



CENTER FOR PUBLIC ENVIRONMENTAL OVERSIGHT

A project of the Pacific Studies Center

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June 11, 2020

Eric Cantenweela
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105
By e-mail at canteenwala.eric@epa.gov

Dear Sir:

Thank you for the opportunity to comment on the proposed deletion of the JASCO Chemical Corporation site, 1710 Villa Street, Mountain View, CA, from the “Superfund” National Priorities List (NPL), in response to [EPA–HQ–SFUND–1989–0011; FRL–10008–68–Region 9] in the May 26, 2020 *Federal Register*.

In summary, I do not believe deletion should occur until current sampling shows that the original remedial action objectives have been met and until the new apartments, under construction at the site, are verified to have been designed and built to meet vapor intrusion mitigation requirements that would ensure the safety of future building occupants at the site.

I recognize that EPA and the Bay Area Regional Water Quality Control Board are conscientiously taking steps to meet those goals. I appreciate that you and Ron Goloubow of the Water Board have taken the time to provide me with information about the site.

My conclusion, after reading available site documents is based on two findings:

First, no recent subsurface sampling has been conducted at the site, and the most recent data shows unacceptable levels of tetrachloroethylene (PCE) in the soil gas and groundwater.

Second, contamination doesn't disappear just because regulators conclude that it has come from an offsite source, and there is insufficient evidence that all the contamination remaining on the site is indeed from an offsite source.

Safe Building

I support the construction of 226 apartments on the site, most of which consists of the former JASCO property. I believe those apartments can be built so they are safe for all populations, but as the Water Board is requiring, a hybrid vapor intrusion mitigation system is necessary. In its May 22, 2020 letter, the Water Board notes, "The most recent soil vapor data from 2002 detected tetrachloroethene (PCE) up to 45,000 micrograms per cubic meter." It also reports, "The most recent groundwater data from 2010 detected PCE up to 190 micrograms per liter." These are unacceptably high levels, but assuming that the contamination has not attenuated significantly since last sampling, I am hopeful that construction will remove much of that contamination.

Fortunately, the Water Board is requiring, and the developer is planning, sampling to determine if contaminant concentration objectives are met. I suggested to the Water Board that it develop a contingency plan for additional action if sampling shows exceedances above remedial objectives.

The vapor mitigation plan relies heavily upon ventilation of the future underground parking garage. I have asked the Water Board for assurances that the ventilation, which is designed to address air quality other than vapor intrusion, will be adequate to prevent unacceptable PCE exposure. Similarly, mitigation systems for elevators and stairwells must be designed carefully to prevent preferential migration.

Finally, I have asked the Water Board to require that prospective residents be notified of the property's environmental history and the environmental response to date. As Mountain View has required at similar properties, this notice should be provided at the point of marketing before people make plans to move in. We have found at other sites, such as Moffett Military Housing, that people tend to assume the worst when they are denied simple information when they move in.

I believe it would be misleading to the public, particularly future residents, for EPA to delete the site from the NPL before such actions are taken.

The Source

The proposal to de-list this site is largely based upon the conclusion that the PCE contamination did not originate on site. I have three problems with this.

- First, nothing has been done by the California Department of Toxic Substances Control to identify an off-site responsible party or address the property as an orphan site. The only

response, associated with redevelopment, is overseen by the Water Board, and that has not yet been implemented.

- Second, it seems inconsistent with the Superfund principle of Strict, Joint, and Several Liability. If a party is responsible for any portion of a site's contamination, it can be held responsible for all of it. In other words, NPL listing is based upon the site and the hazard it poses, not the source. Why would EPA walk away from such a site?
- Third, the conclusion that the PCE did not originate on site appears to have been first put forward by consultants for JASCO. It's possible, but I do not find the evidence persuasive.

The strongest evidence for an offsite source is that JASCO didn't tell the Mountain View Fire Department that it was using PCE. In general, I consider corporate self-reporting unreliable. But in this case, something worse was going on. My organization (the Pacific Studies Center) received a report in the 1980s (late 1970s?) that someone from JASCO was conducting "midnight dumping," the unauthorized disposal of hazardous wastes on the ground on or near the property. We reported that to the Fire Department, but I don't know if those records have been preserved.

In evaluating potential sources of the PCE contamination, regulators should consider not only midnight dumping, but preferential pathways, similar to the sewer lines now known as the source of hotspots in Operable Unit 3 of the MEW Superfund Study Area. Without such consideration, it is not reasonable to rule out an on-site source for the PCE.

Finally, while the JASCO consultants repeatedly referred to essentially clean hydropunch soil samples, no one has explained the extremely high levels of PCE in soil gas. In particular, the reported levels of groundwater contamination—which JASCO's consultants claimed to be the source of on-site PCE—are not high enough to explain the presence of PCE in soil gas at 45,000 micrograms per cubic meter. Where did that come from?

In Conclusion

I recognize that deletion from the "Superfund" National Priorities List is largely a symbolic action that does not affect the long-term management of contaminated property. However, since multiple actions must still be taken to ensure that hundreds of future residents will be safe, deletion now would be misleading to the public, particularly those who may choose to rent the apartments that are now under construction.

Sincerely,

A handwritten signature in black ink that reads "Lenny Siegel". The signature is written in a cursive, flowing style.

Lenny Siegel
Executive Director