

**CALIFORNIA ENVIRONMENTAL QUALITY ACT  
NOTICE OF EXEMPTION**

To: Office of Planning and Research  
State Clearinghouse  
1400 Tenth Street, Room 212  
Sacramento, CA 95812-3044

From: Department of Toxic Substances  
Control  
Site Mitigation and Restoration Program  
700 Heinz Avenue, Suite 200  
Berkeley, CA 94710

**Project Title:** Alameda County Flood Control and Water Conservation District Zone 5  
Line D Creek Restoration Project

**Project Location:** 39399 Cherry Street, Newark, CA 94560

**County:** Alameda

**Project Applicant:** Department of Toxic Substances Control

**Approval Action Under Consideration by DTSC:** Explanation of Significant Differences

**Statutory Authority:** California Health and Safety Code, Chapter 6.8

**Project Description:** Excavation and removal of approximately 3,900 cubic yards of mitigated material (organochlorine pesticide impacted soil). In coordination with Ohlone College, the Alameda County Flood Control and Water Conservation District (“District”) is proposing to improve the existing channel along the eastern boundary of Ohlone College, and a portion of the improvement project (soil excavation) will disturb a portion of the previously completed mitigation soil area. Mitigated soil encountered during channel improvement activities will be disposed of off-site at a Class II Landfill Facility. The excavation and soil removal will be completed under DTSC’s oversight.

**Background:** This Explanation of Significant Differences (“ESD”) has been prepared for the site located at 39399 Cherry Street in Newark, California (Site). The Site has a DTSC-approved Remedial Action Workplan (“RAW”), dated May 4, 2005, that was implemented with a Voluntary Cleanup Agreement (“VCA”) as part of Ohlone Community College development. The RAW was implemented with DTSC oversight, which included excavation with on-site consolidation and mitigation of organochlorine pesticide-impacted soil, specifically toxaphene and Dichlorodiphenyldichloroethylene (DDE). A completion report was submitted to DTSC and was formally reviewed and approved in March 2007.

The ESD provides supplemental information to the approved RAW to cover the proposed project modifications that include off-site disposal at a Class II Landfill Facility. The existing impacted soil consolidation area is approximately 25 acres in size and 16 inches in depth. The District’s improvement plan encroaches on approximately 1.6 acres (18 inches deep) into the consolidation area and will result in the removal and off haul of approximately 3,900 cubic yards of impacted soil.

**Project Activities:**

A summary of the significant differences to the project remedial approach are listed below.

- Soil was previously consolidated onsite within the Ohlone College property. As part of the district’s improvement plans for an existing channel, approximately 1.6 acres of the consolidation area will be disturbed and impacted soil will be removed and transported for off-site disposal at a Class II landfill facility. It is estimated that approximately 3,900 cubic yards of impacted soil will be off-hauled. If each truckload can accommodate 12 cubic yards, then

there will be approximately 325 truckloads. Truck haul routes will follow City of Newark-approved haul routes.

- Similar to the approved RAW, confirmation soil sampling will be collected from the remaining in-situ soil following excavation activities. Details regarding the confirmation soil sampling procedures are provided in the Implementation Work Plan, available on EnviroStor.
- On-site inspection will be provided during excavation and off haul of mitigated soil.
- Activities will be summarized in a Removal Action Completion Report (“RACR”) following completion of off haul activities, which will be submitted to DTSC.

Air monitoring will be performed in general accordance with the approved RAW and updated to include one upwind and one downwind monitoring location. Monitors will be capable of continuous, real-time monitoring, measurement of airborne particulates 10 micrometers in size (“PM10”) or less, and measurement of a time-weighted average (“TWA”). Baseline dust conditions will be recorded. In addition to the RAW levels, monitoring data will also be compared to the PM10 ambient air quality standards adopted by Bay Area Air Quality Management District (“BAAQMD”). This monitoring achieves the intent of BAAQMD and the DTSC Community Air Monitoring Plan Guidance (January 2020) and is representative of San Francisco Bay Area practices. If Site-specific action limits are protective and if the first week of dust monitoring confirms that significant action levels have not been exceeded, then as an option and with DTSC approval, dust monitoring can progress to visual monitoring.

The approved RAW and Site plans remain appropriate and will be implemented as necessary by Ohlone College.

**Name of Public Agency Approving Project:** Department of Toxic Substances Control

**Name of Person or Agency Carrying Out Project:** Alameda County Flood Control & Water Conservation District

**Exempt Status:** Categorically Exempt [CCR Title 14, Sec. 15330]

Minor Actions Take to Prevent, Minimize, Mitigate or Eliminate the Release or Threat of Release of a Hazardous Waste or Hazardous Substance.

**Reasons Why Project is Exempt:**

1. The project is a minor action designed to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances.
2. The project is a removal action that will not exceed \$1 million in cost.
3. The project does not involve the on-site use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses and does not involve the potential release into the air of volatile organic compounds (VOCs) as defined in Health and Safety Code Section 25123.
4. The project will be consistent with applicable state and local environmental permitting requirements. No County permits are anticipated for the remediation.
5. The exceptions pursuant to Cal. Code Regs., tit. 14, § 15300.2 have been addressed as follows:
  - Cumulative Impact. The project will not result in cumulative impacts because it is designed to be a short-term, final remedy that would not lead to a succession of projects of the same type in the same place over time.
  - Significant Effect. The environmental safeguards and monitoring procedures that are enforceable and made a condition of project approval will prevent unusual circumstances from

occurring so that there is no possibility that the project will have a significant effect on the environment.

- Scenic Highways. The project will not damage scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, because it is not located within view of a highway officially designated as a state scenic highway.
- Hazardous Waste Sites. The project is not located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- Historical Resources. The project is not expected to cause a substantial adverse change in the significance of a historical resource because none are anticipated.

The administrative record for this project is available to the public by appointment at the following location:

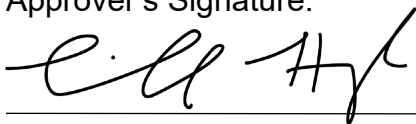
Department of Toxic Substances Control  
Site Mitigation and Restoration Program  
700 Heinz Avenue, Suite 200  
Berkeley, CA 94710

Additional project information is available on EnviroStor:

[https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=01010013](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=01010013)

Contact Person	Contact Title	Phone Number
Dennis Palacios	Project Manager	510.540.2432

Approver's Signature:



Date:

Approver's Name  
Marikka Hughes

Approver's Title  
Unit Chief/Acting Branch Chief,  
Berkeley Regional Office

April 20, 2023 Approver's  
Phone Number  
510.540.3926

TO BE COMPLETED BY OPR ONLY

Date Received for Filing and Posting at OPR: