



AGENDA NO: B-1

MEETING DATE: September 15, 2020

Staff Report

TO: Planning Commissioners

DATE: September 1, 2020

FROM: Nancy Hubbard, Contract Planner

SUBJECT: Approval of Major Modification (Maj19-005) to existing CPO-500 and UPO-440 for after the fact approval for the removal of 3 small sheds and 3 fire hydrants from the property and new scope work to remove asbestos siding and replace with metal siding on the existing electrical/transformer building located at 3300 Panorama. One shed, and fire hydrant were located in the ESH Buffer area. The site is zoned R-1/PD. A portion of the project is located within the Coastal Commission appeals jurisdiction.

RECOMMENDATION:

CONDITIONALLY APPROVE THE PROJECT by adopting Planning Commission Resolution 14-20 which includes findings for the approval of MAJ19-005. MAJ19-005 continues to be subject to the requirements of the original conditions of approval and mitigation and monitoring measures approved June 19, 2018.

APPLICANTS: Rhine LP and Morro94, LLC

LEGAL DESCRIPTION/APN: 3300 Panorama Drive/APN 065-038-001

ADDITIONAL SCOPE PROJECT HISTORY:

An Administrative approval of a Minor Modification (MIN19-001) to an existing permit (CPO-500 and UPO-440) was granted on February 14, 2019 which included several conditions of approval and pre-requisite requirements for the removal of the 3 small sheds with siding materials containing asbestos and 3 fire hydrants.

The Permit approval action was appealed on February 25, 2019. Staff notified the Applicant that the permit had been appealed via email on February 26, 2019 (at 8:05am). On March 1, 2019, staff was informed by neighbors that the sheds had been removed from the site on or about February 27, 2019. The Applicant stated that they

Prepared By: NH

Department Review:

misunderstood the process and thought they had approval to proceed with the work. As Staff continued their investigation into the removal of the sheds, they learned that three fire hydrants had been removed in December 2018 by the primary contractor as part of scope of the tank removal project. The contractor said they thought the fire hydrant removal was part of the original scope of work since they were capping the water lines that supplied water to the fire hydrants. The fire hydrant removal and termination of the waterlines were done in conformance with the primary permit conditions of approval and mitigation and monitoring measures. Additionally, the fire hydrant removal work was done prior to nesting season. The 3 sheds were removed by a contractor with a valid license for asbestos abatement, including demo, removal, and toxic waste transport services.

On May 21, 2019, Planning Commission upheld the appeal with a requirement that the applicant reapply for an after-the-fact modification permit for demolition of the three sheds and three fire hydrants and removal of asbestos siding on the electrical/transformer building.

TANK REMOVAL PERMIT UPDATE (CUP440/CDP500):

1. The tank removal project was approved by PC on June 19, 2018.
2. A building permit (demo) was issued on September 27, 2018 and the majority of the demo work was completed by December 2018.
3. Final reporting/hazardous material removal and jurisdictional approval was received from SLO County Environmental Health in March 2020.
4. The final condition for tree mitigation planting was completed August 3, 2020.
5. The permit was deemed final on August 10, 2020.

SHED REMOVAL AFTER-THE-FACT PERMIT REQUIREMENTS:

The following actions were taken by staff to address the removal of the 3 sheds without a valid planning permit or building permit:

1. A stop work order was placed on the site.
2. The applicant was notified that they were in violation and were required to provide the following documentation of the work performed:
 - a. Paperwork/hazardous materials credentials for the contractor who removed the sheds and receipts from the disposal site confirming delivery of the shed materials.
Paperwork received, contractor confirmed to be qualified for asbestos handling, remediation, and hazardous waste transport. Paperwork was provided to confirm the sheds were taken to a hazardous waste disposal site. SLO County Environmental Health gave final approval. See Exhibit D.4
 - b. Confirmation on the method of handling shed removal.
Contractor performing the work was qualified for demo and

handling of hazardous waste. They confirmed that they dismantled the sheds, placed materials onto a covered truck for appropriate disposal. SLO County Environmental Health was satisfied that although it was not clear if the materials were partially friable, the handling was appropriate, and disposal was to a site that accepts both friable and non-friable materials. See Exhibit D.4

- c. Visual examination around the shed locations to confirm no remaining hazardous materials on site.

Analytical Consulting Group visited the site and observed a minor amount of debris; however, it was uncertain if that materials predated the removal of the sheds or resulted from the removal.

- d. Soil testing in vicinity of sheds to confirm no unacceptable levels of contamination in the area.

Soil testing around the sheds resulted in lead levels that exceed the residential limits. It cannot be determined if the lead readings resulted from the removal of the sheds or was existing prior to removal of the sheds. See Exhibit D. Staff recommends including the areas around the sheds and electrical/transformer building as part of the final evaluation of all disturbed areas on the site for a visual examination and periodic soil testing as a condition of this MAJ.

- e. Report from Biologist confirming no nesting birds in the area and confirm that the ESH work areas had not been negatively impacted from the shed removal.

Report provided by Pax Environmental with findings of no apparent damage to the ESH or nesting birds in the area at the time the work was done. See Exhibit D.2

NEW SCOPE: SIDING REMOVAL AND REPLACEMENT ON ELECTRICAL/ TRANSFORMER BUILDING:

The only new work in this permit application is the removal and replacement of the siding on the Electrical/Transformer building. The industrial hygienist, Analytical Consulting Group, Michael Tiffany will oversee the process, which will include: encapsulating the existing siding containing asbestos material, removal of encapsulated materials, and if cutting of the siding is required, it will be with shears or snips and must be performed wet, worker protections, air monitoring and inspections. The ground surrounding the building will be protected with 2 layers of sheeting anchored to secure against wind. Replacement of the siding will be done by contractors in accordance with the terms of the to-be-applied for building permit. The removal protocol and process for the existing siding material is detailed in Exhibit B.

PENDING CODE ENFORCEMENT ISSUE

The following information related to Code Enforcement is to provide the Planning Commission with information regarding activities on the site but is not specifically relevant to the pending Major Modification Permit action that is pending before the Commission.

In November 2018 there was a report of a person living in the trailer in the garage on the south side of the property driveway. The property owner said they authorized it to provide security for the site during the tank removal project. The property owner applied for a Temporary Use Permit to allow one security person to live on site. Since the tank removal project was primarily completed, the TUP was denied on December 17, 2018 and the property owner was notified that the occupant of the trailer needed to vacate the site within 10 days. The City staff confirmed that the occupant of the trailer had moved out by December 28, 2018.

On June 22, 2020, there was a new report of a person living in the trailer, which is still parked in the garage building to the south of the project driveway. The property owner was notified and said that the person living in the trailer was not authorized to do so and was trespassing. The property owner filed a police report to ask for assistance in removing the trespasser from the property. Eviction action is pending, and the property owner said they would remove the trailer from the site to avoid a recurrence of this situation.

Upon inspection of the site by City staff, it was discovered that someone had connected what appeared to be a sewer line from the trailer in the garage. The property owners are being required to excavate to show the City staff where and how that sewer line is connected to the sewer main. Resolution of this is pending.

ENVIRONMENTAL DETERMINATION

This project remains subject to all the Conditions of Approval and Mitigation and Monitoring requirements in the Mitigated Negative Declaration adopted by Planning Commission on June 19, 2018.

PUBLIC NOTICE: Notice of this item was published in the San Luis Obispo Tribune newspaper on September 4, 2020 and all property owners of record within 1000 feet and occupants within 1000 feet of the subject site were notified of this evening's public hearing and invited to voice any concerns on this application.

RECOMMENDATION:

Staff recommends that the Planning Commission *CONDITIONALLY APPROVE THE PROJECT* by adopting Resolution 14-20 which includes findings for the approval of

MAJ19-005. MAJ19-005 continues to be subject to the requirements of the original conditions of approval and mitigation and monitoring measures approved June 19, 2018.

EXHIBITS:

Exhibit A – Planning Commission Resolution 14-20

Exhibit B – Detailed scope of work for Asbestos siding removal from Electrical/transformer building

Exhibit C – Aerial of work areas (new scope and after-the-fact work)

Exhibit D – Documents related to MIN19-005 Appeal:

D.1 -Planning Commission Resolution 08-19 (Appeal hearing)

D.2 – Pax Environmental Post removal report

D.3 – Analytical Consulting Group Site review following shed removal

D.4 – SLO County Environmental Health Closure letter 3/4/20

EXHIBIT A

RESOLUTION NO. PC 14-20

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION APPROVAL
OF A MAJOR MODIFICATION OF
CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMITS
CASE NO. (MAJ 19-005) OF UP0-440 AND CPO-500
SITE LOCATION: 3300 PANORAMA DRIVE

WHEREAS, the Planning Commission of the City of Morro Bay (the “City”) conducted a public hearing via video conference on September 15, 2020 for the purpose of considering approval of a Major Modification (MAJ19-05) of Coastal Development Permit CPO-500 and Conditional Use Permit UP0-440 for the after-the-fact approval of the removal of three asbestos sided sheds and the new scope to remove asbestos siding from the electrical/transformer building and replace with metal siding (“Project”); and

WHEREAS, pursuant to the Governor's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19, the City of Morro Bay Planning Commission is authorized to hold public meetings via teleconferencing and all requirements in the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived; and

WHEREAS, notice of the public hearings were provided at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

Section 1: The foregoing recitals are all true and correct and are incorporated herein by this reference.

Section 2: Findings. Based upon all the evidence, the Commission makes the following findings:

California Environmental Quality Act (CEQA) Finding

1. For purposes of the California Environmental Quality Act, a Mitigated Negative Declaration (the “MND”) (SCH#2016081001) dated June 2018 was approved by Planning Commission on June 19, 2018 and includes a Mitigation and Monitoring Program that is a condition of approval.

Coastal Development Finding

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1. The project is consistent with applicable provisions of the Local Coastal Program (LCP) because, as conditioned and through mitigation measures, the demolition and siding replacement will not have any substantial adverse impacts on the environment or coastal resources.

Conditional Use Permit Finding

1. As conditioned, the project is in compliance with the General Plan and certified Local Coastal Program and will not be detrimental to the health, safety, and general welfare of persons residing or working in the surrounding neighborhood.

Section 3. Action. The Planning Commission does hereby approve the Major Modification (MAJ19-005) to the Coastal Development Permit CP0-500 and Conditional Use Permit UP0-440 for property located at 3300 Panorama Drive subject to the following conditions:

I. FINDINGS OF APPROVAL

The Planning Commission of the City of Morro Bay has reviewed this Major Modification to the existing UP0/CDP permits and finds the following:

California Environmental Quality Act (CEQA)

1. For purposes of the California Environmental Quality Act, the project is subject to all requirements of the final MND, prepared in February 2018 and finalized in June 2018, which outlines mitigation measures to be incorporated into the project to ensure the project will have a less than significant impact on the environment, the project applicants agreed to all mitigations, and such mitigations are provided for in a Mitigation and Monitoring Program which is available on request.

II. CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. Permit: Major Modification to existing CPO-500 and UPO-440 for an after-the-fact permit for removal of 3 small sheds and 3 fire hydrants from the property located at 3300 Panorama. Permit also includes proposed removal of asbestos siding material from the Electrical/Transformer building and replacing the siding and roof with a metal material. One shed, and fire hydrant that have already been removed were located in the ESH Buffer area. The site is zoned R-1/PD. A portion of the project is located within the Coastal Commission appeals jurisdiction.
2. Inaugurate Within Two Year: Unless the construction or operation of the structure, facility, or use is commenced not later than two (2) years after the effective date of this approval and is diligently pursued thereafter, this approval will automatically become null and void; provided, however, that upon the written

EXHIBIT A

- request of the applicant, prior to the expiration of this approval, the applicant may request up to two extensions for not more than one (1) additional year each. Said extensions may be granted by the Director, upon finding that the project complies with all applicable provisions of the Morro Bay Municipal Code, General Plan and Local Coastal Program Land Use Plan (LCP) in effect at the time of the extension request.
3. Changes: Any minor change may be approved by the Community Development Director. Any substantial change will require the filing of an application for an amendment.
 4. Compliance with the Law: All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval.
 5. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
 6. Compliance with Conditions: Compliance with and execution of all conditions listed hereon shall be necessary, unless otherwise specified, prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Community Development Director and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void. Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.
 7. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.
 8. Compliance with Morro Bay Standards: This project shall meet all applicable requirements under the Morro Bay Municipal Code and shall be consistent with all programs and policies contained in the certified Coastal Land Use plan and General Plan for the City of Morro Bay.

PLANNING CONDITIONS:

1. Construction Hours: Construction Hours: Pursuant to section 9.28.030.I, Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a

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- distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the community development department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues.
2. Dust Control: That prior to issuance of any grading permit, a method of control to prevent dust and windblown earth problems shall be submitted for review and approval by the Building Official.
 3. Conditions of Approval on Building Plans: Prior to the issuance of a Building Permit, if any is required, the final Conditions of Approval shall be attached to the set of approved plans. The sheet containing Conditions of Approval shall be the same size as other plan sheets and shall be the last sheet in the set of Building Plans.
 4. Lead Based Paint Analysis: Prior to the start of the permitted work, applicant shall provide the City with a copy of a report analyzing the paint on the electrical/transformer building. If there are any traces of lead paint found, the contractor shall follow the protocol established in the original demo permit (Monitoring AQ-2)
 5. Pre-Construction meeting: Prior to the start of the permitted work, a pre-construction meeting shall be held with the representative from Analytic Consulting Group, Inc, the contractor performing the hazardous waste removal work and a representative of the Community Development Staff.
 6. Work in the ESH: No work shall extend into the ESH. If the work is during nesting season, provisions of Mitigation Measure BR-6 shall apply.
 7. Hazardous Material handling/abatement: Applicant shall insure that all materials are removed from the site by a licensed waste disposal transport service to a permitted disposal site. Licenses and disposal ticket shall be provided to the City. Asbestos material to be removed from the electrical/transformer building does not require full containment under Federal NESHAPS, SLO County APCD or Cal/OSHA rules. The material shall be encapsulated prior to removal and removed using the 'wet removal' method.
 8. Environmental Compliance Monitoring: The applicant shall retain a qualified independent Environmental Compliance Specialist, to oversee and document compliance with all approved project related mitigation measures as well as environmental regulatory requirements pertaining to the proposed demolition activities. Consultant qualifications, duties and reporting protocols shall be subject to approval of the Community Development Director.
 9. Full Site Assessment: Analytical Consulting Group shall take the lead in performing a full site assessment following the completion of all the work. The review may require documentation filing or oversight by the (California Department of Toxic Substances Control) DTSC.

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10. Notice to all involved jurisdictions: The applicant and/or the applicant's consultants shall insure that all involved jurisdictions shall be notified of the proposed work related to the siding removal and replacement on the electrical/transformer building. Evidence of notification and responses providing either 'no further action' required notice, or information they require to allow the work shall be provided to the City planning staff prior to the start of the work.

NO FURTHER NEW CONDITIONS OF APPROVAL. ALL CONDITIONS OF APPROVAL AND MONITORING PLAN REQUIREMENTS ASSOCIATED WITH PERMITS UPO 440 and CPO 500 REMAIN IN FULL FORCE AND EFFECT.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 15th day of September 2020 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson Gerald Luhr

ATTEST

Scot Graham, Community Development Director

The foregoing resolution was passed and adopted this 15th day of September 2020.

EXHIBIT B

Analytical Consulting Group, Inc.

July 5, 2020

ACG Job No. I1612-1202

City of Morro Bay
955 Shasta Avenue
Morro Bay, CA 93442
Attn: Nancy Hubbard, Contract Planner

Subject: **Asbestos Abatement Workplan**

Site: **Electrical Building**
Former US Navy Jet Fuel Storage Site, 3300 Panorama Road, Morro Bay, California

Background and Summary of Work

The project covered by this workplan is the removal of asbestos-coated metal siding from the electrical building on the subject site. The removal is to be performed by a licensed and registered asbestos abatement contractor contracted by the owner.

The electrical building consists of a switchgear room, transformer room, and carport. The carport area has exterior siding of painted galvanized-steel corrugated panels which do not contain asbestos. The roof of the building is unpainted galvanized steel with no asbestos.

The transformer room and switchgear room are walled with painted asbestos-containing galvanized-steel corrugated siding. The asbestos-containing galvanized-steel siding is a material similar to Galbestos-brand siding, which is manufactured by rolling asbestos felt into the molten zinc galvanizing, impregnating it with asphalt, and then painting it with enamel. Galbestos-type siding is present only on the exterior walls of the transformer and switchgear rooms and the wall between the transformer and switchgear rooms. The western exterior wall of the transformer and switchgear rooms is the east interior wall of the carport and is Galbestos-type siding. Most of the exterior corner flashings are also Galbestos-type material, including the flashings between roof and walls.

The surface paint on the Galbestos-type siding is cracked or “alligatored” over much of the exterior surface, especially where exposed to sunshine. Cracking and minor peeling of the paint has exposed the asbestos-asphalt layer beneath in some places. The asbestos-containing layer is non-friable even where exposed by weathering – it cannot be reduced to powder by hand pressure. Visual inspection of the ground surrounding the electrical building showed no evidence of debris or paint flakes. While the material is considered non-friable at present, it may become friable at the edges during demolition unless stabilized.

The Galbestos-type siding is attached to the steel framing of the building with screws. In some areas, framing, electrical conduits, and other obstructions will make removal of the panels difficult without cutting the material.

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Work Area Preparation

1. All work will be performed in a regulated area delineated with "Danger: Asbestos" signs and tape. No one other than certified asbestos workers, supervisors, site surveillance technicians and asbestos consultants will be allowed to enter the regulated area.
2. Prior to beginning work all electrical power in the building shall be disconnected and locked out by a qualified electrician. One circuit may be left energized for use during the project, provided that it is clearly labeled and no energized conductors will be exposed to water during the project. It is preferable to bring job power to the building from the outside. All power in the work area must be protected by GFCI.
3. The ground surface inside the carport and to a distance of 3 feet on the outside of the building will be HEPA vacuumed to remove debris and paint flakes.
4. The ground surface outside the building will be covered with two layers of minimum 6-mil polyethylene sheeting to a distance of 5 feet from the building. The sheeting will be anchored or weighted to secure it against wind.
5. A decontamination unit will be installed inside the carport. All areas of the carport used for the decontamination chamber, waste storage, and equipment storage shall be covered with 2 layers of minimum 6-mil plastic sheeting on the floor.
6. All material and equipment storage (except for asbestos waste) will be inside the carport or the steel shed building.
7. The site preparation will be inspected by the CAC or CSST prior to beginning asbestos removal.
8. The floor/ground sheeting will not be removed until cleared by the CAC/CSST.

Removal Procedures

1. Electrical boxes, conduits, and other objects that are blocking removal of siding shall be removed prior to encapsulation where necessary. ACM shall not be disturbed during this process.
2. The asbestos-containing siding will be stabilized prior to removal with an asbestos removal encapsulant such as Foster 32-61 or a penetrating encapsulant such as Foster 22-P. The encapsulant shall be applied full-strength in accordance with manufacturers directions to all ACM surfaces using pump sprayers or an airless sprayer. The encapsulant shall be allowed to dry before beginning removal.
3. Removal may begin after the encapsulant is dry.
4. The ACM siding and flashing will be removed intact by removing the screws holding it to the framing. Removal of screws using a power screwdriver is preferred where feasible. Where necessary, screw heads may be broken off with a rivet buster or chisel. Damage to the ACM must be held to a minimum. Any removal method which may disturb the asbestos layer must be done wet (under a stream from a pump sprayer) or with HEPA vacuum-shrouded tools.
5. Panels may be cut, if necessary, using shears or snips only. Saws shall not be used. Power shears or snips are permissible. Cutting must be performed wet.



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6. If cutting of steel framing is required it may be done using a power saw as long as care is taken not to contact the ACM with the saw.
7. Any visible ACM debris created during removal shall be cleaned up immediately using a HEPA vacuum and wet wiping.
8. The abatement contractor will pick up and place adequately-wet ACM debris into labeled asbestos disposal bags. The waste will be double-bagged.
9. Panels may not be folded for disposal unless they are wetted during the folding.
10. If panels are cut or folded, or the ACM is damaged during removal, the damaged areas will be encapsulated.
11. Following removal of all ACM, the building interior and exterior plastic sheeting shall be cleaned using HEPA vacuuming and wet wiping.
12. Following visual inspection and air sampling by the CAC/CSST, the building interior shall be treated with lockdown encapsulant.

Waste Disposal

1. Waste bins will be placed adjacent to or within the carport for loading.
2. Intact siding panels and flashing will be placed in a covered roll-off bin lined with 6-mil plastic sheeting. The plastic sheeting will be wrapped over the material and secured with tape after loading. The bin shall be covered and locked when not in use.
3. Friable asbestos debris will be double-bagged, labeled and placed in a covered and locked roll-off bin or vehicle labeled in accordance with DTSC, EPA, and DOT regulations. Loose ACM debris, PPE, rags, HEPA vacuum bags, the inner layer of containment, etc. will be considered hazardous friable asbestos waste.
4. Friable asbestos waste shall be placed in a separate bin or vehicle from the nonfriable siding and flashing material.
5. Non-friable asbestos waste shall be transported under a non-hazardous waste manifest to a Class 2 or Class 3 landfill that is authorized to accept non-friable asbestos waste.
6. The friable hazardous waste will be transported by a licensed hazardous waste hauler under a Uniform Hazardous Waste Manifest from the site to a landfill authorized to accept friable asbestos waste.

Worker Training, Protection and Decontamination

1. The abatement contractor's employees will be certified asbestos abatement workers or supervisors. Documentation of worker and supervisor AHERA training and certification and state registration will be onsite during the work.
2. Workers performing asbestos abatement activities shall have training, medical examinations, medical screenings, respiratory protection fit testing as well as all other industry related regulatory requirements pertaining to these types of activities. It shall be the responsibility of the asbestos abatement contractor to impose and enforce all such requirements.
3. All workers performing asbestos activities will have documentation of respirator fit testing and medical clearance.



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4. All workers performing asbestos activities will be protected at a minimum with half-face negative pressure air-purifying respirators equipped with HEPA (P-100) filters.
5. All workers performing asbestos activities will wear disposable coveralls, rubber boots or disposable boot covers, hard hats, safety glasses and gloves.
6. Before leaving the regulated area, all workers will remove gross contamination from suits, disposable gloves, gloves, and shoe covers using a HEPA-vacuum or wet rags and place them in an asbestos disposal bag.
7. Equipment and non-disposable PPE including rubber boots, hard hats, and safety glasses will be decontaminated by HEPA vacuuming and/or wet-wiping.
8. Workers will shower in accordance with Cal-OSHA regulations when leaving the regulated area.

Air Monitoring and Inspection Procedures

1. ACG will provide a Cal/OSHA Certified Asbestos Consultant and/or a CSST working under direct supervision of a CAC to assure compliance with regulatory and contractual requirements and this plan. ACG will report to the City of Morro Bay.
2. ACG will provide a pre-abatement visual inspection of the work area preparation, engineering controls, and worker protection.
3. ACG will observe the removal work on a daily basis, verifying compliance with work practice requirements.
4. ACG will provide a visual clearance of the work area following removal and cleanup.
5. ACG will collect air samples outside the enclosure on a daily basis. Air samples will be analyzed on a 24-hour turnaround using transmission electron microscopy.
6. ACG will collect clearance air samples inside the work area following visual clearance. Clearance air samples will be analyzed on a 24-hour turnaround using transmission electron microscopy.
7. A project monitoring report will be generated including detailed observations and air sample results collected by ACG during the abatement activities.

Prepared by
Analytical Consulting Group, Inc.

Michael R. Tiffany, CAC, CIH, PG
Certified Asbestos Consultant No. 15-5398
Certified Industrial Hygienist No. 5056



EXHIBIT D.1

RESOLUTION NO. PC 08-19

A RESOLUTION OF THE MORRO BAY PLANNING COMMISSION UPHOLDING THE APPEAL OF MINOR MODIFICATION (MIN19-001) OF UPO- 440 AND CPO-500 PERMITS ALLOWING REMOVAL OF SHEDS, FIRE HYDRANTS AND RELATED TERMINATION OF WATER LINES AT 3300 PANORAMA DRIVE

WHEREAS, Rhine LP and Morro94, LLC applied for a minor modification of the existing CPO-500 and UPO-440 permit on January 14, 2019 for removal of 3 small sheds, 3 fire hydrants, and termination of related waterlines; and

WHEREAS, the City of Morro Bay administratively approved the minor modification (MIN19-001) on February 14, 2019, following the end of the 10-day public notification period; and

WHEREAS, Carole Truesdale, Kristen Headland and Dan Sedley submitted an appeal of the City's approval of MIN19-001 on February 25, 2019 (Appeal); and

WHEREAS, the Planning Commission of the City of Morro Bay (the "City") conducted a public hearing at the Morro Bay Veteran's Hall, 209 Surf Street, Morro Bay, California, on May 7, 2019, for the purpose of considering the Appeal; and

WHEREAS, notice of the public hearing was provided at the time and in the manner required by law; and

WHEREAS, the Planning Commission has duly considered all evidence, including the testimony of the appellant, applicant, interested parties, and the evaluation and recommendations by staff, presented at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Morro Bay as follows:

Section 1: Findings. Based upon all the evidence, the Commission makes the following findings:

A. The fire hydrant removal, which was part of the scope of MIN19-001, was performed several months prior to the approval of MIN19-001 and was therefore performed without a valid permit.

B. Morro Bay Municipal Code section 17.58.090 states that decisions on coastal development permits do not become effective until after the 10-day appeal period has passed and that the effective date of a permit is suspended if an appeal is filed. Because an appeal was filed regarding the approval of MIN19-001 within the 10-day appeal period, MIN19-001 has not yet become effective.

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Appeal of MIN 19-001

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Nonetheless, applicant has already removed the sheds from the site. As with the fire hydrant removal, this work was performed without a valid permit.

C. MIN19-001 was properly issued by the Director and was consistent with the originally approved permit considering the information submitted in the minor modification application and in light of Condition of Approval No. 3 of Resolution No. PC 15-18, which states that "Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Community Development Director."

D. However, the Commission finds that, unbeknownst to the City, information submitted in the minor modification application was incomplete insofar as it did not indicate that some of the proposed work had already been performed. Moreover, since the applicant performed all of the proposed work, ***including removal of asbestos materials***, without valid permits, approval of the modification may require additional environmental review and additional conditions of approval not included in MIN19-001. ***(Italics section added by Planning Commission 5/21/19)***

E. In light of findings (A) through (D), the scope of the requested modification is not properly categorized as a "minor change" and therefore an administrative Minor Modification permit is not the appropriate vehicle for consideration of the additional scope of work.

Section 2: Action. The Planning Commission does hereby uphold the appeal of MIN19-001 for the property located at 3300 Panorama Drive and revokes MIN19-001 effective immediately. Pursuant to Condition of Approval No. 3 of Resolution No. PC 15-18, and Morro Bay Municipal Code section 17.58.120, the Planning Commission recommends that the applicant should reapply to the Planning Commission for an amendment to the existing CUP/CDP for the work completed without a valid permit within 30 days from the date of action on this Resolution.

PASSED AND ADOPTED by the Morro Bay Planning Commission at a regular meeting thereof held on this 21st day of May 2019 on the following vote:

AYES: Lucas, Stewart, Barron, Ingraffia, Luhr

NOES:

ABSENT:

ABSTAIN:



Chairperson Gerald Luhr

ATTEST


Scot Graham, Planning Secretary

The foregoing resolution was passed and adopted on this 21st day of May 2019.



Environmental, Inc.

226 West Ojai Ave., Ste. 101, #157

Ojai, California 93023

805.570.4451

www.paxenviro.com

April 2, 2019

Chris Mathys
Rhine LP and Morro 94 LLC
2141 Tuolomne Street
Fresno, CA 93721

RE: Post-Demo Biological Survey Results for a Fuel Tank Demolition Project at 3300 Panorama Drive, Morro Bay, California.

Introduction

Pax wildlife biologist (Colleen Del Vecchio), who is familiar with the species of region, conducted a post-demolition nesting bird and impacts survey on March 13, 2019 at 3300 Panorama Drive, Morro Bay, California (APN: 065-038-001) (Figure 1). The survey was conducted per requirements of the City of Morro Bay outlined in their Code Violations notice, dated March 6, 2019. The purpose of the survey was to identify active bird nests within, or in close proximity to the project site, and note any land disturbances from removal of the structures. The survey included a visual search of all vegetation, trees, and buildings, as well as monitoring birds for evidence of breeding behavior, including: copulation, carrying food or nesting materials, nest building, adult agitation or feigning injury, feeding chicks, removal of fecal sacks, and other characteristic behaviors that indicate the presence of an active nest. Demolition of the tank structures, shed, and removal of two trees occurred the week of February 25, 2019.

Environmental Setting

The fuel tank area consists of two steel fuel tanks surrounded by concrete covered earthen berms which form two separate tank basins (Figure 3). Scattered Monterey cypress trees (*Cupressa macrocarpa*) are present within each of the tank basins along with occasional ornamental trees. Disturbed, non-native annual grassland covers each of the basin floors along with various pipeline components and drainage facilities. An unnamed drainage borders the northernmost tank basin area with stands of Monterey cypress and arroyo willow (*Salix lasiolepis*) trees along the unnamed creek corridor. The unnamed creek is a blue line channel described as an intermittent and seasonally flooded riverine system. This area is considered environmentally sensitive habitat (ESHA) (Figure 3). A third, much smaller metal water tank is set between and upland of the two fuel tank basins and is surrounded by Monterey cypress trees. Operations buildings and a paved entrance are also present to the south of the fuel tank basins.

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Pre-Demolition Monitoring

Initial construction on the site began September 24, 2018. Pax biologist, Ryan Ganjtomari, conducted a WEAP (Workers Environmental Awareness Program) training focusing on the potential for special-status species, nesting birds, and protections for the ESHA zone. Construction that day consisted of staking and installing the ESHA fence and a second crew testing pipes for chemical residue, so that they could be safely removed. Again, Mr. Ganjtomari monitored on September 25, 2018. Crews finished installing the ESHA fencing and cleaned up all materials from testing the pipes. Additionally, a Monterey cypress had its lower branches trimmed for access to the 6 inch pipeline, to begin removal. A nesting bird survey was completed prior to any tree trimming, the results were negative.

December 5, 2018 Pax biologist, Bradley Youngerman, surveyed the work area for potential impacts to the ESHA zone, and surveyed two trees that would be removed from the southern portion of the ESHA. One of the trees was a Monterey cypress that failed at the base and fell south across the creek. The second was a dead pine tree (*pinus* sp.) that was standing on the north side of the drainage. The crew did not remove the trees during this monitoring visit. Crews were filling the fire hydrant water pipes with concrete and cleaning up the project site.

Post-Demolition Survey Results

Time of Survey: 1030

Weather Conditions: Sunny, winds 2-3mph, 61°F

A California Department of Fish and Wildlife (CDFW) CNDDDB Search was completed to address the potential for special-status species prior to the survey (Figure 2). Building eaves, trees, shrubs and other suitable habitat features were thoroughly examined during the survey for nesting birds. The following avian species were observed during the survey: northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), California scrub-jay (*Aphelocoma californica*), black phoebe (*Sayornis nigricans*), Eurasian collared dove (*Streptopelia ecaocto*), red-tailed hawk (*Buteo regalis*), cliff swallow (*Petrochelidon pyrrhonota*), American crow (*Corvus brachyrhynchos*), Anna's hummingbird (*Calypte anna*), white-crowned sparrow (*Zonotrichia leucophrys*), Townsend's warbler (*Setophaga townsendi*), California towhee (*Melospiza crissalis*), Say's phoebe (*Sayornis saya*), American kestrel (*Falco sparverius*), turkey vulture (*Cathartes aura*), prairie falcon (*Falco mexicanus*), great horned owl (*Bubo virginianus*), and golden-crowned sparrow (*Zonotrichia atricapilla*). Additional wildlife observations included California ground squirrel (*Otospermophilus beecheyi*), monarch butterfly (*Danaus plexippus*; 6 individuals), Sierran treefrog (*Pseudacris sierra*; vocalizations), and racoon (*Procyon lotor*; tracks). No roosting bats or evidence thereof, were found.

In the ESHA zone, there was no significant impacts to vegetation or soil within the woodland. The creek was flowing during the site visit. Where the shed was removed, in the west central section of the ESHA, the recommended access route was used through the existing gate, and minimum soil and vegetation impacts were observed, the concrete foundation remains (Figure 4, Photo 7). Where the 6 inch pipeline was removed, the soil is compacted, however the vegetation is re-growing. The fallen Monterey cypress was removed that fell south over the creek and the dead pine on the top of the north bank, crews used the recommended access route to limit impact to the water course (Photo 6). Some debris remains within the creek; however, this debris was present prior to any work activities beginning. There was no construction related impacts

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observed to the creek, the banks were covered with vegetation.

In the east side of the project area where the water tanks are located, one active nest (i.e., nests containing eggs or chicks) was observed in the stand of Monterey cypress. A great horned owl nest was observed in the crotch of one of the trees (Figure 3). Limbs on that tree were cut prior to construction in September/February to expose the shotcrete for removal (Photo 4). Both owls were observed, one roosting on the branches of the tree, the other flushed from the crotch of the tree. This species natural history indicates only the female incubates eggs, while the male roosts nearby in the tree¹. The eggs were not visible in the nest from the ground. Based on the observed behaviors, the pair is likely nesting. Additionally, based on the timing of nesting for this species, they likely began nesting in February and are incubating eggs. In the southern extent of this species range, incubation typically begins as early as mid-February. Pellets and white wash were observed near the base of the tree.

All three tanks were removed off site along with all associated ancillary structures. With the recent storm events, one portion of the hillside where the shot-crete berm was washed out. The fuel holding tank areas are growing in with vegetation, minimum earthwork was completed leaving the area in the same basin shape it was previously.

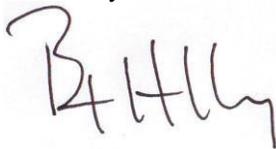
Conclusion

Project demolition activities of the fuel tanks and associated ancillary structures had minor impact to the existing land. The ESHA had less than significant impact from removal of the shed and removal of the trees, no signs of construction are visible following the spring rain and significant growth of vegetation.

An active nest of great horned owls was observed in the stand of Monterey Pines on the east side of the project area, in the vicinity of where all three of the tanks were removed.

Please contact me if you have any questions regarding this assessment.

Sincerely,



Brian E. Holly

Principal/Senior Ecologist

¹Artuso, C., C. S. Houston, D. G. Smith, and C. Rohner (2013). Great Horned Owl (*Bubo virginianus*), version 2.0. In *The Birds of North America* (A. F. Poole, Editor). Cornell Lab of Ornithology, Ithaca, NY, USA. <https://doi.org/10.2173/bna.372>

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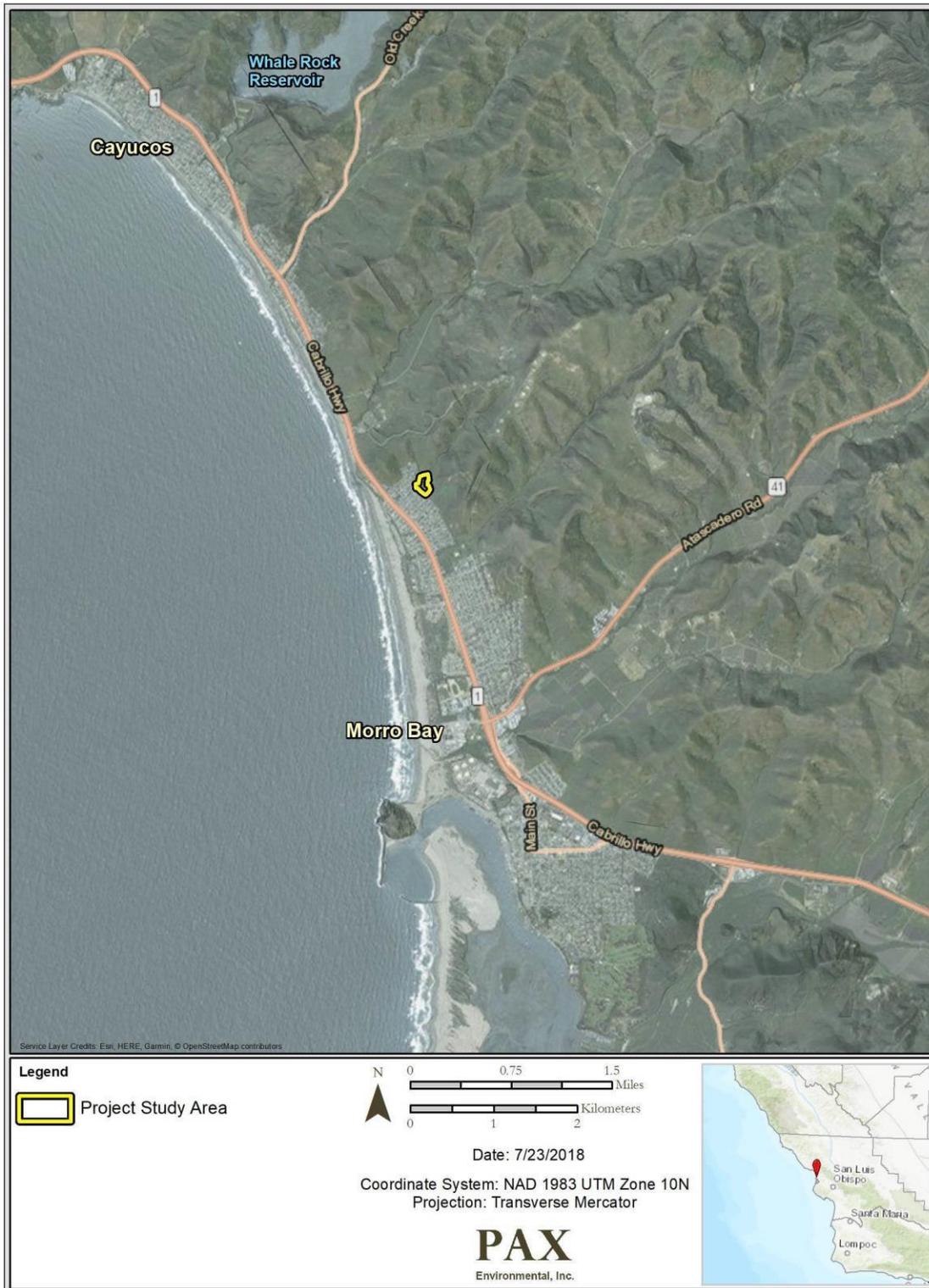


Figure 1. Project vicinity map.

EXHIBIT D.2

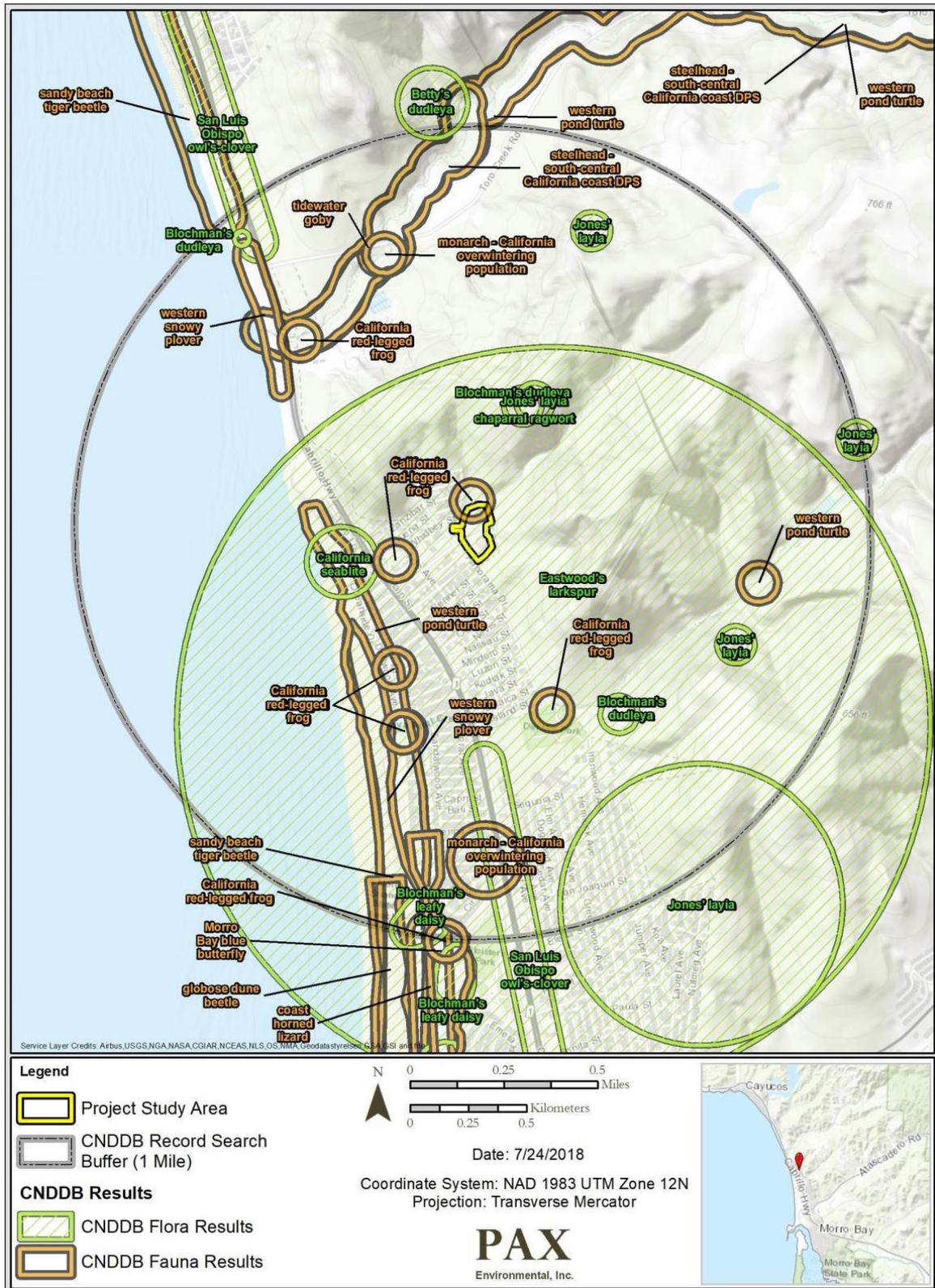


Figure 2. Project location and CNDDB overlay.

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Figure 3: Project site, ESHA boundary, and active nesting area.

EXHIBIT D.2



Figure 4: Tree and shed removal area with recommended access route.

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Photo 1: Fuel tank 1 removed, facing northeast.



Photo 2: Fuel tank 2 removed, facing southeast.

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Photo 3: Small water tank removed, facing east.



Photo 4: Trimmed Monterey cypress facing north.

EXHIBIT D.2



Photo 5: Removal of 6" pipeline, facing east.



Photo 6: Creek with flowing water, wo trees removed (circled in red) west of ESHA, facing east.

EXHIBIT D.2



Photo 7: Shed and fire hydrants removed on edge of ESHA, facing northwest.

EXHIBIT D.3

Analytical Consulting Group, Inc.

October 24, 2019

City of Morro Bay
955 Shasta Avenue
Morro Bay, CA 93442
Attn: Nancy Hubbard, Contract Planner

Subject: Cost Estimate for Asbestos Abatement Monitoring Services

Site: Former US Navy Jet Fuel Storage Site, 3300 Panorama Road, Morro Bay, California

Analytical Consulting Group, Inc. (ACG) is pleased to present this cost estimate for environmental compliance monitoring services for the above referenced project. This estimate follows a request from Ms. Nancy Hubbard, Contract Planner with the City of Morro Bay Community Development Department. ACG proposes to provide industrial hygiene and environmental services on an as-requested basis to assist the City in monitoring compliance with County of San Luis Obispo, City of Morro Bay, and other agency requirements for asbestos and/or lead-based paint removal at the subject site. Specifically, ACG will provide monitoring, sampling and reporting as required by the Air Monitoring Plan, Asbestos Compliance Plan, Lead Compliance Plan, SLO County asbestos regulations, and Cal/OSHA regulations. ACG will also visually monitor the remediation contractor's environmental compliance on a continuous basis during the project.

The project covered by this estimate is the removal of asbestos-coated metal siding from the electrical building, also identified as the garage building. The removal is to be performed by a licensed and registered asbestos abatement contractor contracted by the owner.

ACG proposes to perform the following requested services:

- ◆ Provide a qualified Environmental Compliance Monitor to act on behalf of the City to monitor the owner's and contractor's compliance with environmental requirements during the project. The monitor will be either a California Certified Asbestos Consultant (CAC) or a Certified Site Surveillance Technician (CSST) working under supervision of a CAC.
- ◆ Provide on-site observation and perform perimeter air monitoring and reporting for dust and asbestos in accordance with the Air Monitoring Plan.
- ◆ Perform lead monitoring and reporting in accordance with the Lead Compliance Plan.
- ◆ Provide community noise monitoring during demolition activities if requested by the City.
- ◆ Provide liason with permitting agencies, owner, and contractor, including attendance at meetings, when requested by the City.
- ◆ Provide a project report including air monitoring results.

ACG proposes to perform the above services on a time and materials basis in accordance with the existing contract for this project. The cost estimate is presented below.

EXHIBIT D.3

FEE SCHEDULE

Industrial Hygiene and Environmental Services

PROFESSIONAL FEES

Certified Industrial Hygienist	\$ 130.00/hr
Professional Geologist	\$ 125.00/hr
Associate Industrial Hygienist/CSST/Lead Inspector	\$ 120.00/hr
Field Technician.....	\$ 85.00/hr
Clerical & drafting	\$ 55.00/hr

EQUIPMENT

5-gas (VOC, combustible, H ₂ S, CO ₂ , O ₂) meter.....	\$ 75.00/day
Photoionization detector (PID)	\$ 75.00/day
Dust monitoring instrument	\$100.00/day
Sound level meter	\$ 50.00/day
Sampling pumps	\$ 25.00/day
Rented equipment	cost+15%

OUTSIDE EXPENSES

Laboratory analysis	cost+15%
Other outside expenses	cost+15%

COST ESTIMATE

Three Days of Asbestos Removal

Environmental Compliance Monitor, daily rate up to 10 hours including pumps.....	\$ 1,300.00/day
Asbestos sample analysis, TEM, 12-hr rush..... 4/day @ \$205.00/ea =	\$ 820.00/day
Mobilization, per round trip.....	\$ 750.00/trip
Per Diem	\$ 150.00/day
Report.....	\$ 500.00

Three-day cost estimate including sample analysis\$ 8,060.00

This cost estimate assumes that the asbestos removal and clearance inspection is completed on the second day and tear-down and cleanup occurs on the third day. The total cost will depend on the duration of the project and the actual sampling load. The cost estimate does not include noise monitoring or lead sampling, or pre-job consulting and meetings. Terms are net 30 days for all invoices. Invoices will be submitted upon completion of plans or reports; or weekly for ongoing monitoring work.

We appreciate the opportunity to be of service to you. Should you have any questions or desire any additional information, please contact the undersigned.

Respectfully submitted,

Michael R. Tiffany, President
Analytical Consulting Group, Inc.





COUNTY OF SAN LUIS OBISPO HEALTH AGENCY
PUBLIC HEALTH DEPARTMENT

Michael Hill *Health Agency Director*

Penny Borenstein, MD, MPH *Health Officer/Public Health Director*

March 4, 2020

Rhine LP & CVI Group, LLC
Oro Financial of California, Inc.
Chris Mathys, Manager
David Fiske, Agent for Service of Process
2304 W Shaw #102
Fresno, CA 93711

Morro94, LLC
Robin Solley, Agent for Service of Process
Edward Gallegos, Project Manager
2141 Tuolumne St., Suite J
Fresno, CA 93721

**FOLLOW UP TO NOTICE OF VIOLATION HEARING SUMMARY
HAZARDOUS MATERIALS STORAGE TANK CLOSURE
PERMIT 40-2027-2A-AGT AND HAZARDOUS WASTE REMOVAL FROM THE
FORMER NAVY JET FUEL STORAGE SITE
3300 PANORAMA DRIVE, MORRO BAY, CA**

This letter is to reconcile the information requested in the Notice of Violation Hearing Summary letter dated September 24, 2019. The letter requested these items:

1. The hazardous waste determination used by Portney to validate the asbestos to be non-friable.
2. The quantity of asbestos removed.
3. The asbestos removal workplan.
4. Portney Environmental & Demolition's contractor credentials.
5. Asbestos removal notification provided to applicable agencies.

In a non-dated letter from Jeff Portney, except for item 2 above, the above enumerated items are addressed as follows:

Asbestos friability

Galbestos is a non-friable asbestos containing material. In its original condition this is a true statement; however, after years of environmental exposure, it typically becomes friable. Two separate Certified Industrial Hygienists: Michael Tiffany and Jeffrey Olsen, recently concluded the condition of the asbestos containing material (Galbestos) was friable. Mr. Tiffany working on behalf of the City of Morro Bay, and Jeffrey Olsen working on your behalf.

Asbestos removal workplan

The work to remove the structures and disposal methods were addressed. The waste asbestos containing material was disposed of at a landfill authorized to accept the material. It was shipped off under a non-hazardous waste manifest.

Portney Environmental & Demolition's contractor credentials

The California State Contractor's license was provided.

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Quantity of removed asbestos and other agency notifications

The non-hazardous waste manifest was reviewed. The amount of asbestos containing material is illegible on the manifest; therefore, the amount of material is unknown. Failure to notify the Air Pollution Control District (APCD) on the demolition of the structure was addressed. It is inferred that no notification relating to asbestos removal was made to APCD, the agency of jurisdiction, because Portney identified the material as non-friable, making notification unnecessary.

Because no representative from this agency was involved in overseeing the removal of the structures with asbestos containing material, no opinion is rendered on the condition of the asbestos. The landfill where it was disposed has a permit from the Regional Water Quality Control Board for its disposal, thus the waste was disposed in an approved location. A concern remains in the proper identification of asbestos state: friable versus non-friable by Portney Environmental and Demolition, Inc. If friable, that would make the waste hazardous waste and its transportation and manifesting falls under the authority of the Department of Toxic Substances Control (DTSC). Employee exposure to asbestos containing material falls under the authority of California Occupation Safety and Health Administration (Cal-OSHA). Therefore, referrals will be made to those agencies regarding the actions of Portney Environmental and Demolition, Inc.

The conditions for the removal of the aboveground tanks under permit #40-2027-2A-AGT issued by this agency have been satisfied.

As stated to you previously, please apply to the California State Department of Toxic Substances Control (DTSC) (<https://dtsc.ca.gov/brownfields/>) to oversee the assessment and potential mitigation if you plan to redevelop your property. DTSC stated in their December 20, 1996 determination letter that the site would need to be reevaluated if the owner plans to redevelop the site to residential use.

If you have questions, please contact me at (805) 781-4917, lchandler@co.slo.ca.us or Aaron LaBarre at (805) 781-5595, alabarre@co.slo.ca.us.

Sincerely,



Linnea Chandler, R.E.H.S.
Environmental Health Specialist III
Certified Unified Program Agency

Cc:

Scot Graham, Community Development Director, City of Morro Bay
Nancy Hubbard, Contract Planner, City of Morro Bay
Tim Fuhs, San Luis Obispo County Air Pollution Control District
Michael Tiffany, Analytical Consulting Group, Inc.



COUNTY OF SAN LUIS OBISPO HEALTH AGENCY

PUBLIC HEALTH DEPARTMENT

Michael Hill *Health Agency Director*

Penny Borenstein, MD, MPH *Health Officer/Public Health Director*

September 24, 2019

Rhine LP & CVI Group, LLC
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2304 W Shaw #102
Fresno, CA 93711

Morro94, LLC
Robin Solley, Agent for Service of Process
2141 Tuolumne St., Suite J
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**NOTICE OF VIOLATION HEARING SUMMARY
HAZARDOUS MATERIALS STORAGE TANK CLOSURE
PERMIT 40-2027-2A-AGT AND HAZARDOUS WASTE REMOVAL FROM THE
FORMER NAVY JET FUEL STORAGE SITE
3300 PANORAMA DRIVE, MORRO BAY, CA**

On Friday, June 7, 2019, an office hearing was held to discuss the failure to submit required documentation:

1. Tank and piping atmosphere monitoring.
2. Soil sampling laboratory results and assessment report.
3. Waste disposal:
 - a. Tank cleaning fluid (rinsate).
 - b. Contaminated soil.
 - c. Hazardous waste.
 - d. A hazardous waste determination for the asbestos removed from the site.

No representative from the subject site attended the hearing in person as requested. We believed we received an affirmative reply to attend in person. However, Chris Mathys and I spoke by telephone. Mr. Mathys explained, he was in New Mexico and he thought the presence of his representative Michael Tiffany would satisfy our attendance requirement. I explained to Mr. Mathys that attendance of principal responsible parties; those who can negotiate compliance agreements, are required to attend office hearings in person.

The following reports and/or documents were reviewed:

- Post-Removal Soil Assessment Report Removal of Aboveground Tank System Former Navy Jet Fuel Storage Site, 3300 Panorama Drive Morro Bay, California, dated April 21, 2019, prepared by Michael Tiffany of Analytical Consulting Group, Inc.
- Removal of Aboveground Tank System Former Navy Jet Fuel Storage Site 3300 Panorama Drive Morro Bay, California, report dated May 31, 2019, prepared by Michael Tiffany of Analytical Consulting Group, Inc.
- Post-removal Inspection-Former Hose-shed Locations Former Navy Jet Fuel Storage Site 3300 Panorama Drive Morro Bay, California report dated April 25, 2019, prepared

Environmental Health Services

2156 Sierra Way, Suite B | San Luis Obispo, CA 93401 | (P) 805-781-5544 | (F) 805-781-4211

www.slopublichealth.org/ehs

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by Michael Tiffany of Analytical Consulting Group, which included bulk asbestos analysis

- Inspection of Office, Control Room and Garage Buildings for Demolition 3300 Panorama Drive, Morro Bay, CA report dated May 13, 2016, prepared by Jeffrey Olsen of Hazard Management Services, that included an asbestos survey for buildings 1, 2, paint storage shed and garage with analytical results.
- Non-hazardous waste manifest for non-friable asbestos waste, February 27, 2019. This manifest identifies the transporter as Portney Construction and the Paso Robles Landfill as the receiving facility.

Review results:

- Oil sand disposal records were submitted.
- Soil sampling results from the piping and tank removal do not indicate that immediate action is necessary at this time due to the current land use. However, the data shall be included when performing the assessment that is required if the site is to be redeveloped to another use.
- The final waste determination for the asbestos removed from the site appears to be incorrect.
 - Two professional consultants confirmed the asbestos to be friable and is regulated as a hazardous waste. The report from Hazard Management Services referenced above confirms the material from the hose sheds contained friable asbestos above 1%. The "Post-removal Inspection-Former Hose-shed Locations" report from Michael Tiffany referenced above also identifies the sheds to contain asbestos above 1%. In conjunction with reviewing the reports, Ms. Chandler confirmed with Jeffrey Olsen of Hazard Management Services and Michael Tiffany of Analytical Consulting Group, Inc. that the material from the sheds or like material was friable asbestos.
 - The manifest provided for the removed asbestos indicates the waste is non-hazardous waste. The manifest from the site, indicates non-friable asbestos. In accordance with appendix X of California Code of Regulations Title 22, asbestos is presumed hazardous until determined otherwise. California Code of Regulations Title 22, section 66261.24 defines friable asbestos of 1% or greater to be hazardous waste.
 - The State Water Resources Control Board advised Ms. Chandler that the Paso Robles Landfill Paso Robles Landfill is permitted to accept friable and non-friable asbestos.
- These conclusions do not include determinations from other oversight agencies such as the City of Morro Bay and the County Air Pollution Control District.

Within 30 days, submit the following documentation:

1. The hazardous waste determination used by Portney to validate the asbestos to be non-friable.
2. The quantity of asbestos removed.
3. The asbestos removal workplan.
4. Portney Environmental & Demolition's contractor credentials.

5. Asbestos removal notification provided to applicable agencies.

Failure to comply with requirements of hazardous waste control law may result in formal enforcement action in accordance with Section 25187 and 25404.1.1 of the California Health and Safety Code by this agency or a referral to the District Attorney's Office for enforcement.

As stated to you previously, please apply to the California State Department of Toxic Substances Control (DTSC) (<https://dtsc.ca.gov/brownfields/>) to oversee the assessment and potential mitigation if you plan to redevelop your property. DTSC stated in their December 20, 1996 determination letter that the site would need to be reevaluated if the owner plans to redevelop the site to residential use.

If you have questions, please contact Ms. Linnea Chandler at (805) 781-4917, lchandler@co.slo.ca.us or me at (805) 781-5595, alabarre@co.slo.ca.us.

Sincerely,



Aaron LaBarre, R.E.H.S.
Supervising Environmental Health Specialist
Certified Unified Program Agency

Cc:

Scot Graham, Community Development Director, City Of Morro Bay
Tim Fuhs, San Luis Obispo County Air Pollution Control District
Michael Tiffany, Analytical Consulting Group, Inc.