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1 **I. INTRODUCTION**

2 On June 29, 2017, Petitioner Greenaction for Health and Environmental Justice filed its
3 Petition seeking the revocation of Tetra Tech EC Inc.’s (“Tetra Tech” or “TtEC”) Nuclear Regulatory
4 Commission (“NRC”) license for committing widespread fraud in the cleanup of radiation at the
5 former Hunters Point Naval Shipyard (“HPNS” or “the shipyard”) in San Francisco, California.

6 On January 18, 2018, Petitioner lodged its first Supplemental Filing with the NRC in support
7 of the Petition, citing a draft report prepared for the Navy by a technical team conducting a review of
8 Tetra Tech’s data. The report documents evidence of more widespread fraud and/or data
9 manipulation in Parcels B and G than was known at the time of the filing of the Petition.¹

10 On February 14, 2018, Petitioner lodged a second Supplemental Filing with the NRC in
11 support of the Petition. Like the first Supplemental Filing, the second is based on draft reports
12 prepared by the Navy’s technical team involving soil samples taken in Parcels C and E. And, like the
13 earlier report involving Parcels B & G, the one involving Parcels C and E evidenced more
14 widespread fraud than was previously known in those areas.

15 Now Petitioner lodges its third Supplemental Filing, bringing two additional documents to the
16 NRC’s attention: *Draft Building Radiation Survey Data Initial Evaluation Report*, dated March 2018,
17 (incorporated herein as Exhibit 1); and “EPA Review of *Draft Radiological Data Evaluation*
18 *Findings Report for Parcels B and G Soil*,” dated December 2017 (“Comments,” incorporated herein
19 as Exhibit 2). Both the California Department of Toxic Substances Control (“DTSC”) and the
20 California Department of Public Health (“CDPH”) have endorsed the Comments. The two documents
21 present evidence of a larger radiological problem left behind by Tetra Tech than had been previously
22 known and confirm whistleblowers’ allegations at the heart of the Petition.
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24 known and confirm whistleblowers’ allegations at the heart of the Petition.

25 Over time, as the whistleblowers’ allegations came forward and the Navy conducted the
26 resulting data reviews, evidence of the extent of the fraud has kept expanding to the point that now
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¹ As mentioned in the Petition, HPNS is divided into Parcels A-G.

1 EPA recommends resampling an astounding 90% of the soil samples Tetra Tech took in Parcel B and
2 an even more astonishing 97% of the Parcel G samples.

3 Petitioner respectfully requests that the NRC rely on this new evidence of fraudulent shipyard
4 building scans and the EPA/DTSC/DPH's devastating comments regarding soil samples in Parcels B
5 and G in revoking Tetra Tech's NRC license.

6 7 8 **II. SUPPLEMENTAL FACTS**

9 In 2012, evidence of potential fraud was identified by the Navy. In response, Tetra Tech
10 conducted an internal "investigation," resulting in a 2014 report, *Investigation Conclusion,*
11 *Anomalous Soil Samples* report ("*Anomalous Samples Report*"). It admitted some soil-sampling
12 fraud, but said it was very limited and had been corrected. (The *Anomalous Samples Report* is
13 Exhibit H to the Petition to Revoke Tetra Tech's License).

14 Subsequently, Petitioner obtained declarations under penalty of perjury from former shipyard
15 radiation workers alleging the data manipulation and falsification was much more widespread than
16 described in the *Anomalous Samples Report*. The workers alleged fraud including: soil samples with
17 high levels of contamination that were replaced with soil taken from areas known to have lower
18 levels; samples and analytical results that were discarded when the results exceeded release criteria;
19 chain-of-custody forms that were falsified to support false sample collection information; and
20 handheld detectors that were used improperly. This evidence formed the basis for the Petition to
21 Revoke Tetra Tech's license.

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23 In reaction to this proof of fraud, the Navy conducted a technical review of Tetra Tech's data:
24 "In response to the concerns, the Navy assembled a Technical Team (a group of technical experts) to
25 conduct an evaluation of the previous data in light of the claims made.... The objective of this
26 evaluation is to review the historical radiological data collected by TtEC at HPNS, assess the
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1 potential for data falsification or manipulation, and recommend follow-up data collection to validate
2 previous decisions regarding the property condition.”²

3 The Technical Team reviewed the Tetra Tech soil samples taken in Parcels B, C, E, and G. It
4 concluded there was extensive evidence of fraud in soil sampling. These reports have been lodged
5 with the NRC in Petitioner’s previous two Supplemental Filings.

6 Now Petitioner brings two additional documents to the NRC’s attention. Like the
7 supplemental filings before it, this third Supplemental Filing provides significant evidence further
8 justifying revocation of Tetra Tech’s Materials License.
9

10 11 **A. SUMMARY OF BUILDING SCAN FINDINGS**

12 Exhibit 1 describes the data evaluation of Tetra Tech’s building-radiation surveys at the shipyard from
13 2008 to 2016. The Navy used four statistical methods for the evaluation: the “Scan Speed and Coverage,”
14 “Data Distribution Comparison,” “Data Duplication Query” and “Sum of Statics Assessment” methods. The
15 report states, “While the Navy selected four methods for the initial survey evaluation, additional
16 inconsistencies and anomalies were noted but not investigated fully because the initial evaluation provided
17 **ample evidence that the building radiation surveys had been manipulated** and could not be used to
18 support a recommendation for unrestricted radiological release.”³ (Emphasis added.)

19 Three of the four methods evidenced potential fraud; one, the “Data Distribution Comparison,” was
20 inconclusive. Overall, the data evaluation “determined that former worker allegations describing improper data
21 collection and manipulation could be verified by developing and applying analytical methods on the TtEC
22 provided data and TtEC-submitted survey reports.” Its Executive Summary is blunt: “**Evidence of data
23 manipulation and/or falsification was found in the building radiation surveys.**”⁴ (Emphasis added.)

24 The “Scan Speed and Coverage Method” tested whistleblowers’ allegations that building scans were
25 done too quickly to obtain accurate results. The analysis compared the scanned area with the time expended,
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27 ² *Id.*, p. ii.

28 ³ Exhibit 1, p. iii.

⁴ *Id.*

1 using “Building 113, Survey Unit 3floors” to illustrate. Although 100 percent of the floor was supposed to be
2 scanned at the proper speed, that could not have been the case: “From these results, if the entire floor area was
3 scanned (100 percent coverage) during the scan duration, then the detector must have been moving an average
4 of 2.85 cm/s [centimeters per second], which is **more than twice the design scan rate,**” and “if the floor was
5 scanned at 1.37 cm/s [the proper scan rate], then the data points recorded during the scan duration provide a
6 maximum of 48 percent scan coverage, which is **less than half the design scan coverage.**”⁵ (Emphasis
7 added.)

8 The “Data Duplication Query Method” found inappropriate strings of duplicated data which could
9 indicate manipulation: “Forty instances of repeated strings of alpha, beta, or gamma cpm [counts per minute]
10 data were identified in the electronic data and confirmed in the survey reports submitted by TtEC.”⁶

11 The “Data Duplication Query” test did indeed find evidence of improper data duplication. In
12 “Building 130, Survey Unit 5,” for example, “the same four values have been repeated five different times and
13 reported as 20 different ABST [alpha-beta static] readings.”⁷

14 The report sums up, “It is concluded that some surveys have been falsified and additional data will
15 need to be collected to support a recommendation for unrestricted radiological release at HPNS radiologically-
16 impacted buildings.”⁸

17 In light of the extensiveness of potential fraud identified by the Navy’s data review of both soil
18 samples (from Parcels B, C, E and G) and building-survey data, the Navy has stated publicly that none of Tetra
19 Tech’s radiological data can be relied on and the sampling and remediation Tetra Tech did will have to be
20 completely redone.⁹

26 ⁵ *Id.*, p. 4-3.

27 ⁶ *Id.*, p. 6-2.

27 ⁷ *Id.*, p. 6-9.

28 ⁸ *Id.*

28 ⁹ *Declaration of Steven J. Castleman*, attached hereto as Exhibit 3, p. 2.

1 **B. SUMMARY OF EPA, ET. AL. COMMENTS ON PARCELS B & G DATA REVIEW**

2 By cover letter of December 27, 2017, the US EPA, DTSC and CDPH transmitted their
3 formal comments stating concerns about the draft soil-sampling report for Parcels B and G.¹⁰

4 The cover letter serves functionally as an executive summary. It states that the regulators
5 conducted a detailed, independent review of the Parcels B and G soil-sample report “with a technical
6 team including national experts in health physics, geology, and statistics.”

7 The regulators found astonishing rates of potential fraud or data manipulation and called for
8 resampling a much larger percentage of Parcels B and G soil samples than the Navy intended to: “In
9 Parcel B, the Navy recommended resampling in 15% of soil survey units in trenches, fill and building
10 sites. EPA, DTSC, and CDPH found signs of potential falsification, data manipulation, and/or data
11 quality concerns that call into question the reliability of soil data **in an additional 76% of survey**
12 **units, bringing to 90% the total suspect soil survey units in Parcel B.**” (Emphasis added.)¹¹

13 The cover letter continues: “In Parcel G, the Navy recommended resampling 49% of survey
14 units, and regulatory agencies recommended 49% more, **for a total of 97% of survey units as**
15 **suspect.**” (Emphasis added.)

16 Speaking of Parcel G, the EPA et. al. reach a devastating judgment: “The data revealed not
17 only potential **purposeful falsification and fraud** in terms of sample and/or data manipulation, they
18 also reveal the potential **failure to conduct adequate scans, a lack of proper chain of custody** for
19 ensuring samples were not tampered with, **extensive data control issues** (including off-site
20 laboratory data) and **general mis-managment of the entire characterization and cleanup project.**
21 (Emphasis added.)¹²

22 “In summary,” the cover letter concludes, “the data analyzed demonstrate a **widespread**
23 **pattern and practices that appear to show deliberate falsification,** failure to perform the work in a
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27 ¹⁰ Exhibit 2.

28 ¹¹ Cover letter to EPA/DTSC/CDPH Comments, p. 1.

¹² *Id.*

1 manner required to insure the ROD [Record of Decision] requirements were met, or both.” (Emphasis
2 added.)¹³

3
4 **III. CONCLUSION**

5 The new information presented in Exhibits 1 and 2 to this third Supplemental Filing confirms
6 witness statements filed in support of the Petition. For example, Anthony Smith stated under oath that
7 numerous building scans were falsified. The Navy’s building survey report confirms what he said.
8 Similarly, multiple whistleblowers stated under penalty of perjury that the fraud was much more
9 widespread than either the Navy or Tetra Tech acknowledged, allegations that are substantiated by
10 the regulators’ review.
11

12 Likewise, witness statements in support of the Petition allege that Tetra Tech’s internal
13 “investigation” didn’t uncover the full extent of the fraud. Former Tetra Tech employees state that
14 Tetra Tech’s fraud took place over a period of years, not months. It involved widespread misfeasance
15 and was directed by Tetra Tech management. It was not limited to what Tetra Tech admitted in its
16 sham “investigation” of itself.
17

18 In other words, Tetra Tech’s “investigation” continued the fraud’s cover-up rather than
19 putting an end to it. Tetra Tech has never admitted it conducted fraudulent building scans, or that the
20 soil-sample fraud was so broad regulatory agencies call for resampling 90% of the soil samples in
21 Parcel B and 97% in Parcel G.

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¹³ *Id.*

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To this day, Tetra Tech has failed to take responsibility for its fraudulent conduct. It must not continue to hold an NRC Materials license. Petitioner respectfully urges the NRC to revoke it.

Respectfully Submitted,



Steve Castleman
Environmental Law and Justice Clinic

July 23, 2018
Date



David C. Anton
Attorney at Law

July 23, 2018
Date