



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

October 29, 2021

In Reply LND-4-1
Refer To: Bay Road Holdings, LLC
EPA ID: CAD009452657

Michael Brownrigg
United Hope Builders
1852 Bay Road
East Palo Alto, CA 94303
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Bill Uhrig
Bay Road Holdings LLC
135 East 57th Street, 15-103
New York, NY 1002
bill.uhrig@tcr-ny.com

**Re: U.S. EPA and DTSC Conditional Approval of Risk Management Plan for
Former Romic Environmental Technologies Facility, East Palo Alto, CA**

Dear Michael Brownrigg and Bill Uhrig:

Thank you for submitting the *Risk Management Plan, 2081 Bay Road, East Palo Alto, California* (the RMP), dated October 8, 2021. The RMP is for a portion of the former Romic Environmental Technologies Facility, Resource Conservation and Recovery Act (RCRA) Corrective Action property at 2081 Bay Road, East Palo Alto, California (the Site). Corrective action at the former Romic Environmental Technologies Facility is required pursuant to the 1988 Administrative Order on Consent (U.S. EPA Docket No. RCRA-09-88-0015). The RMP was required pursuant to the 2015 Land Use Covenant and Agreement Environmental Restrictions (LUC) and the 2008 Final Remedy Decision Document that govern use of the Site because of environmental hazards related to past chemical releases to the subsurface soil, soil gas, and groundwater. The RMP was prepared by Ninyo & Moore on behalf of United Hope Builders (the Site tenant) and Bay Road Holdings (the current Site owner) (hereinafter referred to as the Parties). The RMP is associated with the construction and occupation of three temporary commercial/industrial manufacturing buildings on a portion of the Site to be delineated by a fence line. The U.S. Environmental Protection Agency (“U.S. EPA”) and California Department of Toxic Substances (“DTSC”) (collectively referred to as the Joint Agencies) understand that the Parties request approval to implement risk management methods addressing hazardous conditions present at the Site, as prescribed in the RMP.



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The Joint Agencies hereby approve this RMP; this approval is conditioned on the Parties taking the actions as specified in the attached “Conditions of Approval” and providing a final revised copy of the RMP to the Joint Agencies addressing these conditions within 15 days of this approval. The RMP and attached “Conditions of Approval” shall be implemented as prescribed to reduce and control potential human exposure to chemicals in soil, groundwater, soil gas and indoor air, and other environmental hazards (e.g., vapor intrusion and methane hazards). The RMP outlines several risk management actions, including but not limited to 1) vapor intrusion mitigation measures for volatile organic compounds (VOCs) and methane, 2) construction and maintenance of an impermeable protective cap 3) soil and groundwater management, 4) pre-occupancy indoor air sampling, and 5) routine air sampling (indoor, sub-slab and ambient air) to demonstrate buildings remain safe during the entire duration of the 4 year maximum occupancy.

This conditional approval is solely for the Parties temporary commercial/industrial land use as described in the RMP and may not be applied to construction activities or future redevelopments at other portions of the property. Any amendments to the RMP or additional construction activities not specifically addressed within this RMP shall require separate written pre-approval from the Joint Agencies. The Joint Agencies will also make this RMP available to the public as required by the 2008 Final Remedy Decision Document.

The Parties must comply with and implement the conditions in this approval. Notwithstanding any other provisions of this approval, EPA and DTSC retain all of their authority to take, direct, or order any and all actions necessary to protect public health or the environment or to prevent, abate, or minimize actual or threatened release of hazardous substances, pollutants or contaminants or hazardous or solid waste or constituents of such wastes on, at, or from the Facility, including but not limited to the right to bring enforcement actions under RCRA, CERCLA, and any other applicable statutes or regulations. Departure from this approval without prior written approval from the Joint Agencies may result in revocation of this approval. Nothing in this approval bars U.S. EPA or DTSC from imposing penalties for violations of this approval, other applicable requirements, or for activities not covered by this approval. Additionally, this conditional approval does not constitute an approval of previous soil disturbance activities not covered under this RMP that may have occurred without approval from the Joint Agencies. If additional information demonstrates that U.S. EPA or DTSC cannot sustain this risk-based determination, U.S. EPA or DTSC will modify or revoke this approval.

As provided for by Paragraph XXII,2. of the 1988 Administrative Order on Consent, the approved RMP and future addendum, are, upon written approval by EPA, incorporated by reference into the Administrative Order on Consent.



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Sincerely,

Julie Pettijohn, MPH, CIH
Branch Chief
Site Mitigation and Restoration Program

Steve Armann
Manager
RCRA Corrective Action Office

Attachments

cc: Pastor Baines, United Hope Builders
Trey Jackson, Ninyo & Moore
Nicole Palazzolo, EPA
Mark Duffy, EPA
Robert Boggs, DTSC
Jerry Aarons, DTSC
Mark Johnson, SFRWQCB

Conditions of Approval
Risk Management Plan (RMP)
1852 Bay Road, East Palo Alto, California
Dated October 29, 2021

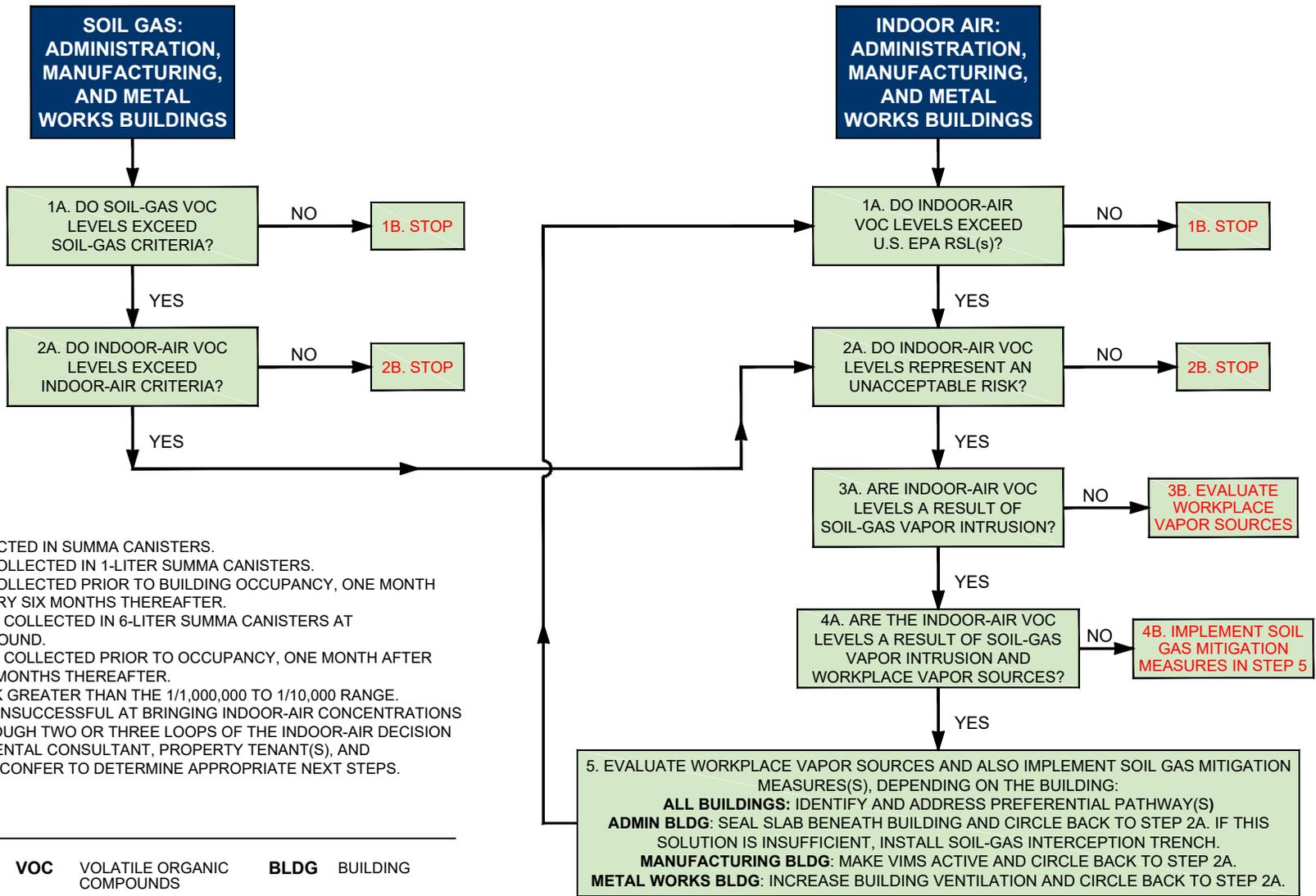
The RMP was prepared by Ninyo & Moore on behalf of United Hope Builders (the Site tenant) and Bay Road Holdings (the current Site owner) (hereinafter referred to as the Parties). The Parties shall implement the RMP as modified by the following conditions of this approval.

1. **Soil Disturbance from Construction Activities and Well Capping:** The Parties propose to disturb up to 1200 cubic yards of soil in the vicinity of the manufacturing building during construction. As a condition of this approval all soil disturbed from construction activities will be placed under the new foundation in accordance with the Resource Conservation and Recovery Act (RCRA) Area of Contamination policy or disposed offsite. Soils excavated from the capping of horizontal wells shall either be placed back into the excavation or disposed offsite. Any soil generated during implementation of the RMP for offsite disposal shall be characterized according to the waste sampling protocol described in condition No. 2 and disposed offsite within 90 days of generation.
2. **RCRA Waste Sampling:** The RMP proposes to use the California Department of Toxic Substances (“DTSC”) Information Advisory Clean Imported Fill Material Fact Sheet sampling schedule (e.g., one sample per 250 cubic yards) to characterize soil associated with the proposed construction activities. The DTSC guidance is for import fill and is not appropriate for characterization of soil generated at this RCRA Corrective Action site. Any soil generated during implementation of the RMP for offsite disposal shall use a minimum sampling frequency of one representative sample per 25 cubic yards of soil generated.
3. **Unrestricted Reuse Soil:** Based on discussions with the Parties consultant, no soil generated will remain onsite for long-term storage. The Parties shall remove all language and references to unrestricted reuse soil from the RMP.
4. **Temporary Stockpiles:** Prior to disposal, temporary stockpiles shall be contained with an impermeable liner at the bottom and covered with a sufficient cover to control dust and stormwater runoff.
5. **Exposed Soil, Staining and Debris:** During a site visit on September 16, 2021, the U.S. Environmental Protection Agency (U.S. EPA) observed exposed soil in several landscape planters, stained soil and debris on top of the existing cap within the boundaries of the proposed temporary redevelopment area. All exposed soils shall either be 1) covered under a protective cap (e.g., concrete) prior to occupancy of the temporary buildings, 2) excluded from the temporary facility by adjusting the fence line (Figure 2 of the RMP) to

separate areas of exposed soil from the temporary facility work area or 3) removed from the surface of the cap and disposed offsite. A cap inspection shall be conducted annually during building occupancy.

6. **Extracted Groundwater Waste Disposal:** Any groundwater generated as a result of dewatering shall be sampled and analyzed for RCRA 8 metals prior to reinjection to determine if hazardous waste constituents not being treated by the Site in-situ bioremediation groundwater recirculation system are present, as mercury and lead have been detected in groundwater and soil in the vicinity of the Site where groundwater extraction is proposed. The Parties shall consult with Joint Agencies once the groundwater data results are obtained.
7. **Ambient Air Data:** The RMP indicates that the proposed ambient-air samples will be collected to determine background air concentration levels. U.S EPA does not agree with the proposed data usage. The purpose of the ambient air data is to evaluate whether subsurface contamination associated with the RCRA Corrective Action site is posing an unacceptable risk to occupants of the temporary facility.
8. **Odor Suppressant:** The Parties shall have odor suppressant in place prior to any soil and groundwater management activities. A copy of the odor suppressant MSDS shall be included as an appendix in the revised final RMP. If odors are observed at the fence line of the facility, the Parties shall immediately apply odor suppression measures. If measures are not sufficient to control odors at the fence line or if odor complaints are received, the Parties shall discontinue excavations or water extraction activities and proposed enhanced measures in consultation with the Joint Agencies.
9. **Revised Figure 6 of the RMP – Volatile Organic Compound (VOC) Mitigation Decision Flow Chart:** Figure 6 of the RMP was revised to remove language regarding use of a 4-year exposure duration and to clarify routine indoor air sampling frequency. The attached revised Figure 6 shall be incorporated into the final revised copy of the RMP.
10. **Pre-occupancy indoor air sampling:** The Parties shall conduct the pre-occupancy indoor air sampling in such a manner to replicate worst-case conditions for the three temporary buildings. All windows and doors shall be closed, and ventilation systems shut off during the pre-occupancy sampling. The Parties may submit a petition to the Joint Agencies to re-test pre-occupancy indoor air with planned mitigations in place (i.e., ventilation) to demonstrate indoor air quality under the proposed working conditions. All test results will be considered when evaluating the building for occupancy.
11. **RMP Revision Incorporating Approval Conditions:** Within 15 days of the date of this conditional approval a revised final RMP shall be submitted to the Joint Agencies incorporating the approval conditions. This conditional approval shall be attached to the revised final RMP and shall be titled “Revised Approved Risk Management Plan”.

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NOTES:
 VOC SAMPLES WILL BE COLLECTED IN SUMMA CANISTERS.
 SOIL-GAS SAMPLES WILL BE COLLECTED IN 1-LITER SUMMA CANISTERS.
 SOIL-GAS SAMPLES WILL BE COLLECTED PRIOR TO BUILDING OCCUPANCY, ONE MONTH AFTER OCCUPANCY, AND EVERY SIX MONTHS THEREAFTER.
 INDOOR-AIR SAMPLES WILL BE COLLECTED IN 6-LITER SUMMA CANISTERS AT APPROXIMATELY 6' ABOVE GROUND.
 INDOOR-AIR SAMPLES WILL BE COLLECTED PRIOR TO OCCUPANCY, ONE MONTH AFTER OCCUPANCY, AND EVERY SIX MONTHS THEREAFTER.
 UNACCEPTABLE RISK IS A RISK GREATER THAN THE 1/1,000,000 TO 1/10,000 RANGE.
 IF MITIGATION EFFORTS ARE UNSUCCESSFUL AT BRINGING INDOOR-AIR CONCENTRATIONS TO ACCEPTABLE LEVELS THROUGH TWO OR THREE LOOPS OF THE INDOOR-AIR DECISION FLOW CHART, THE ENVIRONMENTAL CONSULTANT, PROPERTY TENANT(S), AND REGULATORY AGENCIES WILL CONFER TO DETERMINE APPROPRIATE NEXT STEPS.

LEGEND

VIMS	VAPOR INTRUSION MITIGATION SYSTEM	VOC	VOLATILE ORGANIC COMPOUNDS	BLDG	BUILDING
ADMIN	ADMINISTRATION	U.S. EPA RSL(s)	U.S. ENVIRONMENTAL PROTECTION AGENCY INDOOR AIR RISK SCREENING LEVELS FOR A COMPOSITE WORKER		

FIGURE 6

VOC MITIGATION DECISION FLOW CHART

RISK MANAGEMENT PLAN
 UNITED HOPE BUILDERS
 2081 BAY ROAD, EAST PALO ALTO, CALIFORNIA
 403999001 | 10/21