



David Yelton, Assistant Director/Building Official
Development Services Division
Community Development Department

June 29, 2021

Mr. Haissam Salloum, Branch Chief of the Cleanup Program at the Chatsworth Office
Department of Toxic Substances Control
9211 Oakdale Avenue
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Subject: Lindmark Engineering's peer review of Jacobs Engineering Group, Inc. Removal Action Work Plan (RAW) prepared on behalf of the responsible party, the Union Pacific Railroad, for the property known as Lots 12, 13, and 13A in the City of Beverly Hills, California, 90210.

Dear Mr. Salloum,

As you may recall, on October 21, 2020, the City submitted Lindmark Engineering's ("LE") review of the September 18, 2020, Draft Removal Action Work Plan ("DRAW") prepared by Jacobs Engineering on behalf of the responsible party Union Pacific Railroad for the properties known as Lots 12, 13, and 13A ("site") currently owned by Beverly Hills Land Company ("BHLC"). The City owns all properties that adjoin the site and operates drinking water wells located as close as approximately 100 feet from the site. Also, on October 21, 2020, the City submitted LE's comments on DTSC's CEQA Initial Study dated September 15, 2020 for the site. Lots 13 and 13A are proposed to be deeded to the City for an undetermined future use.

Once the City was made aware of the posting of the Final Removal Action Work Plan (RAW) on Envirostor which also included DTSC's response to comments to the DRAW, we requested LE to review the RAW and DTSC's response to comments submitted during the DRAW public comment period from September 23 to October 22, 2020. DTSC's response to comments was attached to the RAW and therefore not provided until after the DRAW had been approved. Attached is LE's May 18, 2021 review of the RAW.

LE's letter identifies three major concerns that affect the City:

1. There is a high probability that areas on the site with elevated arsenic contamination from 0 to 2 feet bgs will be overlooked and not excavated.
2. Adjoining City rights-of-way with documented shallow arsenic contamination above 25 mg/kg from 0 to 2 feet bgs will not be further assessed and remediated.
3. There is a high probability that arsenic releases at the site have contaminated the underlying first groundwater and contributed to elevated arsenic concentrations detected in nearby municipal wells, located as close as approximately 100 feet from the site.

The RAW does not mention the arsenic sampling at the site and adjoining City rights-of-way between 2015 and 2018 although this sampling revealed elevated arsenic concentrations above the cleanup goal on the site in areas that are not proposed for remediation, and on the adjoining City rights-of-way. One of these arsenic-impacted rights-of-way is located west of Lot 12 and was previously a railroad right-of-way on which train traffic operated on two parallel spurs. The RAW does not include a plan to further assess and remediate the arsenic contamination on the City's rights-of-way, which remain natural areas, including those areas landscaped and irrigated. By allowing arsenic contamination to remain in place at the site and implementing institutional controls, DTSC is effectively shifting the responsibility from the responsible party, Union Pacific Railroad, to others, such as the City.

The greatest concern is probably the arsenic contamination above the maximum contaminant level ("MCL") detected in nearby City-operated drinking water wells. The most impacted well is only approximately 100 feet from Lot 13. The City water wells provide the drinking water supply to the entire city and a portion of West Hollywood. The City's groundwater supply is obtained from the Hollywood Subbasin of which the City possesses water rights and is the sole water purveyor. By far the predominant land use and water consumption in the City are residential.

The City's use of groundwater is projected to increase and the degradation of the water quality by the arsenic releases from the railroad operations affect the sustainable management of groundwater.

A human health risk assessment (HHRA) performed in 2007 by Union Pacific Railroad's consultant concluded that the arsenic contamination detected did not pose a risk to the drinking water supply but assumed there were no drinking water wells within a one-mile radius of the site, although at that time the City operated four wells within one-third of a mile, and the well closest to the site was by far the most impacted by arsenic. The soil was the only pathway evaluated and the associated risk from dust inhalation to nearby residents and site workers. The groundwater was not considered in the evaluation of risk although the nearby drinking water wells used by the residential community in normal circumstances would be evaluated as obvious potential receptors.

The HHRA was subsequently used in the development of the DRAWs and the RAW that proposed to only excavate shallow soil to a depth less than 2 feet bgs. Nothing is proposed to further assess the arsenic contamination in groundwater.

As stated on its website, DTSC's Mission is in part "to protect California's people, communities, and environment from toxic substances ..." <https://dtsc.ca.gov/who-we-are/>. Further, DTSC's Vision is in part that "Californians enjoy a clean and healthy environment, and as a result of [DTSC's] efforts: [c]ommunities are confident that [DTSC] protect[s] them from toxic harm." *Id.* We believe the main purpose of the DRAW review process was to give the affected community an opportunity to express questions and concerns and for DTSC to carefully consider whether such concerns warranted a different approach to assess and remediate the contamination at the site. The City's continuing concerns as articulated in the attached LE review of the RAW and prior written correspondence have not been adequately addressed.

We request that DTSC respond to the attached LE review of the RAW. Additionally, we request that DTSC reevaluate whether it is consistent with DTSC's Mission and Vision to continue down a path of closure for a site with evidence that onsite conditions are contributing to groundwater and drinking water contamination and when there has not been adequate delineation of arsenic impacts beyond the site boundaries.

We appreciate your consideration of our concerns and look forward to your response.

Sincerely,



David Yelton

Attachment: Lindmark Engineering letter dated May 18, 2021, Project No. 2020-260 titled Review of Jacob's Final Removal Action Work Plan, dated February 19, 2021, for Lots 12, 13 and 13A.

cc: Grant Cope, Deputy Director Site Mitigation and Restoration Program
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