

## CALIFORNIA ENVIRONMENTAL QUALITY ACT DRAFT 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  
P.O. Box 806  
1001 I Street, 11<sup>th</sup> Floor  
Sacramento, CA 95812-0806

Project Title: FOCIL-MB, LLC Variance from Manifest Requirements

Project Location: Mission Bay

County: San Francisco

Project Description:

The Department of Toxic Substances Control (DTSC) has issued a variance to FOCIL-Mission Bay, LLC (FOCIL) pursuant to California Health and Safety Code section 25143. The variance waives hazardous waste manifesting requirements in Health and Safety Code section 25160 and California Code of Regulations, title 22, sections 66263.20 through 66263.23 and allows FOCIL to use bills of lading when transporting contaminated soils and miscellaneous wastes generated from excavation activities associated with the redevelopment in the approximately 300-acre Mission Bay area in San Francisco. This variance is applicable to contaminated soils and miscellaneous wastes that are hazardous wastes not subject to the federal Resource Conservation and Recovery Act ("non-RCRA hazardous waste"). Approximately, fifteen thousand (15,000) cubic yards of contaminated soils and miscellaneous wastes are estimated to be subject to the provisions of this variance on an annual basis. The movement of contaminated soils and miscellaneous wastes will occur in a concentrated effort over several weeks during the term of the variance. As the contaminated soils and miscellaneous wastes need to be compacted to a specific standard, there is no possibility that the shipments will overlap with other construction projects in the redevelopment area. The term of the variance is ten (10) years from issuance by DTSC.

Background:

The San Francisco Redevelopment Agency controls the redevelopment project, which consists of 6,000 housing units including affordable housing, and a new University of California at San Francisco Research Campus, retail space, new hotel, public school and fire and police station.

The soils subject to the proposed variance are contaminated with petroleum hydrocarbons below federal or state hazardous waste levels and are California-only (non-RCRA regulated) hazardous waste due to lead concentrations that exceed the 5 milligram per liter Soluble Threshold Limit Concentration (STLC) when analyzed by the California Waste Extraction Test ("WET") test and may exceed the Total Threshold Limit Concentration (TTLC) of 1000 mg/kg. 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 presence of petroleum hydrocarbons in these soils is associated with past land use.

DTSC issued a similar manifest variance to Catellus Urban Construction Inc. ("Catellus") on May 24, 2005 that expired on May 24, 2010. Catellus was also previously subject to a manifest variance issued by DTSC on November 8, 2001, covering the period November 8, 2001 to January 8, 2005. On April 7, 2006, DTSC issued a manifest variance to a second company in the Mission Bay area, FOCIL-MB, LLC. FOCIL purchased land from Catellus in the Mission Bay project area and has assumed the obligation to fund completion of Mission Bay infrastructure projects.

FOCIL intends to continue to reuse excavated soils on-site for grading, backfill or other development purposes, or to hold soils temporarily in a designated staging area for future use or offsite disposal in accordance with a San Francisco Regional Water Control Board (Board) approved Risk Management Plan (RMP) dated May 11, 1999 and subsequently revised and approved by the Board on March 22, 2005. The RMP imposes requirements for the management of soils, including movement of soil along public roads from one area of Mission Bay to another within the designated RMP Area. The transportation of soils within the RMP Area allows the reuse of soils for grading, backfill or other development purposes, or staging for future use or offsite disposal. Registered hazardous waste transporters will be used for all movement of hazardous wastes along public roads subject to this variance.

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

Name of Person or Agency Carrying Out Project: FOCIL–Mission Bay, LLC

Exemption Status: (check one)

- Ministerial [PRC, Sec. 21080(b)(1); CCR, Sec. 15268]  
 Declared Emergency [PRC, Sec. 21080(b)(3); CCR, Sec.15269(a)]  
 Emergency Project [PRC, Sec. 21080(b)(4); CCR, Sec.15269(b)(c)]  
 Categorical Exemption: [State type and section number]  
 Statutory Exemptions: [State code section number]  
 General Rule [CCR, Sec. 15061(b)(3)]

Exemption Title: With Certainty, No Possibility of a Significant Environmental Effect

Reasons Why Project is Exempt:

1. The management of contaminated soils and miscellaneous wastes in the Mission Bay project area is subject to oversight by the San Francisco Regional Water Quality Control Board (Board), as specified in the Risk Management Plan (RMP) dated May 11, 1999 and subsequently revised and approved by the Board on March 22, 2005. The RMP defines an "RMP area" wherein the RMP provisions are applicable.
2. Excavated contaminated soils and miscellaneous wastes from development within the Mission Bay project area have been successfully transported on public roads using registered hazardous waste transporters and bills of lading, in lieu of a hazardous waste manifest in accordance with manifest variances issued by DTSC to Catellus in 2001 and 2005. The variance does not change the current practice of transport of contaminated soils and miscellaneous wastes within RMP area.
3. The contaminated soils and miscellaneous wastes subject to this variance are low in concentrations of lead and hydrocarbon that pose limited risk during transport for short distances over a limited number of streets within the approximately 300 acres Mission Bay project area.
4. The contaminated soils and miscellaneous wastes subject to this variance may be transported along public streets only from one location to another within the RMP area. The routes to be used have no sensitive uses such as schools or hospitals.
5. The bill of lading will be used to document and track all loads of contaminated soils and miscellaneous waste moved along public streets within the RMP area and includes identification of the material. Registered hazardous waste transporters that have proper training will provide any necessary spill response.
6. FOCIL will maintain copies of the bills of lading for the ten year variance duration at their office, located 255 Channel Street, San Francisco, CA 94158. FOCIL will prepare a report that summarizes the total quantity of contaminated soils and miscellaneous wastes transported pursuant to this variance during each calendar year. The report shall be submitted to DTSC each year. This record keeping will serve to adequately serve the intent of a manifest.
7. Registered hazardous waste transporters will be used to transport all contaminated soils and miscellaneous wastes subject to the variance along public roads. Contaminated soils and miscellaneous wastes will be transported, packaged, labeled, and placarded in accordance with all applicable DTSC, Department of Transportation, and California Highway Patrol requirements.
8. Traffic impacts related to the movement of contaminated soils and miscellaneous wastes subject to the proposed variance along public roads within the RMP area are addressed by regulatory agencies and by FOCIL as follows:
  - a. FOCIL's construction contractors will be expressly prohibited from conducting any contaminated soils and miscellaneous wastes hauling activities from being performed for two hours before and two hours after all San Francisco Giants' home games. Therefore, movement of contaminated soils and miscellaneous wastes under the terms of the variance will not add to traffic congestion associated with baseball games;
  - b. Construction contractors are required to comply with the City and County of San Francisco Department of Public Transportation's (DPT) "blue book," which describes restrictions and control measures that all construction contractors must follow when using City streets;
  - c. Each contractor must submit a "traffic plan" to FOCIL; this "traffic plan" must be consistent with the requirements in the RMP;
  - d. FOCIL shall continue to monitor the traffic throughout the term of the variance to verify that the route used avoids any new residential areas or school developments, emergency vehicles access and minimize contact with congested traffic areas when hauling within the RMP.
  - e. When large hauls are contemplated, a traffic plan must be submitted to DPT for approval;
  - f. Work may only be performed in the daytime, unless a special permit has been issued by DPT.

Evidence to support the above reasons is documented in the project file record, available for inspection at:

Department of Toxic Substances Control  
 1001 I Street, 11<sup>th</sup> Floor  
 Sacramento, CA 95812-0806

Edward Nieto	Supervising Hazardous Substances Engineer	916-255-3578
Project Manager Name	Project Manager Title	Phone #
Signature		Date
Edward Nieto, P.E.	Supervising Hazardous Substances Engineer	916-255-3578
Name	Title	Phone #

TO BE COMPLETED BY OPR ONLY

Date Received For Filing and Posting at OPR: