

Nowell, Keith, Env. Health

From: John Till <jtill@paladinlaw.com>
Sent: Friday, April 20, 2018 5:41 PM
To: Jonathan W. Redding; Michael Harrison
Cc: Alexander, Jeriann; Nowell, Keith, Env. Health; dwood@wshblaw.com; Khatri, Paresh, Env. Health; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell; gmead@enviroassts.com; Nowell, Keith, Env. Health; Roe, Dilan, Env. Health
Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Mr. Redding

I disagree with your positions asserted in your email. Notice of all the work done in this space was prior to you prior to the work being done.

Slab Removal:

You and your consultant were provided time when work was going to start-- 8:00 a.m. on April 16, 2018. The work started on time and was completed within 8 hours. At about 11:04 am our consultant contacted your consult (Joe Whearty as requested by Jeriann) to determine if they were coming and to discuss site access. Shortly after 11:50 am on April 16, 2018, your consult contact our consultant and informed us that he would not come to the property on April 16, 2018. Your consultant informed our consult that they would come the following morning (April 17, 2018). Thus, despite being offered access to the slab removal area on the day of the slab removal, and after slab removal was completed, your consult determined they would come the following day. Per your consultant's request, access to the area was provide the following morning (April 17, 2018), prior to soil sampling and the continuation of work – your consultant was provide access at or about 7:30 a.m. the morning of April 17, 2018.

Sewer Pipe Replacement:

We are not required to do sewer pipe "removal". I am not aware of any sewer pipe that your client has removed in order to compete the investigation of the sources and leaks from your client's broken sewers – which still appear to be unrepaired and leaking. We have taken video of the sewer. If you wish to conduct additional sampling related to the sewer, then that additional sampling will need to be conducted next week. Please provide me with your suggested work and a schedule. Burst in place replacement of the pipe is consistent with my prior email and will be done because of the depth of the sewer in the space and the proximity to the footings in this area. Once the new footing work is done next week the burst in place sewer replacement will be conducted. The 7 foot soil samples were taken below and approximate to the sewer.

Access Agreement:

Just to be clear, the access agreement does not require us to allow you to have 48 hours notice. Your consultant has requested 24 hours notice during the prior emails. Those notice requirements are your notice requirement to do work on my client's property -- not my client's notice obligation to you to do work on their property. With that said, we are hereby providing you the following notice and tentative schedule for the earthquake retrofit work as follows: The foundation work will begin on April 24 and continue until approximately May 1. On May 3 the sewer replacement work will begin. It is likely that the pit for the burst in place sewer replacement will be installed on May 2. Once again, this information is the best that we have available at this time and is subject to change.

All of the samples taken at the property for VOCs are below applicable ESLs and MCLs. There is no indication that this area is a source or that the sewer pipe is a source of contamination. As previously offered, if you had additional sampling or investigation you wanted to conduct we requested that you provide us a workplan. No such workplan was provided. If you intend to take samples in the pit, please provide a workplan regarding taking those samples.

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Please consider the environment before printing this email.

From: Jonathan W. Redding [mailto:JRedding@wendel.com]
Sent: Wednesday, April 18, 2018 3:17 PM
To: John Till <jtill@paladinlaw.com>; Michael Harrison <mharrison@enviroassets.com>
Cc: Alexander, Jeriann <jalexander@fugro.com>; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; dwood@wshblaw.com; Khatri, Paresh, Env. Health <paresh.khatri@acgov.org>; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>; gmead@enviroassts.com; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; Roe, Dilan, Env. Health <Dilan.Roe@acgov.org>
Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Dear John:

I understand that the slab was removed at 307 63rd on a schedule inconsistent with the prior written notice (“may take up to 8 hours”) and the slab was completely removed before we were contacted and were provided an opportunity to observe conditions as soon as the slab was removed, as was our expectation in order to monitor vapor readings. I also understand that in contrast to our request (and that of ACDEH) to inspect the sewer lateral upon its excavation, that now Bouzos has decided to burst the sewer lateral in place, thereby prohibiting a physical inspection of the pipeline and biased soil sampling beneath the lateral invert. A video camera/internal inspection of the pipeline *is not equivalent* to a physical inspection of the pipeline to document possible breaks, corrosion, offsets, and fissure, and which allows biased sampling and testing where a release may

have occurred. These events appear to be yet again another instance(s) of intentional destruction of evidence.

As I understand it, several communications from our consultant and from the ACDEH requested notice and ability to observe both the slab removal and the pipeline removal and the witnessing and observing the condition of the pipeline, along with sampling and testing of soil from directly below the pipeline, if warranted. This is specifically provided for in our requests and the agreed scope of work in our Access Agreement. Further, based upon our understanding of the specific tasks outlined in the EnviroAssets Work Plan dated February 28, 2018 on page 2, the anticipated depths of soil sample collection including “Soil samples from beneath the sanitary sewer invert at approximately 7-feet bgs”, clearly suggests EnviroAssets thought they were going to obtain samples from below the lateral also. Testing samples from soil probes extended near the lateral is not equivalent to testing samples from below the invert.

Can you please explain why you are not doing physical inspection and removal of the lateral as previously indicated in your cover letter dated February 28, 2018 which states “During the following week of March 19, it is anticipated that the remaining **original sewer section will be removed** and replaced.” I also do suggest that you talk with your clients about the consequences of destruction of evidence.

Also, can you please let us know what inspection and removal process was utilized to during the removal of the sanitary sewer laterals that were replaced in the 6251-6255 College Avenue building suites? EnviroAssets is showing on all its figures for the 6251-6255 locations where the dry cleaning machines were situated in proximity to the main sewer lateral. It appears that physical inspection and removal of the previous lateral were performed in those locations. Indeed, EnviroAssets June 5, 2017 report states “during the sewer replacement work, the property sewer lateral was observed to be in good condition and constructed of cast iron at approximately 5 to 6 feet below grade and no connections to other properties or sewer piping external to the building were observed. Furthermore, no breaks or penetrations were observed.” Further, would you kindly explain what is the basis of these statements and who made the observations in the field? Can you please confirm that these lines were in fact removed and not burst in-place?

Finally, in accordance with the Access Agreement, we wish to be notified now of the schedule and promptly 48 hours in advance of when the work will be done. We want to be allowed to observe and immediately take samples from the “jacking pits” which we now understand will be positioned at both ends of the pipeline **BEFORE** the pipeline is burst—if this remains your planned method of sewer line replacement. Please do not call us after the pits have been opened exposing the pipelines, and definitely not after the pipelines have been burst and destroyed. In addition, please provide the sewer line videos and discuss the condition of the lateral beneath 307 63rd Street in advance of the pipeline bursting activities. We understand that there was possible evidence of debris being caught in the lateral such as one would observe at a point of pipeline breakage.

In closing, if you decide to proceed along the course of bursting the lateral and preventing physical examination of the condition of the pipeline and adjacent soils, we reserve all our rights to object at the appropriate times on the grounds of destruction of evidence.

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(510) 808-4685 (Fax)
jredding@wendel.com

From: John Till [<mailto:jtill@paladinlaw.com>]
Sent: Thursday, April 12, 2018 4:34 PM
To: Michael Harrison; Jonathan W. Redding
Cc: Alexander, Jeriann; Nowell, Keith, Env. Health; dwood@wshblaw.com; Khatri, Paresh, Env. Health; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell; gmead@enviroassts.com; Nowell, Keith, Env. Health; Roe, Dilan, Env. Health
Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

All

As part of the work related to the earthquake retrofitting, the concrete slab will be removed on Monday April 16th starting at 8:00 a.m., the dirt under the slab of approximately 12 to 18 inches will be removed on April 17th – this dirt removal work will including the work necessary for the new footing for the upgraded foundation. Once this dirt has been removed, confirmation sampling for metals will be conducted. It is likely that these samples will be taken on April 18th. The sewer pipe replacement work will be scheduled at a later date after the updated foundation work has been completed. It is our understanding that a representative from

Fugro would like to observe and document with work. Please work with Mike Harrison at EnviroAssets to coordinate this oversight.

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Please consider the environment before printing this email.

From: Michael Harrison [<mailto:mharrison@enviroassets.com>]
Sent: Friday, April 06, 2018 4:59 PM
To: John Till <jtill@paladinlaw.com>; Jonathan W. Redding <JRedding@wendel.com>
Cc: Alexander, Jeriann <jalexander@fugro.com>; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; dwood@wshblaw.com; Khatri, Paresh, Env. Health <paresh.khatri@acgov.org>; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>; gmead@enviroassts.com; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; Roe, Dilan, Env. Health <Dilan.Roe@acgov.org>
Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Dear all:

Attached please find an update of the ACDEH responsive investigation at 307 63rd Street; and 6251, 6253, and 6255 College Avenue, Oakland, CA 94618. A complete report will follow once we are able to collect the additional soil vapor sample in the nook between the buildings. Dilan, the final report will also provide a summary of the source/type of depth measurements for the groundwater summary figure 2.

Sincerely,

Michael Harrison, P.E., QSD/QSP, LEED AP
Principal
EnviroAssets, Inc.
(888) 748-8820
Web: <http://www.enviroassets.com/>

From: John Till <jtill@paladinlaw.com>
Sent: Thursday, April 05, 2018 10:24 AM
To: Jonathan W. Redding <JRedding@wendel.com>

Cc: Alexander, Jeriann <jalexander@fugro.com>; Michael Harrison <mharrison@enviroassets.com>; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; dwood@wshblaw.com; Khatri, Paresh, Env. Health <paresh.khatri@acgov.org>; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>; gmead@enviroassts.com; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; Roe, Dilan, Env. Health <Dilan.Roe@acgov.org>

Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Jonathan

Please provide your consultants data collected during your consultant's oversight of the work as required by the access agreement.

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Please consider the environment before printing this email.

From: Jonathan W. Redding [<mailto:JRedding@wendel.com>]

Sent: Thursday, March 22, 2018 2:46 PM

To: John Till <jtill@paladinlaw.com>

Cc: Alexander, Jeriann <jalexander@fugro.com>; mharrison@enviroassets.com; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; dwood@wshblaw.com; Khatri, Paresh, Env. Health <paresh.khatri@acgov.org>; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>; gmead@enviroassts.com; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; Roe, Dilan, Env. Health <Dilan.Roe@acgov.org>

Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Dear John:

Thank you for the initial soil sample data. We are not entirely surprised by the non-detects identified as the impacts appear most readily in soil vapor and groundwater samples.

Field measurements obtained during vapor pin sampling and as well as upon removal of the concrete cores in all 6 locations investigation points inside the 305-307 63rd St tenant unit suggest a positive presence of some volatiles in the space below the floor slabs. As I understand it, there is soil vapor and groundwater data that should be available for review later this week or early next week. Accordingly, , it would seem most reasonable to wait until all remaining data has been received and reviewed by us and the regulators prior to removal of the slab. Certainly all that can be done, without causing any interruption to your start date in two weeks? Please advise as to when the soil gas and groundwater samples will be available.

Finally, I believe Fugro has asked to be present upon removal of the slab and upon the excavation of the soils and uncovering of the utility lines beneath the slabs, with the potential to take samples during the later events. It would be useful to know the proposed sequencing and current scheduling of those activities so that our consultant, and perhaps the County can be present, to make observations, take field measurements and samples as appropriate.

Thanks, Jonathan

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From: John Till [<mailto:jtill@paladinlaw.com>]
Sent: Thursday, March 22, 2018 12:40 PM
To: Jonathan W. Redding
Cc: Alexander, Jeriann; mharrison@enviroassets.com; Nowell, Keith, Env. Health; dwood@wshblaw.com; Khatri, Paresh, Env. Health; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell; gmead@enviroassts.com; Nowell, Keith, Env. Health; Roe, Dilan, Env. Health
Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland
Importance: High

Dear Mr. Redding:

During work conducted on March 15 and 16, 2018, with oversight by your consultant, Fugro USA Land, Inc., appropriate testing of sub-slab vapor, shallow, and deep soil vapor, soil, and groundwater, were completed at 307 63rd Street and 6235-6239 College Avenue in Oakland. Attached please find the first analytical data received yesterday from the sampling effort - shallow soil samples collected from the first native layer beneath the concrete slab and base material at 307 63rd Street. These samples were submitted for expedited analysis to allow evaluation with respect to soil conditions and soil removal.

No volatile organic compounds were detected in the two shallow soil samples - including chlorinated solvents tetrachloroethylene (PCE) and related compounds trichloroethylene (TCE), dichloroethylenes (DCEs), and vinyl chloride.

Based on EnviroAssets' evaluation of the inorganic data, the concentrations of chromium in sample B15 S/GW-S2-A and lead in sample B16 S/GW-S2-A exceed the sample preparation dilution based rules-of-thumb to identify samples that could potentially exceed TCLP and STLC regulatory limits after analysis. Consequently, EnviroAssets has submitted the samples for TCLP and STLC extraction and analysis for chromium and lead, respectively.

As the proposed soil, soil vapor, subslab vapor, and groundwater samples have been collected and submitted for analysis prior to removal of the building slab in 307 63rd Street as requested, please confirm that our clients can proceed with slab removal and seismic retrofit work as soon as soil disposal options are clarified by receipt of the TCLP and STLC results for the shallow soil samples. It is my understanding that your consultant would like to be on site during slab and soil removal which is tentatively scheduled for approximately two weeks from today. We will keep you posted on that schedule.

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Please consider the environment before printing this email.

From: Roe, Dilan, Env. Health [<mailto:Dilan.Roe@acgov.org>]
Sent: Friday, March 09, 2018 12:18 PM
To: John Till <jtill@paladinlaw.com>
Cc: Alexander, Jeriann <jalexander@fugro.com>; mharrison@enviroassets.com; ronpatelvidge@gmail.com; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; dwood@wshblaw.com; pton@ww-envlaw.com; Khatri, Paresh, Env. Health <paresh.khatri@acgov.org>; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>; gmead@enviroassts.com; Jonathan W. Redding <JRedding@wendel.com>; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>

Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

John:

I am sorry to hear about Mike's sisters passing. Please send my condolences to him.

Thank you for the clarification on the timeline of the upcoming work. Alameda County Department of Environmental Health staff would like to be present at the site during slab removal and the uncovering of the sewer line. Please provide notification of when these activities will be occurring. Advanced notice of 48 hours would be the best but if that is not possible please let us know as soon as your team has determined the schedule.

Dilan Roe, PE, C73703

Chief – Land Water Division

Alameda County Department of Environmental Health

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Alameda, CA

510.567.6767; Ext. 36767

QIC: 30440

dilan.roe@acgov.org

From: John Till [<mailto:jtill@paladinlaw.com>]

Sent: Friday, March 9, 2018 12:13 PM

To: Jonathan W. Redding <JRedding@wendel.com>

Cc: Alexander, Jeriann <jalexander@fugro.com>; mharrison@enviroassets.com; ronpatelvidge@gmail.com; Roe, Dilan, Env. Health <Dilan.Roe@acgov.org>; Nowell, Keith, Env. Health <Keith.Nowell@acgov.org>; dwood@wshblaw.com; pton@ww-envlaw.com; Khatri, Paresh, Env. Health <paresh.khatri@acgov.org>; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>; gmead@enviroassts.com

Subject: RE: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Importance: High

All

First, I was trying to communicate that Mike Harrison's sister passed away. Mr. Harrison is dealing with family issues arising from this.

Here is the current tentative schedule for up-coming on-site activities with EnviroAssets at the Bouzos property....6251-6255 College Avenue in Oakland, California. EnviroAssets will be onsite for all of the activities below.

Tuesday March 13: Subsonic will perform utility clearance of boring locations and utility survey within the alley and EnviroAssets will mark site for USA 800AM to 1200PM

Wednesday March 14: Confluence Environmental will take vapor samples from the 4 vapor pins which were previously installed. This sampling will start around 300PM and will likely last approximately 2 hours. These samples will be taken prior to the slab in the 307 63rd space is drilled for the other sampling set forth in the work plan.

Thursday-Friday March 15 and 16th Gregg Drilling will be on site to implement the other sampling set out in the workplan. Except the vapor sampling between the building located at 6251 and 6241 College. The date of this sampling will be set at a later date.

Once we have received the sample results from all of these sampling events related to the 307 space. The slab will be removed and the other earthquake retrofit work will continue. Results of sampling be reviewed to determine other additional steps that might be required.

The video survey of the sanitary sewer is being scheduled with Subtronic for the earliest available date. The sewer will not be replaced until this sewer video survey has been completed. Currently it is anticipated that this will be two weeks away (Friday March 23). Confirmation of this date should happen this afternoon.

Mr. Redding or Ms. Alexander

Please let me know which activities you will be attending and what you are requesting to do during the various activities. Thank you.

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Please consider the environment before printing this email.

From: Jonathan W. Redding [<mailto:JRedding@wendel.com>]

Sent: Friday, March 9, 2018 11:31 AM

To: John Till <jtill@paladinlaw.com>

Cc: Alexander, Jeriann <jalexander@fugro.com>; mharrison@enviroassets.com; ronpatelvidge@gmail.com; dilan.roe@acgov.org; keith.nowell@acgov.org; dwood@wshblaw.com; pton@ww-envlaw.com; paresh.khatri@acgov.org; dsobelman@downeybrand.com; epoppler@behblaw.com; Donna Cresswell <DCresswell@wendel.com>

Subject: Re: Work Plan for VOC Testing and Pipeline Inspection - 6251-6255 College Avenue and 305 and 307 63rd St, Oakland

Thanks for the reply. Condolences to Michael. Please make sure the slab is not breached before appropriate testing can be done. Thanks. Jonathan

Sent from my iPad. Pardon the computer generated or difficult to correct typos.

On Mar 9, 2018, at 10:20 AM, John Till <jtill@paladinlaw.com> wrote:

All

Michael's passed away last night. We are trying to confirm schedule. I hope to get back to you all later today. I am in Washington DC but am working to try to get confirmation.

Sent from my iPhone

On Mar 9, 2018, at 11:46 AM, Alexander, Jeriann <jalexander@fugro.com> wrote:

Hi Michael,

I called and left you a voice message this morning regarding the potential start of sampling for the Bouzos property. Fugro is planning on being onsite to observe various field activities as outlined in the brief memorandum attached. As of March 2, 2018, I understood that the anticipated date for slab removal was during the week of March 12th and that soil vapor and vapor pin sampling was to precede slab removal, but had not received an update on any field work as of March 8.

I am trying to schedule my time for next week and would appreciate at least 24-hour notice of planned field work/sampling so may manage my time onsite accordingly.

I am working out of our Walnut Creek office today and can be reached at 925-949-7103 or at my cell number 510-610-8052, to discuss the proposed schedule.

Kind regards,

Jeriann Alexander, PE, REPA

Principal Engineer

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M +1 510 610 8052

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469 Roland Way, Oakland, California 94621, USA

From: Donna Cresswell [<mailto:DCresswell@wendel.com>]
Sent: Tuesday, March 06, 2018 3:19 PM
To: 'JTill@PaladinLaw.com' <JTill@PaladinLaw.com>
Cc: 'ronpatelvidge@gmail.com' <ronpatelvidge@gmail.com>; 'dilan.roe@acgov.org' <dilan.roe@acgov.org>; 'keith.nowell@acgov.org' <keith.nowell@acgov.org>; 'dwood@wshblaw.com' <dwood@wshblaw.com>; 'pton@ww-envlaw.com' <pton@ww-envlaw.com>; 'paresh.khatri@acgov.org' <paresh.khatri@acgov.org>; 'dsobelman@downeybrand.com' <dsobelman@downeybrand.com>; 'epoppler@behblaw.com' <epoppler@behblaw.com>; Alexander, Jeriann <jalexander@fugro.com>; Jonathan W. Redding <JRedding@wendel.com>
Subject: Your letter of February 28, 2018 and March 2, 2018 email concerning proposed Environmental Investigation Work Plan for VOC testing and pipeline inspection, removal, etc.

Mr. Till:

At the request of Jonathan Redding, I am emailing you his letter dated today.

Best regards,

Donna

Donna B. Cresswell | Wendel Rosen Black & Dean LLP

Assistant to Richard P. Waxman, Jonathan W. Redding
and Michael A. Dean

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<Memo re Comments and Access 03062018.pdf>