

ROZ941



RECEIVED

MAY 22 2008

ENVIRONMENTAL HEALTH SERVICES

May 21, 2008

Mr. Jerry Wickham, P.G, C.E.G, C.H.G
Senior Hazardous Materials Specialist
Alameda County Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: **Response to Comments to Work Plan for Excavation of Petroleum Impacted Soil at Former Hot Mix Asphalt Plant Area of Hanson Aggregates Facility in Pleasanton, California.**

Dear Mr. Wickham:

I am writing in response to the Alameda County Environmental Health Service's ("ACEH") April 18, 2008 technical comments to the above-referenced work plan for Hanson Aggregates Mid-Pacific Inc.'s ("Hanson") former Hot Mix Asphalt Area (AOC #1) located at 3000 Busch Road in Pleasanton, California (the "Facility"). We appreciate ACEH's prompt and detailed technical comments and look forward to working with the department to complete the work at the site in a timely and appropriate manner. However, as described below, Hanson has significant concerns regarding Technical Comment #1 in which ACEH requests a cleanup level of 410 milligrams per kilogram (mg/kg) for total petroleum hydrocarbon (TPH) based on the Environmental Screening Level for unrestricted future land use.

As you know, one of the most important factors in establishing regulatory clean-up standards is current and potential future uses of the site. Here, the Facility is located in an area zoned for commercial and industrial land use, and the area surrounding it consists almost entirely of that same use. For this and the other reasons outlined herein, we believe the cleanup level proposed in LFR's work plan is appropriate.

Our proposed cleanup level is consistent with Regional Water Board guidance¹ which we understand the ACEH uses to establish cleanup standards for sites in Alameda County. The screening levels set forth in such guidance "are intended to be conservative for the use at the vast majority of contaminated sites in developed areas." Screening Guidance at page 1-10. The Regional Board guidance lists several situations where it may not be appropriate to use these screening levels.² However, none of these situations applies here.

¹ *Screening for Environmental Concerns at Sites with Contaminated Soil and Groundwater*, San Francisco Regional Water Quality Control Board (Interim Final - November 2007).

² Those factors include when (i) the depth to groundwater is less than 10 feet; (ii) metals are potentially mobile in leachate (*i.e.*, at mining sites); (iii) endangered species are present; (iv) more than three suspected carcinogens have been identified or (v) there is a potential for erosion due to tides, rivers, and streams that may impact aquatic habitats. Other listed exceptions are also inapplicable. Screening Guidance at page 1-11.

Response to Comments to Work Plan for Excavation of Petroleum Impacted Soil at Former Hot Mix Asphalt Plant Area of Hanson Aggregates Facility in Pleasanton, California.

May 21, 2007

Page 2 of 2

Hanson's proposed cleanup level also is consistent with the State Water Resources Control Board's (the "State Board") decisions regarding underground storage tank ("UST") closure requirements. Significantly, the State Board has consistently found that the extent of corrective measures at petroleum UST sites is properly limited by current and likely future land use. *See In the Matter of Petition of Ernest Panosian* (2004 WL 2770724) (November 18, 2004); *In the Matter of Petition of Margo Hayes* (1998 WL 884875) (November 19, 1998); *In the Matter of Matthew Walker* (1998 WL 692674) (August 26, 1998). Indeed, the screening levels upon which ACEH uses for its cleanup standards are categorized based on different land uses. In Hanson's view, it would not be proper to impose on Hanson a requirement to clean up this property to a level established for unrestricted future land use when the area is zoned and used for commercial and industrial purposes.

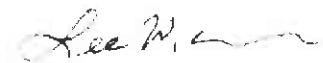
Also, consistent with such regulatory requirements for corrective measures at petroleum UST sites described above, Hanson has entered into a contractual agreement with Legacy Partners Commercial, LLC ("Legacy"). In that agreement, Legacy has only been granted an option to purchase the Facility; because it is only an option, Legacy may never choose to purchase the site. In any event, under that agreement, Hanson's remediation obligations to Legacy are expressly limited to cleanup levels for commercial/industrial land use. In other words, Legacy has already agreed that cleanup to the level appropriate for commercial and industrial use is acceptable to Legacy.

In an effort to work with ACEH to resolve this issue, Hanson requests a meeting with ACEH to discuss this important and sensitive issue. Hanson believes that the most effective manner to resolve this matter would be to meet in person. Thus, I will follow-up with you by telephone to arrange a mutually agreeable date and time to meet.

If you have any questions or require additional information in the interim, please do not hesitate to contact me. Hanson looks forward to working with ACEH to resolve this issue and begin remediation activities at the Facility.

Thank you again for your attention to this matter.

Sincerely,



Lee W. Cover
Environmental Manager
Hanson Aggregates, Northern California