



## Central Coast Regional Water Quality Control Board

May 3, 2019

Samantha Hauser  
City Ventures  
Director of Development  
444 Spear Street, Suite 200  
San Francisco, CA 94105  
Email: [samantha@cityventures.com](mailto:samantha@cityventures.com)

***Sent Via Electronic Mail***

Dear Ms. Hauser:

**SITE CLEANUP PROGRAM: CITY VENTURES PROJECT, INTERSECTION AT SKYPARK DRIVE AND MOUNT HERMON ROAD, ASSESSOR'S PARCEL NUMBER 022-231-025, SCOTTS VALLEY, SANTA CRUZ COUNTY– RESPONSE TO REQUEST FOR CLARIFICATION ON CLEANUP REQUIREMENTS FOR POLLUTED PROPERTY**

Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff received and reviewed Stantec's email<sup>1</sup> (Email), submitted on behalf of City Ventures, requesting clarification regarding how development proposals can proceed on properties affected by pollution originating from known cleanup sites (i.e., offsite sources). The Email refers to the above-referenced property (Property)<sup>2</sup> in the city of Scotts Valley in Santa Cruz County where City Ventures is considering a proposed development (Development) that's adjacent to an active Central Coast Water Board site cleanup program case referred to as the Scotts Valley Dry Cleaners (SVDC).<sup>3</sup> Information in the Email also describes the Development as having residential and commercial uses and summarizes the investigative findings related to detections of dry-cleaning solvents in soil, soil gas, and groundwater attributable to the SVDC. More recently, Stantec completed a soil and soil gas investigation on the Property and submitted those findings to the Central Coast Water Board in a Phase II Environmental Site Assessment report (Phase II Report).<sup>4</sup>

<sup>1</sup> Stantec November 13, 2018 email:

[http://geotracker.waterboards.ca.gov/view\\_documents?global\\_id=T10000012363&enforcement\\_id=6377779](http://geotracker.waterboards.ca.gov/view_documents?global_id=T10000012363&enforcement_id=6377779)

<sup>2</sup> City Ventures Scotts Valley (Potential Development) (T10000012363) GeoTracker website:

[http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T10000012363](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000012363)

<sup>3</sup> Scotts Valley Dry Cleaners (SLT3S5621370) GeoTracker website:

[http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=SLT3S5621370](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SLT3S5621370)

<sup>4</sup> City Ventures Phase II Environmental Site Assessment report:

[http://geotracker.waterboards.ca.gov/view\\_documents?global\\_id=T10000012363&enforcement\\_id=6377779](http://geotracker.waterboards.ca.gov/view_documents?global_id=T10000012363&enforcement_id=6377779)

The Central Coast Water Board is the lead oversight agency for investigation and cleanup activities for the SVDC. The Property borders the SVDCs to the west and northwest. Onsite and offsite investigations for the SVDC performed by the Pratt Company, one of multiple responsible parties for investigation and cleanup of the SVDC, have confirmed detections of volatile organic compounds, primarily tetrachloroethene (PCE), in soil, soil gas, and groundwater beneath the former dry cleaner site and surrounding areas of the SVDC. Central Coast Water Board staff have determined that the PCE is attributable to releases from dry-cleaning operations at the SVDC. Concentrations of dry-cleaning solvents released from the SVDC exceed acceptable health risk screening levels for residential and commercial land uses beneath City Ventures' proposed Development. City Ventures' Phase II Report also provides information indicating the presence of constituents in soil and soil gas beneath the Property unrelated to the SVDC, primarily non-chlorinated petroleum hydrocarbons, but at concentrations below risk screening levels.<sup>5</sup>

The Email includes a request for a response on two primary questions:

1. Will the Central Coast Water Board require the responsible parties for the SVDC to implement the necessary assessment and remediation to render the Property unencumbered for development of residential use; and
2. Will the Central Coast Water Board allow City Ventures to undertake the necessary assessment and remediation to allow the proposed development to proceed on the Property?

Central Coast Water Board Response:

California Water Code section 13304 authorizes the Central Coast Water Board, among other provisions, to order any person who "causes or permits" waste to be discharged where it "creates, or threatens to create, a condition of pollution or nuisance" to clean up the waste or abate the effects of the waste. The State Water Resources Control Board (State Water Board) in interpreting section 13304, has found the following classes of persons to be responsible as either causing or permitting a discharge of waste: (1) owners and operators at the time of an initial discharge; (2) current property owners; (3) interim property owners in certain circumstances; and (4) certain lessees of property. In all of these State Water Board orders, the source of the groundwater pollution was at the property itself. The State Water Board has not found a property owner to be responsible for groundwater pollution underlying the property where the source of the pollution is off the property. Based on the State Water Board's past orders, an owner of property overlying groundwater pollution originating from an offsite source is unlikely to be held responsible for that pollution except for purposes of access or unless activities on the property exacerbate or contribute to that groundwater pollution.

Therefore, the Central Coast Water Board considers the responsible parties for the SVDC responsible for cleanup and mitigation (including vapor mitigation) for pollutants attributable to the SVDC on the subject Property. However, if the cleanup and mitigation of wastes takes longer than City Ventures' proposed development schedule, then City Ventures may submit a cleanup and risk mitigation plan to the Central Coast Water Board for review and concurrence prior to implementing such plan. The Central Coast Water Board recommends performing cleanup and risk mitigation prior to and as part of development. Any entity may propose to the Central Coast Water Board a cleanup and risk mitigation plan for the Property regardless of who

---

<sup>5</sup> Central Coast Water Board uses San Francisco Bay Water Board Environmental Screening Levels (ESLs) to provide conservative screening levels. See:

[https://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/esl.html](https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html)

owns the property. However, the plans must have scopes of work that meet Central Coast Water Board Site Cleanup Program requirements to ensure protection of human health, water quality, and the environment. This is accomplished by pollutant cleanup to background and residential use risk standards to achieve land use without a deed restriction. If cleanup to background and residential use are infeasible, then mitigation and a deed restriction are required to address risk. Additionally, plans must include access to the Property for potential future cleanup actions by the responsible parties for the SVDC if needed; and construction on the Property may not exacerbate pollution conditions, such as through increased exposure risks, and/or enhancement of migration potential with changes in drainage, infiltration patterns, and installation of underground utilities.

The Central Coast Water Board does not have direct authority to allow or deny development or land use change proposals for polluted properties; this authority resides with local land use permitting authorities. Therefore, for the Property:

- Central Coast Water Board staff won't object to City Ventures' Development proceeding while the responsible parties for the SVDC or City Ventures pursue ongoing cleanup actions to ensure protection of public health on the Property;
- Investigation, risk mitigation, and cleanup of pollutants not attributable to the SVDC site, are the responsibility of the current and past property owners and operators; and
- Development must not pose an unacceptable risk to human health and the environment in either a commercial or residential setting and may not exacerbate pollution conditions.

Should City Ventures opt to continue with the Development at the Property, the Central Coast Water Board can review investigation reports, cleanup plans, and risk assessments as the lead agency for soil, soil vapor, and groundwater cleanup in coordination with Santa Cruz County Environmental Health (SCCEH) staff. Alternatively, City Ventures can opt to engage the SCCEH directly as lead oversight agency for soil vapor risk assessment, mitigation, or cleanup to be protective of human health. The SCCEH has a program for recovering their staff oversight costs so we suggest you contact them directly for more information. Should City Ventures propose and implement an expedited cleanup plan that accelerates ongoing cleanup efforts by the responsible parties for the SVDC, the Central Coast Water Board would require City Ventures to enroll in the Central Coast Water Board's Site Cleanup Program Cost Recovery Program due to the additional oversight costs associated with the accelerated cleanup.

If you have questions please contact **Dan Niles** by telephone at **805-549-3355** or email at [dan.niles@waterboards.ca.gov](mailto:dan.niles@waterboards.ca.gov), or Sheila Soderberg at 805-549-3592.

Sincerely,

for John M. Robertson  
Executive Officer

cc's on next page

cc:

Scott Carson  
Santa Cruz County Environmental Health  
[scott.carson@santacruzcounty.us](mailto:scott.carson@santacruzcounty.us)

Kathleen Molloy  
Santa Cruz County Planning Director  
[kathy.molloy@santacruzcounty.us](mailto:kathy.molloy@santacruzcounty.us)

Steve Guiney  
Santa Cruz County, Principal Planner  
[steven.guiney@santacruzcounty.us](mailto:steven.guiney@santacruzcounty.us)

Jocelyn Drake  
Santa Cruz County, Principal Planner  
[jocelyn.drake@santacruzcounty.us](mailto:jocelyn.drake@santacruzcounty.us)

Brenda Stevens  
City of Scotts Valley, Associate Planner  
[bstevens@scottsvalley.org](mailto:bstevens@scottsvalley.org)

Taylor Bateman  
City of Scotts Valley, Community Development Director  
[tbateman@scottsvalley.org](mailto:tbateman@scottsvalley.org)

Kyle Emmerson  
Stantec  
[kyle.emerson@stantec.com](mailto:kyle.emerson@stantec.com)

Alicia Jansen  
Stantec  
[alicia.jansen@stantec.com](mailto:alicia.jansen@stantec.com)

Chris Alger  
Terraphase  
[chris.alger@terraphase.com](mailto:chris.alger@terraphase.com)

Michael Fogelman  
The Pratt Company  
[mfogelman@prattcompany.com](mailto:mfogelman@prattcompany.com)

R:\RB3\Shared\SCP\SITES\Santa Cruz Co\Scotts Valley\City Ventures\City Ventures - Scotts Valley 05-2019.doc

CR#: 1610130  
GeoTracker ID: T10000012363