

CALIFORNIA ENVIRONMENTAL QUALITY ACT STATEMENT OF FINDINGS

The Department of Toxic Substances Control (DTSC) has issued Findings for this project pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, Division 13, Section 21081) and implementing Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15091 et seq.)

A. PROJECT SUBJECT TO DTSC APPROVAL

PROJECT TITLE: Preliminary Endangerment Assessment Addendum, Smilo Chemical Company		SITE CODING: 202136
PROJECT ADDRESS: 500 Kirkham Street	CITY: Oakland	COUNTY: Alameda
PROJECT SPONSOR: 500 Kirkham, LLC	CONTACT: Michael Thomas	PHONE/ EMAIL: michael@panoramic.com (415) 701-7006
Approval Action Under Consideration by DTSC: Preliminary Endangerment Assessment Addendum		
STATUTORY AUTHORITY: California H&SC, Chapter 6.8		
<p>PROJECT DESCRIPTION: The project activities involve the implementation of a Preliminary Endangerment Assessment (PEA) Addendum for the Smilo Chemical Company project. The PEA Addendum recommends replacing the existing four groundwater monitoring wells within one year of construction completion, installation of vapor intrusion barriers beneath all future buildings, and recording a land use covenant. The PEA Addendum was prepared to address vapor intrusion issues and mitigation measures associated with a revised development plan.</p> <p><u>Background:</u> The project site (Site) consists of approximately 2.5 acres located at 500 Kirkham Street in the City of Oakland. The Site was occupied by residences and commercial/industrial development from before the 1930s through the mid-1950s. These operations included a variety of commercial/industrial warehouse and manufacturing operations including clothing, canned goods, and paper products. From the mid-1950s through the early 1990s, the entire Site, except for the southwestern quarter, was covered by the elevated Interstate 880 freeway. During this time, the southwestern portion of the Site was occupied by automotive and truck repair businesses and a chemical repacking operation. Following the 1989 Loma Prieta Earthquake, the freeway was removed from the Site in the early 1990s and the Site reverted to commercial and industrial uses. In 1995, one 1,100-gallon gasoline underground storage tank (UST) was excavated and removed from the western portion of the Site.</p> <p>Environmental investigations were conducted at the Site between 1995 and 2016. Review of the aggregate data indicates volatile organic compounds (VOCs), total petroleum hydrocarbon as gasoline and diesel ranges (TPHs), and metals were detected in groundwater and soil gas. VOCs and TPHs were detected in soil gas, and TPHs and metals were detected in soil. The investigations summaries were detailed in a 2017 PEA report.</p> <p>A previous PEA was prepared for the Site in 2017 and considered potential vapor intrusion exposure scenarios; however, the most recent soil gas data cited in the report did not exhibit target analytes more than respective screening levels that were in effect at the time of PEA publication. The April 2017 PEA also identified an LUC as a protective administrative control against VOCs, TPHs and metals in groundwater.</p> <p>Subsequently, the development plan for the Site has been revised, and since the time of the 2017 PEA approval, the vapor intrusion screening level framework was revised. As a result, DTSC requested the preparation of an Addendum document to the 2017 PEA to address these issues.</p> <p>The Site is currently vacant. An existing elevated Bay Area Rapid Transit (BART) track crosses the southwestern portion of the Site. The Site is located in a mixed commercial/industrial and residential area of Oakland. The Site is surrounded by commercial uses to the east, multifamily and commercial uses to the north, parking lot to the west, and commercial and transportation infrastructure (i.e., BART line, I-880) to the south.</p> <p><u>Project Activities:</u> The purpose of the PEA Addendum is to address the changes in the proposed development plan and regulatory framework that have emerged since the previous PEA approval, and how these revisions may now result in</p>		

potential health risks to future land users. In addition to a revised development footprint, the proposed design has changed to include ground floor residential units with interior courtyards. A park has also been added to the design in the southwestern portion of the Site. Given the new site configuration, a new evaluation of potential soil vapor intrusion has been requested by DTSC. In the approved April 2017 PEA, soil gas concentrations were below all applicable residential screening levels. However, DTSC has since revised their screening levels and attenuation factor guidelines. Additionally, select constituents that were previously detected during sampling events did not have respective screening levels under the previous screening level framework. The 2019 screening levels in effect at the present time include screening levels for some of these constituents.

VOCs were identified in soil gas that present a risk to future residents at the Site as vapor intrusion. The PEA Addendum recommends the use of a vapor barrier to mitigate this risk. Details pertaining to the design and operation of the system, including testing and inspection, will be provided in subsequent documents. Additionally, a Land Use Covenant (LUC) will be prepared and recorded for the Site. In addition, existing monitoring wells will be destroyed prior to grading activities. Replacement monitoring wells will be installed within one year of construction completion. A well abandonment and replacement work plan will be submitted to DTSC for review and approval prior to the work being completed.

DTSC utilized information and analysis in the *500 Kirkham Street Project CEQA Analysis and Addendum to West Oakland Specific Plan EIR* (EIR Addendum), to support a final determination about the type of environmental document required to be prepared for the *Preliminary Endangerment Assessment Addendum, Smilo Chemical Company*, as provided by Sections 15162, 15163, and 15164 of the CEQA Guidelines. Specifically, the EIR Addendum analyzed potential impacts related to the overall redevelopment of the entire Site. The PEA Addendum recommendation to construct a vapor barrier, record a LUC, and replace monitoring wells will not result in any physical changes to the environment beyond those identified and analyzed in the City of Oakland’s EIR Addendum.

B. LEAD AGENCY ENVIRONMENTAL DOCUMENT REVIEWED

Lead Agency: City of Oakland
Lead Agency’s Environmental Document: 500 Kirkham Street Project CEQA Analysis and Addendum to West Oakland Specific Plan EIR
Date Certified: April 28, 2016
State Clearinghouse Number: 2012102047

C. STATEMENT OF FINDINGS AND FACTS FOR ADEQUACY OF LEAD AGENCY ENVIRONMENTAL DOCUMENT

Using its independent judgment, DTSC makes the following findings:

- The Lead Agency Final Environmental Document includes a description of the Project now before DTSC for decision
- The Lead Agency Final Environmental Document adequately analyzed impacts associated with the Project before DTSC for decision.
- DTSC concurs with the findings made by the Lead Agency Final Environmental Document relating to the Project before DTSC for decision.
- Mitigation measures are included in the Lead Agency Final Environmental Document for the following resources that would potentially be affected by the DTSC project.

<input type="checkbox"/> Aesthetics	Mitigation Measure: None
<input type="checkbox"/> Agricultural Resources	Mitigation Measure: None

<input type="checkbox"/> Air Quality	Mitigation Measure: None
<input type="checkbox"/> Agricultural Resources	Mitigation Measure: None
<input type="checkbox"/> Biological Resources	Mitigation Measure: None
<input type="checkbox"/> Cultural Resources	Mitigation Measure: None
<input type="checkbox"/> Energy	Mitigation Measure: None
<input type="checkbox"/> Geology / Soils	Mitigation Measure: None
<input type="checkbox"/> Greenhouse Gas Emissions	Mitigation Measure: None
<input type="checkbox"/> Hazards / Hazardous Materials	Mitigation Measure: None
<input type="checkbox"/> Hydrology / Water Quality	Mitigation Measure: None
<input type="checkbox"/> Land Use / Planning	Mitigation Measure: None
<input type="checkbox"/> Mineral Resources	Mitigation Measure: None
<input type="checkbox"/> Noise	Mitigation Measure: None
<input type="checkbox"/> Population / Housing	Mitigation Measure: None
<input type="checkbox"/> Public Services	Mitigation Measure: None
<input type="checkbox"/> Recreation	Mitigation Measure: None
<input type="checkbox"/> Transportation / Traffic	Mitigation Measure: None
<input type="checkbox"/> Tribal Cultural Resources	Mitigation Measure: None
<input type="checkbox"/> Utilities / Service Systems	Mitigation Measure: None
<input type="checkbox"/> Wildfire	Mitigation Measure: None

Mitigation measures identified in the Lead Agency Final Environmental Document have been adopted by DTSC for this Project and will be implemented to avoid, reduce, or substantially lessen the project impacts. No additional mitigation measures are necessary, and no additional mitigation monitoring plan is required pursuant to CEQA.

For each significant environmental effect identified for the Project:

- Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the Lead Agency Final Environmental Document.
- Such changes or alterations are within the responsibility and jurisdiction of the City of Oakland not DTSC.
- Such changes have been adopted by this public agency or can and should be adopted by this public agency.
- Mitigation measures included in the Lead Agency Final Environmental Document are infeasible, and therefore, will not be incorporated into the DTSC Project for the following reasons: N/A

BASED ON THE ABOVE FINDINGS, DTSC CONCLUDES:

The proposed Project will not result in significant and unavoidable effects to the environment.

The proposed Project will result in significant and unavoidable effects to the following environmental resources:

<input type="checkbox"/> Air Quality	<input type="checkbox"/> Mineral Resources
<input type="checkbox"/> Agricultural Resources	<input type="checkbox"/> Noise
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Population/Housing
<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Public Services
<input type="checkbox"/> Energy	<input type="checkbox"/> Recreation
<input type="checkbox"/> Geology/ Soils	<input type="checkbox"/> Transportation/Traffic
<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Tribal Cultural Resources
<input type="checkbox"/> Hazards/Hazardous Materials	<input type="checkbox"/> Utilities/ Service Systems
<input type="checkbox"/> Hydrology/ Water Quality	<input type="checkbox"/> Wildfire

Impacts to these resources would remain significant even after applying mitigation measures described in the Lead Agency Final Environmental Document, or there is no feasible mitigation available.

In accordance with Cal. Code of Regs., title 14, section 15093, a Statement of Overriding Considerations was adopted by the Lead Agency for these resources. DTSC adopts a Statement of Overriding Considerations for these resources having determined that the DTSC Project benefits outweigh the significant environmental effects for the following reasons: The DTSC remedial actions reduce the exposure of contaminated soil, soil gas, and groundwater in order to render it safe for Site occupants. The DTSC remedial project also serves to protect human health and the environment, which are DTSC’s responsibilities under the California Health and Safety Code.

None of the conditions requiring a subsequent EIR or Negative Declaration pursuant to Cal. Code Regs., tit. 14 Section 15162 exist.

In accordance with Cal. Code of Regs., title 14, section 15093, a Notice of Determination indicating the results of said Findings will be filed with the Governor’s Office of Planning and Research / State Clearinghouse.

D. CERTIFICATION



Project Manager's Signature

12/7/2022

Date

Elizabeth Chung
Project Manager's Name

Project Manager
Title

(510) 540-3842
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Branch Chief's Signature

Dec 7, 2022

Date

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