

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
ALEX BRISCOE, Director



ENVIRONMENTAL HEALTH DEPARTMENT
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November 18, 2010

Bill Borgh (*Sent via E-mail to: Bill.Borgh@conocophillips.com*)
ConocoPhillips
76 Broadway
Sacramento, CA 95818

Liz Bermudez (*Sent via E-mail to: LBermudez@pcandf.com*)
Pacific Convenience & Fuel
2603 Camino Ramon, Suite 350
San Ramon, CA 94583

Tiana C. Jenkins
Tralee Village, LLC.
12988 Hawkins Drive
San Ramon, CA 94583-2413

Subject: Off-site Access for Subsurface Investigation for Fuel Leak Case No. RO0000459 and
GeoTracker Global ID T0600101443, UNOCAL #6419, 6401 Dublin Boulevard, Dublin,
CA 94568

Dear Mr. Borgh, Ms. Bermudez, & Ms. Jenkins:

Alameda County Environmental Health (ACEH) understands that Mr. Borgh with ConocoPhillips and Ms. Bermudez with Pacific Convenience & Fuel, the Responsible Parties for the subject Fuel Release Case, has requested access to your property at 6599 Dublin Boulevard in Dublin to conduct a subsurface investigation required by ACEH. The Responsible Parties environmental consultant Mr. Dennis Dettloff with Delta Environmental have informed ACEH that terms of access are in dispute and site access has not been granted to the 6599 Dublin Boulevard property. The purpose of this letter is to request that both parties resolve access agreement disputes promptly and reasonably. Please note that ACEH will not render legal opinions on reasonableness of terms of the access agreement. However, ACEH will comment on terms proposed that do not appear to be common practice based on experience with off-site access agreements reviewed for several other cases.

A suspected hydrocarbon release has occurred at the 6401 Dublin Boulevard, Dublin, property and has contaminated the soil and groundwater beneath the site and may extend off-site to adjacent properties. As the Responsible Parties, Mr. Borgh & Ms. Bermudez are required to investigate the extent of the release(s) and to clean up the contamination. ACEH provides local oversight for compliance with these requirements, which are set by the State of California. For this reason the Responsible Parties have requested access to determine the extent of the

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contamination that may be beneath the Tralee Village, LLC. property and perform the cleanup as necessary, thereby complying with State law as required by ACEH¹.

Based on a review of e-mail correspondences and the terms proposed therein, an easement for a sign or an access fee of \$20,000 seems unreasonable and unconscionable. ACEH encourages Ms. Jenkins to work with Mr. Borgh and Ms. Bermudez and their environmental consultant, and agree upon the terms necessary (i.e. reasonable fees and executing the access agreement) to allow Mr. Borgh & Ms. Bermudez access to the 6599 Dublin Boulevard property to conduct the subsurface investigation. If the terms of access cannot be negotiated and Ms. Jenkins continues to deny access or does not respond by the date specified below, and if the release does affect the 6599 Dublin Boulevard property, then this ACEH and the Regional Water Quality Control Board may hold Ms. Jenkins (Tralee Village, LLC) legally responsible for the contaminated condition of the 6599 Dublin Boulevard property. Tralee Village, LLC may then be required to conduct remedial investigation of the contamination at their own expense. Since the costs for such investigations are often high, it is clearly more reasonable for Ms. Jenkins to allow access to Mr. Borgh and Ms. Bermudez and their consultants. ACEH respectfully requests Ms. Jenkins to reconsider the Responsible Parties previous request to access the 6599 Dublin Boulevard property and respond to this correspondence within thirty (30) days from the date of this letter (**December 20, 2010**) with her decision.

Thank you in advance for your cooperation. Should either party have any questions regarding this correspondence, please contact me at (510) 777-2478 or send me an electronic mail message at paresh.khatri@acgov.org

Sincerely,

Paresh C. Khatri
Hazardous Materials Specialist

cc: Matthew B. Ford, Esq., Weston Properties, 2068 First Street, Livermore, CA 94550 (Sent via E-mail to: matt@westonproperties.net)
Dennis Dettloff, Delta Environmental, 11050 White Rock Road, Suite 110, Rancho Cordova, CA 95670 (Sent via E-mail to: DDettloff@deltaenv.com)
Cheryl Dizon (QIC 8021), Zone 7 Water Agency, 100 North Canyons Pkwy, Livermore, CA 94551 (Sent via e-mail to: cdizon@zone7water.com)
Donna Drogos, ACEH (Sent via E-mail to: donna.drogos@acgov.org)
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GeoTracker
File

¹ California Health and Safety Code, §25289