

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Mark Johnson)
MEETING DATE: June 16, 2004

ITEM: 5.D

SUBJECT: **City of Richmond, for the property located at Terminal One, 1500 Dornan Drive, Richmond, Contra Costa County - Adoption of Site Cleanup Requirements**

CHRONOLOGY: The Board has not previously considered this item.

DISCUSSION: This item was continued from last month's Board meeting to allow past operators additional time to comment on the Tentative Order. The City of Richmond Redevelopment Agency (Agency) is suing the past operators to recover costs for investigation and cleanup of the property. Terminal One, located near Point Richmond, operated as a port facility from the early 1900s until the late 1980s (see Figure 1, Tentative Order). It was primarily used as a storage and warehouse facility and for transfer of cargo and bulk liquids from ships to trucks and rail cars. As a result of these operations, petroleum, polynuclear aromatic hydrocarbons (PAHs), and chlorinated solvents were released, impacting soil and groundwater at the site.

Terminal One is currently being considered for redevelopment for residential uses. The Agency is exercising its authority under the Health and Safety Code (Polanco Act) to accomplish clean up as part of its efforts to alleviate blight. Under this authority, the past operators have the right to conduct the investigation and remediation or, if they do not, the Agency may conduct such activities and recover costs from them. The past operators have not conducted or participated in any of the investigation or remedial activities. This being the case, the Agency has taken the initiative to move forward. The Agency has completed a remedial investigation and health risk assessment as well as a feasibility study, which evaluates cleanup alternatives. The Agency proposes a package of cleanup measures including a subsurface barrier to prevent lateral migration of contaminants, in-situ thermal desorption to remove solvents in the source area, excavation of certain soils, and various risk management measures (including a deed restriction).

The Tentative Order (Appendix A) names the City of Richmond (City) as a discharger because it is the current owner of the site and owned the site during the time discharges occurred. The Tentative Order sets forth risk-based cleanup standards for soil and groundwater on the site, endorses the Agency's

cleanup proposal, and requires preparation and implementation a remedial action plan.

The Agency, the City, and past operators have submitted comments on the Tentative Order (Appendix B). Initial comments from the Agency and the City focus on naming the past operators as dischargers. Board staff find this an appropriate request; however, such action at this point would likely delay adoption of Site Cleanup Requirements and the cleanup of the property for several months. Board staff will consider bringing this item back before the Board in the future to consider naming past operators, as appropriate. The Agency and City find this acceptable. Additional comments submitted by the Agency and City are in response to comments submitted by the past operators.

Comments from the past operators are, in part, intended to improve their negotiation position at a June 9-10 mediation session with the Agency. The mediation is intended to resolve cost allocation issues that are at the heart of the Agency's lawsuit. The comments fall into two categories: (1) relax the soil cleanup standards and (2) leave open the possibility of less costly cleanup alternatives. Regarding (1), we have made appropriate modifications to the soil cleanup standards for petroleum, tetrachloroethene and PAHs. Regarding (2), the past operators propose that the Tentative Order not approve or otherwise endorse the Agency's cleanup proposal, arguing that the Water Board cannot specify the means of compliance. We disagree. The Agency, given the inaction by the past operators, has made a specific proposal and the Tentative Order merely approves the proposal. This is how we normally handle cleanup plans. If the parties mutually agree to change the cleanup proposal, then the Board can amend the site cleanup requirements to reflect the change; we would only reject a revised cleanup proposal if we concluded that it was inadequate to meet the cleanup standards.

We have addressed all comments to date and expect to have continued discussions with the parties prior to the Board meeting. We believe that both sides may accept the current version of the Tentative Order. However, due to the litigation between the Agency and past operators, this item may be contested.

**RECOMMEN-
DATION:**

Adoption of Tentative Order

File No.:

07S0125 (MEJ)

Appendix:

A. Tentative Order

B. Correspondence