologist

Mail copy to follow: Yes No Time Sent: _____ Sent By: _____

LOWNEY ASSOCIATES
Environmental/Geotechnical/Engineering Services

Mountain View

Oakland

San Ramon

Fullerton

June 27, 2001
1424-4**RE: 1274 65TH STREET AND
1269 66TH STREET
EMERYVILLE, CALIFORNIA**

Ms. Susan Hugo
ALAMEDA COUNTY HEALTH AGENCY
DIVISION OF ENVIRONMENTAL PROTECTION
DEPARTMENT OF ENVIRONMENTAL HEALTH
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

Dear Ms. Hugo:

This letter summarizes the conclusions of our June 26, 2001 meeting in Emeryville. In attendance with us were Ravi Arulanantham of the California Regional Water Quality Control Board (RWQCB), Steve Kalmbach and Dennis O'Keefe of Pulte Home Corporation, Ignacio Dayrit of the City of Emeryville, Jim Grihi of Grihi Associates, current property owner Jon Boshard, and James Clark of Cornish and Carey Commercial.

After discussion of the environmental concerns at the site it was concluded that no further action for the proposed residential development at 1274 65th Street and 1269 66th Street would be approved by the Alameda County Environmental Health Department if the following items were completed.

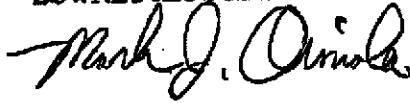
- 1) Two locations with total lead above the agreed upon action level of 255 parts per million (ppm) were detected in soil on the property. Soil in an approximately 5 foot by 5 foot area surrounding these locations will be excavated to a depth of approximately 3 feet and disposed at an appropriate waste disposal facility.
- 2) The upper ³2 feet of soil in the proposed garden area will be excavated and replaced with clean fill.
- 3a) Documents outlining vapor barrier construction specifications and a statement about the residual volatile organic compounds (VOCs) in the ground water at the northeast corner of the property would be prepared .
- 3b) The documents would be attached to the CC&RS and Disclosure Statement presented to all future owners of the units in the northeast corner of the site.

Pulte Home Corporation

Please reply to let us know if you agree with this summary of the conclusions of the meeting. If you have any questions, please call and we will be glad to discuss them with you.

Very truly yours,

LOWNEY ASSOCIATES



Mark J. Armiola, R.G., R.E.A.
Senior Project Geologist

- Copies: Addressee (1)
 - California Regional Water Quality Control Board (1)
 - Attn: Ravi Arulanantham
- Pulte Home Corporation (2)
 - Attn: Dennis O'Keefe
 - Attn: Steve Kalmbach

OK, 1424-4 ACEHD letter

Hugo, Susan, Env. Health

To: Mark Arniola; Dennis O'Keefe; Steve Kalmbach
Cc: Ariu Levi; James Clark; James Gribi; Ignacio Dayrit; Ravi Arulanantham; Ravi Arulanantham
Subject: Comments Regarding the Proposed Pulte Homes @ 1274 65th Street and 1269 66th Street in Emeryville
Importance: High

Hi Mark, Dennis and Steve:

I have reviewed the letter faxed to our office concerning the subject site. Listed below are my comments:

- 1) Response to item # 1 - The clean up goal for lead in soil at the site is 255 parts per million (ppm). You need to state that by hot spot removal in two locations you have identified, the clean up goal of 255 ppm lead will be met at the site. You will also need to verify that.
- 2) Response to item # 2 - The upper 3 (not 2) feet of soil in the proposed garden area will be excavated and replaced with clean fill.
- 3) Response to item # 3(a) - Volatile organic compounds (VOCs) found in groundwater at the site will be addressed by the following : identifying the source, evaluating the characteristic of the VOC plume (expanding, stable, not migrating, decreasing etc.), impact to future user at the site, description of abatement and/or institutional controls to be implemented at the site such as installation of vapor barrier, description of the vapor barrier as to type, specifications, construction details, how the integrity of the barrier will be maintained so that vapor intrusion into buildings will not occur.
- 4) Deed Restrictions will be recorded for the site prior to occupancy. (I have provided a copy of the county standard model deed restriction to Steve and Dennis. Keep in mind that if you plan to use this, you can not change the language at all.)
- 5) A fact sheet to communicate the risk to future owners of the site should be prepared and submitted for agencies approval.
- 6) A development plan should be submitted for the site. To date, I have not seen any plan other than the drawings presented yesterday during the meeting. The plan should include at a minimum, the following items: description of the project, site map with location of building, any backyard scenario or open space, landscaping, living space at ground level, basements, swimming pools, underground garages, utility lines, pile drivings and extent of excavation associated with construction activities at the site.
- 7) You need to submit a risk management plan (RMP) which should include at a minimum the following elements:
 - soil management plan which describes how soil excavated at the site will be handled and disposed
 - groundwater management plan which describe if dewatering will be implemented, how groundwater will be handled and dispose
 - stormwater run-off control
 - dust control
 - health and safety plan for construction workers
 - contingency plan for unexpected conditions
 - responsible party or parties who will implement the RMP

I will be out of the office returning next week. Please call or e-mail if you have any questions.

CASE CLOSURE SUMMARY
Leaking Underground Fuel Storage Tank Program
Page 2 of 4

Maximum Documented Contaminant Concentrations - - Before and After Cleanup

Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After
TPH gasoline	4,000		96,000	
TPH diesel	1,800		3,100	
Total Oil & Grease	82			
Benzene	3.2		4,000	
Toluene	26		11,000	
Ethylbenzene	19		2,200	
Xylene	156		13,400	
MTBE	ND*		ND*	
Chlorobenzene	0.28			
1,2 dichloroethane	0.33		180	
Lead	598		430	

Comments (Depth of Remediation, etc.): See "Additional Comments" section.

IV. CLOSURE

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan ?

Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan ?

Does corrective action protect public health for current land use ?

Site management requirements:

Should corrective action be reviewed if land use changes ?

Monitoring wells Decommissioned :

Number Decommissioned:

Number Retained:

List enforcement actions taken:

List enforcement actions rescinded:

Hugo, Susan, Env. Health

From: Hugo, Susan, Env. Health
Sent: Tuesday, June 26, 2001 5:39 PM
To: 'Steve Kalmbach'; 'Dennis O'Keefe'
Subject: RE: Liquid Sugar - Emeryville
Importance: High

Hi Steve and Dennis;

Attached is the county's standard model deed restriction. Dennis, did you get my message regarding cost recovery deposit for the site?



Alameda County's
Model Deed Restriction (

From: Steve Kalmbach[SMTP:SKalmbach@PULTE.com]
Sent: Tuesday, June 26, 2001 4:55 PM
To: 'Susan Hugo'
Cc: Dennis W. O'Keefe; 'Ignacio Dayrit'
Subject: Liquid Sugar - Emeryville

Susan - Thanks again for meeting with us today regarding the Liquid Sugar site in Emeryville. As a reminder, could you please email me the deed restriction language that you mentioned.

Thanks, Steve Kalmbach

arulanantham@home.com
RA@rb2.swrcb.ca.gov
Skalmbach@putte.com

Recording Requested By:

6598 Hollis, a California
General Partnership
6598 Hollis Street
Emeryville, California 94608

When Recorded, Mail To:

Mee Ling Tung, Director
Alameda County Health Agency
Division of Environmental Protection
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY

LIQUID SUGAR
1274 65TH STREET
EMERYVILLE, CALIFORNIA 94608

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 27th day of November, 2001, by 6598 Hollis, a California General Partnership ("Covenantor") who is the Owner of record of that certain property situated at 1274 65th Street, in the City of Emeryville, County of Alameda, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the Alameda County Environmental Health Services (the "County"), with reference to the following facts:

A. Conditions at the Burdened Property. The Burdened Property and ground water underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. Soil and ground water at the Burdened Property was contaminated by petroleum hydrocarbons from leaking underground storage tanks (USTs) at the Liquid Sugar Inc., facility formerly located on Burdened Property. Soil at another location at the Burdened Property was contaminated by lead from an unknown source. Ground water beneath the Burdened Property also was contaminated by volatile organic compounds (VOCs) from an unknown off-site source. Inorganic and organic chemicals including lead, diesel fuel, gasoline, oil, benzene, toluene, ethylbenzene, xylenes, methyl-tertiary butyl ether (MTBE), 1,1-dichloroethane (DCA), 1,1-dichloroethene (DCE), perchloroethylene (PCE), and 1,1,1,-trichloroethane (TCA) were detected in soil and /or ground water at the Burdened Property, which constitute hazardous materials as that term is defined in California Health & Safety Code Section 25260. Such materials are present due to the historical operation of the former USTs and/ or historic industrial activities conducted at the site and /or from one or more unknown off-site source. Three USTs (two 1,000-gallon gasoline and one 10,000-gallon diesel)

from the former Liquid Sugars Inc. facility were removed from the property in November 1990. Ground water monitoring wells were installed on and off-site to determine the extent of ground water contamination associated with the former USTs at the Burdened Property. Ground water quality beneath the Burdened Property has been monitored periodically since 1993. A Remedial Action Completion Certification was issued on September 7, 2001 for the tank case.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil and ground water at the Burdened Property. Without the mitigation measures, which will be performed on the Burdened Property, exposure to these contaminants could take place via dermal contact; inhalation, or ingestion by humans. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for residential use (townhomes, lofts and flats) and is adjacent to industrial and commercial land uses.

E. Mitigation Measures. In connection with development of residential structures on the Burdened Property, Covenantor shall undertake the following mitigation measures:

- Lead detected in soil above the California Regional Water Quality Control Board's ("CRWQCB's") action level of 255 parts per million ("ppm") will be excavated prior to construction and disposed at an appropriate waste disposal facility.
- Vapor barriers approved by the CRWQCB and Alameda County Health Services Agency will be installed beneath all units on the Burdened Property.
- The upper three feet of in-place soil in landscaped outdoor communal areas will be excavated and replaced with clean imported soil.
- Covenantor has prepared and the County and CRWQCB have approved an Operations and Maintenance Risk Management Plan dated ~~September 28, 2001~~ for the Burdened Property.

F. Voluntary Disclosure. Full and voluntary disclosure to the County of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

G. Future Use. Covenantor desires and intends that in order to benefit the County, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

ARTICLE I. GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used,

occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the County and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to Section 1471 of the California Civil Code. Each and all of the Restrictions are enforceable by the County.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the County and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the County real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II. DEFINITIONS

2.1 County. "County" shall mean the Alameda County Environmental Health Services and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of any Improvement constructed on the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

ARTICLE III.
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. No hospitals shall be permitted on the Burdened Property.
- b. No schools for persons under 21 years of age shall be permitted on the Burdened Property; no day care centers for children or day care centers for senior citizens shall be permitted on the Burdened Property.
- c. No Owner of the Burdened Property or any portion thereof, or no Occupant of any Improvement constructed on the Burden Property, shall conduct any excavation work on the Burdened Property, unless expressly permitted by the Operations and Maintenance Risk Management Plan for the Burdened Property or in writing by the County. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with the Operations and Maintenance Risk Management Plan and all applicable provisions of local, state and federal law.
- d. All uses and development of the Burdened Property shall be consistent with any applicable County Cleanup Order and the Operations and Maintenance Risk Management Plan, each of which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any ground water monitoring system installed on the Burdened Property pursuant to the requirements of the County, unless otherwise expressly permitted in writing by the County.
- e. No Owner of the Burdened Property or any portion thereof, or no Occupant of any Improvement constructed on the Burden Property, shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the County.
- f. The Owner shall notify the County of each of the following: (1) the type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, or to the ground water monitoring system installed on the Burdened Property pursuant to the requirements of the County, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the County shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs.
- g. The Covenantor agrees that the County, and/or any persons acting pursuant to County cleanup orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the California Water Code.

h. No Owner of the Burdened Property or any portion thereof shall act or allow any other person to act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the County, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the County to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument that shall accompany all purchase agreements or leases relating to the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of November 27, 2001, and recorded on _____, 200_, in the Official Records of Alameda County, California, as Document No. _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV. VARIANCE AND TERMINATION

4.1 Variance. Any Owner of the Burdened Property or any portion thereof or, with the Owner's consent, any Occupant of an Improvement constructed on the Burdened Property may apply to the County for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner of the Burdened Property or any portion thereof or, with the Owner's consent, any Occupant of an Improvement constructed on the Burdened Property may apply to the County for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V. MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other

communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Covenantor"
6598 Hollis, a California
General Partnership
6598 Hollis Street
Emeryville, California 94608
Attn: Jon Boshard

If To: "County"
Alameda County Environmental Health Services
1131 Harbor Bay Parkway
Alameda, California 94502
Attention: Director

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Director of Environmental Health Services. This instrument shall be recorded by the Covenantor in the County of Alameda within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the California Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: 6598 Hollis, a California
 General Partnership

By: _____
Title: _____
Date: _____

Agency: Alameda County
 Environmental Health Services

By: _____
Title: Director
Date: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20__ before me, the undersigned a Notary Public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20__ before me, the undersigned a Notary Public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

SF_DOCS\317997.2 [W97]

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20__ before me, the undersigned a Notary Public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

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Notary Public in and for said
County and State

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COUNTY OF _____)

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EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

SF_DOCS\317997.2 [W97]

SCHEDULE A

LIQUID SUGAR
EMERYVILLE, CA

Order No: 911830 MG

Your Ref:

1. The estate or interest in the land hereinafter described or referred to covered by this report is:

A FEE

2. Title to said estate or interest at the date hereof is vested in:

6598 HOLLIS, A CALIFORNIA GENERAL PARTNERSHIP

3. The land referred to in this report is situated in the State of California, County of Alameda and is described as follows:

SEE ATTACHED DESCRIPTION

Recording Requested By:

6598 Hollis, a California
General Partnership
6598 Hollis Street
Emeryville, California 94608

When Recorded, Mail To:

M. Susan Hugo
Susan Hugo, Hazardous Materials Specialist
Alameda County Health Agency
Division of Environmental Protection
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

COVENANT AND ENVIRONMENTAL RESTRICTION
ON PROPERTY

LIQUID SUGAR
1274 65TH STREET
EMERYVILLE, CALIFORNIA 94608

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 27th day of November, 2001, by 6598 Hollis, a California General Partnership ("Covenantor") who is the Owner of record of that certain property situated at 1274 65th Street, in the City of Emeryville, County of Alameda, State of California, which is more particularly described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the Alameda County Environmental Health Services (the "County"), with reference to the following facts:

A. Conditions at the Burdened Property. The Burdened Property and ground water underlying the property contains hazardous materials.

B. Contamination of the Burdened Property. Soil and ground water at the Burdened Property was contaminated by petroleum hydrocarbons from leaking underground storage tanks (USTs) at the Liquid Sugar Inc., facility formerly located on Burdened Property. Soil at another location at the Burdened Property was contaminated by lead from an unknown source. Ground water beneath the Burdened Property also was contaminated by volatile organic compounds (VOCs) from an unknown off-site source. Inorganic and organic chemicals including lead, diesel fuel, gasoline, oil, benzene, toluene, ethylbenzene, xylenes, methyl-tertiary butyl ether (MTBE), 1,1-dichloroethane (DCA), 1,1-dichloroethene (DCE), perchloroethylene (PCE), and 1,1,1,-trichloroethane (TCA) were detected in soil and /or ground water at the Burdened Property, which constitute hazardous materials as that term is defined in California Health & Safety Code Section 25260. Such materials are present due to the historical operation of the former USTs and/ or historic industrial activities conducted at the site and /or from one or more unknown off-site source. Three USTs (two 1,000-gallon gasoline and one 10,000-gallon diesel)

from the former Liquid Sugars Inc. facility were removed from the property in November 1990. Ground water monitoring wells were installed on and off-site to determine the extent of ground water contamination associated with the former USTs at the Burdened Property. Ground water quality beneath the Burdened Property has been monitored periodically since 1993. A Remedial Action Completion Certification was issued on September 7, 2001 for the tank case.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil and ground water at the Burdened Property. Without the mitigation measures, which will be performed on the Burdened Property, exposure to these contaminants could take place via dermal contact, inhalation, or ingestion by humans. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for residential use (townhomes, lofts and flats) and is adjacent to industrial and commercial land uses.

E. Mitigation Measures. In connection with development of residential structures on the Burdened Property, Covenantor shall undertake the following mitigation measures:

- Lead detected in soil above the California Regional Water Quality Control Board's ("CRWQCB's") action level of 255 parts per million ("ppm") will be excavated prior to construction and disposed at an appropriate waste disposal facility.
- Vapor barriers approved by the CRWQCB and Alameda County Health Services Agency will be installed beneath all units on the Burdened Property.
- The upper three feet of in-place soil in landscaped outdoor communal areas will be excavated and replaced with clean imported soil.
- Covenantor has prepared and the County and CRWQCB have approved an Operations and Maintenance Risk Management Plan dated September 28, 2001 for the Burdened Property.

F. Voluntary Disclosure. Full and voluntary disclosure to the County of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

G. Future Use. Covenantor desires and intends that in order to benefit the County, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from hazardous materials that may have been deposited on portions of the Burdened Property.

ARTICLE I. GENERAL PROVISIONS

1.1 Provisions to Run with the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions") upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used,

occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence on the land of hazardous materials. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the County and all Owners and Occupants. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to Section 1471 of the California Civil Code. Each and all of the Restrictions are enforceable by the County.

1.2 Concurrence of Owners and Lessees Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the County and the Owners and Occupants of the Burdened Property and that the interest of the Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to or incorporated into any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the County real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II. DEFINITIONS

2.1 County. "County" shall mean the Alameda County Environmental Health Services and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to use and/or occupy all or any portion of any Improvement constructed on the Burdened Property.

2.4 Owner or Owners. "Owner" or "Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

ARTICLE III.
DEVELOPMENT, USE AND CONVEYANCE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- a. No hospitals shall be permitted on the Burdened Property.
- b. No schools for persons under 21 years of age shall be permitted on the Burdened Property; no day care centers for children or day care centers for senior citizens shall be permitted on the Burdened Property.
- c. No Owner of the Burdened Property or any portion thereof, or no Occupant of any Improvement constructed on the Burden Property, shall conduct any excavation work on the Burdened Property, unless expressly permitted by the Operations and Maintenance Risk Management Plan for the Burdened Property or in writing by the County. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with the Operations and Maintenance Risk Management Plan and all applicable provisions of local, state and federal law.
- d. All uses and development of the Burdened Property shall be consistent with any applicable County Cleanup Order and the Operations and Maintenance Risk Management Plan, each of which is hereby incorporated by reference including future amendments thereto. All uses and development shall preserve the integrity of any cap, any remedial measures taken or remedial equipment installed, and any ground water monitoring system installed on the Burdened Property pursuant to the requirements of the County, unless otherwise expressly permitted in writing by the County.
- e. No Owner of the Burdened Property or any portion thereof, or no Occupant of any Improvement constructed on the Burden Property, shall drill, bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the County.
- f. The Owner shall notify the County of each of the following: (1) the type, cause, location and date of any disturbance to any cap, any remedial measures taken or remedial equipment installed, or to the ground water monitoring system installed on the Burdened Property pursuant to the requirements of the County, which could affect the ability of such cap or remedial measures, remedial equipment, or monitoring system to perform their respective functions and (2) the type and date of repair of such disturbance. Notification to the County shall be made by registered mail within ten (10) working days of both the discovery of such disturbance and the completion of repairs.
- g. The Covenantor agrees that the County, and/or any persons acting pursuant to County cleanup orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the California Water Code.

h. No Owner of the Burdened Property or any portion thereof shall act or allow any other person to act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property. All use and development of the Burdened Property shall preserve the integrity of any capped areas.

3.2 Enforcement. Failure of an Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the County, by reason of this Covenant, to have the authority to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the County to file civil actions against the Owner as provided by law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument that shall accompany all purchase agreements or leases relating to the Burdened Property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a deed restriction dated as of November 27, 2001, and recorded on _____, 200_, in the Official Records of Alameda County, California, as Document No. _____, which Covenant and Restriction imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists.

ARTICLE IV. VARIANCE AND TERMINATION

4.1 Variance. Any Owner of the Burdened Property or any portion thereof or, with the Owner's consent, any Occupant of an Improvement constructed on the Burdened Property may apply to the County for a written variance from the provisions of this Covenant.

4.2 Termination. Any Owner of the Burdened Property or any portion thereof or, with the Owner's consent, any Occupant of an Improvement constructed on the Burdened Property may apply to the County for a termination of the Restrictions as they apply to all or any portion of the Burdened Property.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V. MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other

communication shall be in writing and shall be deemed effective (1) when delivered, if personally delivered to the person being served or official of a government agency being served, or (2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If To: "Covenantor"
6598 Hollis, a California
General Partnership
6598 Hollis Street
Emeryville, California 94608
Attn: Jon Boshard

If To: "County"
Alameda County Environmental Health Services
1131 Harbor Bay Parkway
Alameda, California 94502
Attention: Director

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Director of Environmental Health Services. This instrument shall be recorded by the Covenantor in the County of Alameda within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this instrument and the policy and purpose of the California Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

Covenantor: 6598 Hollis, a California
 General Partnership

By: _____
Title: _____
Date: _____

Agency: Alameda County
 Environmental Health Services

By: _____
Title: Director
Date: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20__ before me, the undersigned a Notary Public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 20__ before me, the undersigned a Notary Public in and for said state, personally appeared [_____], personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

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