

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

To: Office of Planning and Research
State Clearinghouse
P.O. Box 3044, 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 94710-2721

Project Title: Agreement and Covenant Not to Sue

Project Location: 1415 South 47th Street, Richmond, CA 94804

County: Contra Costa

Project Applicant: HRP Campus Bay Property, LLC

Approval Action Under Consideration by DTSC: Agreement and Covenant Not to Sue

Statutory Authority: Health and Safety Code sections 25300 et seq. (the Hazardous Substance Account Act), 58009 and 58010

Project Description: The Department of Toxic Substances Control (DTSC) and HRP Campus Bay Property, LLC (HRP), have entered into an Agreement and Covenant Not to Sue, Docket No. HSA-FY 20/21-140 (hereinafter, the “Agreement”), more commonly known as a Prospective Purchaser Agreement (PPA), regarding the Zeneca/Former Stauffer Chemical hazardous substance cleanup site located at 1415 South 47th Street, Richmond (Site). HRP plans to develop the Site to include multi-family housing, commercial businesses, and open spaces. The Agreement will require HRP to, among other things, construct engineering controls including vapor intrusion mitigation systems, caps, and utility corridors; conduct operation, maintenance, and monitoring of existing and future remedial systems; and other activities required by previously approved cleanup decision documents ([Table 1](#)). HRP will conduct these activities at the Site in return for certain liability protections from DTSC. These activities, which have previously been addressed under the California Environmental Quality Act (CEQA), are needed to protect human health and the environment at the Site and will be beneficial to the area by improving environmental conditions.

Table 1: Previous DTSC CEQA Documents

Name of Subarea	Cleanup Decision Document	Date	CEQA Documents
Habitat Area 1	Removal Action Workplan	2005	Initial Study/Negative Declaration and Notice of Determination
Lot 1 (PCB-VOC Area)	Removal Action Workplan	2008	Initial Study/Negative Declaration and Notice of Determination
Lot 2 (Stockpile 8)	Time Critical Removal Action (TCRA)	2009	Notice of Exemption
Habitat Area 2	Feasibility Study/Remedial Action Plan	2017	Initial Study/Negative Declaration and Notice of Determination
Lots 1, 2, and 3	Feasibility Study/Remedial Action Plan	2019	Initial Study/Negative Declaration and Notice of Determination

Background: Since the 2000s, the State of California has overseen numerous cleanup activities at the Site. The Site is divided into six subareas named Lots 1, 2, and 3, Habitat Areas 1 and 2, and Southeast Parcel ([Attachment 1](#)). Cleanup

activities at the Site have included, among other things, on-site treatment and capping of pyrite cinder material; treatment and extraction of groundwater; excavation and off-Site disposal of soil; and installation of stormwater collection and management systems.

Between 2005 and 2019, DTSC approved final remedies for the majority of the Site, including Lots 1, 2, and 3, and Habitat Areas 1 and 2. DTSC has facilitated different forms of public participation during these remedy decisions, including attendance at public meetings hosted by the Richmond Southeast Shoreline Community Advisory Group and Richmond City Council, and completion of several public comment periods. Most recently, on October 25, 2019, DTSC approved a remedial alternative for Lots 1, 2, 3 (uplands portion), and the groundwater between the uplands portion of Lot 3 and Habitat Area 1. This 2019 decision requires, among other things, targeted soil excavation, capping, in-situ groundwater treatment, soil vapor extraction, ongoing monitoring and maintenance of remediation systems, and land use controls. DTSC made the decision with significant public input, having hosted and participated in numerous public meetings to discuss and understand community concerns regarding the decision. At the time of the decision, DTSC had attended approximately 160 CAG meetings since the CAG was formed in 2005 and hosted four other public meetings regarding the Site during that time. DTSC also accepted public comments during a workshop held for the Richmond City Council prior to the remedy decision. DTSC considered all public comments and selected a remedy that will protect public health and the environment and minimizes adverse impacts on public health and safety compared to other alternatives. The cleanup allows for the protection of people who will live, work, or play at the Site after the remedy is complete.

Project Activities: A PPA is a legal agreement that protects an individual or entity (i.e., the prospective purchaser HRP), that is not affiliated with any Potentially Responsible Party (RP) for contamination at a property, from the liability associated with pre-existing contamination at that property. In return, the prospective purchaser of the property must provide benefits to the community or the environment. For example, the prospective purchaser must agree to perform cleanup activities, redevelop the property, participate in community revitalization, or provide jobs, housing, or other community benefits. This Agreement integrates redevelopment plans and cleanup activities at the Site and provides for the long-term operation, maintenance, and monitoring of the remedial alternatives. This Agreement also requires HRP to perform certain financial obligations relating to local community organizations and remedial alternatives. The Agreement does not affect the liability of any RPs (i.e., those parties who are responsible for the past contamination) except to the extent that it settles the liability of the prospective purchaser. Those RPs remain entirely liable for all cleanup costs to implement, operate, and maintain the remedies for past contamination.

This Notice of Exemption is specific to the approval of the Agreement. This Notice of Exemption and the Agreement do not affect or alter the project activities and mitigation measures required by DTSC's or other parties' previously approved project or CEQA documents, including the City of Richmond's CEQA documents.

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

Name of Person or Agency Carrying Out Project: Department of Toxic Substances Control; and
HRP Campus Bay Property, LLC

Exempt Status: Statutory Exemption: Public Resources Code section 21065, and
Common Sense Exemption: California Code of Regulations, title 14, section 15061(b)(3)

Reasons Why Project is Exempt: This is not a project under CEQA as defined in Public Resources Code section 21065. This Agreement relates to funding and legal liability and a requirement to carry out activities that were analyzed in previous CEQA documents by DTSC. Any currently unanticipated new actions or significant changes would require new decision documents that would be required to comply with CEQA. There will be no direct or indirect physical change to the environment due to the required notification and creation of reports. The Agreement will not result in an additional change in any of the physical conditions within California, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. Therefore, DTSC finds with certainty that there is not a possibility that the activities in question will result in a significant environmental effect.

Although DTSC has determined that this Agreement is not a project under CEQA, if the Agreement were a project it would be exempt from CEQA under the "general rule" or "common sense" exemption outlined in California Code of Regulations, title 14, section 15061(b)(3). This rule holds that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

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 94710-2721

Additional project information is available on EnviroStor: www.envirostor.dtsc.ca.gov/public/

Contact Person	Contact Title	Phone Number
Ian Utz	Environmental Scientist	510-540-3845

Approver's Signature:



Date:

07/01/2021

Click or tap to enter a date.

Approver's Name	Approver's Title	Approver's Phone Number
Grant Cope	Deputy Director	916-324-3158

TO BE COMPLETED BY OPR ONLY

Date Received for Filing and Posting at OPR:

ATTACHMENT A