



**California Environmental Protection Agency
Department of Toxic Substances Control**

VARIANCE

Applicant Name:

Variance No. V2-04/05-002

Catellus Urban Construction, Inc.
201 Mission Street
San Francisco, California 94105-1870

EPA ID# CAL 000224084

Effective Date: May 24, 2005

Expiration Date: May 24, 2010

Pursuant to the California Health and Safety Code section 25143, of the Department of Toxic Substances Control hereby issues the attached Variance consisting of five pages to the Catellus Urban Construction, Inc. ("Catellus").

//Original signed by//

Jan Radimsky, P.E. Chief
Program Support Branch
Department of Toxic Substances Control

Date: May 24, 2005

VARIANCE

1. INTRODUCTION:

Pursuant to Health and Safety Code section 25143, the California Department of Toxic Substances Control (DTSC) grants a variance to the applicant below. This is a variance from California manifest requirements in California Health and Safety Code section 25160 and California Code of Regulations, title 22, sections 66263.20 through 66263.23.

DTSC hereby grants a variance from the requirements specified herein and in accordance with all terms and conditions specified herein.

2. APPLICANT INFORMATION:

Catellus Urban Construction, Inc.
201 Mission Street
San Francisco, California 94105-1870

Contact:
Mr. Jeffrey A. Austin
Catellus Land and Development Corporation
201 Mission Street, Second Floor
San Francisco, California 94105-1870

3. TYPE OF VARIANCE:

This variance would waive manifest requirements for transportation of non-RCRA regulated hazardous waste along the public streets within the "Area of Contamination" designated in the approved Risk Management Plan and would allow use of approved Bill of Lading forms in lieu of manifest.

4. ISSUANCE AND EXPIRATION DATES:

DATE ISSUED: May 24, 2005 EXPIRATION DATE: May 24, 2010

5. APPLICABLE STATUTES AND REGULATIONS: The hazardous wastes that are the subject of this variance are fully regulated under Health and Safety Code section 25100, division 20, et seq., and California Code of Regulations, title 22, division 4.5, except as specifically identified in section 8 of this variance.

6. FINDINGS/DETERMINATIONS: DTSC has determined that the variance applicant meets the requirements set forth in Health and Safety Code section 25143 for a variance from specific regulatory requirements as outlined in section

8 of this variance. The specific findings and determinations made by DTSC are as follows:

6.1 Description of activity subject to variance:

This variance applies to the transportation along the public streets of hazardous wastes not subject to the federal Resource Conservation and Recovery Act (“non-RCRA hazardous waste”) generated from excavation activities (and minor quantities of miscellaneous hazardous wastes that are excavated with the soils) associated with redevelopment in the approximately 300-acre Mission Bay area in San Francisco, California, using a Bill of Lading in lieu of a hazardous waste manifest. This variance applies to movement of soils along public streets within the designated Area of Contamination (AOC), as identified in the approved Risk Management Plan (RMP). The transportation of soils within the AOC allows Catellus to reuse soils for grading, backfill, or other development purposes, or staging for future use or offsite disposal in accordance with and the requirements of the RMP.

The RMP, which identifies requirements for the management of soils, including movement of soil from one area of Mission Bay to another within an approved AOC, was approved by the San Francisco Regional Water Quality Control Board (Board), as the Administering Agency under Assembly Bill 2061 (AB 2061) program, on May 12, 1999, and subsequently revised and approved by the Board on March 22, 2005. The RMP was developed with the participation of DTSC and the San Francisco Department of Public Health.

Catellus was subject to a manifest variance issued by DTSC on November 8, 2001, covering the period November 8, 2001, to January 8, 2005. The activities subject to this variance are the same as those covered under the pre-existing variance. The wastes will be excavated from additional locations within the AOC and will be transported along routes shown in Attachment I.

6.2 Description of physical and chemical characteristics of hazardous wastes subject to variance:

This variance is applicable only to the management of non-RCRA hazardous waste. The materials subject to this variance are comprised almost entirely of soil. Other materials that may be encountered during normal excavation activities and transported in accordance with this variance include wood that may have been treated with creosote and serpentine boulders. Results of soil sampling in accordance with the San Francisco Department of Public Health’s Article 22A (Maher) Ordinance indicate that the chemical composition of the soil is somewhat varied; however, soils subject to the variance would be considered hazardous waste under California law (“non-RCRA hazardous waste”) due to lead concentrations that exceed the 5 mg/liter Soluble Threshold Limit

Concentration ("STLC") when analyzed by the California Waste Extraction Test ("WET") test. Soil sampling data have indicated total lead concentration of soils in the Mission Bay project area has been found to be less than 1000 mg/kg, with a 95% confidence level. The presence of lead is associated with the filling of Mission Bay during the period from the 1860's into the early 1900's. The soils are also typically contaminated with petroleum hydrocarbons at levels below hazardous waste levels under state or federal law. The presence of petroleum hydrocarbons in these soils is associated with past land use.

6.3 Quantity of hazardous wastes subject to variance

Approximately 10,000 to 15,000 cubic-yards of soil (and miscellaneous hazardous waste as described in 6.2) are estimated to be subject to the provisions of this variance on an annual basis. During the term of the variance, the soils will be moved in several concentrated efforts over several week periods with long periods of no soil movement.

7. PROVISIONS SUBJECT TO VARIANCE:

DTSC, subject to all terms and conditions herein, waives the hazardous waste manifest requirements of Health and Safety Code section 25160 and California Code of Regulations, title 22, sections 66263.20 through 66263.23. These requirements are waived as set forth in Health and Safety Code section 25143. Catellus must comply with all other requirements of this variance.

8. SPECIFICATIONS OF THE TERMS, CONDITIONS, LIMITATIONS, OR OTHER REQUIREMENTS: The Applicant shall be subject to the following conditions:

- 8.1. This variance is issued on the basis of the Catellus Manifest Variance Application for Mission Bay Development ("Site"), dated March 8, 2005.
- 8.2. This variance is applicable only to the transportation of excavated soil materials that constitute non-RCRA hazardous waste as identified in section 6.2 of this variance.
- 8.3. Catellus and its agents or contractors shall comply with all provisions of the most current version of the Risk Management Plan (RMP), originally approved by the San Francisco Regional Water Quality Control Board (Board) on May 12, 1999, as subsequently revised and approved by the Board, including but not limited to section 4.3.5.3 Reuse of Native Soil.
- 8.4. The hazardous waste soils subject to this variance must be packaged, labeled, placarded, and transported in accordance with all applicable DTSC, Department of Transportation, and California Highway Patrol requirements, including the use of registered hazardous waste

transporters. Vehicles may not be loaded in excess of the legal gross weight limit set in the Vehicle Code.

- 8.5. The hazardous waste soils subject to this variance may be transported along public streets only from one location within the AOC, as designated in the RMP, to another location within the AOC.
- 8.6. A Bill of Lading (Attachment II) will be used to document and track all loads of variance soil moved along public streets from one area of the approved AOC to another. Catellus will maintain copies of the Bills of Lading for at least five years at the Catellus Mission Bay Office at 255 Channel Street, San Francisco.
- 8.7. Catellus' agents or contractors shall be made aware of the requirements for management of hazardous waste soils subject to the provisions of this variance and the RMP.
- 8.8. Catellus shall immediately notify DTSC regarding any noncompliance or any accident associated with the transportation of soils subject to this variance. An accident report shall be submitted to the DTSC office specified below within ten (10) days of any accident associated with the transportation of soils subject to this variance.
- 8.9. Catellus shall prepare a report that summarizes the total quantity of materials transported pursuant to this variance during each calendar year. The report shall be submitted to DTSC each year. The report is due on January 28 of each year for the submittal of the report for the period covering the preceding calendar year.
- 8.10. Catellus shall comply with all other applicable federal, state and local statutes, regulations, ordinances, requirements or limitations.
- 8.11. Catellus shall comply with the conditions set forth in this variance. Failure to comply may result in modification or revocation of this variance, denial of authorization for future operations, or lead to enforcement actions taken by DTSC or other agencies. Catellus shall immediately notify DTSC if Catellus becomes aware of any noncompliance with the terms of this variance.
- 8.12. A copy of this variance shall be carried in each vehicle used to transport the variance soil and shall be available for review at the Catellus Mission Bay Office at 255 Channel Street, San Francisco.
- 8.13. All correspondence regarding this variance shall be directed to the following office: Department of Toxic Substances Control
P.O. Box 806

Sacramento, California 95812-0806
Attn: Mr. Jan Radimsky, Chief
Program Support Branch

9. DISCLAIMER:

9.1. The issuance of this variance does not relieve Catellus' responsibility for compliance with Health and Safety code division 20, chapter 6.5, or the regulations adopted therein, and any other laws and regulations other than those specifically identified in section 8 of this variance. Catellus is subject to all terms and conditions herein. The granting of this variance confers no relief from compliance with any federal, state, or local requirements other than those specifically provided herein.

9.2. The issuance of this variance does not release Catellus from any liability associated with the handling of hazardous waste, except as specifically provided herein and subject to all terms and conditions of this variance.

10. VARIANCE MODIFICATION OR REVOCATION: This variance is subject to review at the discretion of DTSC and may be modified or revoked by DTSC at any time pursuant to Health and Safety Code section 25143.

11. CEQA DETERMINATION: DTSC has prepared a Notice of Exemption for this project, pursuant to California Code of Regulations, title 14, section 15061(b)(3). The Notice of Exemption will be filed with the Office of Planning and Research.