

**Exhibit B: Staff Report**  
**Update- Hunters Point Naval Shipyard Material Being**  
**Deposited at Keller Canyon Landfill**  
**July 3, 2018**

This report is an update of actions taken and information gained since the May 1, 2018, Board of Supervisors meeting. At that meeting, Dr. Underwood, Environmental Health Director, briefed the board about allegations that a U.S. Navy consultant's deliberate falsification of sampling data may have meant that radiologic material that was not properly prior to shipment to Keller Canyon Landfill as well as several other landfills in California. These allegations were reported in a San Francisco Chronicle newspaper article published on April 22, 2018.

**Summary of the most pertinent findings**

At this point in time, staff has been told that the landfill received material from Hunters Point starting in 2009, and the last shipments were received in November 2017. As we now know, some of the falsified data was discovered in 2012 by the U.S. Navy, and during the subsequent months, former Tetra Tech, Inc. workers stepped forward, sharing their accounts of falsification. Thus, the period when material might have come to the landfill inappropriately would have been between 2009 and the fall of 2012.

The radiation health experts from the California Department of Public Health (CDPH) tell us that there is no current radiologic exposure concern from any material that might have been deposited in the landfill. There is no exposure because any Hunters Point material is now covered with garbage, other solid waste, and soil that shields the workers working at the landfill or the nearby residents from any harmful effects if the buried material was indeed radiologic. This shielding effect would have played an important role in shielding any people near the transportation routes of the vehicles used for shipment, if they were carrying radiologic material. Dust could have blown off-site when the material was being deposited in the landfill, and had not yet been covered with additional garbage that day or at close of business. The radiologic health experts emphasized that the exposure from dust would have been low, and individuals are exposed to greater levels of radiation every day from the sun and other sources.

Though the official reports have focused on the falsification of soil sampling data in regards to material that was intended to be left in place at the shipyard, staff's review of the former Tetra Tech, Inc., workers' declarations contain testimony that the falsification also extended to material shipped off-site. Staff is not aware of any published reports by the U.S. Navy, the U.S. Environmental Protection Agency (US EPA), or other federal or state agencies about the potential off-site consequences due to data falsification.

Republic Services, the operator of the landfill, indicates that they may not know the exact location where the material originating from Hunters Point is placed within the landfill but are aware of the general area in the landfill they were working from month to month. Keller Canyon Landfill is the newest landfill in the state with a six-foot liner, a regularly monitored re-injectable leachate collection<sup>1</sup> system, a surface water collection system, and a groundwater monitoring system around the outside of the

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<sup>1</sup> A **leachate** is any liquid that, in the course of passing through matter, extracts [soluble](#) or [suspended](#) solids, or any other component of the material through which it has passed. The leachate collection and recovery system collects and removes liquids from the landfill. The liner system prevents leachate from leaving the landfill.

liner. The San Francisco Regional Water Quality Control Board (RWQCB), who is charged with protecting groundwater, sees no impact to the groundwater near the landfill resulting from landfill operations. Current groundwater monitoring tests focus on toxic chemicals including heavy metals. Adding a radiologic testing component is now under consideration.

## **Actions Taken**

Environmental Health met with a stakeholder/agency workgroup at Supervisor Glover's office on May 15<sup>th</sup> to gain more information about the issue. The California Department of Toxic Substances Control (DTSC), CDPH, Republic Services, and the RWQCB presented short overviews from each of their perspectives. The U.S. Navy, City of Pittsburg, Department of Conservation and Development (DCD) staff, and three neighbors to the landfill also participated. Outcomes of the meeting included the setting of a date for a community meeting, following up with a request of CDPH to conduct radiologic surveys of concerned community members that request such a service, and setting parameters for the hiring of a consultant to assist the County on next steps and appropriate actions to be taken going forward with respect to this incident.

On June 21<sup>st</sup>, a community meeting was held in Bay Point with presentations from the U.S. Navy, CDPH, Republic Services, and the RWQCB. An update of actions underway and taken by the County was presented by Dr. Underwood. The meeting was videotaped by CCTV.

A website was created on [cchealth.org](http://cchealth.org) containing the material related to this issue and links to other websites where additional information can be found. The slide presentations from the June 21<sup>st</sup> meeting are available at the website, as well as links to the CCTV video.

Dr. Underwood and John Kopchik, DCD Director, attended and presented at the May 1<sup>st</sup> Bay Point Municipal Advisory Committee.

The following is a summary of the recommendations from the May 1<sup>st</sup> meeting and the actions taken since that time:

Dr. Underwood's recommendations at the May 1<sup>st</sup> meeting: 1) Formally request the Department of the Navy to make itself available for meetings with the community and all stakeholders as soon as possible to provide information on the soil date falsification incident and what further investigation(s) are ongoing; 2) Formally request the Navy to investigate whether the soil data falsification incident affected Keller Canyon Landfill, including whether any contaminated soil was transported from Hunter's Point shipyard to Keller Canyon Landfill; 3) Formally request the Navy to conduct a surface survey of Keller Canyon Landfill to determine if there is any radiological hazard at the landfill.

*Update: A letter from the board chair was sent to the U.S. Navy on May 7, 2018. As of July 3, 2018, no response has been received. Representatives from the U.S. Navy participated in the May 15<sup>th</sup> Agency/stakeholder workgroup meeting and presented at the June 21<sup>st</sup> community meeting.*

The Board of Supervisor's additional recommendations from May 1<sup>st</sup> meeting were as follows:

1. Implement all the recommendations put forth by Dr. Underwood.

*Update: See above.*

2. Dr. Underwood will return to the Board in 30 days with a written report and any updated information;

*Update: The update is occurring at this meeting.*

3. Staff will seek answers on the notification process from the state and federal agencies to find out why the County, the City of Pittsburg, and Keller Canyon Landfill were not notified of the investigation into the soil data falsification;

*Update: This has not yet been addressed as staff has identified other items requiring more immediate attention.*

4. Staff will examine its notification protocols and work with Keller Canyon landfill to ensure timely communication with the District Supervisor and the Board;

*Update: Any time Contra Costa County Environmental Health receives report of an “unusual occurrence” related to a solid waste facility within the jurisdiction of the county Local Enforcement Agency (LEA), which is housed within Contra Costa County Environmental Health, the LEA will inform the County Supervisor of the affected district. In the case of Keller Canyon Landfill, the LEA will also inform the City of Pittsburg Environmental Affairs Manager. This sharing of information has already been implemented twice since the May 1, 2018 meeting.*

5. Staff will compose letters for the Chair of the Board to sign that will the assistance of state and federal legislative representatives in obtaining swift and appropriate help from the Navy and other applicable agencies with expertise in radiological matters;

*Update: On May 7<sup>th</sup>, letters from the Board Chair were sent to the two U.S. Senators and four U.S. House of Representatives members informing them of the need for assistance from the U.S. Navy and the EPA. On May 9<sup>th</sup>, letters from the Board Chair were sent to four state assembly members and 3 state senators informing them of the need for assistance from CDPH, DTSC, and the RWQCB.*

6. Staff will seek information from consultant TetraTech regarding the incident;

*Update: A letter from the Board Chair was sent on May 21<sup>st</sup> to a senior vice-president/general counsel of Tetra Tech, Inc., requesting financial assistance for the third-party investigation that is to be conducted by the County. On June 4<sup>th</sup>, the Board Chair received a letter from a legal firm representing Tetra Tech companies declining the County’s request to provide funding for the third party investigation. In the letter, their legal representative points to the U.S. Navy as being in charge of the cleanup activities at the shipyard.*

*Staff has received the declarations from seven current or former employees of Tetra Tech, Inc. /subcontractors, in which they describe the sampling and remediation actions they observed and in which they participated that were not conducted properly. Reports containing some of the data that was allegedly misrepresented have also recently been obtained.*

7. Staff will research what, if any, mechanism is in place to hold the contractor hired by the U.S. Navy financially responsible for any third-party investigative and/or testing to be conducted at Keller Canyon Landfill;

*Update: See answer to #7.*

8. Staff will provide further information for the Board on the history of alerts from the radiologic sensors located at Keller Canyon Landfill, and how those incidents are documented;

*Update: This information is being gathered.*

9. Staff will immediately look into the hiring of an expert consultant to assist the County on next steps and appropriate actions to be taken going forward with respect to this incident;

*Update: A Request for Qualifications for a consultant to assist the County in determining next steps was posted by the County on BidSync on June 14<sup>th</sup>, with bids due by July 13<sup>th</sup>.*

10. Staff will prepare a report addressing the effects of designating the City of Pittsburg as the Local Enforcement Agency (LEA) for the Keller Canyon Landfill site.

*Update: This issue was examined and reported to the Board on March 3, 2015. The following is the excerpt from the approved board order from that meeting:*

*Contra Costa Environmental Health (CCEH) reviewed the proposal and applicable legal requirements. The laws and regulations that govern the designation and certification of local enforcement agencies do not authorize Pittsburg's LEA to take on these duties because the landfill is located in an unincorporated area.*

*Under the Public Resources Code (PRC), only the Board of Supervisors may designate an enforcement agency to enforce solid waste laws in unincorporated areas. In a city, only the city council may designate an enforcement agency to enforce solid waste laws in that city (PRC §§ 43202 & 43203).*

*Under the California Code of Regulations (CCR), the Board of Supervisors may designate one local agency to be the County's enforcement agency. After the designated agency has been certified by the California Department of Resources Recycling and Recovery (CalRecycle), then that certified agency is the only LEA in the unincorporated area of the County. Similarly, a city may designate one local agency to be its enforcement agency (CCR Title 14, §§ 18050 & 18070).*

*Based on these laws, only one enforcement agency can be designated within the unincorporated area of Contra Costa County. Under these laws, the Pittsburg LEA cannot be designated by the City of Pittsburg as the enforcement agency for the Keller Canyon Landfill because the landfill is located in an unincorporated area which is the County's jurisdiction.*

*Contra Costa Environmental Health (CCEH) has served as the LEA in the unincorporated area since 1992. In addition, 18 of the County's cities have designated CCEH as their LEA.*

*CCEH staff has reviewed the proposal submitted by the City of Pittsburg. In its capacity as the*

*County LEA, CCEH has indicated it is opposed to Pittsburg's proposal and remains committed to fulfilling its solid waste enforcement duties in Contra Costa County.*