

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
E-Mail mborsuk@ix.netcom.com

ALDO
HAZMAT

94 OCT 26 PM 2:25

October 22, 1994

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

*10th day
within 30 days
send NOV.
Talk to G.I. - what can
he do. keep RWQCB out of it
cc: clean up fund.
or RWB write NOV*

SUBJECT: SITE SEARCH COST
1432 Harrison Street, Oakland, CA 94612

Dear Mr. Peacock:

*At end you will be fined
CWC
13267
\$1000/d*

On August 18, Mr. Tinsley's charged me for two hours of site search time. The search included three sites: 246 14th St. @ Alice (STID 1098); 111 98th Ave. (STID 3956); and 1721 Webster St. (STID 4070). My understanding is that there is no charge for reviewing site data potentially impacting a responsible party's site. Therefore, I request a reduction in the bill by \$60 ($\$180 / 3 = \60) to reflect my review of 246 14th Street, a site 75' feet away from the Harrison St. Garage. I have adjusted and paid the lesser amount.

*QR -
Workplan Soil
Signed by
Geol or*

Also, I wish to bring to your attention a two week delay in receiving copied material from the ACHCSA. The County charges a premium price of \$1 per page and should mail the material within two days and not two weeks after copying. I suggest the County hire a vendor to provide and service a copy machine(s) in the ACHCSA's office to allow persons to copy the files themselves. This method works very well at the Regional Board and I urge the County to follow suit.

*Don't issue
notice of*

Thank you for considering my requests.

Sincerely yours,



Mark Borsuk

Attachment

within 10 days scope of work

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

PETE WILSON, Governor

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 T STREET, SUITE 130

P.O. BOX 944212

SACRAMENTO, CA 94244-2120



FAX (916) 227-4349
FAX (916) 227-4530
FAX (916) 227-4595

TRANSMITTAL OF FAX MATERIAL

DATE: 10/2/94

TO: TOM PEACOCK / PAUL SMITH
FAX # (510) 337-9335

FROM: **DIVISION OF CLEAN WATER PROGRAMS**
FAX # (916) 227-4349
CLEANUP FUND FAX (916) 227-4530
Planning Facilities FAX (916) 227-4595

~~DA~~ CHRISTOPHER STEVENS

*(If you did not receive all your FAX,
please call (916) 227- 4430)*

NO. OF PAGES 6 (including this sheet)

For your information

Per your request

For your review and comments

REMARKS: _____

ALAMEDA COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

HAZARDOUS MATERIALS DIVISION

M E M O R A N D U M

DATE: September 8, 1993

TO: Mike McDonald, Mgr. UNDERGROUND STORAGE TANK PROGRAM

FROM: *EJA* (916) 227-4349
Edgar Howell, Chief, HazMat Division

SUBJECT: REQUEST OF DRAFT LETTER TO BORSUK & BACHARACH

The draft letter attached is to be sent to the named parties after a hearing at our office attended by RWQCB representative, Alameda County D.A. and our office on Aug. 31, 1993. As I stated on the phone the tanks have not been pulled to date.

We informed Mr. Borsuk that we could neither notify SWRCB that he is either in compliance or out of compliance as the tanks have not been removed. This letter identifies the needs for the applicants to be in compliance, once this has been accomplished we will send a letter to 2004 group so that their application can continue.

Thank you for your interest in this project and we hope that once they hear from you they will be able to proceed with the removal and remediation of their site. If you have any questions or comments please call me at (510) 271-4320.

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY
SAN FRANCISCO BAY REGION
2101 WENSTER STREET, SUITE 300
OAKLAND, CA 94612
(415) 386-1283

Post-It brand fax transmittal memo 7571		# of pages > 2
Mark Borsuk		Phone
Fax 415-922-4440		Phone



RECEIVED
SEP 22 1993

A. Bacharach & B. Borsuk
1432 Harrison Street
Oakland, CA 94612

September 22, 1993
File: 01-0738 & 2195.17

Leland Douglas
Douglas Parking Co.
1721 Webster Street
Oakland, CA 94612

RE: Legal Designation of Responsible Party and Request for Submittal of a Technical Report Resulting from the Alameda County Department of Environmental Health's Pre-Enforcement Review Panel Meeting on August 31, 1993

Dear Sirs :

It has been brought to my attention by Regional Board staff that a condition of soil and groundwater pollution exists on the property located at 1432 Harrison Street, Oakland, as a result of underground storage tank releases. The Alameda County Department of Environmental Health (ACHD) staff have requested technical reports from you to fulfill your obligations per California Code of Regulations, Title 23 Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements. It is my understanding that the tanks and hydraulic lifts remain in the ground and need to be removed. I understand that they are scheduled to be removed by December 1, 1993.

A Pre-Enforcement Review Panel was held at the ACHD offices on August 31, 1993, attended by Mr. Richard Hiett of my staff. Pursuant to the Regional Board's authority under Section 13267 (b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the underground storage tank immediately before the discontinuation of its use." A responsible party also includes any owner of property from which an unauthorized release of a hazardous substance from an underground storage tank has occurred.

As a responsible party, you are required to conduct both soil and groundwater investigations to determine the extent of the environmental pollution resulting from the release. Therefore you are requested to submit technical reports within 45 days of the date of this letter specifically addressing the following numbered items:

SENT BY: WATER QUALITY CONTROL

22-03 ; 8:57AM ;

SAN FRAN BAY

415 822 1485;# 2

**Enforcement Panel Meeting
Page 2 of 2**

- 1) The removal of underground storage tanks, hydraulic lifts, and associated piping from the site.
- 2) A work plan to define the lateral and vertical extent of pollution in soil and groundwater.

All work should adhere to the requirements of the Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - August 10, 1990 and Article 11 of Title 23, Waters, California Code of Regulations.

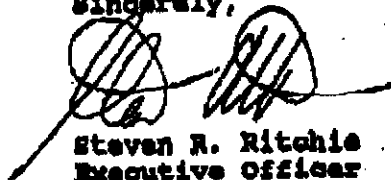
For purposes of the Underground Storage Tank Cleanup Fund it is my understanding that the claimant is in compliance subject to the implementation of the aforementioned items.

I am hereby transmitting this request for a technical report to ACHD for service and continued case handling. You should be aware that failure on your part to submit the requested technical report, or late submittal may result in fines up to \$1000 per day of delinquency. Your response to this technical report request should be sent to the attention of Mr. Tom Peacock at ACHD. Please inform Mr. Peacock at least three working days in advance of all field activities.

Please be advised that this is a formal request for a technical reports pursuant to California Water Code Section 13267 (b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the ACHD.

If you have any questions regarding the contents of this letter, please contact Mr. Peacock, of ACHD, at (510) 271-4530.

Sincerely,



Steven R. Ritchie
Executive Officer

cc: Gil Jensen, ACDA, 7677 Oakport Street, Suite 400, Oakland 94621
Tom Peacock, ACHD, 80 Swan Way, Suite 200, Oakland 94621

CLAIM NO. 2219 LOCAL AGENCY NO. _____
 SITE ADDRESS 1432 Hartson + 1435 Hill St., Oakland

CORRECTIVE ACTION COMPLIANCE DOCUMENTATION		PAGE 4
DATE	ACTION REQUIRED/RESPONSE	
1-7-92	Ltr to RGA Environmental Inc acknowledging receipt of WIP. WIP is being worked around UST w/ further instructions. See above ltr from RGA. Alameda	
4-3-92	Ltr from Cigna Casualties requesting copies of Subchapter Investigative Rept + WIP to obtain copy of videotape of tank removal. Alameda	
6-10-92	Alameda ltr to Atty Morrison acknowledging receipt of P9A + HHA + Safety Plan prepared by RGA.	
9-25-92	Alameda conditionally app'd Health + Safety plan	
1-3-93	Alameda ltr to Atty Morrison re WIP for further site characterization. Further instructions provided.	
2-5-93	Alameda ltr to Atty Morrison + Atty Trinkle to add Douglas Parking as another RP.	
2-9-93	Ltr from Levine-Fricke offering clarifications.	
2-16-93	WIP app'd by Alameda.	
9-22-93	RW606 letter to client - to submit technical reports.	
10-13-93	WIP for soil and GW investigation submitted by Levine-Fricke.	
11-10-93	WIP to remove tanks app'd.	

CONFIRMATION OF CORRECTIVE ACTION COMPLIANCE: *After reviewing the lead agency WIP WIP, the claim reviewer has determined that the claimant is in substantial compliance with corrective action requirements.*

 REVIEWER'S SIGNATURE: Henry Jones DATE SIGNED: 11-15-93

LEAD AGENCY CONCURRENCE: *As of this date, the lead agency representative concurs with the determination that the claimant is in compliance with applicable corrective action requirements.*

 SIGNATURE: Thomas Leacock DATE SIGNED: 11-7-93

BY THE RECOMMENDATION: APPROVED DISAPPROVED
 REVIEWER'S SIGNATURE: _____ DATE SIGNED: _____

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 T STREET, SUITE 130

P.O. BOX 944212

SACRAMENTO, CALIFORNIA 94244-2120

(916) 227-4413

(916) 227-4530 (FAX)

DEC 17 1995



Alvin Bacharach and Barbara Borsuk
C/O Mark Borsuk, Esq.
1626 Vallejo Street
San Francisco, CA 94123-5116

Site: Harrison Street Garage
1432 Harrison and 1435 Alice Sts.
Oakland, CA 94612

Dear Mr. Borsuk:

UNDERGROUND STORAGE TANK CLEANUP FUND, CLAIM NO. 2219

The State Water Resources Control Board (State Board) takes pleasure in issuing the attached Letter of Commitment in an amount not to exceed **\$50,000**. This Letter of Commitment is based upon our review of the corrective action costs incurred to date and your application received on January 17, 1992 and may be modified by the State Board in writing by an amended Letter of Commitment.

The State Board will take steps to withdraw this Letter of Commitment after 90 calendar days from the date of this transmittal letter unless you proceed with due diligence with your cleanup effort. This means that you must take positive, concrete steps to ensure that corrective action is proceeding with all due speed. For example, if you have not started your cleanup effort, you must obtain three bids and sign a contract with one of these bidders within 90 calendar days. If your cleanup effort has already started and was delayed, you must resume the expenditure of funds to ensure that your cleanup is proceeding in an expeditious manner. You are reminded that you must comply with all regulatory agency time schedules and requirements. We constantly review the status of all active claims, and failure to proceed with due diligence will be grounds for withdrawal of this Letter of Commitment. You should read the terms and conditions listed in the Letter of Commitment. Also attached you will find:

- A "Reimbursement Request Instructions" package. You should retain this package for future reimbursement request. Among other information, the package includes instructions for completion of the "Reimbursement Request" form and the "spreadsheet". These instructions must be followed when seeking reimbursements for corrective action costs incurred after January 1, 1988. Included in these instructions are samples of Reimbursement Request forms and complete Spreadsheets. Within the package also included are:
 - Recommended Minimum Invoice Cost Breakdown.
 - A "Certification of Non-Recovery From Other Sources" which must be returned before any reimbursements can be made.
 - A "Bid Summary Sheet" to document data on bids received.
- Three "Reimbursement Request-Underground Storage Tank Cleanup Fund" forms which you must use to request reimbursement of costs incurred.
- Two "Spreadsheets" which you must use in conjunction with your Reimbursement Request.
- "Vendor Data Record" (Std. form 204) which must be completed and returned with your first Reimbursement Request.

If you have any questions regarding the Letter of Commitment or the Reimbursement Request package, please contact Blessy Torres at (916) 227-4535.

Sincerely,

Dave Deaner, Manager
Underground Storage Tank
Cleanup Fund Program

Attachments

cc: Tom Peacock
Alameda County Health Agency
Div of Hazardous Materials
80 Swan Way
Oakland, CA 94621

Don Dalke
Regional Water Quality Control Board
San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612



ALCO
HAZMAT

LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

September 26, 1994

94 SEP 28 PM 2:40

LF 2680.00-45

Mr. Thomas F. Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Department of Environmental Health
Division of Hazardous Materials
1131 Harbor Bay Parkway, 2d Floor
Alameda, California 94502

Subject: Schedule for Submittal of an Addendum to the Soil and
Ground-Water Investigation Report dated September 1,
1994, Harrison Street Garage, 1432-1434 Harrison
Street, Oakland, California

Dear Mr. Peacock:

This letter concerns the schedule for report submittals presented in our letter to you dated August 16, 1994. According to that schedule, the results of ground-water elevation measurements were to be submitted in an addendum to the subject Soil and Ground-Water Investigation Report by October 1, 1994. Levine-Fricke collected ground-water level measurements from monitoring wells at the Harrison Street Garage on September 13, 1994, concurrently with water-level measurements at the former Chevron station at 301 14th Street, to provide additional data to evaluate the shallow ground-water gradient in the Site vicinity. However, because we found a discrepancy in the datum used to survey well elevations at the two sites, we will need additional time to reconcile the water-level data from the two sites. Therefore, we request that the deadline for submittal of the addendum be extended until November 1, 1994.

Please call me or Mr. John Sturman, P.E., R.G. of this office if you have any concerns regarding this schedule.

Sincerely,

Taylor Bennett
Project Hydrogeologist

cc: Mark Borsuk, Esq.
Randall Morrison, Esq., Crosby, Heafey, Roach & May
Kevin Graves, Regional Water Quality Control Board

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

STID 498 Harrison St. Garage, Oakland Case Summary

Aug 31, 93 Review Panel Held
Sep 22, 93 RWQCB order required:
1. removal of UST's by Dec. 1, 1993
2. workplan to define verticle and lateral extent of pollution in soil and groundwater
Furthermore, required to conduct both soil and groundwater investigation
October, 93 workplan stated that well drilling would occur within 1 month, report would be submitted within 3 weeks of sample receipt
Nov 8, 93 NOV issued for not submitting UST removal plan
Nov. 19, 93 Plan submitted to remove the UST's
Nov. 23, 24, 93 delay removal
Dec 12, 93 Tanks removed, clean up letter signed for the fund
Feb 22, 94 Tank closure report
Feb 25, 94 Notice of non-compliance for not submitting a tank closure report (written but not yet submitted) and no monitoring wells installed
Apr 14, 94 Report on workplan implementation delayed, will be submitted by July 94
June 28, 94 additional delay
June 30, 94 new timeline submitted: report to Alameda Co. by Aug 31, 94, received Sep 1, 94
July 19, 94 request to submit report to Alameda Co. by Sep 7, 94
July 30, 94 monitoring wells finally drilled, 1 week later than last extension
Aug 16, 94 request to submit monitoring schedule by 1 Oct 94, never deleivered
Sep 26, 94 requested extension to Nov 1, 94 for submittal of 2nd monitoring report. Never granted and no report has been submitted. Now in the 4th quarter since the tanks were removed and there has only been 1 quarterly report submitted

Get an injunction - Tell it to the judge -

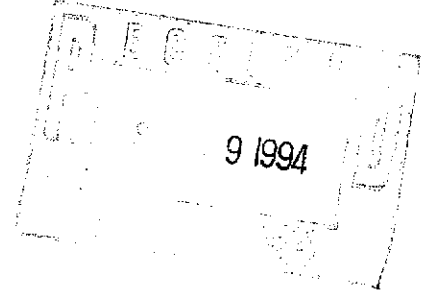
Monitoring Report - Sampling being done wed.
Blair Tech doing the monitoring -

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

DEPARTMENT OF ENVIRONMENTAL HEALTH

MEMORANDUM

DATE: September 16, 1994
TO: Rafat Shahid
FROM: J.A. Trolan
SUBJECT: FEES CHARGED TO REVIEW THE LOCAL
OVERSIGHT PROGRAM RECORDS



→ Rafat
C: Tom Peacock

As we discussed you will find enclosed a copy of my letter to Mr. Mark Borsuck, Esquire, related to the subject.

Should you have any questions concerning this matter, please contact me.

JAT/cdb
borsuckm.jat

Enclosure

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Parkway
Suite 111
Alameda, CA. 94502-6577

September 16, 1994

Mark Borsuck, Esq.
1626 Vallejo Street
San Francisco, CA. 14123

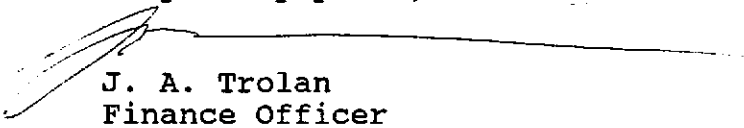
Dear Mr. Borsuck:

Subject: Fee Change Approved by the Board of Supervisors
That Became Effective July 1, 1994

As per our phone conversation you will find enclosed Resolution Number R-94-427 approved by the Board of Supervisors on June 28, 1994. The fee category, the current rate and the proposed rate, which was adopted, as well as the authority for the fee applicable to Environmental Health Services are reflected on Pages 3 through 10 of the enclosed resolution.

If you have any questions or desire any clarification concerning this matter, please contact me.

Very truly yours,



J. A. Trolan
Finance Officer

JAT/cdb
borsuckl.jat

Enclosure

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

September 6, 1994
STID 498

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office received and reviewed a Soil and Groundwater Investigation Report for the above site dated September 1, 1994 and submitted by Levine-Fricke.

This office concurs with the recommendations on page 7 of the report. Please note that 4 quarters of monitoring is a minimum and not a maximum, especially when contamination is discovered. The lateral and vertical assessment of soil and groundwater contamination is really a first step in moving forward on the cleanup of this property.

If you have any questions or comments, please contact this office at (510) 567-6700. Note our new address and telephone.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Thomas Peacock'.

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: ~~Edgar Howell~~, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

August 16, 1994

AUG 24 RECD

LF 2680.45

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Hazardous Materials Division
1131 Harbor Way Parkway, 2nd Floor
Alameda, California 94502-6577

Subject: Schedule for Report Submittals, Harrison Street
Garage Phase II Ground-Water Investigation, 1432-1434
Harrison Street, Oakland, California

Dear Mr. Peacock:

As we discussed in our telephone conversation of August 11, 1994, we are providing you with this letter concerning report submittals for the subject project.

As you know, Levine•Fricke conducted a ground-water investigation that included the installation of two ground-water monitoring wells and three grab ground-water sampling points. The wells and sampling points were drilled on July 29 and 30, 1994. The wells were developed and sampled on August 1, 1994. At this time, we have not yet received all of the laboratory results.

On behalf of the site owners, Levine•Fricke will submit a report on the ground-water quality investigation and results ~~to your office by August 31, 1994.~~ Since the wells at the site will permit only limited ground-water flow gradient evaluation, additional water-level measurements will be taken concurrently with the water-level measurements for the nearby former Chevron site at 301 14th Street (Alameda County STID case #478), which has 10 monitoring wells on and around it. The quarterly ground-water monitoring at the former Chevron site is scheduled to take place during the week of September 12, 1994. An addendum to Levine•Fricke's report, which includes the ground-water elevation data collected in September, will be submitted to your office by October 1, 1994.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE-FRICKE

The addendum report will contain a schedule for quarterly ground-water monitoring at the wells at the subject site.

If you have any questions, please contact me or Taylor Bennett at 510-652-4500.

Sincerely,



John Sturman, P.E., R.G.
Senior Geotechnical Engineer

cc: Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May
Kevin Graves, Regional Water Quality Control Board

LEVINE•FRICKE
CONSULTING ENGINEERS AND HYDROGEOLOGISTS

No. of
Pages 2

To	Thos. Peacock
Co.	Alameda Co.
Dept.	
Fax No.	337-9335

From	John Sturman
	Emeryville Office
Phone No.	(510) 652-4500
Fax No.	(510) 652-2246

LEVINE•FRICKE
ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

Hard copy to follow

August 16, 1994

LF 2680.45

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Hazardous Materials Division
1131 Harbor Way Parkway, 2nd Floor
Alameda, California 94502-6577

Subject: Schedule for Report Submittals, Harrison Street
Garage Phase II Ground-Water Investigation, 1432-1434
Harrison Street, Oakland, California

Dear Mr. Peacock:

As we discussed in our telephone conversation of August 11, 1994, we are providing you with this letter concerning report submittals for the subject project.

As you know, Levine•Fricke conducted a ground-water investigation that included the installation of two ground-water monitoring wells and three grab ground-water sampling points. The wells and sampling points were drilled on July 29 and 30, 1994. The wells were developed and sampled on August 1, 1994. At this time, we have not yet received all of the laboratory results.

On behalf of the site owners, Levine•Fricke will submit a report on the ground-water quality investigation and results to your office by August 31, 1994. Since the wells at the site will permit only limited ground-water flow gradient evaluation, additional water-level measurements will be taken concurrently with the water-level measurements for the nearby former Chevron site at 301 14th Street (Alameda County STID case #478), which has 10 monitoring wells on and around it. The quarterly ground-water monitoring at the former Chevron site is scheduled to take place during the week of September 12, 1994. An addendum to Levine•Fricke's report, which includes the ground-water elevation data collected in September, will be submitted to your office by October 1, 1994.

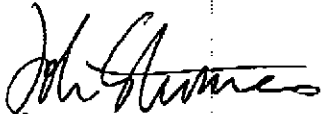
1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE·FRICKE

The addendum report will contain a schedule for quarterly ground-water monitoring at the wells at the subject site.

If you have any questions, please contact me or Taylor Bennett at 510-652-4500.

Sincerely,



John Sturman, P.E., R.G.
Senior Geotechnical Engineer

cc: Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May
Kevin Graves, Regional Water Quality Control Board

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
E-Mail mborsuk@ix.netcom.com

HAZMAT
94 AUG 15 PM 1:59

VIA FAX & MAIL
ONE PAGE

August 8, 1994

*Tom called
10:00 on 8/15/94*

Mr. Thomas Peacock
Supervising HMS
Local Oversight Program
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700
FAX 337-9335

SUBJECT: STID 498
1432 Harrison Street, Oakland, CA 94612

Dear Mr. Peacock:

On August 1, you requested the UST Permit Applications to close the USTs at the above referenced site. Please note, they were sent to you on July 31. The package included: one A Form for the gasoline tanks; two B Forms for each of the gasoline tanks; one A Form for the waste oil tanks; and two B Forms for each of the waste oil tanks. If you have not received the package, please contact me.

Sincerely yours,



Mark Borsuk

cc: Kevin Graves, RWQCB
Edgar Howell, Chief-Files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May
Bernie Rose, Randick & O'Dea
Alvin H. Bacharach

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

August 1, 1994
STID 498

Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

Upon reviewing your file it was noted that Underground Storage Tank Permit Applications (Form A & B) have not been submitted. You are required to submit 1 A form for the site and 1 B form for each tank to document its removal from permit requirements. These forms are being forwarded to Mark Borsuk, as your agent, for completion.

If you have any questions or comments, please contact this office at (510) 567-6700.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Thomas Peacock'.

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Kevin Graves, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
Oakland, CA 94621
(415) 271-4320

Hazardous Materials Division Inspection Form

Site ID# _____ Site Name Harrison St. Today's Date 7/30/94
 Site Address 1432 Harrison St. EPA ID# _____
 City Oakland Zip 94612 Phone _____

MAX Amt. Stored > 500lbs/55g/200cf? Y N
 Hazardous Waste generated per month? _____

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

The marked items represent violations of the Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

IA GENERATOR (Title 22)

- | | | |
|-------|-----------------------------|---------|
| ___ | 1. Waste ID | * 66471 |
| ___ | 2. EPA ID | 66472 |
| ___ | 3. > 90 days | 66508 |
| ___ | 4. Label dates | 66508 |
| ___ | 5. Biennial | 66493 |
| <hr/> | | |
| ___ | 6. Records | 66492 |
| ___ | 7. Correct | 66484 |
| ___ | 8. Copy sent | 66492 |
| ___ | 9. Exception | 66484 |
| ___ | 10. Copies Rec'd | 66492 |
| <hr/> | | |
| ___ | 11. Treatment | 66371 |
| ___ | 12. On-site Disp. (H.S.&C.) | 26189.5 |
| ___ | 13. Ex Haz. Waste | 66570 |
| <hr/> | | |
| ___ | 14. Communications | 67121 |
| ___ | 15. Aisle Space | 67124 |
| ___ | 16. Local Authority | 67126 |
| ___ | 17. Maintenance | 67120 |
| ___ | 18. Training | 67105 |
| <hr/> | | |
| ___ | 19. Prepared | 67140 |
| ___ | 20. Name List | 67141 |
| ___ | 21. Copies | 67141 |
| ___ | 22. Eng. Coord. Tmg. | 67144 |
| <hr/> | | |
| ___ | 23. Condition | 67241 |
| ___ | 24. Compatibility | 67242 |
| ___ | 25. Maintenance | 67243 |
| ___ | 26. Inspection | 67244 |
| ___ | 27. Buffer Zone | 67246 |
| ___ | 28. Tank Inspection | 67259 |
| ___ | 29. Containment | 67245 |
| ___ | 30. Safe Storage | 67261 |
| ___ | 31. Freeboard | 67257 |

Comments:

2:18 arrived onsite. Tim Limbers of LK + Mrs. Borzuk are onsite. MW-3 has already been installed, as has GW-1. Tim said that the samples from these 2 borings/wells appeared clean. Boring from MW-2 appears to be clean except at 20' bgs (silty sand) (3:00). One drum of IDW (soil) per boring, + 2 drums per well have been generated bet. 7-29 + 7-30. (7 drums total; soil). Soil sample in MW-2 at 25' had very strong gasoline odor. 3:15 - Used interface probe; found no product. 3:20 Tim phoned RG; decided to screen MW-2 from 11-26' bgs. First water was at 20' bgs.

3:20 left site

IB TRANSPORTER (Title 22)

- | | | |
|-------|---------------------------|-------|
| ___ | 32. Applic./Insurance | 66428 |
| ___ | 33. Comp. Cert./CHP Insp. | 66448 |
| ___ | 34. Containers | 66465 |
| <hr/> | | |
| ___ | 35. Vehicles | 66465 |
| ___ | 36. EPA ID #s | 66531 |
| ___ | 37. Correct | 66541 |
| ___ | 38. HW Delivery | 66543 |
| ___ | 39. Records | 66544 |
| <hr/> | | |
| ___ | 40. Name/ Covers | 66545 |
| ___ | 41. Recyclables | 66800 |

Rev 6/88

Contact: _____
 Title: _____
 Signature: Tim Limbers

Inspector: Jennifer Eberle
 Signature: J Eberle

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name Harrison St. Garage Today's Date 7/29/94

II.A BUSINESS PLANS (Title 19)

- ___ 1. Immediate Reporting 2703
- ___ 2. Bus. Plan Stds. 25503(b)
- ___ 3. RR Cars > 30 days 25503.7
- ___ 4. Inventory Information 25504(a)
- ___ 5. Inventory Complete 2730
- ___ 6. Emergency Response 25504(b)
- ___ 7. Training 25504(c)
- ___ 8. Deficiency 25505(a)
- ___ 9. Modification 25505(b)

Site Address 1432 Harrison St.
 City Oakland Zip 94612 Phone _____

___ MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- ___ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- ___ II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

II.B ACUTELY HAZ MATLS

- ___ 10. Registration Form Filed 25533(a)
- ___ 11. Form Complete 25533(b)
- ___ 12. RMPP Contents 25534(c)
- ___ 13. Implement Sch. Req'd? (Y/N)
- ___ 14. OffSite Conseq. Assess. 25524(c)
- ___ 15. Probable Risk Assessment 25534(d)
- ___ 16. Persons Responsible 25534(g)
- ___ 17. Certification 25534(i)
- ___ 18. Exemption Request? (Y/N) 25536(b)
- ___ 19. Trade Secret Requested? 25538

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

III. UNDERGROUND TANKS (Title 23)

- General**
- ___ 1. Permit Application 25284 (H&S)
 - ___ 2. Pipeline Leak Detection 25292 (H&S)
 - ___ 3. Records Maintenance 2712
 - ___ 4. Release Report 2651
 - ___ 5. Closure Plans 2670
- Monitoring for Existing Tanks**
- ___ 6. Method
 - 1) Monthly Test
 - 2) Daily Vadose
Semi-annual groundwater
One time soils
 - 3) Daily Vadose
One time soils
Annual tank test
 - 4) Monthly Gndwater
One time soils
 - 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon.
 - 6) Daily Inventory
Annual tank testing
Cont pipe leak det
 - 7) Weekly Tank Gauge
Annual tank testing
 - 8) Annual Tank Testing
Daily Inventory
 - 9) Other _____
- New Tanks**
- ___ 7. Precs Tank Test 2643
Date: _____
 - ___ 8. Inventory Rec. 2644
 - ___ 9. Soil Testing 2646
 - ___ 10. Ground Water. 2647
 - ___ 11. Monitor Plan 2632
 - ___ 12. Access. Secure 2634
 - ___ 13. Plans Submit 2711
Date: _____
 - ___ 14. As Built 2635
Date: _____

3:25 arrived onsite
 Comments:
 Tim Limbers of L-F is onsite. They've drilled GW-2 & GW-3 in Alice St. already, & are now starting on MW-3 in Alice St. Tim said GW-2 & GW-3 samples had no indication of contamination.

4:07

The drill rig broke, due to the difficulty of getting thru the ~1' of concrete which underlies Alice St. They'll try to get a concrete cutter out today, but can't resume drilling til tomorrow (Sat.).

4:23

left site

Contact: _____
 Title: _____
 Signature: Tim Limbers

Inspector: Jennifer Eberle
 Signature: J Eberle

II, III

LEVINE-FRICKE
CIVIL, ENVIRONMENTAL ENGINEERS AND HYDROGEOLOGISTS

No. of
 Pages **3**

To	Thomas Peacock
Co.	ACHA
Dept.	Haz. Mat. Division
Fax No.	337-9335

From	Taylor Bennett Emeryville Office
Phone No.	(510) 652-4500
Fax No.	(510) 652-2246

LEVINE-FRICKE
ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

July 22, 1994

LF 2680 00-45

Alameda County Health Care Services Agency
 Department of Environmental Health
 Hazardous Materials Division
 1131 Harbor Bay Parkway
 Alameda, California 94501

Attention: Mr. Thomas Peacock,
 Supervising Hazardous Materials Specialist

Subject: Revised Schedule for Soil and Ground-Water
 Investigation at 1432 - 1434 Harrison Street,
 Oakland, California

Dear Mr. Peacock:

This letter is to inform you that the commencement of drilling activities for the subject investigation is behind schedule because the drilling company we had selected to perform the work was unavailable. According to the schedule in our previous letter to you, dated July 19, the drilling was scheduled to begin on Friday, July 22. We have selected another drilling subcontractor to perform the work. The current schedule for field activities and data submittal is as follows:

July 29 - 30	Drill soil borings, collect preliminary grab ground-water samples, and install wells
August 1	Develop wells and collect ground-water samples
August 15	Soil and grab ground-water analysis results due from laboratory
August 16	Well water analysis results due from laboratory
Sept. 14	Submit report to Alameda County Health Care Services Agency

If this schedule is modified, we will notify you.

1900 Powell Street, 12th Floor
 Emeryville, California 94608
 (510) 652-4500
 Fax (510) 652-2246

Other offices in Irvine, CA, Sacramento/Roseville, CA, Tallahassee, FL, Honolulu, HI

LEVINE-FRICKE

If you have any questions, please call me or John Sturman,
P.E., R.G., of this office.

Sincerely,

Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

LEVINE-FRICKE
ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

No. of Pages **3**

To	Thomas Peacock
Co	ACHA
Dept	Haz. Mat. Division
Fax No.	337-9335

From	Taylor Bennett
	Emeryville Office
Phone No.	(510) 652-4500
Fax No.	(510) 652-2246



LEVINE-FRICKE
ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

July 19, 1994

LF 2680.00-45

Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, California 94501

Attention: Mr. Thomas Peacock,
Supervising Hazardous Materials Specialist

Subject: Revised Schedule for Soil and Ground-Water
Investigation at 1432 - 1434 Harrison Street,
Oakland, California

Dear Mr. Peacock:

This letter is to inform you that the commencement of drilling activities for the subject investigation is behind schedule because of permitting delays with the City of Oakland, and subsequent drilling subcontractor rescheduling difficulties. The current schedule for field activities and data submittal is as follows:

- July 22 - 23 Drill soil borings, collect preliminary grab ground-water samples, and install wells
- July 26 Develop wells and collect ground-water samples
- August 8 Soil and grab ground-water analysis results due from laboratory
- August 9 Well water analysis results due from laboratory
- Sept. 7 Submit report to Alameda County Health Care Services Agency

If this schedule is modified, we will notify you.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; Honolulu, HI

LEVINE-FRICKE

If you have any questions, please call me or John Sturman,
P.E., R.G., of this office.

Sincerely,



Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Gil Jensen
Alameda County District Attorney's Office
7677 Oakport St.
Oakland, CA 94621

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612



ALCO
HAZMAT

94 JUL 20 PM 4:21

ST 10 498

LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

July 19, 1994

LF 2680.00-45

Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, California 94501

Attention: Mr. Thomas Peacock,
Supervising Hazardous Materials Specialist

Subject: Revised Schedule for Soil and Ground-Water
Investigation at 1432 - 1434 Harrison Street,
Oakland, California

Dear Mr. Peacock:

This letter is to inform you that the commencement of drilling activities for the subject investigation is behind schedule because of permitting delays with the City of Oakland, and subsequent drilling subcontractor rescheduling difficulties. The current schedule for field activities and data submittal is as follows:

- July 22 - 23 Drill soil borings, collect preliminary grab ground-water samples, and install wells
- July 26 Develop wells and collect ground-water samples
- August 8 Soil and grab ground-water analysis results due from laboratory
- August 9 Well water analysis results due from laboratory
- Sept. 7 Submit report to Alameda County Health Care Services Agency

changed well driller next week

If this schedule is modified, we will notify you.

called - 7-25-94

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE-FRICKE

If you have any questions, please call me or John Sturman,
P.E.,R.G., of this office.

Sincerely,

Taylor Bennett

Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612



ALCO
LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

94 JUL -7 11 5 94

June 30, 1994

LF 2680.00-45

Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, California 94501

Attention: Mr. Thomas Peacock,
Supervising Hazardous Materials Specialist

Subject: Letter of June 28, 1994 from Alameda County to Alvin
H. Bacharach and Barbara J. Borsuk concerning
property at 1432 - 1434 Harrison Street, Oakland,
California

Dear Mr. Peacock:

This letter has been prepared on behalf of our clients, Mr.
Bacharach and Ms. Borsuk, in response to the subject letter
from your office.

Levine•Fricke was retained by Mr. Bacharach and Ms. Borsuk to
implement the activities approved in your April 14, 1994
letter. We have selected a drilling contractor to conduct
this work. However, the commencement of drilling is behind
schedule because the City of Oakland did not issue permits on
a timely basis. We notified you of this in our letter dated
June 20, 1994 (copy attached), which we sent to your offices'
new address in Alameda. The current schedule for field
activities and data submittal is as follows:

July 8-9	Drill soil borings, collect preliminary grab ground-water samples, and install wells
July 11	Develop wells and collect ground-water samples
August 1	Soil and grab ground-water analysis results due from laboratory
August 2	Well water analysis results due from laboratory
August 31	Submit report to Alameda County Health Care Services Agency

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

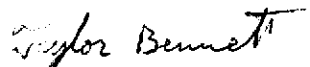
LEVINE·FRICKE

This schedule is contingent upon our receiving necessary permits from the City of Oakland and Alameda County Zone 7 Water Conservation and Flood Control District.

Please let us know your new phone and fax numbers.

If you have any questions, please call me or John Sturman, P.E., R.G., of this office.

Sincerely,



Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List



HAZMAT

91 JUL -6 PM 4:28

Tom see me Ed
LEVINE-FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

June 30, 1994

LF 2680.00-45

Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, California 94501

Attention: Mr. Thomas Peacock,
Supervising Hazardous Materials Specialist

Subject: Letter of June 28, 1994 from Alameda County to Alvin
H. Bacharach and Barbara J. Borsuk concerning
property at 1432 - 1434 Harrison Street, Oakland,
California

Dear Mr. Peacock:

This letter has been prepared on behalf of our clients, Mr.
Bacharach and Ms. Borsuk, in response to the subject letter
from your office.

Levine-Fricke was retained by Mr. Bacharach and Ms. Borsuk to
implement the activities approved in your April 14, 1994
letter. We have selected a drilling contractor to conduct
this work. However, the commencement of drilling is behind
schedule because the City of Oakland did not issue permits on
a timely basis. We notified you of this in our letter dated
June 20, 1994 (copy attached), which we sent to your offices'
new address in Alameda. The current schedule for field
activities and data submittal is as follows:

- | | |
|-----------|---|
| July 8-9 | Drill soil borings, collect preliminary grab
ground-water samples, and install wells |
| July 11 | Develop wells and collect ground-water
samples |
| August 1 | Soil and grab ground-water analysis results
due from laboratory |
| August 2 | Well water analysis results due from
laboratory |
| August 31 | Submit report to Alameda County Health Care
Services Agency |

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE·FRICKE

This schedule is contingent upon our receiving necessary permits from the City of Oakland and Alameda County Zone 7 Water Conservation and Flood Control District.

Please let us know your new phone and fax numbers.

If you have any questions, please call me or John Sturman, P.E., R.G., of this office.

Sincerely,

Taylor Bennett

Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List

ALAMEDA COUNTY
HEALTH CARE SERVICESAGENCY
DAVID J. KEARS, Agency DirectorDEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94621
(415)June 28, 1994
STID 498Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. This office approved that workplan and a modification in a letter dated April 14, 1994. In that letter it was agreed that a report concerning implementation of the workplan would be submitted to this office by July 1994.

To date there has been no contact with this office concerning the implementation of the workplan. This mainly concerns drilling monitoring wells and sampling at the site. July begins at the end of this week. Lack of field work being accomplished will be considered as non-compliance with the agreed upon schedule of work.

If you have any questions or comments, please contact this office at (510) 271-4330. (Our location has moved to Alameda and the phone system is not complete. If you do call, please be patient.)

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Kevin Graves, RWQCB
Edgar Howell, Chief files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

→ John Sterman
1-510-652-2246

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Gil Jensen
Alameda County District Attorney's Office
7677 Oakport St.
Oakland, CA 94621

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94621
(415)

June 28, 1994
STID 498

Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. This office approved that workplan and a modification in a letter dated April 14, 1994. In that letter it was agreed that a report concerning implementation of the workplan would be submitted to this office **by July 1994.**

To date there has been no contact with this office concerning the implementation of the workplan. This mainly concerns drilling monitoring wells and sampling at the site. July begins at the end of this week. Lack of field work being accomplished will be considered as non-compliance with the agreed upon schedule of work.

If you have any questions or comments, please contact this office at (510) 271-4330. (Our location has moved to Alameda and the phone system is not complete. If you do call, please be patient.)

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Kevin Graves, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94621
(415)June 28, 1994
STID 498Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. This office approved that workplan and a modification in a letter dated April 14, 1994. In that letter it was agreed that a report concerning implementation of the workplan would be submitted to this office by July 1994.

To date there has been no contact with this office concerning the implementation of the workplan. This mainly concerns drilling monitoring wells and sampling at the site. July begins at the end of this week. Lack of field work being accomplished will be considered as non-compliance with the agreed upon schedule of work.

If you have any questions or comments, please contact this office at (510) 271-4330. (Our location has moved to Alameda and the phone system is not complete. If you do call, please be patient.)

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Divisioncc: Kevin Graves, RWQCB
Edgar Howell, Chief files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116→ ~~John Struman~~
1-510-652-2246

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

94 MAY -5 PM 4:21

FAX 922-1485
(415) 922-4740

VIA FAX & MAIL
ONE PAGE

May 5, 1994

Mr. Thomas Peacock
Supervising HMS
Local Oversight Program
ACHCSA
80 Swan Way
Oakland, CA 94621
(510) 271-4320
FAX 569-4757

SUBJECT: STID 1098
246 14th Street
Oakland, CA 94612

Dear Mr. Peacock:

On April 21, I requested a copy of the above file. I have not received the copy. Please check if the file was copied and mailed. Thank you for your help in obtaining this information.

Sincerely yours,



Mark Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

April 14, 1994
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted your Workplan for Soil and Groundwater investigation dated October 13, 1993 by Levine-Fricke. You then submitted a Modification to the Workplan which was dated April 8, 1994, also by Levine-Fricke. This Modification is acceptable to this office. In the Modification you present a timeline for completion of the several tasks. The report on workplan implementation, by this timeline, should be complete and presented to this office by July 1994.

Also presented was a letter describing treatment and disposal of soils. Records of disposal, manifests, and laboratory analysis for tests that were cited must also be submitted.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,

A handwritten signature in black ink, appearing to read 'David J. Kears', written over a dark rectangular redaction mark.

Supervising HMS
Hazardous Material Division

cc: Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FAX & MAIL
TWO PAGES

April 12, 1994

Mr. Paul Smith
Hazardous Materials Specialist
Division of Hazardous Materials
Department of Environmental Health
Alameda County Health Care Services (ACHCA)
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4320
FAX 569-4757

SUBJECT: 246 14th Street (at Alice)
Oakland, CA 94612
STID #1098

ALCO
HAZMAT
94 APR 15 PM 2:01

Dear Mr. Smith:

On March 29, 1994, John Sturman and I meet with Tom Peacock regarding the Harrison Street site (LOP 498). During our conversation, I requested information on the above referenced site, approximately seventy-five (75) feet away from my client's site facing Alice Street. A file search reveals the removal of four (4) USTs in September, 1991. The file contains no other information about the removal. It appears you were the case officer responsible for the site.

Given the number of tanks, possibility of leakage and proximity to my client's site, information regarding this site is of utmost importance for determining remediation strategy.

We require this information in our assessment for Mr. Peacock. Please provide me with the following information about 246 14th Street by April 22, 1994:

1. The property owner's name, address and phone number;
2. The former service station operator's name and contact address;
3. Annual inventory reconciliation data as required by 23 CCR 2646 (j);
4. Evidence the UST closure complied with 23 CCR 2672;
5. Any UST Unauthorized Release report required by H & S Code Sec. 25295 (a);

6. Evidence of corrective action compliance undertaken as required by H & S Code Sec. 25299.37 (a); and
7. The ACHCSA's investigation to comply with H & S. Code Sec. 25298 (c).

If this information is unavailable, please explain why.

Sincerely yours,



Mark Borsuk

cc: Tom Peacock, ACHCSA.
Edgar B. Howell, III, ACHCSA.
Rich Hiatt, SFBRWQB.
Alvin H. Bacharach.
Barbara Jean Borsuk.
John Sturman, Levine-Fricke.



LEVINE-FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS
2680.32

April 8, 1994

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Hazardous Materials Division
Alameda County Health Care Services Agency
80 Swan Way, Room 200
Oakland, California 94621

Subject: Treatment and Disposal of Soils Excavated from
Basement Area, Harrison Street Garage Site,
Oakland, California

Dear Mr. Peacock:

This letter is to update you on the status of the soils which were excavated around the former waste oil underground storage tanks (USTs) in the basement of the Harrison Street Garage in Oakland, California.

As stated in our Tank Closure Report (dated February 22, 1994) the soils excavated around the waste oil were not removed from the site and treated at Port Costa Materials (PCM) with other soils which were excavated from the Site. The initial soil quality results from the basement soils were acceptable to PCM with the exception of the soluble lead result of 7.5 mg/L (milligrams per liter), which exceeded their threshold of 5.0 mg/L.

In the course of our discussions with PCM, PCM suggested that we reduce the soluble lead of these soils by performing a limestone admixture. After conducting a successful pilot study on the effectiveness of a limestone admixture, the approximately 60 cubic yards of soils were mixed with about 12 cubic yards of limestone. Two post-mixing samples were collected and sent to American Environmental Network (AEN) Laboratories of Pleasant Hill, California (the laboratory which performed the previous analyses at the site) for soluble lead. The post-mixing results indicated concentrations of 0.3 and 0.4 mg/L.

These results were sent to PCM, who agreed to accept the soils at their facility. The soils were loaded and removed from the site for transportation to PCM on March 29 and 30, 1994. Thus, all of the soils which were excavated from the Site were transported for treatment at the PCM facility.

*1/5 limestone
would not reduce
7.5 mg/L to 0.4 mg/L
through out fraction above*

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; Honolulu, HI

LEVINE-FRICKE

If you have any questions, please call me or Stuart Counsell
in our office.

Sincerely,



John Sturman
Senior Engineer

cc: Mark Borsuk, Esq.
Randall Morrison, Esq., Crosby, Heafey, Roach & May

LEVINE•FRICKE
FACSIMILE COVER SHEET

Date	3/28/94	
Time		
Deliver to	Mr. Thomas Peacock	
Name of Firm	Ala. Co. Health Care Services - Dept. Env. Health	
Fax Phone No.	510-569-4757	L•F Project No. 2680.31
From	John Sturman	

NUMBER OF PAGES: This cover page plus 2 page(s)

For voice contact call: (510) 652-4500

For return Facsimile message: (510) 652-2246

Telecopy Operator: _____

Any questions or inquiries about missing pages or unreadable copy,
please call (510)652-4500

Remarks

This letter was delayed due to a miscommunication
in our office. We understand that Mr. Borsuk has
been in contact with you trying to set up a meeting.

1900 POWELL STREET, 12TH FLOOR
EMERYVILLE, CA 94608
(510) 652-4500

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; and Honolulu, HI

**LEVINE•FRICKE**

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

March 27, 1994

2680.31

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Hazardous Materials Division
Alameda County Health Care Services Agency
Department of Environmental Health
80 Swan Way, Room 200
Oakland, California 94621

Subject: Soil and Ground-Water Investigation Activities,
1432-1434 Harrison Street Site, Oakland, California

Dear Mr. Peacock:

Levine-Fricke received a copy of your letter to the Alvin H. Bacharach and Barbara J. Borsuk Trust and Mr. Leland Douglas dated March 15, 1994. In response to that letter we have prepared this letter on behalf of our clients, Mr. Bacharach and Ms. Borsuk, to respond to the project schedule concerns expressed in your letter.

As stated on page 8 of Levine-Fricke's Tank Closure Report, dated February 22, 1994, one shallow ground-water monitoring well was installed in the gasoline tank excavation. The well will be developed and sampled concurrently with the installation, development, and sampling of additional wells during a planned soil and ground-water investigation. The investigation will be conducted in accordance with an agency-approved work plan dated October 13, 1993.

Based on our discussions with Mr. Mark Borsuk, legal counsel to our clients, we understand that a series of conversations has transpired between Mr. Borsuk and Mr. Don Dahlke of the California Regional Water Quality Control Board (RWQCB). Mr. Borsuk has informed us that the RWQCB is interested in considering the site as a candidate for implementation of the new Alternative Points of Compliance policy, based on results of the upcoming soil and ground water quality investigation. To ensure that the next set of data collected is sufficient to evaluate whether the site may be suitable for the policy, Mr.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; Honolulu, HI

LEVINE·FRICKE

Borsuk desires to set up a meeting with you, an RWQCB representative, and Levine-Fricke. Among the issues to be addressed in such a meeting is the selection of locations of additional wells on and around the site.

Mr. Borsuk has informed us that he has initiated the process of setting up such a meeting. Based on our discussions with Mr. Borsuk, a tentative schedule for next phases of site work includes finalizing the conceptual work plan during the week of April 4 (assuming a meeting can be held on or before that week). After the conceptual work plan has been approved by your agency and the RWQCB, a document will be submitted for your review which will identify modifications to the approved October 13 work plan. If your office can provide comments within one to two weeks and there are no major modifications to the new scope of work, we anticipate that field activities can commence around the first week of May.

If you have any questions, please contact me at the number below or Mr. Mark Borsuk at (415) 922-4740.

Sincerely,

John Sturman, P.E., R.G.
Senior Engineer

cc: Mr. Richard Hiett, Regional Water Quality Control Board
Mr. Edgar Howell, Chief, Alameda County Health Agency,
Hazardous Materials Division
Mr. Gil Jensen, Alameda County District Attorney's Office
Mr. Bernard Rose, Randick & O'Dea
Mr. Alvin Bacharach and Ms. Barbara Borsuk
Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May
State Water Resources Control Board, Fuel Leak Fund



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

March 27, 1994

2680.31

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Hazardous Materials Division
Alameda County Health Care Services Agency
Department of Environmental Health
80 Swan Way, Room 200
Oakland, California 94621

Subject: Soil and Ground-Water Investigation Activities,
1432-1434 Harrison Street Site, Oakland, California

Dear Mr. Peacock:

Levine•Fricke received a copy of your letter to the Alvin H. Bacharach and Barbara J. Borsuk Trust and Mr. Leland Douglas dated March 15, 1994. In response to that letter we have prepared this letter on behalf of our clients, Mr. Bacharach and Ms. Borsuk, to respond to the project schedule concerns expressed in your letter.

As stated on page 8 of Levine•Fricke's Tank Closure Report, dated February 22, 1994, one shallow ground-water monitoring well was installed in the gasoline tank excavation. The well will be developed and sampled concurrently with the installation, development, and sampling of additional wells during a planned soil and ground-water investigation. The investigation will be conducted in accordance with an agency-approved work plan dated October 13, 1993.

Based on our discussions with Mr. Mark Borsuk, legal counsel to our clients, we understand that a series of conversations has transpired between Mr. Borsuk and Mr. Don Dahlke of the California Regional Water Quality Control Board (RWQCB). Mr. Borsuk has informed us that the RWQCB is interested in considering the site as a candidate for implementation of the new Alternative Points of Compliance policy, based on results of the upcoming soil and ground water quality investigation. To ensure that the next set of data collected is sufficient to evaluate whether the site may be suitable for the policy, Mr.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE·FRICKE

Borsuk desires to set up a meeting with you, an RWQCB representative, and Levine·Fricke. Among the issues to be addressed in such a meeting is the selection of locations of additional wells on and around the site.

Mr. Borsuk has informed us that he has initiated the process of setting up such a meeting. Based on our discussions with Mr. Borsuk, a tentative schedule for next phases of site work includes finalizing the conceptual work plan during the week of April 4 (assuming a meeting can be held on or before that week). After the conceptual work plan has been approved by your agency and the RWQCB, a document will be submitted for your review which will identify modifications to the approved October 13 work plan. If your office can provide comments within one to two weeks and there are no major modifications to the new scope of work, we anticipate that field activities can commence around the first week of May.

If you have any questions, please contact me at the number below or Mr. Mark Borsuk at (415) 922-4740.

Sincerely,



John Sturman, P.E., R.G.
Senior Engineer

cc: Mr. Richard Hiatt, Regional Water Quality Control Board
Mr. Edgar Howell, Chief, Alameda County Health Agency,
Hazardous Materials Division
Mr. Gil Jensen, Alameda County District Attorney's Office
Mr. Bernard Rose, Randick & O'Dea
Mr. Alvin Bacharach and Ms. Barbara Borsuk
Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May
State Water Resources Control Board, Fuel Leak Fund

LAW OFFICES
RANDICK & O'DEA

1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

TELEPHONE
(510) 836-3555

54 MAR 22 PM 12:56
ALCO
HAZMAT
TELECOPIER
(510) 834-4748

March 21, 1994

Mr. Thomas Peacock
Alameda County
Dept. of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

Re: 1432-1434 Franklin St., Oakland, CA 94612

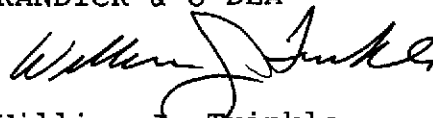
Dear Mr. Peacock:

We acknowledge receipt of your March 15, 1994 letter, on behalf of the Douglas Parking Co. We feel it imperative to advise you that the Bacharach/Borsuk parties and their counsel continue to follow a policy of keeping Douglas in the dark. For example, we are unaware of any correspondence to your office regarding the site since the tank pull from Bacharach/Borsuk. We have received absolutely no information from them, including no copy of the Tank Closure Report, no information about petroleum contamination or levels of such, nor any site drawings.

Douglas does not have control of the property, nor the consultants. Our hands are tied. If we can be of any help, please advise us.

Sincerely,

RANDICK & O'DEA



William J. Trinkle
Attorneys for Douglas Parking
Company

cc: Randall Morrison, Esq.

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FAX & MAIL
TWO PAGES

March 21, 1994

Mr. Thomas Peacock:
Supervising HMS
Local Oversight Program
ACHCSA
80 Swan Way
Oakland, CA 94621
(510) 271-4320
FAX 569-4757

SUBJECT: STID 498
4132 Harrison Street
Oakland, CA 94612

Dear Mr. Peacock:

Recently, I initiated discussions with the San Francisco Bay Regional Water Quality Board on the applicability of incorporating their forthcoming Alternative Points of Compliance ("APC") remediation strategy into the site remediation plan. My conversations with Mr. Don Dalke and Mr. Rich Hielt concerned using the site as a demonstration project. The location of the site seems appropriate. The property is located in the oldest commercial area in downtown Oakland; the deed map is from 1853. In addition, the property is very close to other contaminated sites including the former Chevron Station seventy-five meters away at 301 14th Street and the Douglas Motor Services site at 1721 Webster Street (STID 4070).

The proximity of the property to these locations and the general situation in downtown Oakland makes the Harrison Street Garage a likely candidate for the Regional Board's program. The Regional Board's program is both revolutionary and evolutionary. It is revolutionary in recognizing background contamination, natural biodegradation, the limited migration of hydrocarbon plumes and the inability to remove all contaminants. The program is evolutionary since guidelines are developing.

The Regional Board will work with us to determine whether the site is appropriate for the APC program and on developing an appropriate sampling program for implementation. If you are attending the UST Conference this

week, we can discuss the site with Mr. Feldman from the Regional Board. Alternatively, I suggest we meet with the Regional Board staff the first week in April. Please give me your preference. Separately, Mr. Sturman is responding to your letter of March 15, 1994.

Finally, one housekeeping note, please copy me on all correspondence regarding the site.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark Borsuk". The signature is written in a cursive style with a long horizontal line extending to the right.

Mark Borsuk

cc: Richard Hiatt, RWQCB
Edgar Howell, Chief-files
Gil Jensen, Alameda District Attorney's Office
Randall Morrison, Esq.
Bernie Rose, Esq.
John Sturman, Levine-Fricke
Steve Parada, UST FUND
Alvin H. Bacharach
Barbara Jean Borsuk

Rozelle DH

File
EPB

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FAX & MAIL
TWO PAGES

March 21, 1994

Mr. Thomas Peacock:
Supervising HMS
Local Oversight Program
ACHCSA
80 Swan Way
Oakland, CA 94621
(510) 271-4320
FAX 569-4757

SUBJECT: STID 498
4132 Harrison Street
Oakland, CA 94612

Dear Mr. Peacock:

Recently, I initiated discussions with the San Francisco Bay Regional Water Quality Board on the applicability of incorporating their forthcoming Alternative Points of Compliance ("APC") remediation strategy into the site remediation plan. My conversations with Mr. Don Dalke and Mr. Rich Hielt concerned using the site as a demonstration project. The location of the site seems appropriate. The property is located in the oldest commercial area in downtown Oakland; the deed map is from 1853. In addition, the property is very close to other contaminated sites including the former Chevron Station seventy-five meters away at 301 14th Street and the Douglas Motor Services site at 1721 Webster Street (STID 4070).

The proximity of the property to these locations and the general situation in downtown Oakland makes the Harrison Street Garage a likely candidate for the Regional Board's program. The Regional Board's program is both revolutionary and evolutionary. It is revolutionary in recognizing background contamination, natural biodegradation, the limited migration of hydrocarbon plumes and the inability to remove all contaminants. The program is evolutionary since guidelines are developing.

The Regional Board will work with us to determine whether the site is appropriate for the APC program and on developing an appropriate sampling program for implementation. If you are attending the UST Conference this

week, we can discuss the site with Mr. Feldman from the Regional Board. Alternatively, I suggest we meet with the Regional Board staff the first week in April. Please give me your preference. Separately, Mr. Sturman is responding to your letter of March 15, 1994.

Finally, one housekeeping note, please copy me on all correspondence regarding the site.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark Borsuk", written over a horizontal line.

Mark Borsuk

cc: Richard Hiatt, RWQCB
Edgar Howell, Chief-files
Gil Jensen, Alameda District Attorney's Office
Randall Morrison, Esq.
Bernie Rose, Esq.
John Sturman, Levine-Fricke
Steve Parada, UST FUND
Alvin H. Bacharach
Barbara Jean Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

March 15, 1994
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted your Workplan for Soil and Groundwater investigation dated October 13, 1993, which stated on page 7 that drilling was expected to begin within about one month from the date of approval. It has been over 5 months from that workplan submittal and there has been no contact with this office concerning any well drilling, or soil and groundwater investigation taking place. Furthermore, the workplan above included the installation of three groundwater monitoring wells. There has been no contact with this office concerning this activity, which is overdue to be accomplished.

This office has also received and reviewed a Tank Closure Report concerning the above site. The report is acceptable with the following comments:

1. The recommendations section on page 13 recommends that fuel leak case closure be completed. This case is not suitable for case closure at this time. The next step that must be completed is a soil and groundwater investigation, as elaborated in your work plan dated October 13, 1993.
2. The petroleum contamination at this site is obviously of such magnitude as to require the above mentioned investigation. The first important need of this investigation

March 15, 1994
Bacharach & Borsuk
1432 Harrison St., Oakland
STID 498
Page 2 of 2

is to define the verticle and lateral extent of soil and groundwater contamination. Once done, a feasibility study should be done in order to select the best method of remediating soil and any groundwater contamination. These steps are essential tasks which must be completed as soon as possible.

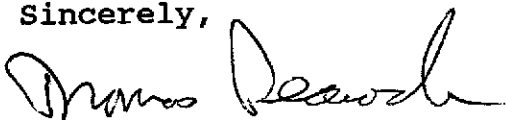
3. The levels of contamination found during the tank removal (as high as O & G 17,000 ppm, TPHg 3,100 ppm, BTEX 11,000 ppb, 190,000 ppb, 64,000 ppb, 400,000 ppb respectively) are so high as to be a public health hazard in this neighborhood. Their extent must be evaluated and controlled as soon as possible.

4. The site drawings did not show any levels of contamination found or attempt to delineate any areas of contamination. This type of exercise is important to define the extent of contamination at this site and should be presented in the next report.

5. A quarterly report stating what actions have been taken and what actions should occur in the future should be submitted every quarter. As you are overdue for the installation of monitoring wells, this activity should be done first within this quarter. Quarterly monitoring reports should then follow every 3 months.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,



Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
SWRCB - Clean-Up Fund

March 15, 1994
Bacharach & Borsuk
1432 Harrison St., Oakland
STID 498
Page 2 of 2

is to define the verticle and lateral extent of soil and groundwater contamination. Once done, a feasibility study should be done in order to select the best method of remediating soil and any groundwater contamination. These steps are essential tasks which must be completed as soon as possible.

3. The levels of contamination found during the tank removal (as high as O & G 17,000 ppm, TPHg 3,100 ppm, BTEX 11,000 ppb, 190,000 ppb, 64,000 ppb, 400,000 ppb respectively) are so high as to be a public health hazard in this neighborhood. Their extent must be evaluated and controlled as soon as possible.

4. The site drawings did not show any levels of contamination found or attempt to delineate any areas of contamination. This type of exercise is important to define the extent of contamination at this site and should be presented in the next report.

5. A quarterly report stating what actions have been taken and what actions should occur in the future should be submitted every quarter. As you are overdue for the installation of monitoring wells, this activity should be done first within this quarter. Quarterly monitoring reports should then follow every 3 months.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

Certified Mailer: P386 338 449

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

February 25, 1994
STID 498

✓ Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

NOTICE OF NON-COMPLIANCE

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted your workplan dated October 13, 1993 as well as your underground tank removal plans. The underground tanks were removed by December 7, 1993. A report of sampling results and tank removal was due to this office within 60 days.

On February 16, 1994 this office contacted your consultant, who asked if the report of tank removal could be sent to this office by February 18, 1994. It is now 1 week after that date.

There has been no further contact from you or your agents regarding the delay, which is now more than 2 weeks.

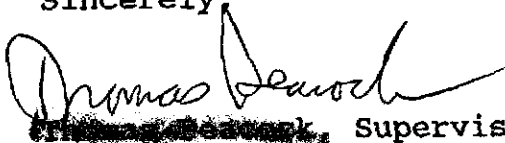
You are directed to send a technical report of underground tank removal to this office within 2 weeks.

Furthermore, your workplan above included the installation of three groundwater monitoring wells. There has been no contact with this office concerning this activity, which is overdue to be accomplished.

February 25, 1994
Bacharach & Borsuk
1432 Harrison St., Oakland
STID 498
Page 2 of 2

If you have any questions or comments, please contact this office
at (510) 271-4530.

Sincerely,



~~Thomas Deane~~, Supervising HMS
Hazardous Material Division

cc: Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
SWRCB - Clean-Up Fund

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To <i>Police Department</i>	From <i>Tom Deane</i>	
Co.	Co.	
Dept.	Phone #	
Fax # <i>916-227-4530</i>	Fax #	

386 338 449



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent	Alvin H. Bacharach &	
Street	Barbara J. Borsuk Trust	
P.O., State or Locality	383 Diablo Rd., #100 Danville, CA 94526	
Postage	STID:498	\$
Certified Fee	TP	
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt Showing to Whom & Date Delivered		
Return Receipt Showing to Whom, Date, and Addressee's Address		
TOTAL Postage & Fees		\$
Postmark or Date		

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
 - 2. Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to: TP
 Alvin H. Bacharach &
 Barbara J. Borsuk Trust
 383 Diablo Rd., Suite 100
 Danville, CA 94526
 STED 498

4a. Article Number
 P 386 338 449

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 3/3/94

5. Signature (Addressee)
[Handwritten Signature]

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)
[Handwritten Signature]

Thank you for using Return Receipt Service.

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

Certified Mailer: P 386 338 450

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

February 25, 1994
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

NOTICE OF NON-COMPLIANCE

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted your workplan dated October 13, 1993 as well as your underground tank removal plans. The underground tanks were removed by December 7, 1993. A report of sampling results and tank removal was due to this office within 60 days.

On February 16, 1994 this office contacted your consultant, who asked if the report of tank removal could be sent to this office by February 18, 1994. It is now 1 week after that date.

There has been no further contact from you or your agents regarding the delay, which is now more than 2 weeks.

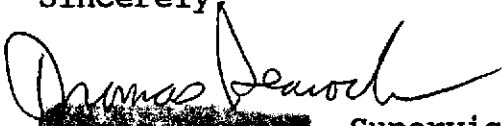
You are directed to send a technical report of underground tank removal to this office within 2 weeks.

Furthermore, your workplan above included the installation of three groundwater monitoring wells. There has been no contact with this office concerning this activity, which is overdue to be accomplished.

February 25, 1994
Bacharach & Borsuk
1432 Harrison St., Oakland
STID 498
Page 2 of 2

If you have any questions or comments, please contact this office
at (510) 271-4530.

Sincerely,



~~Thomas Deane~~, Supervising HMS
Hazardous Material Division

cc: Richard Hiatt, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
SWRCB - Clean-Up Fund

P 386 338 450



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to Lelan Douglas	
Street Douglas Parking Co.	
P.O., State and ZIP Code 1721 Webster Street Oakland, CA 94612	
Postage STID: 498	\$
Certified Fee TP	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, June 1991

Is your RETURN ADDRESS completed on the reverse side?

SENDER: • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: Leland Douglas Douglas Parking Co. 1721 Webster Street Oakland, CA 94612 STID: 498		4a. Article Number P 386 338 450 4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
5. Signature (Addressee) 		7. Date of Delivery 3-3
6. Signature (Agent)		8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

*done -
Forwarded to
Mark
2-24-94*

MARK BORSUK
ATTORNEY AT LAW

1828 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 822-1485
(415) 922-4740

VIA FAX
TWO PAGES

February 23, 1994

Mr. Edgar B. Howell, III
Chief, Hazardous Materials Division
Alameda County Health Care Services Agency
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4320 / FAX 569-4757

SUBJECT: LOP SITE #498
1432 Harrison Street, Oakland, CA 94612

Dear Mr. Howell:

Thank you for sending the personnel time sheets and oversight billing summary for the period September, 1990 to January, 1993. The LOP billing for the period January-March, 1993 did not attach the personnel time sheets. Please forward a copy.

Your cooperation is most appreciated in providing this information.

Sincerely yours,



Mark Borsuk

Attachment

- cc: Mr. Bill Attwater, Chief Counsel, State Water Board
- Mr. Mike McDonald, UST Program Manager, State Water Board
- Mr. Mike Harper, LOP Supervisor, State Water Board
- Ms. Lori Casias, LOP-Alameda Co., State Water Board
- Mr. Hans Herb, Esq.
- Mr. Alvin H. Bacharach
- Ms. Barbara Jean Borsuk

ITEMIZED NEW CHARGES

Billing date: 10/19/93

Site specific charges for billing period: 01/01/93 to 06/30/93

DATE	NAME	ACT	HOURS		RATE		LND	TRAVEL	TOTAL
			ST	OT	ST	OT			
01/28/93	SMITH	215	2.90	0.0	41.12	0.00	0.1266	0.00	134.34
01/28/93	SMITH	200	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/01/93	SMITH	215	6.00	0.0	41.12	0.00	0.1266	0.00	277.95
02/02/93	SMITH	215	6.00	0.0	41.12	0.00	0.1266	0.00	277.95
02/03/93	SMITH	206	1.50	0.0	41.12	0.00	0.1266	0.00	69.49
02/04/93	SMITH	215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/05/93	SMITH	215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/09/93	SMITH	212	0.30	0.0	41.12	0.00	0.1266	0.00	13.90
02/16/93	SMITH	215	0.30	0.0	41.12	0.00	0.1266	0.00	13.90
02/16/93	PEACOCK	212	0.40	0.0	51.17	0.00	0.1266	0.00	23.06
02/17/93	SMITH	215	2.50	0.0	41.12	0.00	0.1266	0.00	115.81
02/18/93	SMITH	215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/23/93	SMITH	212	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/24/93	SMITH	212	2.50	0.0	41.12	0.00	0.1266	0.00	115.81
03/01/93	SMITH	215	1.00	0.0	41.12	0.00	0.1266	0.00	46.33
03/04/93	PEACOCK	215	0.50	0.0	51.17	0.00	0.1266	0.00	26.82
03/08/93	PEACOCK	206	0.30	0.0	51.17	0.00	0.1266	0.00	17.29
03/08/93	SMITH	206	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
03/11/93	PEACOCK	206	1.00	0.0	51.17	0.00	0.1266	0.00	57.65
03/11/93	PEACOCK	215	2.10	0.0	51.17	0.00	0.1266	0.00	121.06
03/11/93	PEACOCK	212	0.30	0.0	51.17	0.00	0.1266	0.00	17.29
03/18/93	PEACOCK	215	0.30	0.0	51.17	0.00	0.1266	0.00	17.29
03/18/93	PEACOCK	212	0.80	0.0	51.17	0.00	0.1266	0.00	46.12
03/30/93	PEACOCK	206	0.20	0.0	51.17	0.00	0.1266	0.00	11.53

SITE SPECIFIC TOTALS: 31.9 0.0 \$ 1544.35

PROGRAM MANAGEMENT CHARGE (calculated at 42% of site specific charges): \$ 648.71

TOTAL NEW CHARGES \$ 2193.26

* ACTIVITY CODES AND DESCRIPTIONS: (ACT)

- 300 (200) Responsible Party Identification and notification
- 304 (204) Meeting with Regional Board or other affected agencies regarding a specific site
- 306 (206) Development of enforcement actions against a Responsible Party
- 307 (207) Issuance of a closure document
- 310 (210) Site visits
- 311 (211) Sampling activities
- 312 (212) Meetings with responsible parties or responsible party consultants
- 315 (215) Review of reports, workplans, preliminary assessments, remedial action plans, or post-remedial monitoring

Listing of all 1992 activities for StID # 498
as of 02/24/94

ActivDat	Insp	ACT	Activ	StID	ActCostF	aComment
01/28/93	PS	200	0.5	498	\$23.16	case transfer to LOP
01/28/93	PS	215	2.9	498	\$134.34	case review
02/01/93	PS	215	6.	498	\$277.95	review depositions Douglas bros. and meet wBill Trinkle and Bernie Rose
02/02/93	PS	215	6.	498	\$277.95	review depositions-Ron Douglas re appeal process and confer w/ Mark T. re issuance of revised H&S 25299.37 cleanup order
02/03/93	PS	206	1.5	498	\$69.49	meet w/ Mark T. re appeal from Bacharach to SWRCB
02/04/93	PS	215	0.5	498	\$23.16	write letter to Morrison and Trinkle re appeal decision from Ala Co.
02/05/93	PS	215	0.5	498	\$23.16	-0-
02/09/93	PS	212	0.3	498	\$13.90	telcon John Sturman Levine-Fricke re workplan
02/16/93	TP	212	0.4	498	\$23.06	w/Mark Borsuk, PS, update data
02/16/93	PS	215	0.3	498	\$13.90	telcon Gil Jensen re: meeting upcomming w/ Borsuk et al.
02/17/93	PS	215	2.5	498	\$115.81	review and letter to Morrison approval workplan
02/18/93	PS	215	0.5	498	\$23.16	revision to Morrison letter
02/23/93	PS	212	0.5	498	\$23.16	telcon Randy Morrison, Gil Jensen re appeal
02/24/93	PS	212	2.5	498	\$115.81	meet w/ John Sturman, Randy Morrison, Mark Borsuk, Barbara Jean Borsuk re adding Douglas Parking on the Order to Cleanup Harrison Site.
03/01/93	PS	215	1.	498	\$46.33	organized file reverse chronologically for transfer Tom
03/08/93	PS	206	0.5	498	\$23.16	confer w/ Tom re appeal
03/08/93	TP	206	0.3	498	\$17.29	w/GJ re: letters
03/08/93	TP	215	0.5	498	\$28.82	w/PS over 2 letter from lawyers
03/11/93	TP	206	1.	498	\$57.65	review w/GJ
03/11/93	TP	212	0.3	498	\$17.29	w/Mark Borsuk, LS
03/11/93	TP	215	2.1	498	\$121.06	review files & brief w/PS
03/18/93	TP	212	0.8	498	\$46.12	w/Borsuk, site review
03/18/93	TP	215	0.3	498	\$17.29	w/JE, tanks still in the ground
03/30/93	TP	206	0.2	498	\$11.53	w/Gil

Post-It™ brand fax transmittal memo 7671 # of pages ▶ 1

To	Mark Borsuk	From	Tom Peacock
Co.		Co.	
Dept.		Phone #	
Fax #	415-922-1485	Fax #	

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94133 5116

FAX 922-1485
(415) 922-4740

VIA FAX & MAIL
ONE PAGE

February 22, 1994

*all Depref
time*

Mr. Edgar B. Howell, III
Chief, Hazardous Materials Division
Alameda County Health Care Services Agency
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4320 / FAX 569-4757

SUBJECT: LOP SITE #498
1432 Harrison Street, Oakland, CA 94612

Dear Mr. Howell:

On January 11, I requested you to provide me with the oversight bills and related personnel time sheets for the above site. I again requested this readily available public information from you on February 10. If I do not receive these documents by **Monday, February 28, 1994**, I will assume your office does not intend to comply with Gov. Code Sec. 6256.

If you intend to provide this information, please contact me as soon as possible.

Thank you for your assistance.

Sincerely yours



Mark Borsuk

- cc: Mr. Bill Attwater, Chief Counsel, State Water Board
- Mr. Mike McDonald, UST Program Manager, State Water Board
- Mr. Mike Harper, LOP Supervisor, State Water Board
- Ms. Lori Casias, LOP-Alameda Co., State Water Board
- Mr. Hans Herb, Esq.
- Mr. Alvin H. Bacharach
- Ms. Barbara Jean Borsuk

MARK BORSUK
ATTORNEY AT LAW

ALCO
HAZMAT

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

94 FEB 14 PM 2:30 FAX 922-1485
(415) 922-4740

February 10, 1994

Mr. Edgar B. Howell, III
Chief, Hazardous Materials Division
Alameda County Health Care Services Agency
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4320

*Tom please
Provide response
let me see
Prior to sending
Ed*

SUBJECT: LOP SITE #498
1432 Harrison Street, Oakland, CA 94612

Dear Mr. Howell:

On January 11, I wrote to you requesting a copy of the bills and personnel time sheets for oversight charges from August, 1990 to November, 1992 on the above location.

If you will not be able to provide me with this information by February 20, 1994, please advise.

Thank you for your assistance.

Sincerely yours,



Mark Borsuk


cc: Mr. Mike Harper, Supervisor, LOP, State Water Board
Ms. Lori Casias, LOP-Alameda Co., State Water Board
Mr. Hans Herb, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

TO: GROUND WATER PROTECTION TASK FORCE
& INTERESTED PARTIES.

FROM: MARK BORSUK 

SUBJECT: TAKING THE IDIOT OUT OF THE SYSTEM: CONFIRMATION
OF THE FAILURE POINTS ANALYSIS.

DATE: JANUARY 11, 1994

On December 13, 1993, I urged the Task Force to change the role regulators play in characterizing and remediating leaking underground storage tanks ("LUST") sites. This opinion resulted from observing:

A. Responsible parties (RP) are considered and treated like criminals. This presumption immediately creates a hostile and adversarial relationship inimical to solving environmental problems;

Ironically, the government required the tanks buried in the ground. No provision was made for placing the tanks in lined vaults or aboveground. The same failure to understand the environmental risk of buried USTs, manifests itself in the government's treatment of RPs as criminals.

B. Environmental characterization and remediation are more art than science. Testing for contaminants and the remediation techniques are not always efficacious or fool proof. Many times the RP pays for the consultant's OJT (on the job training) with local agency concurrence.

The history of pumping and treating groundwater to remediate gasoline contamination is a poignant example of money wasted on imperfect science. Despite widespread scepticism of its value, the regulators required the use of the treatment. The RP had to bear the high cost with little benefit.

RPs should not pay for the consultant's learning curve, unproven techniques or trial and error testing. Regulators must be held accountable for specifying the testing and remediation techniques. Making the regulators responsible for will rapidly curtail wasteful sampling, use of unnecessary testing wells and inappropriate clean-up techniques.

C. The UST program's clean-up goal is frustrated and subverted by the very system designed to achieve the goal.

In considering these observations, it is unfortunate no member of the Task Force was an RP. An RP's experience would give the committee first hand knowledge of:

- How it feels to be treated like a criminal by local agencies and D.A.s;
- The huge waste of time an RP must invest to learn about soil and groundwater pollution while the regulators provide little or no guidance on how to deal with the problem;
- How RPs suffer at the hands of rapacious environmental consultants and lawyers;
- How RPs get the run around and lack of support from local regulators on sampling, remediation techniques, site closure, etc.;
- How after wading through a labyrinth of regulations, the RP discovers there are no clear guidelines for site remediation and closure;
- After paying great sums to consultants, labs and lawyers, the RP discovers, the regulators will not approve the sampling, remediation or closure plans; and
- Too often the property never gets clean enough for closure.

A first hand explanation would convince the Task Force why a system designed to encourage discovery and remediation of contaminated property works against its very goals. The Task Force should aggressively solicit the opinions of other RPs. A random selection of fifty (50) RPs from the UST FUND's A & B classification list will provide ample opportunity to validate these observations. Having the inmates critique the asylum will offer additional insights into the program's dysfunction.

A. **PAYING FOR GRIEF.**

[Remediation Responsibilities]

The flaw in the system's design is the reliance on a punitive coercion paradigm for compliance. This paradigm requires increasing amounts of effort and money to achieve diminishing success. One indication of the paradigm's failure is the exorbitant amount "monkey work" within the UST program. "Monkey work" describes an organization's need to check for compliance, recheck for compliance and evaluate the checkers for checking for compliance. The punitive coercion paradigm retards the RP's self-interest in remediation thereby necessitating more "monkey work" to achieve the program's purported goal. "Monkey work" misdirects human talent into counter-productive tasks and goal frustration. "Monkey work" denigrates the dedication and competence of the program's personnel by focusing their attention on truant activities.

reported LUST sites are only a subset of all LUST sites. Again, there is no incentive to close unpermitted UST sites. The answer lies in the a punitive coercion paradigm.

The punitive coercion paradigm misdirects the program's goal. Instead, the program should offer incentives to UST operators, owners and property owners to investigate and remediate. Harnessing the RP's self-interest will result in a cleaner environment at less cost in a shorter period of time. It is the mind set that keeps the program in failure mode not the means to achieve the goal.

Changing two variables will vastly improve the detection and remediation of LUST sites. First, make the UST FUND open to all RPs, i.e., if you have a site, you qualify. This recognizes LUST as a societal problem, not an individual's problem. Second, turn the punitive coercion paradigm on its head, i.e., make the cops into consultants.

The December 13 presentation offered several proposals for reformatting the regulators into consultants. They included:

- Have the local agency specify the characterization and remediation program;
- Use an approved list of professionals, consultants and contractors for the RP to choose from;
- Use a price schedule; and
- Place a limit on costs.

In other words, bring the regulators' expertise to bear at the inception of the undertaking and make them accountable for their decisions. Other states have come to the same conclusion. For example, the Texas program determines the cost of remediation prior to the RP bidding the job. All work in Texas must be pre-approved. An RP in Michigan can only use consultants on the program's list. See Exhibit E.

The present UST program operates in failure mode at greater cost with few sites closed. By treating RPs as clients and changing the punitive approach to LUST problems, more sites will be remediated and closed in a shorter period of time at less expense.

C. SITE CLOSURE DOESN'T END THE PROBLEM. [Responsible Parties]

When the RP comes to the end of the remediation "black rainbow" to seek site closure, the RP discovers site closure isn't possible. Rather, the local agency or regional board sends a closure letter containing a provision allowing further investigation and clean-up. This reopener provision lacks the finality necessary to free the property from the taint of contamination. Tainted property greatly restricts its potential for development, financing and sale.

A contaminated property is "undead" from the standpoint of risk reduction. The risk to the new owner is invocation of the reopener provision thus requiring further testing and remediation. Making the closure letter irrevocable to future owners negates the risk. This will quickly place remediated properties into productive use.

Should additional testing and remediation be necessary, the RP/seller should have recourse to the UST FUND. The FUND would treat the local agency or regional board request as a new claim and pay the additional costs subject to the FUND's deductible (\$10,000/\$20,000). Then the deductible becomes the RP/seller's only risk.

This policy change satisfies the twin goals of environmental remediation and productive use of real property. Rehabilitated properties generate jobs, property tax revenues and simulate economy growth.

++++++

ITEMIZED NEW CHARGES

Site specific charges for billing period: 01/01/93 - 06/30/93

DATE	NAME	*ACT	HOURS		RATE		IND	TRAVEL	TOTAL
			ST	OT	ST	OT			
01/28/93		215	2.90	0.0	41.12	0.00	0.1266	0.00	134.34 ✓
01/28/93		200	0.50	0.0	41.12	0.00	0.1266	0.00	23.16 ✓
02/01/93		215	6.00	0.0	41.12	0.00	0.1266	0.00	277.95 ✓
02/02/93		215	6.00	0.0	41.12	0.00	0.1266	0.00	277.95 ✓
02/03/93		206	1.50	0.0	41.12	0.00	0.1266	0.00	69.49 ✓
02/04/93		215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16 ✓
02/05/93		215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16 ✓
02/09/93		212	0.30	0.0	41.12	0.00	0.1266	0.00	13.90 ✓
02/16/93		215	0.30	0.0	41.12	0.00	0.1266	0.00	13.90 ✓
02/16/93		212	0.40	0.0	51.17	0.00	0.1266	0.00	23.06 ✓
02/17/93		215	2.50	0.0	41.12	0.00	0.1266	0.00	115.81 ✓
02/18/93		215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16 ✓
02/23/93		212	0.50	0.0	41.12	0.00	0.1266	0.00	23.16 ✓
02/24/93		212	2.50	0.0	41.12	0.00	0.1266	0.00	115.81 ✓
03/01/93		215	1.00	0.0	41.12	0.00	0.1266	0.00	46.33 ✓
03/08/93		215	0.50	0.0	51.17	0.00	0.1266	0.00	28.82 ✓
03/08/93		206	0.30	0.0	51.17	0.00	0.1266	0.00	17.29 ✓
03/08/93		206	0.50	0.0	41.12	0.00	0.1266	0.00	23.16 ✓
03/11/93		206	1.00	0.0	51.17	0.00	0.1266	0.00	57.65 ✓
03/11/93		215	2.10	0.0	51.17	0.00	0.1266	0.00	121.06 ✓
03/11/93		212	0.30	0.0	51.17	0.00	0.1266	0.00	17.29 ✓
03/18/93		215	0.30	0.0	51.17	0.00	0.1266	0.00	17.29 ✓
03/18/93		212	0.80	0.0	51.17	0.00	0.1266	0.00	46.12 ✓
03/30/93		206	0.20	0.0	51.17	0.00	0.1266	0.00	11.53 ✓

SITE SPECIFIC TOTALS: 31.9 0.0 \$ 1544.55 = 53

PROGRAM MANAGEMENT CHARGE (calculated at 42% of site specific charges): \$ 648.71

TOTAL NEW CHARGES \$ 2193.26

* ACTIVITY CODES AND DESCRIPTIONS: (ACT)

- 300 (200) Responsible Party identification and notification
- 304 (204) Meeting with Regional Board or other affected agencies regarding a specific site
- 306 (206) Development of enforcement actions against a Responsible Party
- 307 (207) Issuance of a closure document
- 310 (210) Site visits
- 311 (211) Sampling activities
- 312 (212) Meetings with responsible parties or responsible party consultants
- 315 (215) Review of reports, workplans, preliminary assessments, remedial action plans, or post-remedial monitoring

ATTACHMENT "ONE" TO
EXHIBIT "C" TO
WATER RESOURCES CONTROL BOARD
STANDARD AGREEMENT NO. 1-221-550-0

CONTRACT BUDGET

SALARIES AND BENEFITS

1.0	Supervising Hazardous Material Specialist (\$5,783/month)	\$69,396
1.0	Senior Hazardous Material Specialist (\$4,711.42/month)	\$56,537
1.0	Senior Hazardous Material Specialist (\$4,881.17/month)	\$58,574
1.0	Hazardous Material Specialist (\$4,600.17/month)	\$55,202
1.0	Hazardous Material Specialist (\$3,963.92/month)	\$47,567
1.0	Hazardous Material Specialist (\$4,454.33/month)	\$53,452
1.0	Hazardous Material Specialist (\$3,976.50/month)	\$47,718
1.0	Specialist Clerk (\$2,326.59/month)	\$27,919
	Total Salaries	\$416,365
	Employee Benefits (29.12%)	121,245
	TOTAL PERSONNEL COSTS	\$537,610

SERVICES AND SUPPLIES:

Office Space	\$47,066
Alarm Service	\$420
Office Expense	\$9,215
Travel	\$4,368
Training	\$4,000
Data Processing Lease	\$7,200
Sampling Supplies	\$600
Sampling Equipment	\$480
Protective Clothing	\$1,040
Office furniture	\$5,140
Deputy District Attorney	\$52,705

TOTAL SERVICES AND SUPPLIES COSTS \$132,234

INDIRECT COSTS (12.66% of Salaries, Benefits and Supplies) \$84,803 *76 68,061.43*

EQUIPMENT \$5,745 *3,331*

TOTAL COSTS \$760,392

Newly Vulnerable to Superfund's Claws

By RICHARD L. STROUP

If you think the Superfund program is out of control now, watch what happens this year. The Environmental Protection Agency, the program's administrator, is trying to reduce Superfund litigation by "clarifying" the rules under which businesses, individuals, public school systems and others pay back the costs of EPA-designated cleanups.

The Superfund law already invites review. A study by the Institute for Civil Justice found that in the late 1980s EPA spent more than \$7 on overhead for every dollar it spent on cleanup. Between 50% and 70% of Superfund spending is "inefficient and undermines the environmental mission of the program," according to a 1989 study performed by the Office of Technology Assessment, a government agency.

Yet the changes contemplated would worsen this situation. The Superfund law allows EPA to hire and pay contractors to clean up a site with Superfund money and later seek reimbursement to recover its costs from the parties it deems responsible. The proposed rule change would severely limit the ability of those who pay to review the charges and question them.

The idea is to streamline the recovery process and reduce litigation. But questioning charges in and out of court is one of the only remaining safeguards that prevents the EPA from billing unnecessary and unreasonable charges. Because of new electronic bookkeeping, Superfund targets could no longer see the invoices for payments relating to their own cases.

The rule would also dramatically increase the rate that responsible parties pay—not for cleanup costs, but for the agency's overhead. The agency could collect these costs retroactively to 1983, along with future costs. Potentially therefore the entire Superfund program (apart from federal sites) could "jump the track" and go off-budget, escaping the constraints of the congressional budget process.

Get this: If work was done on a Superfund cleanup in 1988, the EPA would be reimbursed between \$269 and \$376 of overhead for each hour of work done by each of its employees working on that cleanup. This rate—beyond a person's hourly rate—would apply whether the work was done by a senior engineer or a junior secretary. That is how the new rule would work.

Among supposedly reimbursable Superfund expenses were phone calls to several 900 numbers published in Penthouse magazine promising, for example, "the forbidden fantasies of Alexis C—a seductive nymph."

EPA wants this rule because right now the program is bogged down in litigation as businesses and individuals try—in and out of court—to avoid paying EPA's punitive costs. The change might minimize such litigation—but so would abolishing legal due process. Embarrassing questions to EPA about outrageous, lost or duplicate bills would seldom be asked, because detailed examination by parties or courts would be nearly impossible without access to invoices. Commenting on the proposed rule, the American Mining Congress has stated that granting this authority "is tantamount to giving a blank check to Imelda Marcos before she shops in a Fifth Avenue shoe store."

Public comments on the rule brought to light egregious expenditures claimed in cost-recovery actions. One comment included a deposition from a 1990 federal court case where costs were being sought for "miscellaneous expenses" from Du Pont Co. and others at a Superfund site.

Among these expenses were phone calls to several 900 numbers published in Penthouse magazine promising, for example, "the forbidden fantasies of Alexis C—a seductive nymph" and the "intimate sexual pleasure of Emmanuelle X."

Less flamboyant, but more important, are the comments of Robert Rock of the accounting house Price Waterhouse. He notes that in general "the invoices paid by the EPA lack evidence that the EPA reviewed or even spot-checked the invoice for accuracy and appropriateness." He cited dubious charges for travel to a Superfund site (the travel was charged, but there was no indication that any time was spent on the site), "cut-off" errors (the EPA included costs outside a specified time period) and "duplicate charges from different agencies . . . for the same type of work." In one case, the EPA charged sample analysis costs from an unrelated site, resulting in an overcharge of \$400,000. Mr. Rock stated: "These types of errors would not have been discovered if the EPA's proposed rules for documentation had been in place at the time of our review."

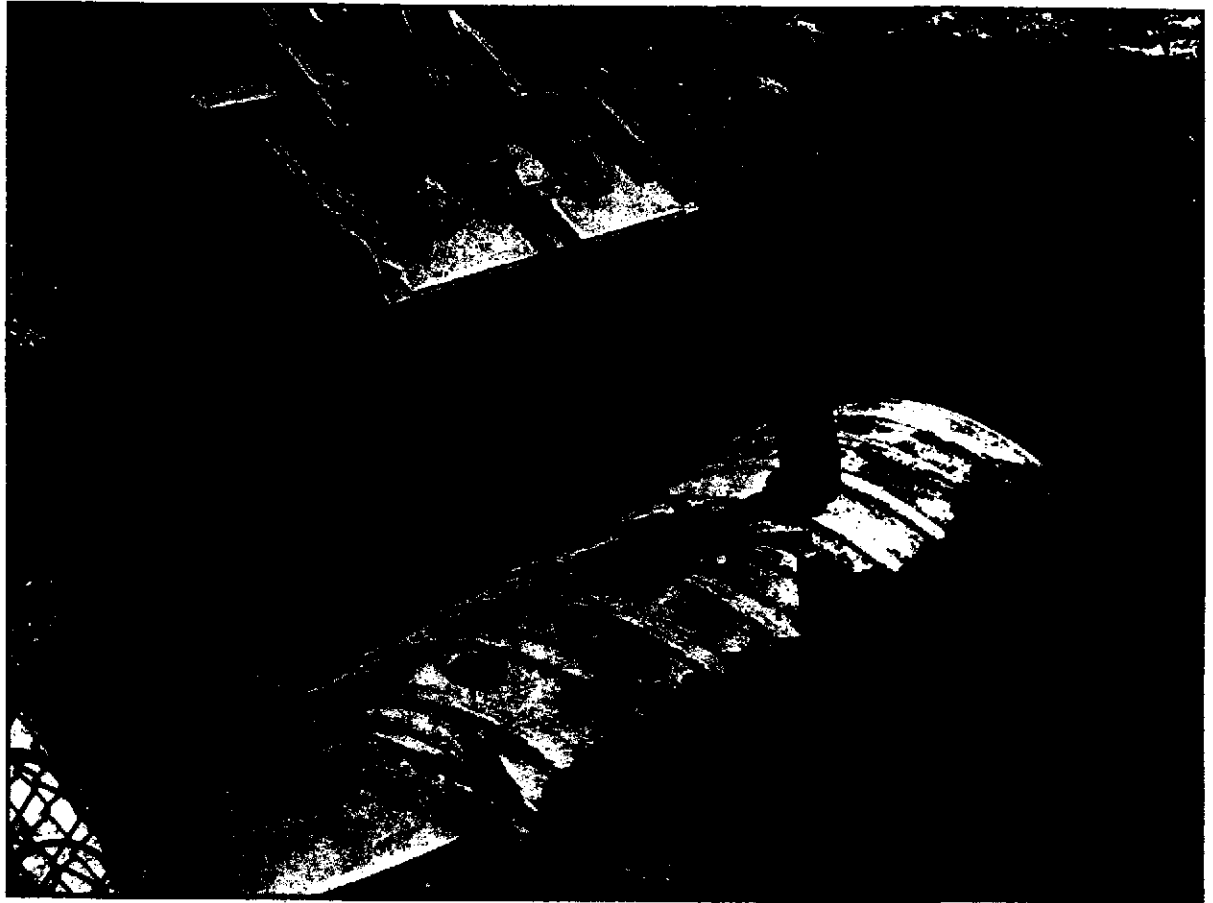
Under the cost recovery process, even now, the EPA can recover virtually any amount that it spends, unless these costs are successfully challenged in court as being unnecessary or unreasonable. The EPA points out that there is "no statutory dollar limit" to the response actions that it may require.

Government professionals are eager to force small increments of risk reduction because they have no incentive to concern themselves with cost. At one site EPA went to court and required parties to spend \$9.3 million additional dollars to clean the site to a level where the dirt would be safe enough to eat for 260 days a year. EPA was unsatisfied with "contaminated" dirt that everyone conceded was safe to eat for 70 days a year. And the site was in a swamp!

EPA's position on the proposed rule is that defendants "cannot avoid payment of United States' costs on the grounds that such costs are 'unnecessary' or 'unreasonable.'" So under the proposed rule there would be no restriction to what EPA can spend and there would be no one to stop it, even if EPA admits that its bills are unnecessary and unreasonable. Forget the sky; there is no limit.

The rule is set to become final as early as next month. In congressional hearings a year and a half ago, Rep. J.J. Pickle (D., Texas) said that if the EPA "can't make the Superfund program work efficiently and effectively to eliminate the health risks posed to the public, we ought to scrap the program and start over." Given the costly ineffectiveness of the program to date, perhaps this is good advice. For the moment, may one suggest at least scrapping the proposed rule and starting over?

Mr. Stroup is professor of economics at Montana State University. Bradley K. Townsend, a fellow at the Political Economy Research Center in Bozeman, Mont., contributed to this article and co-authored a longer version of it that appears in the current issue of the Cato Institute's magazine Regulation.



**REPORT ON RELEASES OF
HAZARDOUS SUBSTANCES FROM
UNDERGROUND STORAGE TANKS**

92-2CWP

January 1992



**STATE WATER RESOURCES CONTROL BOARD
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

Executive Summary

I Origin of the Report

This report was prepared pursuant to Section 25295(b) of the Health and Safety Code which requires the State Water Resources Control Board (State Water Board), in cooperation with the Office of Emergency Services (OES), to submit an annual statewide report to the Legislature covering all leaks of hazardous substances from underground storage tanks (UST) by county.

OES did not participate directly in preparation of this report. Tank owners and local agencies have been directed to report emergencies directly to OES using OES' standard form. Very few (approximately one percent) UST releases require any emergency response by OES.

As used in this report, "leak" is synonymous with the term "unauthorized release" as defined in law, and includes leaks from USTs and piping, overfills, and spills. The data is current through December, 1991. It represents sites where at least one leak is known to have occurred. However, it is not uncommon for more than one UST to have leaked at a given site or cleanup case.

II Report Highlights

- UST leaks continue to be reported throughout the State. Approximately 2,600 leaks were added to the Leaking Underground Storage Tank Information System (LUSTIS) between January 1, 1991 and January 1, 1992 statewide bringing the total leaks reported to 19,884.
- Ground water is known to have been affected in 6,312 of the 19,884 leaks.
- Approximately seventeen percent (3,393) of the reported leaks have been closed.

III Organization of Report

The report consists of four tables and two appendices.

Table 1 lists the number of leaks reported by county, shows open cases by type, and reports the number of closed leak cases.

State UST funds probably will not go under

By DEBORAH SHALOWITZ

State funds that provide pollution liability coverage for owners and operators of petroleum underground storage tanks are unlikely to fail despite the dismal financial picture for those funds.

There are several reasons why the funds won't go under. Foremost among them: These state financial assurance funds have the power of government behind them, so taxes could be raised or money borrowed, if necessary.

Also, many funds are instituting tighter claims reviews and cleanup fee schedules and are prioritizing cleanup sites.

While these cost-control efforts are good for the state funds' bottom lines, in many cases the result is that UST owners and operators are not reimbursed for the full amount of cleanup costs.

In addition, state funds' delays in reimbursing the cost of cleanups undertaken by UST owners and operators is a significant problem, experts note.

As a result, some UST owners and operators are buying commercial insurance even though they also are covered by a state financial assurance fund.

Under a rule instituted by the Environmental Protection Agency, by the end of this year all UST

owners and operators will be required to show they have the financial resources to cover cleanups and third-party damages for leaks. The requirements set forth specific coverage limits that UST owners and operators must secure.

The EPA requires UST owners and operators to purchase coverage with limits of up to \$1 million per claim and \$2 million aggregate, depending on the owners' size. The coverage also must meet other EPA requirements (BI, Nov. 23, 1992).

Several risk financing alternatives are allowed, including surety bonds, letters of credit, commercial insurance or coverage from a

federally approved state trust fund.

The EPA has approved trust funds in 31 states. In six additional states, trust fund programs have been submitted to the agency for review and, for now, can be used to satisfy the financial responsibility requirements. Another six states have established trust fund programs but have not yet submitted them for EPA approval.

"Certainly there's a perception that there are difficulties" with many state funds, said Amy Bouska, a consulting actuary and principal in the Minneapolis office of Tillinghast, a Towers Perrin unit.

The funds are "threatened by runaway costs and the fact that (most) state programs don't have a built-in mechanism to keep costs under control," said Brian Donovan, president of Containment Advisors Inc., a Lake Zurich, Ill., company that conducts UST leak investigations.

The EPA currently does not have a record of the financial health of any of the state funds, but it recently instituted a new program to monitor the funds, according to Sammy Ng, branch chief of the agency's office of USTs in Arlington, Va.

Under the new program, which began last August, each fund must submit to regional EPA offices data that illustrates the fund's financial status. Problems will be identified and solutions devised. Mr. Ng said.

While the EPA cannot force states to adopt certain actions, "we have the authority to withdraw the fund approval as a (financial assurance) compliance mechanism," Mr. Ng pointed out. "My hope is that it would not come to that point."

The EPA also has begun holding semiannual meetings with state fund administrators to help them manage the funds, he said.

Few people are concerned that a state fund will fail, experts say.

UST owners and operators "don't seem to be that concerned with the solvency" of the funds, said Mike Ryan, vp of environmental impairment at Agricultural Excess & Surplus Insurance Co. in Cincinnati.

"Are (the funds) ever really totally out of money if they can continue to tax?" he asked.

"There have been some moves to increase the funding flowing into" some of the state funds, noted Tillinghast's Ms. Bouska.

For example, in Michigan the state financial assurance fund had issued \$67 million of commercial paper as of mid-November to pay part of the backlog of approved claims, said a spokeswoman for the state Department of Management and Budget.

The state, which began issuing the commercial paper and paying the claims in September, plans to pay all approved claims by the end of February 1994 by issuing more commercial paper. The total debt incurred by the financial assurance fund will be between \$100 million and \$150 million, the spokeswoman said.

Michigan's fund raises between \$50 million and \$55 million per year from a 0.875-cent tax per gallon on all fuel sold in the state.

In addition to raising more money to pay claims, Michigan also has tightened administration of the fund. The state is developing a new qualified consultant list that owners and operators must use and now requires bidding on certain cleanup activities, which previously was not mandatory, the spokeswoman said.

And, Michigan now requires claimants to prove they have incurred \$5,000 in costs before they can submit a claim. Then, UST owners and operators must pay 10% of every invoice submitted, to a maximum of \$15,000, for the first release of pollutants. Claimants will have to pay 30% of each work invoice, up to a maximum of \$45,000, for a second release. The state will not reimburse UST owners or operators for additional releases. Previously, the state simply required a \$10,000 deductible for each release.

Michigan ultimately intends to phase out the fund. Although the

Continued on page 20

The EPA says:
If you're responsible for the property,

you're responsible for the cleanup.

Who's responsible? You are, if you own or manage commercial property, or have a fiduciary or financial responsibility for property on which pollution is found. Even if you were not responsible for the pollution in the first place. Cleanups can be time-consuming and costly—often running more than \$1 million. The litigation expenses can be devastating as well.

What's your best protection? Environmental Remediation Insurance underwritten by General Environmental Management Corporation (GEM)

on behalf of the CNA Insurance Companies. As an innovator in environmental insurance, GEM has the experience and expertise to help protect you from the burden of pollution cleanup and litigation costs. And CNA has a 30-year history of providing specialty lines coverages. This longstanding experience brings you knowledge and stability that you can rely on.

To find out how you can effectively protect your investments, contact your insurance broker, or call GEM directly at 1-800-231-GEMC.



General Environmental
Management Corporation

CNA is a registered service mark of the CNA Financial Corporation, the parent company of the CNA Insurance Companies. Coverage is provided by Columbia Casualty Company, one of the CNA Insurance Companies, CNA Plaza, Chicago, Illinois 60685. Coverage may not be available in some states.

CNA

For All the Commitments You Make®

NEW PROGRAM FOR ENVIRONMENTAL CONSULTANTS

ATTENTION!



**Environmental Insurance
Services, Inc.**
200 Cahaba Park South, Suite 200
Birmingham, AL 35242
(800) 239-1347
(205) 991-7885
Fax (205) 991-7767

EIS is a leading insurance provider for business and industry, with a focus on risk management and protection in the regulated environmental arenas.

We have the professional experience and full knowledge of all regulatory requirements (past, present and the foreseeable future) necessary to review your client's business insurance needs, to determine those requirements unique to them, and to help comply responsibly, efficiently and worry-free.

UST coverage

Continued from page 18

current policy limit is \$1 million per occurrence, beginning in 1995 the amount UST owners and operators will be able to claim from the fund will decrease by \$200,000 each year. After Dec. 23, 1998, no distributions will be made from the fund.

Texas' Petroleum Storage Tank Reimbursement Program also has borrowed money to pay off its backlog of approved claims and instituted some changes to help control future costs.

In September, Texas transferred \$120 million from the general revenue fund to the financial assurance fund to pay off some of the backlog of approved claims, explained Joe Woodard, director of the petroleum storage tank division of the Texas Natural Resource Conservation Commission. The money must be

paid back to the general revenue fund by Aug. 31, 1995.

The financial assurance fund gets about \$60 million a year from a gasoline tax of 0.06 cents per gallon.

As of December 1992, Texas only accepts claims for reimbursement of cleanups at sites that pose a threat to human health or safety, Mr. Woodard said.

Effectively, the state is telling owners and operators of leaking USTs that if the leak is not serious, UST owners and operators do not have to clean it up unless they are prepared to pay for the whole cleanup, he explained.

However, "that does not preclude them from any responsibility for third-party claims," so some UST owners and operators are paying for the complete cleanup of their sites, he added.

There are 145,000 registered USTs in Texas, about 15,000 of which are leaking, Mr. Woodard said. Nearly 5,000 have been cleaned up so far. And, the fund still receives daily reports of 10 to 15 new sites with contamination.

In March, Texas instituted new cleanup reimbursement guidelines that specify how much different cleanup activities should cost so UST owners and operators can determine if bids from contractors are reasonable, he said.

The guidelines also state that all cleanup activities must receive prior approval from the state or they will not be reimbursed, he explained. During the approval process, the state evaluates the planned work and tells the UST owner or operator how much the state will pay.

These kinds of cost controls can improve the financial health of state funds, but the consequence can be higher costs for UST owners and operators, said Keith Cannon, assistant vp in charge of environmental programs and risk management services for broker Henderson & Phillips Insurance in Norfolk, Va.

For example, in Virginia, the percentage of claims for cleanup reimbursements denied has skyrocketed in the past several years, Mr. Cannon said.

According to the Virginia Department of Environmental Quality, 70% of all claims submitted to the state fund so far in fiscal 1994 have been denied, compared with 47% of the claims submitted in fiscal 1993 and 26.6% of those submitted in fiscal 1992.

And, the lag time between when a UST owner or operator submits a claim and when he or she receives reimbursement can be a burden, especially for small operators.

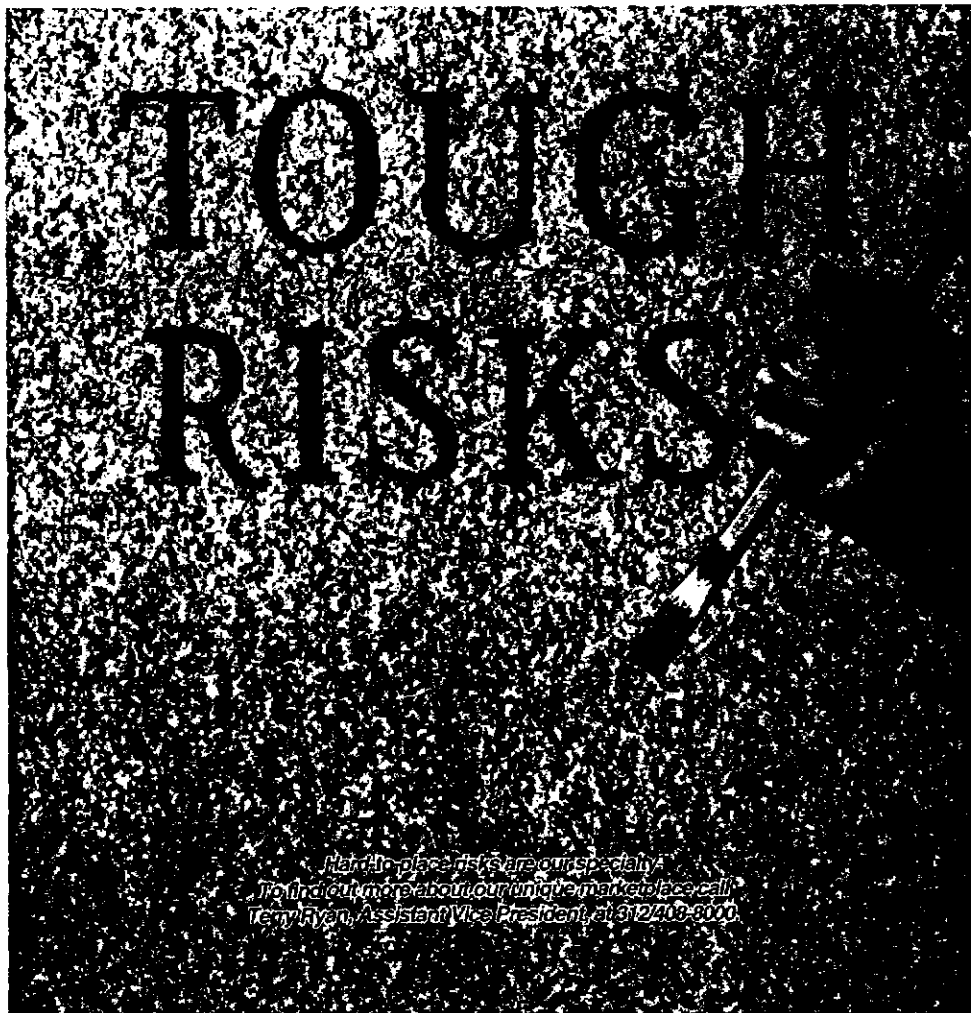
"The problem for policyholders is that in a lot of cases the funds pay, but they pay very slowly," Tillinghast's Ms. Bouska said. "Cash flow is a real problem."

As a result, some owners and operators of USTs in states that do not have a trust fund are buying commercial insurance anyway.

AESIC's Mr. Ryan said "most buyers that come to us that have a state fund" are concerned with cash flow. "We've been able to appeal to that client since we pay first-dollar," he added.

"We're seeing more and more owners turn to insurance because they no more want to depend on state funds than they would depend on the Social Security system for their retirement," stated Mr. Cannon of Henderson & Phillips.

UST insurance inquiries and purchases have increased in the last year, agreed Nancy Self, manager of the UST division for broker Crump Insurance Services of Texas Inc. in Dallas. She added that prices for commercial UST coverage have remained stable for the last several years.



*Hard-to-place risks are our specialty.
To find out more about our unique marketplace, call
Terry Ryan, Assistant Vice President, at 312/408-8000.*



ILLINOIS INSURANCE EXCHANGE

America's 4th Largest Surplus Lines Market

311 S. Wacker Drive, Suite 400, Chicago, Illinois 60606
Toll-Free 1-800/525-8471 (In Ill. 312/408-8000) • Fax 312/408-8001

MARK BORSUK
ATTORNEY AT LAW

ALCO
HAZMAT

94 JAN -3 PM 1:59

FAX 922-1485
(415) 922-4740

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

December 30, 1993

Mr. Mike Wong
Assistant to Supervisor Perata
Alameda County Board of Supervisors
1221 Oak Street
Oakland, CA 94612
(510) 276-6693
FAX 268-8004

SUBJECT: RATIFICATION OF THE LOCAL OVERSIGHT PROGRAM
(LOP) CONTRACT.

Dear Mike:

I am writing you regarding leaking underground storage tanks (UST) in Alameda County. The Alameda County Local Oversight Program (LOP) administers the UST program. The LOP is a contractual agreement between the State Water Resources Control Board and Alameda County. The Alameda County Health Care Services Agency (ACHCSA) has the responsibility to undertake UST investigations and require remediation. Earlier, the County directly administered the UST clean-up program. The LOP requires annual ratification by the Alameda County Board of Supervisors.

A number of responsible parties (RP) oppose the ratification of the LOP. The RPs request the Board of Supervisors to substantially modify the program's administration and the role played by the Alameda County District Attorney's office.

The Alameda County LOP needs a local appeal right. An RP should have the right to appeal an adverse LOP decision to the San Francisco Bay Regional Water Quality Control Board in Oakland. In many instances, an RP must appeal directly to the parent board in Sacramento at great cost. The situation is not unique to Alameda County. The Sonoma County Board of Supervisors requires this provision and the Humboldt County Board of Supervisors will require a local appeal right in the next contract.

Another, indispensable change is the inclusion of basic due process rights in the LOP's "Pre-Enforcement Hearing Panel." The hearings are not fair, impartial or constitutionally sanctioned. Instead they are *pro forma* and in some instances punitive.

For example, if an RP appeals the panel's decision, the D.A. will impose sanctions. See Exhibit A. An RP with a site in San Leandro filed suit for injunctive relief, declaratory relief and damages over the D.A.'s threat of sanctions and the D.A.'s authority to conduct the "Pre-Enforcement Hearing Panel." See Exhibit B. The D.A.'s methods waste County funds at a time of budget stringency, diverts resources from critical law enforcement activities, promotes unnecessary litigation and inhibits clean-up.

Finally, we urge the Board of Supervisors to probe the mishandling of UST investigations by the District Attorney's office. These acts require scrutiny. See Exhibit C "**UST PROGRAM FAILURE POINTS**" submitted to the STATE WATER RESOURCES CONTROL BOARD: GROUND WATER PROTECTION TASK FORCE-EXTERNAL PROGRAM REVIEW.

ABUSES IN THE ALAMEDA COUNTY LOP.

A case in Oakland illustrates the program's mismanagement, waste of public resources and the D.A.'s selective enforcement of UST laws. It serves to alert the Board of Supervisors to the abuses taking place in the County's program.

BACKGROUND.

The Health and Safety Code (Section 25280 et seq.) and the Water Code (Section 13304 et seq.) regulate petroleum UST owners and operators. UST owners, operators and passive land owners are strictly liable for contamination from leaking USTs. No intent or fault is necessary to become a responsible party. A responsible party has the obligation to remediate polluted soil and groundwater. The ACHCSA supervises most of these activities.

EXAMPLES.

Listed below are several examples of mismanagement and the UST program's punitive nature. They show how a program established to safeguard the environment is derailed into a wasteful, ineffective and prosecutorial boondoggle.

A. THE ALAMEDA COUNTY LOP DOESN'T FOLLOW THE LAW & LACKS DUE PROCESS SAFEGUARDS.

The LOP's "Pre-Enforcement Hearing Panel" makes Torquemada's inquisition pale in comparison. Despite the claim of fairness, the hearing failed to follow the law, was not before a neutral tribunal and made little attempt at impartiality.

At my client's hearing, the District Attorney's outrageous decision not to add the long-term tenant and admitted polluter to the clean-up and abatement order was quickly reversed by the Regional Board in Oakland. The Regional Board, acting

as a disinterested party, had little trouble applying State Water Board precedent. This is an example of the D.A.'s selective application of the law and abusive use of the LOP's "Pre-Enforcement Hearing Panel." The panel must be impartial, knowledgeable of the law and follow substantive and procedural due process.

B. THE ALAMEDA COUNTY LOP DECISIONS ARE ARBITRARY AND VINDICTIVE.

The D.A. used the "Pre-Enforcement Hearing Panel" to deny a property owner the right to participate in the UST CLEAN-UP FUND. The State FUND reimburses RPs for site characterization and remediation costs. My client's site will cost many hundreds of thousands of dollars to clean-up. Under the watchful eye of the ACHCSA, the RP has spent three years and incurred several hundred thousand dollars in consultant fees for characterizing the property. However, despite the RP's substantial effort, the D.A. claimed the RP had not done enough to qualify for the FUND. The FUND will not reimburse claimants unless the local agency (ACHCSA) certifies the claimant is "in compliance."

The D.A.'s decision was unconscionable and punitive. Despite the D.A.'s opinion regarding progress at the site, the property owner was in compliance with the County's directives. The D.A.'s decision subverts the very purpose of the LOP. It is "dysfunctional government."

How is it possible that a government agency can withhold monies for clean-up while complaining not enough is being done to warrant payment? The D.A.'s actions were vindictive and counterproductive to remediating the property. The LOP needs reform to insure State monies go to RPs, as quickly as possible, for clean-up. The malicious interference with State programs by local bureaucrats is impermissible.

C. THE ALAMEDA COUNTY D.A. SELECTIVELY ENFORCES THE UST LAWS.

In some instances, the D.A. has knowingly allowed UST tank owners and operators to continually violate UST laws. While in other instances, the D.A. has gone after the land owner and not the UST operator who admitted contaminating the property.

The selective enforcement of environmental laws is an anathema to the administration of justice in Alameda County. The Board of Supervisors should instruct the D.A. to remain non-partisan and focused on the real problems.

Responsible parties in Alameda County urge the Board to undertake an expeditious review of the UST program. The Board's inquiry will ferret abuses and assist in reforming the program to insure proper management and control.

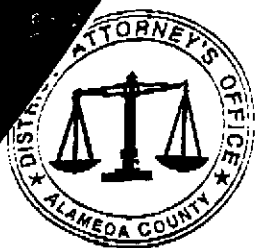
The Board's timely investigation will also lessen fears of not locating important documents and files likely to contain evidence of these malevolent acts. We are ready to provide you and the Board with further information on program abuses.

Sincerely yours,



Mark Borsuk

cc: Ms. Jennifer Fretis, Assistant to Supervisor Keith Carson
Supervisor Edward R. Campbell
Supervisor Gail Steele
Supervisor Mary King
Mr. James Strock, Sec. for Env. Protection
Mr. Michael Kahoe, Assist. Sec. for Env. Protection
Mr. John Caffrey, Chairman, SWRCB
Mr. Marc Del Piero, Member, SWRCB
Mr. William Attwater, Chief Counsel, SWRCB
Ms. Pamela Lloyd, Chair & Members, S.F. Bay RWQCB
Mr. Steve Ritchie, Executive Officer, S.F. Bay RWQCB
Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB
Mr. Lester Feldman, S.F. Bay RWQCB
Mr. Harry Schueller, Chief, Division of Clean Waters
Mr. Mike McDonald, Manager, Env. Prog., Division of Clean Waters
Mr. Mike Harper, Manager, Local Oversight Program, Div. of Clean Waters
Ms. Lori Casias, Alameda County-LOP, LOP Program, Div. of Clean Waters
Mr. Edgar Howell, III, Chief, Hazardous Materials Division, ACHCSA
Mr. John Meehan, Alameda County District Attorney
Mr. Gilbert Jensen, Deputy District Attorney, Alameda County
Mr. Bill Mills, Chair & Members, Ground Water Protection Task Force
Mr. Hans W. Herb, Esq.
Mr. William A. Hand, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk



Alameda County
District Attorney's Office
John J. Meehan, District Attorney

December 20, 1993

Hans W. Herb
Attorney at Law
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

Re: People v Garcia, Gallegos and Petsas RWQCB 01-1164 & 2198.17, LOP 4147

Dear Mr Herb:

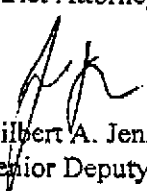
This office is in receipt of your latest correspondence in the above matter dated December 17, 1993. We feel compelled to respond to some erroneous assumptions contained in this letter, which, if not corrected, could be potentially very harmful to the interests of your clients.

On September 27, 1993 the San Francisco Bay Regional Water Quality Control Board issued you clients together with co-responsible parties Petsas, a legally binding request for environmental protection actions within 90 days pursuant to Water Code Section 13267 (b). The order clearly indicates that the Water Code, and not the Health and Safety Code, as recited in your letter, was the basis of the RWQCB action. This self executing statutory process will be enforced by this office. It is an act of the Regional Board and not the State Water Resources Board. I am sure you are aware that this action is a specific enforcement proceeding running to the jeopardy of your clients and the Petsas which cannot be stayed by policy appeals to local, state or federal political bodies which you cite in your most recent letter.

The office of the District Attorney is required to enforce the laws of the State of California in an independent fashion which does not allow for the kinds of policy input which your letter suggests. We apply the evidence which is brought to us, to the law, in thousands of cases each year, to make independent prosecutorial decisions. Such a decision has been arrived at in the case of your clients. We suggest you use the protections guaranteed your client by the law, to protect their interests, and are concerned that you seem to be relying on other issues in this case.

Very truly yours,

JOHN J. MEEHAN
District Attorney

By: 
Gilbert A. Jensen
Senior Deputy District Attorney

JJM:GAJ:gaj

cc: Mark B. Johnson, Attorney at Law

1 Hans W. Herb, Esq., SBN 136018
2 LAW OFFICES OF HANS W. HERB
3 50 Santa Rosa Avenue, Fifth Floor
4 Santa Rosa, California 95404
5 (707) 576-0757

ENDORSED FILED
Clerk of the Superior Court

DEC 28 1993

By CHARLES D. RAMEY
M. JACKSON
DEPUTY CLERK

4 Attorneys for Plaintiffs
5 GREGORY J. GARCIA and
6 BEATRICE S. GALLEGOS

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SOLANO

10
11

12 GREGORY J. GARCIA, and)
13 BEATRICE S. GALLEGOS,)

14 Plaintiffs,)

15 vs.)

16 GILBERT A. JENSEN; COUNTY OF)
17 ALAMEDA DISTRICT ATTORNEY'S)
18 OFFICE; SAN FRANCISCO BAY)
19 REGIONAL WATER QUALITY CONTROL)
20 BOARD; STATE WATER RESOURCES)
21 CONTROL BOARD; DOES 1 through)
22 100, inclusive,)

23 Defendants.)

CASE NO. 1,002217

COMPLAINT FOR INJUNCTION;
DECLARATORY RELIEF AND DAMAGES

24 Plaintiffs allege as follows:

25 THE PARTIES

26 1. Plaintiff, Gregory J. Garcia ("GARCIA"), is and was
27 at all times relevant to this matter a resident of Solano
28 County, California.

COPY

1 2. Plaintiff, Beatrice S. Gallegos ("GALLEGOS"), is,
2 and was at all times relevant to this matter, a resident of
3 Fresno County, California.

4 3. The acts alleged herein occurred, in part, in Solano
5 County, California.

6 4. Defendant Gilbert A. Jensen (hereinafter "JENSEN")
7 is, on information and belief, an attorney duly licensed to
8 practice law in the State of California. Although JENSEN has
9 purported to represent the State Water Resources Control Board
10 and Regional Water Quality Control Board as well as other
11 regulatory agencies, on information and belief, JENSEN is an
12 assistant attorney at the County of Alameda District Attorney's
13 office. Because it is unclear what capacity, if any, JENSEN is
14 involved in the matters alleged herein, he is named as an
15 individual defendant as well as an agent of any organization who
16 ultimately takes responsibility for his conduct.

17 5. Alameda County is a duly authorized and existing
18 public corporation organized under California law. The District
19 Attorney's Office is a subdivision of Alameda County.

20 6. The Regional Water Quality Control Board for the San
21 Francisco Bay Region (hereinafter "RWQCB") is a duly organized
22 political subdivision of the State of California. The RWQCB is
23 a subordinate agency of the State Water Resources Control Board.

24 7. The State Water Resources Control Board (hereinafter
25 "SWRCB") is a duly authorized and existing governmental entity
26 of the State of California. It is a part of the California
27 Environmental Protection Agency.

28

GENERAL ALLEGATIONS

1
2 8. In 1961, Joseph R. Garcia died in Alameda County,
3 California. In December of 1962, his estate was distributed.
4 Among the items in his estate was the piece of property located
5 at 16035 E. 14th Street in San Leandro, California (the
6 "property"). At that time, the property was improved by a
7 service station operated by the Seaside Oil Company of Santa
8 Barbara, California.

9 9. In accordance with Joe Garcia's wishes, his son,
10 plaintiff herein, Gregory J. GARCIA, received a 50% interest in
11 the property to be held in trust until he reached the age of
12 majority. The remaining 50% was deeded by the court to Joe
13 Garcia's widow and plaintiff herein, Beatrice S. GALLEGOS.

14 10. At no time did either of the plaintiffs have any
15 operational control over the service station or the equipment on
16 the property. Instead, the plaintiffs simply acted as passive
17 landlords for the piece of property they inherited.

18 11. In 1974, after Gregory J. GARCIA returned from
19 military service in Vietnam, the trust administered for him by
20 his mother deeded him the property. It was later disposed of by
21 sale.

22 12. In 1979, Jerry Petsas and Mary Petsas (hereinafter
23 referred to as "Petsases"), purchased the property and all the
24 service station equipment from the plaintiffs. The Petsases
25 purchased the property "as-is" and without any right of recourse
26 against the plaintiffs.

1 13. At the time the property was sold to the Petsases,
2 the underground storage tanks, pumps and all service station
3 equipment at the San Leandro property were in good working
4 condition. The property was leased and the improvements were
5 being used by the tenants who were operating an automobile
6 repair business on the property.

7 14. At no time were there ever any improper or illegal
8 spills, leaks, discharges, or releases of petroleum products
9 known to plaintiffs. In fact, the equipment was sold as-is at
10 the demand of the purchasers, not the sellers. The property was
11 discounted substantially by the sellers to satisfy the as-is
12 clause.

13 15. In 1983, the State of California first enacted
14 requirements for the permitting of underground storage tanks.
15 In accordance with the requirements of the State permitting
16 statutes, the Petsases apparently notified the appropriate
17 permitting agency of the presence of the underground storage
18 tanks on their property. After receiving several extensions of
19 time within which to comply with the permit requirements or
20 remove the tanks, the Petsases were ordered by Alameda County to
21 have the tanks removed. According the public records, this took
22 place beginning in 1985. The Petsases took no action to remove
23 the tanks for several more years.

24 16. In 1991, the Petsases finally removed the
25 underground storage tanks from their property pursuant to Orders
26 issued by various regulatory and permitting agencies. When the
27
28

1 tanks were removed, trace amounts of contamination were
2 apparently detected in the soil and groundwater at the site.

3 17. From information gathered from public records,
4 plaintiffs are informed and believe that in 1991, the Petsases
5 became subject to local agency oversight by the Alameda County
6 Healthcare Services Agency (hereinafter referred to as "ACHSA").
7 The ACHSA operates as a "deputy" water board pursuant to a
8 contract with the SWRCB.

9 18. Under the terms of the ACHSA's oversight contract,
10 the Petsases were to be provided with assistance and advice from
11 ACHSA in dealing with their contamination problem. In exchange
12 for paying the SWRCB a service charge of approximately \$125 per
13 hour, the Petsases were to be assisted by the ACHSA in cleanup
14 of the unauthorized releases at the site.

15 19. Unfortunately, the expert advice offered by the
16 ACHSA apparently turned out to be incorrect. As a result, on
17 information and belief, the Petsases were required to expend
18 tens of thousands of dollars frivolously while the toxic problem
19 at the site, to the extent it existed, was not being addressed.

20 20. On information and belief, after becoming
21 financially destitute due to the advice provided by the ACHSA,
22 the Petsases sought to bring in other potentially responsible
23 parties to assist them with the high cost of dealing with the
24 cleanup requirements.

25 21. On information and belief, in accordance with
26 instructions from the ACHSA, the Petsases requested that
27 plaintiffs be named as "responsible parties" for the cleanup of
28

1 the San Leandro site. This was based on the ACHSA's erroneous
2 belief that all operators and owners of an underground storage
3 tank are responsible for the cleanup of any contamination
4 discovered once the tank is removed.

5 22. As a result of the request by the Petsases, the
6 ACHSA, by letter dated March 2, 1993, informed plaintiffs that
7 the ACHSA had declared them to be responsible parties in
8 connection with the property.

9 23. In the time provided by statute, and in accordance
10 with California Health and Safety Code §25297.1(d)(3) and (h),
11 as well as Health and Safety Code §§25299.37(c) and (d),
12 plaintiffs filed a proper appeal to the SWRCB, objecting to the
13 requirement that they participate in the investigation and
14 cleanup at the San Leandro property.

15 24. While the petition was pending before the SWRCB,
16 defendant JENSEN appointed himself as a hearing officer and
17 conducted what he termed a "Pre-enforcement Review Panel."
18 Also present at the review panel were members of the ACHSA and a
19 staff employee of the RWQCB.

20 25. At the end of the "hearing", which plaintiffs were
21 not present at, JENSEN announced that plaintiffs were
22 responsible parties for the cleanup of this site.

23 26. Upon receiving information that JENSEN had
24 determined that plaintiffs were responsible parties at the site,
25 plaintiffs, through their attorneys, contacted the SWRCB to
26 inquire as to how to proceed in order to avoid inconsistent
27 adjudications. The SWRCB, via letters and verbal

28

1 communications, indicated that the matter was still pending
2 before the SWRCB. Further, the SWRCB advised plaintiffs that
3 JENSEN was neither authorized to represent the SWRCB, nor did
4 the State approve of his conduct in holding illegal hearings in
5 which he appointed himself a hearing officer. In addition, the
6 State Board advised that the issue of plaintiff's liability for
7 the cleanup at the site would be presented to the State Board
8 for review and that any determination of JENSEN was null and
9 void.

10 27. Subsequently, plaintiffs received yet another
11 directive, this one from the executive officer of the Bay Area
12 RWQCB, again ordering the plaintiffs to participate in the
13 cleanup at the San Leandro property. Plaintiffs timely appealed
14 that decision to the SWRCB and, in accordance with local
15 practice, appealed to the executive officer of the RWQCB to have
16 a full hearing on the issue. The hope was to resolve the
17 conflict informally since three appeals were already pending.

18 28. On December 20, 1993, plaintiffs received a letter
19 from the Mr. JENSEN regarding his position on these various
20 cleanup orders and their appeals. In Mr. JENSEN's letter, Mr.
21 JENSEN implied that he was not bound by the decisions of either
22 the SWRCB or the RWQCB and that he was going to exercise his
23 independent judgment, outside of the legal and statutory
24 process, to determine how to proceed with various sanctions
25 against plaintiffs.

1 29. According to defendant JENSEN, these sanctions
2 include fines of up to \$1000 per day for each day plaintiffs
3 failed to comply with defendant JENSEN's directives.

4 30. At this point, plaintiffs are left in a quandary.
5 They have purportedly been named as responsible parties by no
6 less than three agencies and/or organizations (the ACHSA, the
7 RWQCB and the Alameda County District Attorney's Office). At
8 the same time, appeals have been filed, as required by statute,
9 of the decision of these entities in naming petitioners as
10 responsible parties. Nevertheless, despite the fact that
11 appeals are pending, defendant JENSEN, of his own volition,
12 apparently contends that the appeals do not bind him and that he
13 alone can make an independent decision, outside of the statutory
14 process, to sanction the plaintiffs.

15 31. Plaintiffs have repeatedly attempted to establish
16 communications with the Alameda County District Attorney's
17 Office to resolve the issues in this matter. JENSEN has refused
18 to return any phone calls or to substantively answer any letters
19 concerning this matter.

20 32. Although the Alameda County Board of Supervisors,
21 the Bay Area RWQCB and the SWRCB have all attempted to work, in
22 good faith, to resolve this matter, the ultimate ability of
23 those agencies to affect a proper resolution depends on being
24 able to properly control and restrain defendant JENSEN. Under
25 such circumstances, any settlement with the legally authorized
26 agencies would be meaningless since, according to defendant

1 JENSEN, he has the power to ultimately overrule any decision of
2 any of the agencies.

3 33. Under California Code of Civil Procedure §1021.5,
4 plaintiffs are entitled to recover attorneys' fees for acting in
5 the public interest. Plaintiffs base their claim to attorneys'
6 fees in this case on at least three separate and independent
7 grounds. First, the actions of JENSEN, as a representative of
8 the Alameda County District Attorney's Office, threatens to harm
9 the environment by diverting resources from the cleanup of
10 environmental contamination instead to finance litigation and
11 attorneys' fees to the detriment of the people of the State of
12 California. Second, despite acknowledging the fact that its
13 conduct is without legal authority, the Alameda County District
14 Attorney's Office has continued to proceed with its claims
15 against the plaintiffs. Third, plaintiffs are entitled, if they
16 so choose, to damages under U.S.C. 1983. Because plaintiffs
17 believe they will prove that this same improper conduct has
18 happened to others, they request reasonable attorneys' fees for
19 abating this illegal practice as a private attorney general.

20 FIRST CAUSE OF ACTION

21 (Declaratory Relief)

22 34. Plaintiffs refer to each and every paragraph set
23 forth in the preceding allegations and incorporate those
24 paragraphs as though set forth in full in this cause of action.

25 35. Plaintiffs allege that an actual and present
26 controversy now exists between plaintiffs and defendants in that
27 plaintiffs contend that they have a right to seek redress of the

28

1 erroneous decisions of the ACHSA and the Bay Area RWQCB. The
2 defendants, dispute these contentions and contend that
3 plaintiffs have no rights of appeal and that JENSEN, either
4 individually or as an agent of the District Attorney's Office,
5 is not bound by the statutory or decisional law of the State of
6 California.

7 36. As a result of the foregoing, plaintiffs request a
8 declaration of their rights pursuant to §1060 of the Code of
9 Civil Procedure and §11350(a) of the Government Code.

10 WHEREFORE, plaintiff prays for judgment as follows:

11 (a) For an injunction restraining defendant JENSEN from
12 illegally interfering with the exercise of due process rights by
13 the plaintiffs;

14 (b) For a declaratory judgment that plaintiffs are
15 entitled to due process under the local oversight program
16 contract;

17 (c) For a declaratory judgment that plaintiffs are
18 entitled to due process under the Water Code;

19 (d) For attorneys' fees pursuant to C.C.P. §1021.5;

20 (e) For such other and further relief as the Court rules
21 is just and proper.

22 DATED: December 23, 1993

Respectfully submitted,
LAW OFFICES OF HANS W. HERB

23
24
25 BY: 

HANS W. HERB
Attorney for Plaintiffs
GREGORY J. GARCIA and
BEATRICE S. GALLEGOS

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (Aviso a Acusado)
GILBERT A. JENSEN; COUNTY OF ALAMEDA DISTRICT ATTORNEY'S OFFICE; SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD; STATE WATER RESOURCES CONTROL BOARD; DOES 1 through 100, inclusive.

YOU ARE BEING SUED BY PLAINTIFF:
(A Ud. le est., demandando)
GREGORY J. GARCIA, and BEATRICE S. GALLEGOS

You have 30 CALENDAR DAYS after this Summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book.)

Despues de que la entreguen esta citacion judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a maquina en esta corte.

Una carta o una llamada telefonica no le ofrecera proteccion su respuesta escrita a maquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte. Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefonico).

The name and address of the court is: (El nombre y direccion de la corte es)
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO
Hall of Justice, 600 Union Ave.
Fairfield, CA 94533-6394

CASE NUMBER: (Numero del Caso)

LC02217

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la direccion y el numero de telefono del abogado del demandante, o del demandante que no tiene abogado, es)
Hans W. Herb, Esq.
LAW OFFICES OF HANS W. HERB
50 Santa Rosa Ave., 5th Floor
Santa Rosa, CA 95404

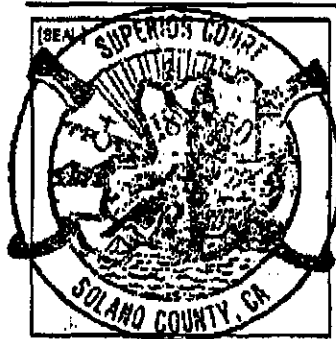
(707) 576-0757

DATE: (Fecha) DEC 28 1993

CHARLES D. RAMEY

Clerk, by 

Deputy (Delegado)



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):

- under:
- CCP 416.10 (corporation)
 - CCP 416.20 (defunct corporation)
 - CCP 416.40 (association or partnership)
 - other:
 - CCP 416.60 (minor)
 - CCP 416.70 (conservatee)
 - CCP 416.90 (individual)

- 4. by personal delivery on (date):

**PRESENTATION TO THE
GROUND WATER PROTECTION TASK FORCE
EXTERNAL PROGRAM REVIEW
STATE WATER RESOURCES CONTROL BOARD**

BY

MARK BORSUK

**UST PROGRAM FAILURE POINTS
(Health & Safety Code, Water Code & Implementing Regulations)
(December 13, 1993)**

UST PROGRAM FAILURE POINTS
(Health & Safety Code, Water Code & Implementing Regulations)
(December 13, 1993)

1. RP DESIGNATION FAILURE POINTS.

--->1st Failure Point.

(A Local Agency or D.A. can use lack of an RP standard to reward or penalize other RPs.)

A. No bright line test for RP (responsible party) designation.

1. Failure of the law and regulations to provide a uniform definition of RP status. This ambiguity among regulators and D.A.s results in inconsistent decisions.

a. Do not give discretion to officials who can use it maliciously.

b. NOTE: RP status is based on strict liability: neither fault or intent is necessary for naming an RP.

2. A CERCLA test could be used to define RP status.

3. **Horror Story #1.** An RP in Alameda County battled the D.A. for almost three years to have the long-term tenant and admitted polluter added to the clean-up and abatement order.

This required two appeals to the State Water Board. Finally the SF Bay Regional Board, ignoring the D.A.'s unwarranted and arbitrary decision, named the long-term tenant to the order. It took the Regional Board's executive officer less than an hour to make the decision naming the long-term tenant.

The D.A. would never have amended the order naming the long-term tenant unless ordered by the State Water Board. It is interesting to note the D.A. failed to contest the Regional Board's decision.

---->2nd Failure Point.
(No appeal to Regional Water Board.)

B. The only appeal from a Local Agency or D.A. decision on RP status is to the State Water Board.

1. The process should include the Regional Board as the intermediary tribunal for Local Agency and D.A. decisions.

An intermediary appeal to the Regional Board would focus attention on the specifics of the site known to the Regional Board instead of the State Board only dealing with the record of the Local Agency or D.A.'s decision.

2. Any intermediary appeal should stay potential civil or criminal sanctions.

a. Failure to include a stay will leave the Local Agency or D.A. free to continue harassment and intimidation of the RP challenging the order.

3. Appeal to the Regional Board will be cheaper and quicker than going to Sacramento.

2. INDUCTION FAILURE POINTS.

---->3rd Failure Point.
(RP designation is like receiving an IRS audit notice and a diagnosis of cancer on the same day.)

A. Unauthorized spill report immediately creates confrontation between RP and the entire regulatory system.

1. Remove criminal stigma from RP status.

a. The regulators must treat each RP as a client and not as a felon. The latter designation reflects the prevailing mind set.

--->4th Failure Point.

2. Make the UST program useful not

(No more body count trophies for Local agencies & D.A.s.)

punitive.

3. Run the UST program as a consulting service.

4. The UST program's motto should be: "If you have a UST call us. We're here to help."

3. SITE CHARACTERIZATION AND REMEDIATION FAILURE POINTS.

A. RP must develop site characterization and remediation plan.

--->5th Failure Point.

(Doctor says you're sick. But the patient must choose the diagnostic test and surgery procedure.)

1. Least knowledgeable performs the most critical task.

a. RP selects consultant and contractor. No approved UST program list for professionals and contractors.

A consultant's advice is expensive with no guaranty of accuracy or acceptance by regulators. Many consultants lack malpractice insurance. Many contractors have inadequate insurance.

b. Consultant develops characterization and remediation plan.

c. Local Agency/LOP must review and approve Consultant's work plan.

--->6th Failure Point.

(Let's make a deal. The RP has to negotiated the work plan with the Local Agency or D.A.)

1. The Local Agency and D.A. may require a revision to the work plan or reject it.

a. If rejected, RP must begin again. This wastes money and delays the clean-up.

2. By having the Local Agency/LOP specify the work, redundancy is eliminated for the regulator

and RP.

3. **Horror Story #2.** The RP submitted three work plans for approval. The Local Agency and D.A. rejected the first two work plans. This delayed clean-up for three years. There was no basis for the rejection of the first work plan. The first plan was ultimately accepted.

--->7th Failure Point. B.
(This isn't like building a house.)

RP must bid site characterization and remediation work to comply with UST FUND reimbursement requirements.

1. On its face, the requirement of having an amateur, the RP, bid the work is an invitation to failure.

--->8th Failure Point.
(We'll break you before we're through.)

C. There are no cost constraints placed on how much the RP must spend to characterize and remediate the site.

1. **Horror Story #3.** Alameda County and the D.A. told the RP that "cost was not a consideration" in characterization and remediation of the site. Fortunately for the RP, the County and D.A. did not have a basis in fact for the extreme and elaborate precautions and monitoring demanded. The tank removal followed routine procedures.

2. The current policy only invites mischief by regulators and D.A.s. It allows them to continually ask for more data without regard for cost or value.

a. At a minimum, the Local Agency or D.A. must obtain Regional Board approval to prevent fishing expeditions.

3. The lack of financial constraints works against ethical consultants. This policy promotes unnecessary work and lab tests by consultants taking advantage of the regulator's bias.

4. The regulators have no incentive to stop demanding revisions to the work plan: their time is reimbursed by the RP. The D.A.'s time is also reimbursed by the RP in the LOP.

5. The pecuniary symbiosis between the regulators and consultants doesn't promote efficiency or economy and works directly against the RP.

--->9th Failure Point. D.
(Get the Idiot out of the clean-up.
Focus the regulators' talent
on the site's problems and not
the RP.)

The Local Agency/LOP should provide the RP with the specifications and know-how to characterize and remediate the site.

1. Eliminate three critical failure points by having the Local Agency/LOP detail and prepare the work plan.

a. Replace the amateur, RP, with the expert, the regulator, to evaluate the site.

b. Insure the initial specifications are correct and properly bid. This removes the necessity of the UST FUND to reevaluate the job's cost before reimbursing the claimant (RP).

c. Insure the consultant and contractor are considered qualified by the Local Agency and LOP.

Horror Story #4. The D.A. & the County required the RP to hire another consultant after the first consultant disagreed with their site contamination analysis. As a result the RP was forced to spend over \$125,000 in additional costs for new consultants, extra testing, reports and legal fees.

The first consultants analysis was correct,

the D.A. and County actions had no basis in fact. Their actions only increased the cost to the RP. Their terror campaign is a major embarrassment for the regulatory community and cause celebre in Alameda County.

4. UST FUND FAILURE POINTS.

--->10th Failure Point.

(Catch 22. Can't comply unless you start work but can't start work without money from UST FUND.)

A. Delete the "compliance" requirement for FUND reimbursement.

1 **Horror story #5.** The D.A. refused to allow the RP to be certified as "in compliance" for FUND reimbursement despite the RP having been in compliance for three years and incurring over \$200,000 in consultant fees.

2. The D.A.'s action was an example of dysfunctional government. One arm of government offers to underwrite the cost of clean-up while another arm of government only seeks to penalize the RP for the leaking UST.

--->11th Failure Point.

(Let's make a deal REDUX. Redundant compliance is a further waste of time and money.)

B. FUND reapproves costs associated with characterization and remediation of site already approved by the Local Agency/LOP.

1 This delays reimbursement to the RP.

2. The FUND's technical staff instead of checking bills should devote their considerable talent to designing specifications for the characterization and remediation of sites, and developing pricing standards for consultants and contractors.

C. Following this approach the UST FUND can directly pay the consultants and contractors instead of requiring the RP to seek reimbursement.

D. Revise the definition of UST to include hydraulic lifts used in auto repair and servicing. It costs just as much to remediate a leaking lift as a leaking tanks.

E. Revise the UST FUND rules to allow reimbursement for UST removal costs.

1. Alternatively, pre-qualify the RP for the UST LOAN program.

--->12th Failure Point.
(UST LOAN program doesn't work.)

2. The UST LOAN program isn't integrated into the UST FUND.

a. Obtaining a loan is a lengthy process requiring another set of forms in substance the same as submitted to the FUND.

b. The process has become so cumbersome consultants are used to process the paper work.

c. A critical weakness of the loan program is the necessity of knowing the UST removal costs before applying for the loan. Many times the cost is known shortly before the tank removal thereby making it difficult to obtain a loan commitment.

F. Revise the UST FUND rules to exclude third party reimbursements to the RP from being deducted from the FUND's reimbursements to the RP for characterization and remediation costs.

1. Currently, if an RP obtains a settlement from a third party for diminution of the property's value, repayment of legal fees or repayment of the \$10,000 deductible, the FUND deducts this amount from the reimbursement.

2. At best the RP is trying to get back out-of-pocket costs. Current policy penalizes the RP by denying reimbursement for all costs.

5. UST/UST FUND PROGRAM MANAGEMENT FAILURE POINTS.

--->13th Failure Point.

A. There is no organized method for talking back

(No feed-back loop exists to alert managers to program failures.)

to the program managers. Program development and maintenance requires direct user (RP) input.

1. The program needs to be run like a business where RPs are the customers.

B. Create an Ombudsman (1-800-UST-HELP) for the UST/UST FUND programs.

1. The Ombudsman would act as the early warning system to discover program inconsistencies, failures and bottlenecks.
2. The Ombudsman would also allow managers to spot successful programs.

C. Solicit the RP's critique of the program.

1. Each RP should be queried every six months on how the regulators including the D.A.s are conducting themselves and administering the programs.
2. Computerize the responses for analysis.
 - a. RP comments would help evaluate individual regulators, track complaints and note outstanding performance.
 - b. RP evaluations of individual regulators would become a factor in promotions, job assignments and terminations. +++++

01-073-9

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

December 30, 1993

Mr. Steven Ritchie
Executive Officer
San Francisco Bay Regional Water Quality Control Board
Suite 500
2101 Webster Street
Oakland, CA 94612
(510) 286-1255
FAX 286-1380

LF

~~ACHA~~
2 - copy
file

CALIFORNIA REGIONAL WATER
JAN 04 1994
QUALITY CONTROL BOARD

SUBJECT: 1432 Harrison Street, Oakland, CA 94612
LOP Site #498
File #2189.17 (LF)

Dear Mr. Ritchie:

Thank you for your reply to my October 11, 1993, letter questioning a number of practices in the Alameda County LOP and in particular the role of the Alameda County D.A.'s office in dealing with leaking USTs.

The attached letter to Mr. Mike Wong, Assistant to Alameda County Supervisor Perata outlines additional problems with the program and the D.A. We are urging the Supervisors to substantially revise the LOP contract with the State Water Board. The necessary revisions are: incorporation of due process safeguards into the "Pre-Enforcement Hearing Panel" deliberations; a direct appeal right to the Regional Board from a local agency decision; and to curtail the D.A.'s harassment of responsible parties.

I applaud the implementation of the Board's UST site ranking system. Protecting public health and safety was not the basis for the D.A. targeting of this property. The site is similar to hundreds of other sites in Alameda County not requiring the D.A.'s involvement. Further, the D.A.'s specious health and safety demands for extraordinary precautions had no relationship to the usual and necessary precautions required for a tank pull. In sum, it was a typical tank yank under the supervision of the ACHCSA.

In 1990, if the Board's priority system was in effect and your office supervised the clean-up, then the D.A.'s unfounded and patently punitive characterization and clean-up demands would not have been made. An obsessed D.A. forced the property owners to endure needless emotional and financial suffering.

Timely reform of Alameda County's UST program will prevent future abuses to responsible parties. In 1994, I look forward to working with Mr. Feldman on LOP issues and with Mr. Dalke on remediation issues.

Once again, thank you for intervening on my clients' behalf. The Regional Board righted a grievous wrong by naming the long-term tenant and admitted polluter to the clean-up order despite the D.A.'s best efforts for almost three years to ignore Water Board precedent.

Best wishes for the holidays and in the New Year.

Sincerely yours,



Mark Borsuk

cc: Ms. Pamela Lloyd, Chair & Members, S.F. Bay RWQCB
Mr. James Strock, Sec. for Env. Protection
Mr. Michael Kahoe, Assist. Sec. for Env. Protection
Mr. John Caffrey, Chairman, SWRCB
Mr. Marc Del Piero, Member, SWRCB
Mr. William Attwater, Chief Counsel, SWRCB
Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB
Mr. Lester Feldman, S.F. Bay RWQCB
Mr. Harry Schueller, Chief, Division of Clean Waters
Mr. Mike McDonald, Manager, Env. Prog., Division of Clean Waters
Mr. Mike Harper, Manager, Local Oversight Program, Div. of Clean Waters
Ms. Lori Casias, Alameda County-LOP, LOP Program, Div. of Clean Waters
Edward Howell, III, Chief, Haz. Mat. Div., ACHCSA
Mr. John Meehan, Alameda County District Attorney
Mr. Gilbert Jensen, Deputy District Attorney, Alameda County
Mr. Bill Mills, Chair & Members, Ground Water Protection Task Force
Supervisor Keith Carson
Supervisor Edward R. Campbell
Supervisor Mary King
Supervisor Don Perata
Supervisor Gail Steele
Mr. Hans W. Herb, Esq.
Mr. William A. Hand, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

December 30, 1993

Mr. Steven Ritchie
Executive Officer
San Francisco Bay Regional Water Quality Control Board
Suite 500
2101 Webster Street
Oakland, CA 94612
(510) 286-1255
FAX 286-1380

SUBJECT: 1432 Harrison Street, Oakland, CA 94612
LOP Site #498
File #2189.17 (LF)

Dear Mr. Ritchie:

Thank you for your reply to my October 11, 1993, letter questioning a number of practices in the Alameda County LOP and in particular the role of the Alameda County D.A.'s office in dealing with leaking USTs.

The attached letter to Mr. Mike Wong, Assistant to Alameda County Supervisor Perata outlines additional problems with the program and the D.A. We are urging the Supervisors to substantially revise the LOP contract with the State Water Board. The necessary revisions are: incorporation of due process safeguards into the "Pre-Enforcement Hearing Panel" deliberations; a direct appeal right to the Regional Board from a local agency decision; and to curtail the D.A.'s harassment of responsible parties.

I applaud the implementation of the Board's UST site ranking system. Protecting public health and safety was not the basis for the D.A. targeting of this property. The site is similar to hundreds of other sites in Alameda County not requiring the D.A.'s involvement. Further, the D.A.'s specious health and safety demands for extraordinary precautions had no relationship to the usual and necessary precautions required for a tank pull. In sum, it was a typical tank yank under the supervision of the ACHCSA.

In 1990, if the Board's priority system was in effect and your office supervised the clean-up, then the D.A.'s unfounded and patently punitive characterization and clean-up demands would not have been made. An obsessed D.A. forced the property owners to endure needless emotional and financial suffering.

Timely reform of Alameda County's UST program will prevent future abuses to responsible parties. In 1994, I look forward to working with Mr. Feldman on LOP issues and with Mr. Dalke on remediation issues.

Once again, thank you for intervening on my clients' behalf. The Regional Board righted a grievous wrong by naming the long-term tenant and admitted polluter to the clean-up order despite the D.A.'s best efforts for almost three years to ignore Water Board precedent.

Best wishes for the holidays and in the New Year.

Sincerely yours,



Mark Borsuk

cc: Ms. Pamela Lloyd, Chair & Members, S.F. Bay RWQCB
Mr. James Strock, Sec. for Env. Protection
Mr. Michael Kahoe, Assist. Sec. for Env. Protection
Mr. John Caffrey, Chairman, SWRCB
Mr. Marc Del Piero, Member, SWRCB
Mr. William Attwater, Chief Counsel, SWRCB
Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB
Mr. Lester Feldman, S.F. Bay RWQCB
Mr. Harry Schueller, Chief, Division of Clean Waters
Mr. Mike McDonald, Manager, Env. Prog., Division of Clean Waters
Mr. Mike Harper, Manager, Local Oversight Program, Div. of Clean Waters
Ms. Lori Casias, Alameda County-LOP, LOP Program, Div. of Clean Waters
Edward Howell, III, Chief, Haz. Mat. Div., ACHCSA
Mr. John Meehan, Alameda County District Attorney
Mr. Gilbert Jensen, Deputy District Attorney, Alameda County
Mr. Bill Mills, Chair & Members, Ground Water Protection Task Force
Supervisor Keith Carson
Supervisor Edward R. Campbell
Supervisor Mary King
Supervisor Don Perata
Supervisor Gail Steele
Mr. Hans W. Herb, Esq.
Mr. William A. Hand, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS
 2014 T STREET, SUITE 130
 P.O. BOX 944212
 SACRAMENTO, CALIFORNIA 94244-2120
 (916) 227-4413
 (916) 227-4530 (FAX)

DEC 17 1993



Alvin Bacharach and Barbara Borsuk
 C/O Mark Borsuk, Esq.
 1626 Vallejo Street
 San Francisco, CA 94123-5116

Site: Harrison Street Garage
 1432 Harrison and 1435 Alice Sts.
 Oakland, CA 94612

Dear Mr. Borsuk:

UNDERGROUND STORAGE TANK CLEANUP FUND, CLAIM NO. 2219


The State Water Resources Control Board (State Board) takes pleasure in issuing the attached Letter of Commitment in an amount not to exceed **\$50,000**. This Letter of Commitment is based upon our review of the corrective action costs incurred to date and your application received on January 17, 1992 and may be modified by the State Board in writing by an amended Letter of Commitment.

The State Board will take steps to withdraw this Letter of Commitment after 90 calendar days from the date of this transmittal letter unless you proceed with due diligence with your cleanup effort. This means that you must take positive, concrete steps to ensure that corrective action is proceeding with all due speed. For example, if you have not started your cleanup effort, you must obtain three bids and sign a contract with one of these bidders within 90 calendar days. If your cleanup effort has already started and was delayed, you must resume the expenditure of funds to ensure that your cleanup is proceeding in an expeditious manner. You are reminded that you must comply with all regulatory agency time schedules and requirements. We constantly review the status of all active claims, and failure to proceed with due diligence will be grounds for withdrawal of this Letter of Commitment. You should read the terms and conditions listed in the Letter of Commitment. Also attached you will find:

- A "Reimbursement Request Instructions" package. You should retain this package for future reimbursement request. Among other information, the package includes instructions for completion of the "Reimbursement Request" form and the "spreadsheet". These instructions must be followed when seeking reimbursements for corrective action costs incurred after January 1, 1988. Included in these instructions are samples of Reimbursement Request forms and complete Spreadsheets. Within the package also included are:
 - Recommended Minimum Invoice Cost Breakdown.
 - A "Certification of Non-Recovery From Other Sources" which must be returned before any reimbursements can be made.
 - A "Bid Summary Sheet" to document data on bids received.
- Three "Reimbursement Request-Underground Storage Tank Cleanup Fund" forms which you must use to request reimbursement of costs incurred.
- Two "Spreadsheets" which you must use in conjunction with your Reimbursement Request.
- "Vendor Data Record" (Std. form 204) which must be completed and returned with your first Reimbursement Request.

If you have any questions regarding the Letter of Commitment or the Reimbursement Request package, please contact Blessy Torres at (916) 227-4535.

Sincerely,


 Dave Deaner, Manager
 Underground Storage Tank
 Cleanup Fund Program

Attachments

cc: Tom Peacock
 Alameda County Health Agency
 Div of Hazardous Materials
 80 Swan Way
 Oakland, CA 94621

Don Dalke
 Regional Water Quality Control Board
 San Francisco Bay Region
 2101 Webster Street, Suite 500
 Oakland, CA 94612

LETTER OF COMMITMENT FOR REIMBURSEMENT OF COSTS

CLAIM NO: 002219

AMENDMENT NO: 0

CLAIMANT: A. Bacharach and B. Borsuk

BALANCE FORWARD: \$0

JOINT-CLAIMANT:

THIS AMOUNT: \$50,000

CLAIMANT ADDRESS: 1626 Vallejo Street
San Francisco, CA 94123-5116

NEW BALANCE: \$50,000

TAX ID / SSA NO. 553-22-1328 (Bacharach) and 551-26-1204 (Borsuk)

Subject to availability of funds, the State Water Resources Control Board (State Board) agrees to reimburse Alvin Bacharach and Barbara Borsuk (claimant) for eligible corrective action costs at 1432 Harrison and 1435 Alice Streets, Oakland, CA 94612 (site). The commitment reflected by this Letter is subject to all of the following terms and conditions:

1. Reimbursement shall not exceed \$50,000 unless this amount is subsequently modified in writing by an amended Letter of Commitment.
2. The obligation to pay any sum under this Letter of Commitment is contingent upon availability of funds. In the event that sufficient funds are not available for reasons beyond the reasonable control of the State Board, the State Board shall not be obligated to make any disbursements hereunder. If any disbursements otherwise due under this Letter of Commitment are deferred because of unavailability of funds, such disbursements will promptly be made when sufficient funds do become available. Nothing herein shall be construed to provide the Claimant with a right of priority for disbursement over any other claimant who has a similar Letter of Commitment.
3. Unless modified in writing by the State Board, this Letter of Commitment covers work through Phase I of corrective action work.
4. All costs for which reimbursement is sought must be eligible for reimbursement and the Claimant must be the person entitled to reimbursement thereof.
5. Claimant must at all times be in compliance with all applicable state laws, rules and regulations and with all terms, conditions, and commitments contained in the Claimant's Application and any supporting documents or in any payment requests submitted by the Claimant.
6. No disbursement under this Letter of Commitment will be made except upon receipt of acceptable Standard Form Payment Requests duly executed by or on behalf of the Claimant. All Payment Requests must be executed by the Claimant or a duly authorized representative who has been approved by the Division of Clean Water Programs.
7. Any and all disbursements payable under this Letter of Commitment may be withheld if the Claimant is not in compliance with the provisions of Paragraph 5 above.
8. Neither this Letter of Commitment nor any right thereunder is assignable by the Claimant without the written consent of the State Board. In the event of any such assignment, the rights of the assignee shall be subject to all terms and conditions set forth in this Letter of Commitment and the State Board's consent.
9. This Letter of Commitment may be withdrawn at any time by the State Board if completion of corrective action is not performed with reasonable diligence.

IN WITNESS WHEREOF, this Letter of Commitment has been issued by the State Board this 7th day of December, 1993.

STATE WATER RESOURCES CONTROL BOARD

BY [Signature]
Manager, Underground Storage Tank Cleanup Fund Program

BY [Signature]
Chief, Division Administrative Services

STATE USE :
CALSTARS CODING :
0550 - 569.02 - 30530
\$

☆☆THANK YOU!☆☆

F A X T R A N S M I T T A L

DATE: 12/15/93

TOTAL PAGES INCLUDING COVER SHEET. 1

TO: Mr. Thomas F. Peacock, Supervising HazMat Specialist, ACHCSA.

FAX #: 510-569-4757

FROM: Mark Borsuk, Attorney At Law

PHONE #: 1-415-922-4740

FAX #: 1-415-922-1485

COMMENTS:

Dear Tom: Thank you for contacting Blessy at the UST FUND, so she can begin processing the property owners' letter of commitment. I look forward to working with you in 1994 on the Harrison Garage.

Bests wishes for the holidays and in the New Year.

Sincerely yours,



Mark Borsuk

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
 Hazardous Materials Inspection Form

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

II, III

Site ID # 498 Site Name Harrison St. Garage Today's Date 1/27/93

II.A BUSINESS PLANS (Title 19)

- ___ 1. Immediate Reporting 2703
- ___ 2. Bus. Plan Stds. 25503(b)
- ___ 3. RR Cars > 30 days 25503.7
- ___ 4. Inventory Information 25504(a)
- ___ 5. Inventory Complete 2730
- ___ 6. Emergency Response 25504(b)
- ___ 7. Training 25504(c)
- ___ 8. Deficiency 25505(a)
- ___ 9. Modification 25505(b)

Site Address 1432 Harrison St.
 City Oakland Zip 94612 Phone _____

___ MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- ___ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- ___ II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks removal

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

II.B ACUTELY HAZ. MATS

- ___ 10. Registration Form Filed 25533(a)
- ___ 11. Form Complete 25533(b)
- ___ 12. RMPP Contents 25534(c)
- ___ 13. Implement Sch. Req'd? (Y/N)
- ___ 14. OffSite Conseq. Assess. 25524(c)
- ___ 15. Probable Risk Assessment 25534(d)
- ___ 16. Persons Responsible 25534(a)
- ___ 17. Certification 25534(f)
- ___ 18. Exemption Request? (Y/N) 25536(b)
- ___ 19. Trade Secret Requested? 25538

Comments:
product lines still to be removed and soil sampled. 2 samples taken - 1 at pipe joint near tank pit and 1 under 2 dispenser island. Gravel backfill delivered by Rock Transport-Oakland. 2nd pipe removed and placed with other piping on side.

III. UNDERGROUND TANKS (Title 23)

- | | |
|-------------------------------|--|
| General | ___ 1. Permit Application 25284 (H&S) |
| | ___ 2. Pipeline Leak Detection 25292 (H&S) |
| | ___ 3. Records Maintenance 2712 |
| | ___ 4. Closure Report 2651 |
| | ___ 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | ___ 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose Semi-annual groundwater One time soil |
| | 3) Daily Vadose One time soil Annual tank test |
| | 4) Monthly Gndwater One time soil |
| | 5) Daily Inventory Annual tank testing Cont pipe leak det Vadose/gndwater mon. |
| | 6) Daily Inventory Annual tank testing Cont pipe leak det |
| | 7) Weekly Tank Gauge Annual tank tising |
| | 8) Annual Tank Testing Daily Inventory |
| | 9) Other _____ |
| | ___ 7. Precis Tank Test 2643 |
| Date: _____ | |
| ___ 8. Inventory Rec. 2644 | |
| ___ 9. Soil Testing 2646 | |
| ___ 10. Ground Water. 2647 | |
| New Tanks | ___ 11. Monitor Plan 2632 |
| | ___ 12. Access, Secure 2634 |
| | ___ 13. Plans Submit 2711 |
| | Date: _____ |
| ___ 14. As Built 2635 | |
| Date: _____ | |

Tank closure report - Quarterly report signed by owner on activities.

Rev 6/88

Contact: John Hurman
 Title: _____
 Signature: rec'd by John Hurman

Inspector: [Signature]
 Signature: _____

II, III

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
2101 WEBSTER STREET, SUITE 500
OAKLAND, CA 94612
(510) 286-1255

ALCO
HAZMAT

93 DEC -6 PM 1:28



December 3, 1993

File No. 2198.17(LF)

Mark Borsuk
Attorney At Law
1626 Vallejo Street
San Francisco, CA 94123-5116

SUBJECT: Alameda County Local Oversight Program

Dear Mr. Borsuk:

I have reviewed your letter of October 11, 1993 concerning the underground storage tank management (UST) program in Alameda County. Your letter questions the practices and procedures of the Alameda County Department of Environmental Health (the local oversight program -LOP- contract agency) and the District Attorney's Office (enforcement support of the LOP). I have discussed the issues raised in your letter with staff and I have the following comments.

As you know, the LOP's derive their funding and authority from the State Water Board under contract. This past year staff have participated in the State Water Board's UST Task Force, where the objective was to streamline the data handling system, define roles and responsibilities of State and local agencies in the leaking UST program, streamline case closure procedure with a focus on the local agencies, and to develop a priority system to maximize the use of limited State and local program resources. A few of the results of the Task Force's efforts that bear on the issues you raised are:

1. Priority System - based upon public health protection, water quality policies, and administrative considerations. A copy of the SWRCB's Priority System is attached.
2. Streamlined Case Closure Procedures - based upon local agency sign-off with Notice to the Regional Boards. This will streamline the closure process.
3. Roles and Responsibilities - to review how the LOP contract agencies implement the Water Board policies and the Health and Safety Code. This document is still under discussion.

15 1000
25

80 Swan Way, #200
Oakland, CA 94621
(415) 271-4320

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

II, III

white -env.health
yellow -facility
pink -files

Site ID # _____ Site Name Harrison St Garage Today's Date 12/16/93

Site Address 1432 Harrison St.
City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal

Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stas. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(i)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| <hr/> | |
| Monitoring for Existing Tanks | 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank tftng |
| | 8) Annual Tank Testing
Daily inventory |
| | 9) Other _____ |
| <hr/> | |
| New Tanks | <input type="checkbox"/> 7. Precs Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| | <input type="checkbox"/> 11. Monitor Plan 2632 |
| <input type="checkbox"/> 12. Access. Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635
Date: _____ | |

10:05 Arrived on site
Comments:
 Two USTs below sidewalk along Harrison St. are ready for removal. There is a distinct HC odor.
 10:25 Larry James of OFD arrived.
 LEU -1; O₂ 20%, but PID is 1980 ppm on N tank. OFD not comfortable w/ the high O₂, so we rescheduled.
 11:00 left site.
 Soil was stained in pit.

Rev 6/88
10,000ppm = 1 lb

Contact: _____
Title: _____
Signature: _____

Inspector: _____
Signature: [Signature]

II, III

ALAMEDA COUNTY, DEPARTMENT OF
ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

II, III

white -env.health
yellow -facility
pink -files

Site ID # _____ Site Name Harrison St Garage Date 12/16/93

Site Address 1437 Harrison St.
City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal

Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:
10:05 Arrived on site
Two USTs below sidewalk along Harrison St. are ready for removal. There is a distinct HC odor.
10:25 Larry James of OFD arrived.
LEU -1; O₂ 20%, but PID is 1980 ppm on N tank. OFD not comfortable w/ the high O₂, so we rescheduled.
11:00 left site.
Soil was stained in pit.

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stats. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|--|--|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Groundwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/groundwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| New Tanks | <input type="checkbox"/> 7. Precip Tank Test 2643 |
| | Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing . 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| <input type="checkbox"/> 11. Monitor Plan 2632 | |
| <input type="checkbox"/> 12. Access. Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711 | |
| Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635 | |
| Date: _____ | |

II, III

Contact: _____
Title: _____
Signature: _____

Inspector: _____
Signature: [Signature]

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form *p.1 of 2*

II, III

Site ID # _____ Site Name Harrison St Garage *1/6/93*
 Date 1/6/93

Site Address 1432 Harrison St
 City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks *removal of 2 1,000-gal. gasoline USTs*

Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stas. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(i)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils <i>1:25</i> |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Groundwater
One time soils <i>1:30</i> |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. <i>1:45</i> |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other <i>2:05</i> |
| | <input type="checkbox"/> 7. Precs Tank Test 2643 |
| | Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| <input type="checkbox"/> 10. Ground Water. 2647 | |
| New Tanks | <input type="checkbox"/> 11. Monitor Plan 2632 |
| | <input type="checkbox"/> 12. Access. Secure 2634 |
| | <input type="checkbox"/> 13. Plans Submit 2711 |
| | Date: _____ |
| <input type="checkbox"/> 14. As Built 2635 | |
| Date: _____ | |

1:10 Arrived on site
Comments:
Power Contractors added more dry ice to USTs, + ~~gas~~ Levine-Frickel recalibrated their gas tech equipment. Larry James of OFD okayed removal, due to lower LEL/O₂ readings.
1:25 Removal of North tank. It is bar-wrapped, gal-wall steel. Soil below UST is greenish (photographed).
1:30 Continued shoring in order to remove S tank.
1:45 Removal of South tank.
North tank has a sizable hole (~4" across) which was apparently made by contractor's equipment.
2:05 Stockpile has already been sampled, as per John Sturman. We'll take 4 samples below USTs for TPHg, BTEX, + total lead.
No other obvious holes in Tank A.

Rev 6/88

Contact: John Sturman
 Title: _____
 Signature: John Sturman

Inspector: Jennifer Eberle
 Signature: J Eberle

II, III

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

p. 2 of 2

II, III

Site ID # _____ Site Name Harrison St. Garage Today's Date 12/16/93

Site Address 1432 Harrison St.
 City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Tank B is also tar wrapped. ~~The~~ One end has a sizable hole (approx. 3" x 3") which was apparently inflicted by contractor's equipment. No other ~~sizable~~ holes are apparent. One small dent on side.
 [Tank A had a dent along one entire side]. Contractor said he made the dents. USTs will remain on site for an undetermined period of time. Tanks will be wrapped in plastic. Small amt. water in pit. Bottom Tank A is ~ 6 1/2' bgs. Bottom Tank B is ~ 7' bgs. Soil below both tanks is green-gray. Fill ends were on opposite ends of pit. Soil samples taken (see attached map + chart). Duplicates were taken of both fill ends. Soil scrapings taken fm sidewalls for PID readings only.
 2:40
 3:40
 3:55 left site

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(i)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- General**
- 1. Permit Application 25284 (H&S)
- 2. Pipeline Leak Detection 25292 (H&S)
- 3. Records Maintenance 2712
- 4. Release Report 2651
- 5. Closure Plans 2670
- 6. Method
- 1) Monthly Test
- 2) Daily Vadose
 Semi-annual groundwater
 One time soils
- 3) Daily Vadose
 One time soils
 Annual tank test
- 4) Monthly Gndwater
 One time soils
- 5) Daily Inventory
 Annual tank testing
 Cont pipe leak det
 Vadose/gndwater mon.
- 6) Daily Inventory
 Annual tank testing
 Cont pipe leak det
- 7) Weekly Tank Gauge
 Annual tank testing
- 8) Annual Tank Testing
 Daily Inventory
- 9) Other _____
- 7. Precs Tank Test 2643
 Date: _____
- 8. Inventory Rec. 2644
- 9. Soil Testing . 2646
- 10. Ground Water. 2647
- New Tanks**
- 11. Monitor Plan 2632
- 12. Access. Secure 2634
- 13. Plans Submit 2711
 Date: _____
- 14. As Built 2635
 Date: _____

Rev 6/88

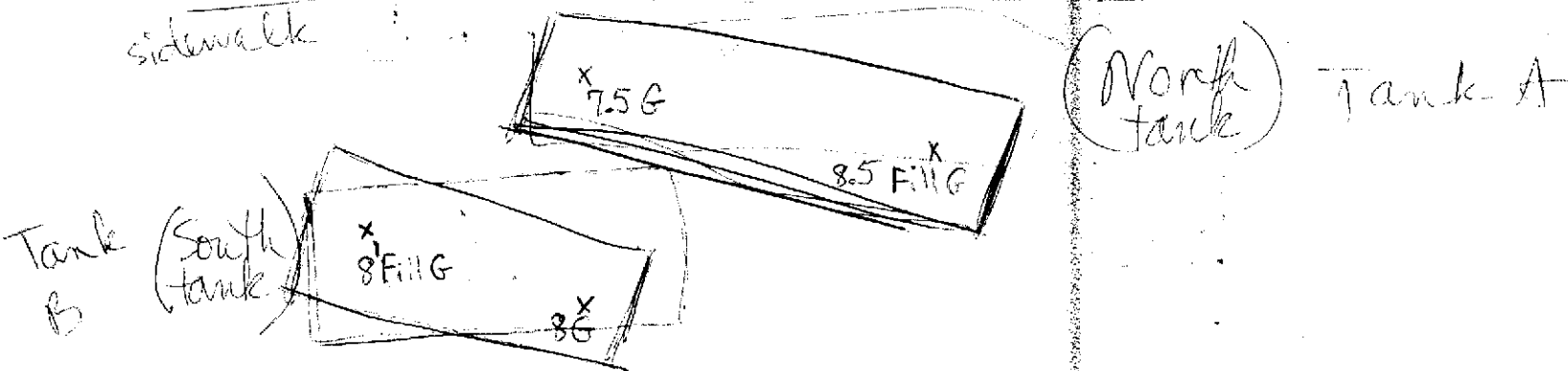
Contact: John Storman
 Title: _____
 Signature: John Storman

Inspector: Jennifer Eberte
 Signature: J Eberte

II, III

Harrison St

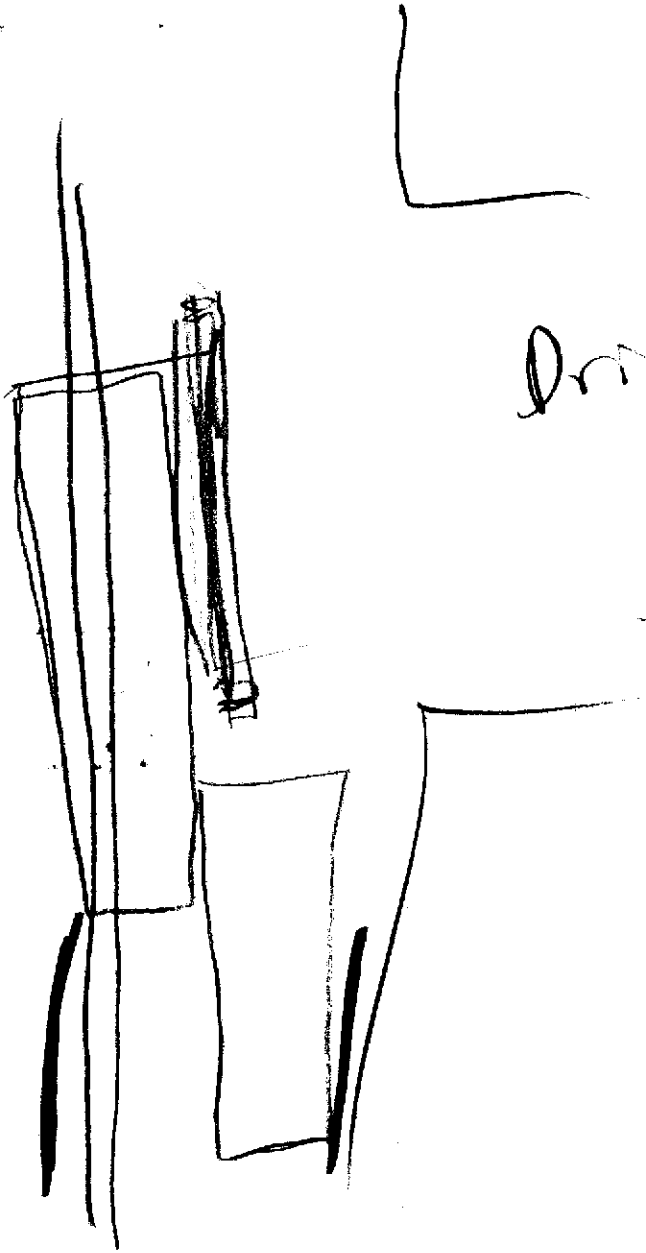
sidewalk



sample #	soil color	odor	PID	actual depth	
Stank 8' F I I G	greenish	yes	1500	8' 2"	sand
Stank 8' G	greenish	slight	—	8' 2"	clayey sand
N tank 7.5' G	greenish	yes	1340	7' 7"	
N tank 8.5' F G	faded green	?	to 2019 2030 120	8' 8"	

Harrison St.

CSA



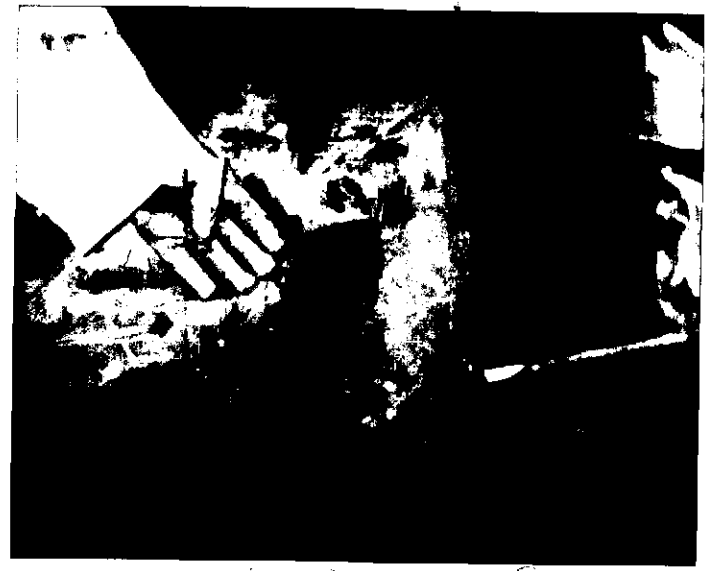
Drive

Feet
White

12-6-93 JE
Tank removal
1432 Harrison St
Oakland 94612



12-6-93 Harrison St. Garage
JE 1432 Harrison St
Oakland CA 94612



16-6-93 Harrison St. Garage
JE North tank - hole on the
side,
Oakland CA 94612

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

MARK BORSUK
ATTORNEY AT LAW

DDD
L. Ritchie
File:

JPK

1526 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FEDX

October 15, 1993

Ms. Blessy Torres
Staff Service Analyst
UST CLEANUP FUND
State Water Resource Control Board
2014 T Street
Sacramento, CA 94244-2120
(916) 227-4535
FAX 227-4530

DDD

CALIFORNIA REGIONAL WATER
OCT 19 1993
QUALITY CONTROL BOARD
LJK

SUBJECT: Claim 2219
Bacharach & Borsuk
1432 Harrison Street, Oakland, CA 94612

Dear Blessy:

Enclosed is the technical report requested by Mr. Ritchie, Executive Officer, S.F. Bay RWQCB on September 22, 1993, as a condition precedent to "compliance" for purposes of obtaining a letter of commitment from the UST FUND. Mr. Ritchie specifically noted the claimant was in all other respects in compliance for purposes of the UST FUND.* Please contact Mr. Edgar Howell, Project Director for the LOP at the Alameda County Health Care Services Agency (ACHCSA) for "sign off." His phone number is (510) 271-4320. If you are unable to obtain "sign off" from the LOP within **five (5) days** after receipt of this letter, please contact me immediately, so I may notify Mr. Ritchie, Ms. Casias, Mr. McDonald and the Board.

If you have additional questions, please contact me.

Sincerely yours,



Mark Borsuk

*In May, I sent you the claimant's site history. The report details the claimant's continued compliance with the demands of the Alameda District Attorney's Office and the ACHCSA. Thus, from the beginning of this matter, the claimant has been at all times in compliance with government directives.

Attachment
-Ritchie letter.

-Technical report.

cc:

Alvin H. Bacharach

Barbara Jean Borsuk

Mr. John Caffrey, Chairman, SWRCB

Mr. Marc Del Piero, Member, SWRCB

Mr. Steven Ritchie, Executive Officer, S.F. Bay RWQCB

Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB

Mr. Mike McDonald, Division of Clean Waters, UST Section

Ms. Lori Casias, Division of Clean Waters, Local Oversight Program

Mr. Dave Deaner, UST FUND

Mr. Ron Markle, UST FUND

Mr. Steve Parada, UST FUND

Mr. Edgar B. Howell, III, Chief, Hazardous Material Div., ACHCSA

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION

2101 WEBSTER STREET, SUITE 500

OAKLAND, CA 94612

(510) 286-1255



A. Bacharach & B. Borsuk
1432 Harrison Street
Oakland, CA 94612

September 22, 1993
File: 01-0739 & 2198.17

Leland Douglas
Douglas Parking Co.
1721 Webster Street
Oakland, CA 94612

**RE: Legal Designation of Responsible Party and Request for
Submittal of a Technical Report Resulting from the Alameda
County Department of Environmental Health's Pre-Enforcement
Review Panel Meeting on August 31, 1993**

Dear Sirs :

It has been brought to my attention by Regional Board staff that a condition of soil and groundwater pollution exists on the property located at 1432 Harrison Street, Oakland, as a result of underground storage tank releases. The Alameda County Department of Environmental Health (ACHD) staff have requested technical reports from you to fulfill your obligations per California Code of Regulations, Title 23 Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements. It is my understanding that the tanks and hydraulic lifts remain in the ground and need to be removed. I understand that they are scheduled to be removed by December 1, 1993.

A Pre-Enforcement Review Panel was held at the ACHD offices on August 31, 1993, attended by Mr. Richard Hiatt of my staff. Pursuant to the Regional Board's authority under Section 13267 (b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the underground storage tank immediately before the discontinuation of its use." A responsible party also includes any owner of property from which an unauthorized release of a hazardous substance from an underground storage tank has occurred.

As a responsible party, you are required to conduct both soil and groundwater investigations to determine the extent of the environmental pollution resulting from the release. Therefore you are requested to submit technical reports within 45 days of the date of this letter specifically addressing the following numbered items:

Enforcement Panel Meeting
Page 2 of 2

- 1) The removal of underground storage tanks, hydraulic lifts, and associated piping from the site.
- 2) A work plan to define the lateral and vertical extent of pollution in soil and groundwater.

All work should adhere to the requirements of the Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - August 10, 1990 and Article 11 of Title 23, Waters, California Code of Regulations.

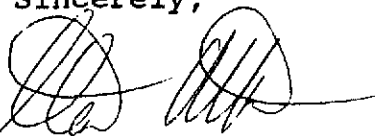
For purposes of the Underground Storage Tank Cleanup Fund it is my understanding that the claimant is in compliance subject to the implementation of the aforementioned items.

I am hereby transmitting this request for a technical report to ACHD for service and continued case handling. You should be aware that failure on your part to submit the requested technical report, or late submittal may result in fines up to \$1000 per day of delinquency. Your response to this technical report request should be sent to the attention of Mr. Tom Peacock at ACHD. Please inform Mr. Peacock at least three working days in advance of all field activities.

Please be advised that this is a formal request for a technical reports pursuant to California Water Code Section 13267 (b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the ACHD.

If you have any questions regarding the contents of this letter, Please contact Mr. Peacock, of ACHD, at (510) 271-4530.

Sincerely,



Steven R. Ritchie
Executive Officer

cc: Gil Jensen, ACDA, 7677 Oakport Street, Suite 400, Oakland
94621
Tom Peacock, ACHD, 80 Swan Way, Suite 200, Oakland 94621



**Work Plan for Soil and Ground-Water Investigation,
Harrison Street Garage Site,
1432 - 1434 Harrison Street, Oakland, California**

**October 13, 1993
2680.00-23**

**Prepared for
Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Road, Suite 100
Danville, California 94526**



LEVINE·FRICKE



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

October 13, 1993

LF 2680.00-23

Mr. Thomas F. Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Division of Hazardous Materials
80 Swan Way, Room 350
Oakland, California 94621

**Subject: Work Plan for Soil and Ground-Water Investigation,
Harrison Street Garage Site, 1432 - 1434 Harrison
Street, Oakland, California**

Dear Mr. Peacock:

On behalf of Mr. Alvin H. Bacharach and Mrs. Barbara J. Borsuk, Levine-Fricke, Inc., has prepared the enclosed Work Plan for Soil and Ground-Water Investigation at the Harrison Street Garage Site in Oakland, California. This work plan complies with the request in the September 22, 1993 letter from Mr. Steven Ritchie, San Francisco Regional Water Quality Control Board, to provide a technical report on the tank and hydraulic lift removal and to define the lateral and vertical extent of affected ground water.

As you know, previous soil and ground-water investigations have been performed at this site by Subsurface Consultants, Inc., SCS Engineers, Inc., RGA Environmental, Inc., and Levine-Fricke, Inc. Results of these previous investigations will be supplemented with the investigation described herein.

Additionally, removal of the four underground storage tanks (USTs), two hydraulic lifts, one sump, and some associated soils is planned for the month of November.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

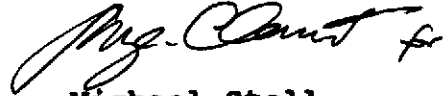
LEVINE·FRICKE

We will finalize and implement the enclosed work plan after we have received and incorporated your comments and obtained your approval on behalf of the ACDEH. If you have any questions or comments, please call either of the undersigned.

Sincerely,



John Sturman, P.E., R.G.
Senior Geotechnical Engineer



Michael Stoll
Project Engineer

Enclosure

cc: Alvin H. Bacharach
Barbara J. Borsuk
Gilbert Jensen, Esq., Alameda County District Attorney's
Office
Randall D. Morrison, Crosby, Heafey, Roach & May
Mark Borsuk, Esq.
Rich Hiett, California Regional Water Quality Control
Board, San Francisco Bay Region

CONTENTS

	<u>PAGE</u>
INTRODUCTION	1
OBJECTIVES	1
BACKGROUND	2
SCOPE OF WORK	2
Task 1: Permitting for Drilling Wells	3
Task 2: Utility Location	3
Task 3: Drilling Subcontractor	3
Task 4: Observation of Drilling Activities	5
Task 5: Well Development, Sampling, and Surveying	5
Task 6: Laboratory Testing	6
Task 7: Reporting	6
LEVINE-FRICKE PROJECT MANAGEMENT	6
ESTIMATED SCHEDULE	7
TABLE 1: SOIL QUALITY RESULTS	
FIGURE 1: SITE VICINITY MAP	
FIGURE 2: SITE PLAN SHOWING SOIL BORING LOCATIONS AND TPHg, TVHg, BTEX, TPHd, O&G, PCBs, CL-HCs, VOCs, Pb, Hg, Ni, AND Se ANALYTICAL RESULTS AT HARRISON STREET GARAGE IN OAKLAND, CALIFORNIA, MAY 1993	
FIGURE 3: SITE PLAN SHOWING PROPOSED MONITORING WELL LOCATIONS	

October 13, 1993

LF 2680.00-23

**WORK PLAN FOR SOIL AND GROUND-WATER INVESTIGATION
HARRISON STREET GARAGE SITE
1432-1434 HARRISON STREET, OAKLAND, CALIFORNIA**

INTRODUCTION

On behalf of Mr. Alvin H. Bacharach and Mrs. Barbara J. Borsuk, Levine·Fricke has prepared this work plan for soil and ground-water investigation at the Harrison Street Garage site in Oakland, California ("the Site"; Figure 1). This Work Plan has been prepared to comply with the requirements set forth in the letter from Mr. Steven Ritchie, San Francisco Bay Regional Water Quality Control Board, to Mr. Bacharach, Ms. Borsuk, and Mr. Leland Douglas, dated September 22, 1993.

The Site currently contains four underground storage tanks (USTs), some hydraulic lifts, and a sump. These tanks, lifts, and sump are scheduled to be removed in November 1993. In this Work Plan, Levine·Fricke proposes to drill and install four shallow ground-water monitoring wells at or around the Site.

OBJECTIVES

The objectives of the proposed activities are as follows:

- to further assess the lateral and vertical extent of petroleum-affected soil at the Site
- to assess shallow ground-water quality at the Site
- to measure the shallow ground-water elevations and flow directions in the site vicinity

Results of this investigation will be used to develop plans for possible supplemental investigation, future remediation, and monitoring activities. Based on the existing data, it appears likely that hydrocarbon-affected soil and ground water extend off site. This investigation will be limited to the Site and will use data obtained to evaluate the need for and the locations of supplemental wells or borings.

BACKGROUND

The Site is currently operated as a parking garage. Before its current use, the Site also served as a parking garage offering retail gasoline sales and automobile service. Presently, four USTs remain at the Site, including two approximately 1,000-gallon-capacity USTs located under the sidewalk on Harrison Street and two approximately 1,000-gallon-capacity USTs located in the basement near Alice Street. The USTs are not currently in use. Those adjacent to Harrison Street are reported to have previously contained motor fuel (gasoline and possibly diesel) and the USTs near Alice Street contained waste oil. Additionally, a fuel dispenser, two hydraulic lifts, and one former sump are located within the parking garage. The four USTs, fuel dispenser, two hydraulic lifts, and one former sump are to be removed from the Site in response to a request from the Alameda County Department of Environmental Health (ACDEH).

Previous investigations of the area surrounding the subject USTs have been performed by Subsurface Consultants, Inc., SCS Engineers, Inc., RGA Environmental, Inc. (RGA), and Levine·Fricke. These investigations included 28 soil borings; additionally, grab ground-water samples were collected from four borings by SCI. Ground water was encountered at approximately 25 feet below ground surface (bgs). The direction of ground-water flow in the site vicinity has not yet been determined. No ground-water monitoring wells have been installed at or in the immediate vicinity of the Site. A summary of soil analytical data from previous investigations is presented in Table 1. These data are summarized for presentation on Figure 2.

SCOPE OF WORK

To supplement the soil-quality data collected during these previous investigations to assess the vertical and lateral extent of petroleum-affected soil and ground water, Levine·Fricke proposes to drill four soil borings which will be completed as shallow monitoring wells. Proposed drilling locations are shown on Figure 3. Results of this work will be used to assess the lateral and vertical extent of affected soils and ground water and to evaluate possible remediation alternatives. Based on data obtained during tank lift and sump removal activities, locations of wells may be modified.

LEVINE·FRICKE

The proposed scope of work includes the following specific tasks:

- Task 1: Permitting for Drilling Wells
- Task 2: Utility Location
- Task 3: Drilling Subcontractor
- Task 4: Observation of Drilling Activities
- Task 5: Well Development, Sampling, and Surveying
- Task 6: Laboratory Testing
- Task 7: Reporting

These tasks are described in more detail below.

Task 1: Permitting for Drilling Wells

Levine·Fricke will coordinate with the drilling subcontractor to obtain required permits for the subject work before initiating field activities. Based on our experience, a minor encroachment permit and an excavation permit will be required by the City of Oakland for drilling in Harrison Street, and an excavation permit will be needed for drilling in the sidewalk. In addition, an Alameda County Zone 7 Drilling Permit will be required for drilling wells.

Task 2: Utility Location

Levine·Fricke will outline the proposed drilling locations with white paint and notify Underground Service Alert (USA) two days before start of field work. Additionally, a private underground utility location service will be subcontracted by Levine·Fricke to provide more information regarding underground utility lines near the proposed soil borings before commencement of drilling.

Task 3: Drilling Subcontractor

Borings will be drilled and wells will be installed by a Levine·Fricke subcontractor in accordance with State of California Department of Water Resources (DWR) standards. The four soil borings will be drilled by a California C-57 licensed drilling contractor using a truck-mounted rig in the approximate locations shown on Figure 3. The borings will extend to an estimated maximum depth of approximately 20 to 25 feet below ground surface. The exact locations of the borings will be determined in the field based upon the results of the underground utility survey. The maximum depths of the soil borings will be determined in the field based on soil conditions encountered and measured depth to ground water. If

LEVINE·FRICKE

it appears that affected soils related to the USTs may extend deeper than 25 feet bgs, the borings will be extended to no deeper than 35 feet bgs.

The soil borings will be drilled using the hollow-stem auger drilling method. Samples will be collected at minimum 5-foot intervals using a Modified California split-barrel sampler. In this method, soil samples are collected in clean brass liners that are inserted in the sample barrel. After removing the barrel, the samples will be inspected in the tubes for lithologic description, and will be described in accordance with the Unified Soil Classification System. To retain the tubes for possible chemical analysis, the ends of the tubes will be capped and sealed, and the tubes will be labeled and placed in a chilled ice chest. All lithologic logs will be prepared under the direct supervision of, and signed by, a California Registered Geologist.

Soil cuttings generated during drilling will be stored on site in sealed 55-gallon drums. Warning stickers will be affixed to the drums stating "Caution, Waste Soils, Do Not Handle" and the generator's name, site location, date, and boring number. We anticipate that the drill cuttings can be disposed of with soils excavated during UST removal activities. Drill augers will be steam cleaned before being brought to the Site and on site after drilling has been completed. Steam-cleaning water will be collected in a trough and stored on site in 55-gallon drums labeled "Caution, Wastewater, Do Not Handle." Water disposal options will be evaluated, and the water will be disposed of, after soil-quality results are obtained.

Each boring will be converted into wells by inserting 2-inch-diameter, flush-threaded, solid and slotted schedule 40 PVC casing through the hollow-stem auger. The 0.02-inch slotted well screen is estimated to extend from about 15 to 25 feet bgs, based on the shallow ground-water level. A filter pack consisting of Number 3 graded Monterey sand will be placed into the annular space between the hollow-stem auger and the PVC casing. The sand will extend about 2 feet above the top of the PVC casing. A layer of bentonite pellets a minimum of 1 foot thick will be placed above the sand, around the solid portion of the casing. From the top of the bentonite seal to the surface, a cement grout containing about 3 percent bentonite will protect the well from surface water intrusion. A locking well cap will be placed on the well. A traffic-rated round skirted utility box will be placed at the ground surface.

LEVINE-FRICKE

Drilling activities will be conducted on a Saturday to reduce impacts to traffic and public access along Harrison Street.

Task 4: Observation of Drilling Activities

A Levine-Fricke geologist or engineer will observe drilling and well installation, record soil lithology encountered, note ground-water conditions, screen soil samples for volatile hydrocarbons, and collect soil samples for chemical and geotechnical analyses. Drill cuttings and soil samples collected will be screened for volatile organic compounds using a field photoionization detector (PID), which measures total volatile organics in air. Approximately four soil samples will be retained from each of the borings. After review of the field data, selected samples will be submitted to an environmental laboratory for hydrocarbon analysis described under Task 6. Additionally, selected samples will be submitted to Levine-Fricke's geotechnical laboratory for analysis of physical properties.

The soil borings will be left open for approximately one hour to measure the static ground-water level. The depth to ground water will be measured by a Levine-Fricke engineer using an electric water-level probe.

Task 5: Well Development, Sampling, and Surveying

After the wells have been installed, each well (if it does not contain floating product) will be developed to remove fine particles and improve hydraulic communication between the slotted casing and the formation. The wells will be developed by purging approximately 10 well casing volumes or until the discharge is relatively free from sediment. The parameters of specific conductance, pH, temperature will be recorded during the purging process. Ground-water samples will be collected after these parameters have stabilized. Purged water will be collected in DOT-approved 55-gallon drums, which will be labelled "Caution, Wastewater, Do Not Handle," and left on site until an appropriate treatment/disposal method has been decided.

The well casing top elevations will be measured by a state-licensed well surveyor subcontracted by Levine-Fricke. The elevations will be measured to the nearest 0.01 foot and referenced to mean sea level. These data will aid in the construction of a ground-water elevation contour map.

Task 6: Laboratory Testing

A sample of product, if encountered in wells, will be submitted for fuel characterization analyses to identify the type(s) of fuel hydrocarbons which may be present. If no product is encountered, three soil samples that appear to contain elevated hydrocarbon elevations will be submitted for fuel characterization to Friedman & Bruya, Inc., of Seattle, Washington, a state-certified analytical laboratory.

The exact soil sample analyses which will be performed will be determined based on the fuel fingerprint results. However, for the purpose of this Work Plan, we have assumed that 10 soil samples collected during drilling will be analyzed for total petroleum hydrocarbons as gasoline (TPHg) and 4 of those soil samples for total petroleum hydrocarbons as diesel (TPHd) using modified EPA Method 8015. Additionally, all 10 soil samples will be analyzed for the fuel constituents benzene, toluene, ethylbenzene, and xylenes (BTEX) using EPA Method 8020. Soil samples will be submitted for analysis based on PID readings, soil lithology, and existing soil-quality data to better assess the lateral and vertical extent of petroleum-affected soils.

Each of the ground-water samples will be analyzed for TPHg, and BTEX, using the above methods. The sample from the well at Alice Street will also be analyzed for waste oil using Method 5520 D&F. Additionally, samples will be analyzed for organic lead using the State of California Department of Toxic Substance Control (DTSC) method. Analyses will be conducted by a state-certified laboratory.

Task 7: Reporting

The methods used and results obtained for soil and ground water investigation activities described herein will be presented in a report which will be submitted to the ACDEH. Well logs, soil chemical data obtained, and laboratory certificates will be included in this report.

LEVINE-FRICKE PROJECT MANAGEMENT

Mr. John Sturman, P.E., R.G., Senior Geotechnical Engineer, will be the overall project manager for this project. As such, Mr. Sturman will be the primary contact for the ACDEH. Mr. Michael Stoll, Project Geotechnical Engineer, will coordinate field operations and interface with contractors and subcontractors. He will also oversee the field activities and

LEVINE·FRICKE

assist with data analysis and report preparation. Mr. Ted Splitter, P.E., Principal Geotechnical Engineer, will provide review of the technical and regulatory compliance aspects of the project.

ESTIMATED SCHEDULE

Levine-Fricke estimates that permitting from the City of Oakland will require about two weeks and perhaps as much as six weeks. Utility location verification will occur during the permit process. Thus, we expect drilling can begin within about one month from the date of agency approval of this Work Plan. Soil quality results will be available within two to three weeks after drilling, assuming normal seven- to ten-working-day turnaround. Ground-water sampling will be performed within one week of well drilling. Ground-water quality results will be available within two to three weeks of drilling, assuming normal turnaround time. A report presenting methods and results and providing recommendations for future work will be provided within three weeks of receipt of ground-water sample results.

TABLE 1
SOIL QUALITY RESULTS
HARRISON STREET GARAGE
1432 - 1434 HARRISON STREET, OAKLAND, CALIFORNIA
(all results in parts per million [ppm])

Sample ID	Date Collected	Consultant/ Laboratory	Depth (ft, bgs)	TPHg/ TVHg	Benzene	Toluene	Ethyl- benzene	Xylenes	TPHd	Kerosene	O&G	PCBs	CL-NCs	VOCs	Soluble Pb	Pb	Metals Hg Ni Se		
Waste Oil Tank Area																			
B689'	17-Sep-90	SCI/C&T	9	NA	<0.005	<0.005	<0.005	<0.005	<10	98	<50	0.009*	ND	NA	0.06	NA	NA	NA	NA
B689.5'	17-Sep-90	SCI/C&T	9.5	NA	NA	NA	NA	NA	<10	140	<50	NA	NA	NA	NA	NA	NA	NA	NA
B1-2'	16-Jan-92	RGA/CAL	2	27.3	<0.005	3	0.23	<0.005	55.7	NA	54.2	ND	ND	ND	NA	<2.2	50.7	21.9	15.3
B2-2'	16-Jan-92	RGA/CAL	2	<1	<0.005	0.1	<0.005	<0.005	1.5	NA	<20	ND	ND	ND	NA	<2.2	49.7	16.9	<7.5
B3-2'	16-Jan-92	RGA/CAL	2	1.6	<0.005	1.1	<0.005	<0.005	1.6	NA	<20	ND	ND	ND	NA	<2.2	54.2	33.6	17
B4-2'	16-Jan-92	RGA/CAL	2	1.9	<0.005	0.8	<0.005	<0.005	24.1	NA	54.8	ND	ND	ND	NA	<2.2	66.5	45.6	19.2
B5-2'	16-Jan-92	RGA/CAL	2	<1	<0.005	0.4	<0.005	<0.005	2.5	NA	50.9	ND	ND	ND	NA	<2.2	73	47.2	19.2
B6-2'	16-Jan-92	RGA/CAL	2	<1	<0.005	0.4	<0.005	<0.005	24.3	NA	<20	ND	ND	ND	NA	<2.2	66.7	41.4	16.9
B7-2'	16-Jan-92	RGA/CAL	2	2.6	<0.005	1.6	<0.005	<0.005	6.3	NA	221	ND	ND	(1)	NA	<2.2	74.2	36.3	18.9
B8-2'	16-Jan-92	RGA/CAL	2	<1	<0.005	0.04	<0.005	<0.005	2.9	NA	55.1	ND	ND	ND	NA	<2.2	52.9	30.8	15.3
B9-5'***	22-Jan-92	RGA/CAL	5	2.44	NA	<0.005	NA	NA	11.1	NA	NA	ND	NA	ND	NA	7.53	21.5	59.8	11.6
B10-8'***	22-Jan-92	RGA/CAL	8	<1	NA	<0.005	NA	NA	109	NA	NA	ND	NA	ND	NA	5.63	15.5	34.9	<7.5
Hydraulic Lift Area																			
B4910'	17-Sep-90	SCI/C&T	10	NA	NA	NA	NA	NA	1700	<100	6300	NA	NA	NA	NA	NA	NA	NA	NA
B5922.5'	17-Sep-90	SCI/C&T	22.5	110	0.024	0.21	0.069	1.3	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B13-5'	21-Jan-92	RGA/CAL	5	83.2	<0.005	0.068	1.23	<0.005	1.63	NA	NA	0.245	NA	ND	NA	17.4	45.4	46.1	21.9
B13-15'	21-Jan-92	RGA/CAL	15	135	NA	0.71	NA	8.85	<1	NA	NA	ND	NA	ND	NA	13.8	35.5	128.4	15.5
B14-5'	21-Jan-92	RGA/CAL	5	<1	<0.005	NA	NA	NA	<1	NA	NA	ND	NA	ND	NA	11.2	28.1	39.4	12.3
B14-15'	21-Jan-92	RGA/CAL	15	2.5	NA	NA	<0.005	NA	17.3	NA	NA	ND	NA	ND	NA	13.2	32.8	376.2	15.3
B15-5'	30-Jan-92	RGA/CAL	5	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	ND	NA	26.6	29.4	56.6	9.02
B15-15'	30-Jan-92	RGA/CAL	15	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	ND	NA	16.7	33.2	72.3	15.5
B16-5'	30-Jan-92	RGA/CAL	5	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	ND	NA	14.3	44.9	60.3	15.2
B16-15'	30-Jan-92	RGA/CAL	15	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	ND	NA	10.2	34.7	48.4	8.81
Gasoline Tank Area																			
1a20.0'	25-Jul-90	SCI/C&T	20	6300	99	490	110	610	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2a18.5'	25-Jul-90	SCI/C&T	18.5	9300	98	900	190	1100	NA	NA	NA	NA	NA	NA	0.21	NA	NA	NA	NA
B7a13'	21-Sep-90	SCI/C&T	13	<1	<0.005	<0.005	<0.005	<0.005	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B7a20'	21-Sep-90	SCI/C&T	20	2500	3.5	34	33	130	NA	NA	NA	NA	NA	NA	0.07	NA	NA	NA	NA
B8a22 1/2'	21-Sep-90	SCI/C&T	22.5	1200	2.3	38	18	89	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B17-5'	03-Feb-92	REG/CAL	5	NA	NA	NA	NA	NA	NA	39.1	ND	NA	ND	NA	10.4	3.56	329.2	6.24*	NA
B19-5'	03-Feb-92	REG/CAL	5	2.5	<0.005	<0.005	<0.005	0.01	28	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B20-5'	03-Feb-92	REG/CAL	5	2.1	<0.005	0.03	<0.005	0.01	24	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B20-15'	03-Feb-92	REG/CAL	15	2.5	<0.005	0.034	<0.005	<0.005	<1	NA	35.2	ND	NA	NA	10.4	2.48	224.8	<7.5	NA
B21-5'	05-Feb-92	REG/CAL	5	2.1	<0.005	0.02	<0.005	0.01	16.7	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B21-10'	05-Feb-92	REG/CAL	10	1.9	<0.005	0.021	<0.005	0.026	15.7	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B21-15'	05-Feb-92	REG/CAL	15	2	<0.005	0.03	<0.005	<0.005	22.7	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B22-5'	05-Feb-92	REG/CAL	5	42.3	<0.005	0.113	<0.005	2.13	670	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B22-10'	05-Feb-92	REG/CAL	10	1540	0.987	11.7	1.67	2.88	175	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B23-5'	05-Feb-92	REG/CAL	5	2.5	<0.005	0.027	<0.005	<0.005	26	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
B23-10'	05-Feb-92	REG/CAL	10	3.3	<0.005	0.034	<0.005	<0.005	<1	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
LF5B1-4.0	22-May-93	LF/AEN	4	0.5	<0.005	0.01	<0.005	<0.005	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

TABLE 1
SOIL QUALITY RESULTS
HARRISON STREET GARAGE
1432 - 1434 HARRISON STREET, OAKLAND, CALIFORNIA
(all results in parts per million (ppm))

Sample ID	Date Collected	Consultant/Laboratory	Depth (ft, bgs)	TPHg/TVHg	Benzene	Toluene	Ethylbenzene	Xylenes	TPHD	Kerosene	O&G	PCBs	CL-HCs	VOCs	Soluble Pb	Pb	Metals Hg	Ni	Se
LFSB1-14.0	22-May-93	LF/AEN	14	<0.2	0.020	<0.005	<0.005	<0.005	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
LFSB1-24.5	22-May-93	LF/AEN	24.5	8800	210	980	160	750	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
LFSB2-9.5	22-May-93	LF/AEN	9.5	<0.2	<0.005	<0.005	<0.005	<0.005	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
LFSB2-19.5	22-May-93	LF/AEN	19.5	1000	<0.2	9.4	16	68	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
LFSB2-24.5	22-May-93	LF/AEN	24.5	6100	91	320	120	410	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

Data entered by MEK/2,8 Jun 93 Data proofed by MJA

Consultants:

SCI = Subsurface Consultants Incorporated, Oakland, California
RGA = RGA Environmental Consulting, Emeryville, California
L-F = Levine-Fricke Incorporated, Emeryville, California

Analytical Laboratories:

C&T = Curtis & Tompkins Limited, Berkeley, California
CAL = Carter Analytical Laboratory, Campbell, California
AEN = American Environmental Network, Pleasant Hill, California

Analyses/Methods:

TPHg/TVHg = Total Petroleum/Volatile Hydrocarbons as Gasoline. C&T used a DOHS method, CAL did not specify the method used, and AEN used EPA Modified Method 8015.
Benzene, Toluene, Ethylbenzene, and Xylenes = C&T and AEN used EPA Method 8020. CAL did not specify the method used.
TPHD = Total Petroleum Hydrocarbons as Diesel. C&T used a DOHS method and CAL did not specify the method used.
Kerosene = C&T used a DOHS method.
O&G = Oil and Grease. C&T used Standard Method 5520 E,F and CAL used EPA Method 413.1 or 413.2.
PCBs = Polychlorinated Biphenyls. The total result is listed in the table. C&T and CAL used EPA Method 8080 for PCBs.
CL-HCs = Chlorinated Hydrocarbons (Halogenated Volatile Organics). C&T and CAL used EPA Method 8010.
VOCs = Volatile Organic Compounds. C&T and CAL used EPA Method 8240.
Soluble Pb = Soluble Lead. C&T used EPA Method 7420.
>b = Lead. CAL used EPA Method 6010.
Hg = Mercury. CAL used EPA Method 6010.
Ni = Nickel. CAL used EPA Method 6010.
Se = Selenium. CAL used EPA Method 6010.

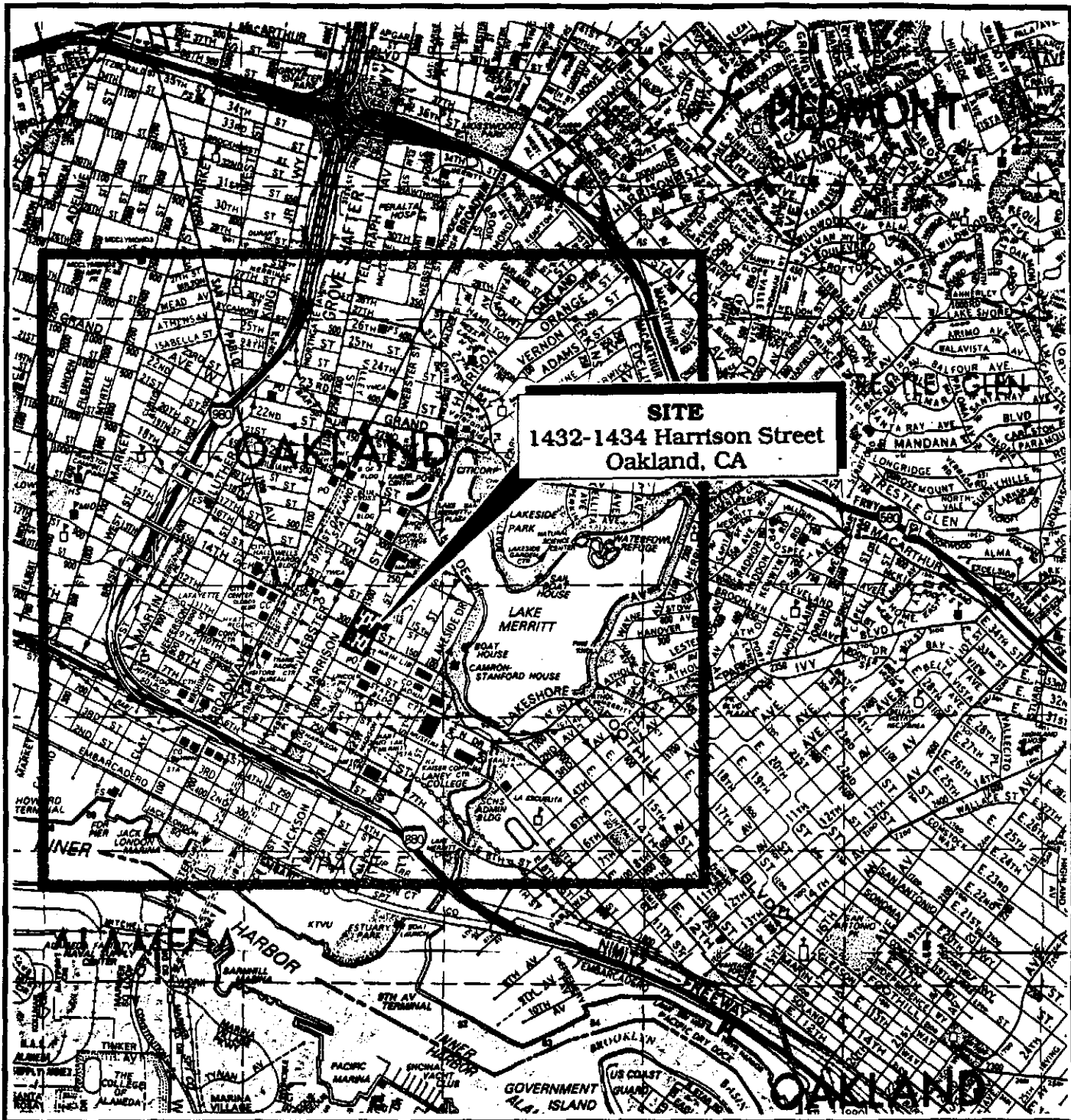
NA = Not analyzed
ND = Not detected

* Reported concentration is lower than the detection limit
** Samples may have exceeded holding time prior to analysis (except for metals)

(1) Toluene detected at 0.17 ppm.

The EPA Method 8020 benzene, toluene, ethylbenzene, and xylene results listed in this table were analyzed separately from the VOC EPA 8240 analysis. If benzene, toluene, ethylbenzene, or xylenes were detected by the EPA 8240 analysis, they are listed under the VOC heading.

This table presents soil-quality data obtained from environmental assessments at the Harrison Garage site in Oakland, California. Included is data obtained by SCI, RGA, and Levine-Fricke.



SITE
 1432-1434 Harrison Street
 Oakland, CA

MAP SOURCE:
 Thomas Bros. Map
 Alameda and Contra Costa Counties
 EDITION 1992

Figure 1: SITE VICINITY MAP

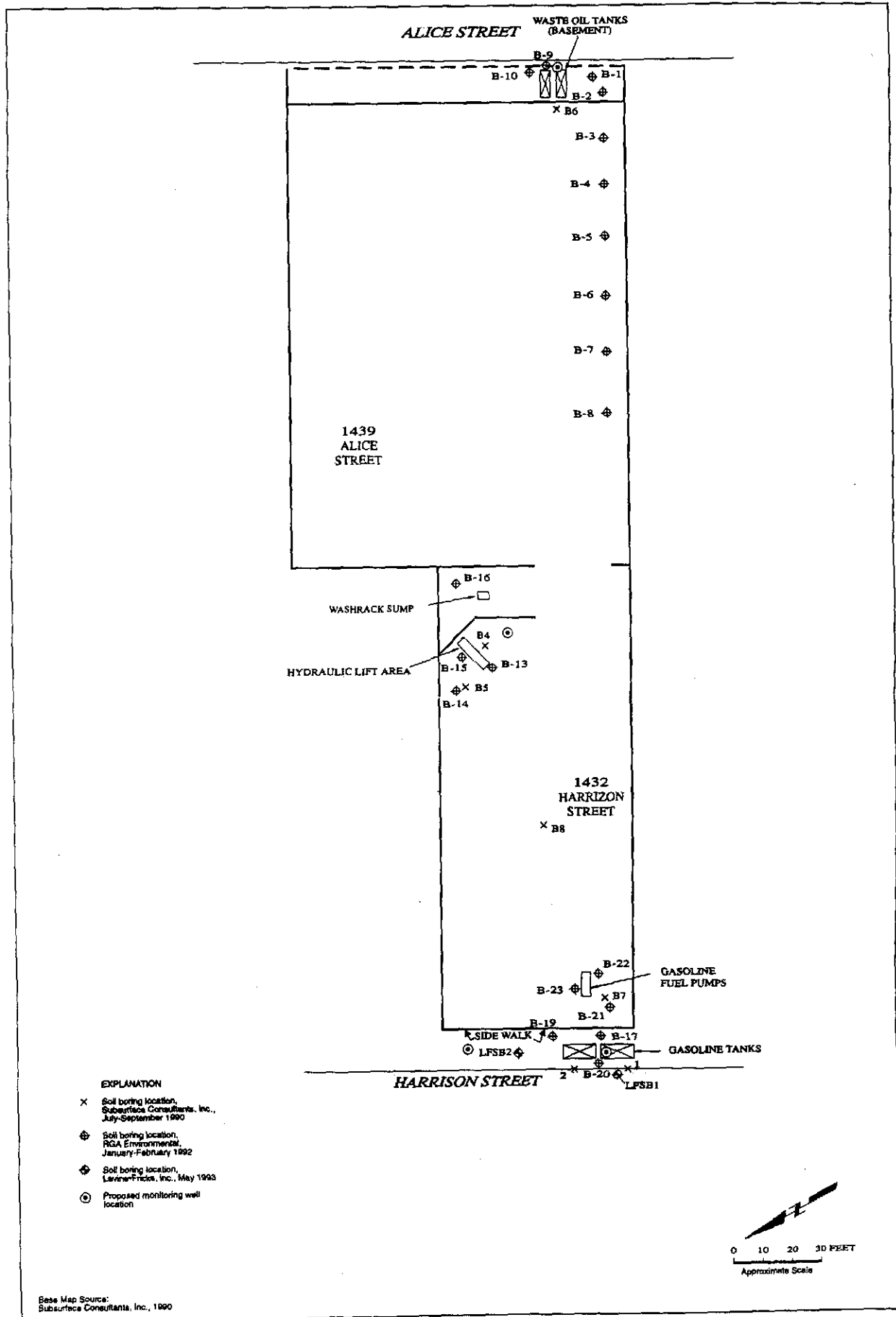


Figure 3 : SITE PLAN SHOWING PROPOSED MONITORING WELL LOCATIONS

STATE OF CALIFORNIA

PETE WILSON, Governor

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION

2101 WEBSTER STREET, SUITE 500

OAKLAND, CA 94612

(510) 286-1255



RECEIVED

DEC 06 1993

December 3, 1993

File No. 2198.17(LF)

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPDMark Borsuk
Attorney At Law
1626 Vallejo Street
San Francisco, CA 94123-5116

SUBJECT: Alameda County Local Oversight Program

Dear Mr. Borsuk:

I have reviewed your letter of October 11, 1993 concerning the underground storage tank management (UST) program in Alameda County. Your letter questions the practices and procedures of the Alameda County Department of Environmental Health (the local oversight program -LOP- contract agency) and the District Attorney's Office (enforcement support of the LOP). I have discussed the issues raised in your letter with staff and I have the following comments.

As you know, the LOP's derive their funding and authority from the State Water Board under contract. This past year staff have participated in the State Water Board's UST Task Force, where the objective was to streamline the data handling system, define roles and responsibilities of State and local agencies in the leaking UST program, streamline case closure procedure with a focus on the local agencies, and to develop a priority system to maximize the use of limited State and local program resources. A few of the results of the Task Force's efforts that bear on the issues you raised are:

1. Priority System - based upon public health protection, water quality policies, and administrative considerations. A copy of the SWRCB's Priority System is attached.
2. Streamlined Case Closure Procedures - based upon local agency sign-off with Notice to the Regional Boards. This will streamline the closure process.
3. Roles and Responsibilities - to review how the LOP contract agencies implement the Water Board policies and the Health and Safety Code. This document is still under discussion.

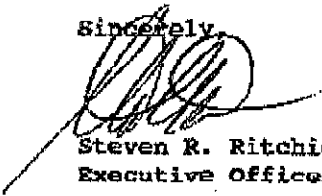
You have questioned the practices of Alameda County staff in implementing the LOP contract and have asked that the Regional Board intervene. I believe it appropriate for you to raise these issues with the contracting agency, the State Water Resources Control Board, and I am hereby referring this contract issue by copy of this letter. However, my staff have supported, and continue to support, the specific appropriation of funds to the District Attorney's Office to assist the LOP (Health Agency) in local enforcement, a contract requirement.

You have also questioned the appeal process under the LOP contracts. This requires appeals of local agency decisions to go the State Board for administrative review. My staff believe that some actions by local agencies (both technical and legal matters) can be resolved by Regional Board staff intervention. Therefore staff helped to create the "Pre-Enforcement Hearing Panel" process which you have criticized as having no legal basis. Since the current LOP contract allows for enforcement case referral to the Regional Board, my staff and County staff developed this mechanism to provide the responsible party the ability to participate in this referral process. It also allows a responsible party to request a hearing to review LOP staff actions with Regional Board staff involvement. We believe this fulfills our role in the LOP-RP corrective action process. We welcome your ideas as to how to improve this system.

You have criticized the "arbitrary actions" of the District Attorney's Office in selectively enforcing UST corrective actions. My understanding is that the District Attorney's office prioritizes cases based upon the need to resolve the public health and water quality problems especially where corrective action is not happening. We believe the forthcoming State Board Priority System will support this case priority and provide a clear priority order to other cases.

Once again, I encourage your discussion of these matters with my staff and we will continue to work with the State Board and the LOP Agencies to better implement their contracts. Please contact Lester Feldman on Alameda County LOP issues at (510) 286-1332, and Donald Dalke at (510) 286-0503 on all others.

Sincerely,



Steven R. Ritchie,
Executive Officer

cc: Ed Howell, Alameda County LOP
Gil Jensen, Alameda County DA's Office
Mike Harper, State Water Resources Control Board, LOP Manager

1155-

80 Swan Way, #200
Oakland, CA 94621
(415) 271-4320

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

II, III

white -env.health
yellow -facility
pink -files

Site ID # 498 Site Name Harrison St Garage Today's Date 3/93

Site Address 1432 Harrison St
City Oakland Zip 94612 Phone _____

II.A BUSINESS PLANS (Title 19)

- ___ 1. Immediate Reporting 2703
- ___ 2. Bus. Plan Stab. 25503(b)
- ___ 3. RR Cars > 30 days 25503.7
- ___ 4. Inventory Information 25504(a)
- ___ 5. Inventory Complete 2730
- ___ 6. Emergency Response 25504(b)
- ___ 7. Training 25504(c)
- ___ 8. Deficiency 25505(a)
- ___ 9. Modification 25505(b)

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- ___ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- ___ II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal

II.B ACUTELY HAZ MATLS

- ___ 10. Registration Form Filed 25533(a)
- ___ 11. Form Complete 25533(b)
- ___ 12. RMPP Contents 25534(c)
- ___ 13. Implement Sch. Req'd? (Y/N)
- ___ 14. OffSite Conseq. Assess. 25524(c)
- ___ 15. Probable Risk Assessment 25534(d)
- ___ 16. Persons Responsible 25534(g)
- ___ 17. Certification 25534(f)
- ___ 18. Exemption Request? (Y/N) 25536(b)
- ___ 19. Trade Secret Requested? 25538

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|--|
| General | ___ 1. Permit Application 25284 (H&S) |
| | ___ 2. Pipeline Leak Detection 25292 (H&S) |
| | ___ 3. Records Maintenance 2712 |
| | ___ 4. Release Report 2651 |
| | ___ 5. Closure Plans 2670 |
| ___ 6. Method | |
| 1) Monthly Test | |
| 2) Daily Vadose
Semi-annual groundwater
One time soils | |
| 3) Daily Vadose
One time soils
Annual tank test | |
| 4) Monthly Gndwater
One time soils | |
| 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. | |
| 6) Daily Inventory
Annual tank testing
Cont pipe leak det | |
| 7) Weekly Tank Gauge
Annual tank testing | |
| 8) Annual Tank Testing
Daily Inventory | |
| 9) Other _____ | |
| ___ 7. Precis Tank Test 2643 | |
| Date: _____ | |
| ___ 8. Inventory Rec. 2644 | |
| ___ 9. Soil Testing 2646 | |
| ___ 10. Ground Water. 2647 | |
| ___ 11. Monitor Plan 2632 | |
| ___ 12. Access. Secure 2634 | |
| ___ 13. Plans Submit 2711 | |
| Date: _____ | |
| ___ 14. As Built 2635 | |
| Date: _____ | |

Comments:
Caroline tanks to be removed.
1800 Monday Morning -
still need to be tanked
adequately and free up
other sides, cut more
concrete.

Rev 6/88

Contact: Barbara Borsuk

Title: _____

Signature: Barbara Borsuk

Inspector: Thomas Jacob

Signature: _____

II, III

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

II, III

Site ID # 498 Site Name Harrison St Garage Today's Date 7/3/83

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

Site Address 1432 Harrison St

City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OnSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

III. UNDERGROUND TANKS (Title 23)

- General**
- 1. Permit Application 25284 (H&S)
- 2. Pipeline Leak Detection 25292 (H&S)
- 3. Records Maintenance 2712
- 4. Release Report 2651
- 5. Closure Plans 2670
- Method**
- 1) Monthly Test
- 2) Daily Vadose
Semi-annual groundwater
One time soils
- 3) Daily Vadose
One time soils
Annual tank test
- 4) Monthly Groundwater
One time soils
- 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/groundwater mon.
- 6) Daily Inventory
Annual tank testing
Cont pipe leak det
- 7) Weekly Tank Gauge
Annual tank testing
- 8) Annual Tank Testing
Daily Inventory
- 9) Other _____
- 7. Precs Tank Test 2643
Date: _____
- 8. Inventory Rec. 2644
- 9. Soil Testing 2646
- 10. Ground Water. 2647
- New Tanks**
- 11. Monitor Plan 2632
- 12. Access. Secure 2634
- 13. Plans Submit 2711
Date: _____
- 14. As Built 2635
Date: _____

Comments:

Car line tanks to be removed,
1800 Monday Morning -
57' need to be tanks
adequately and free up
other sites. will move
work.

Contact: B. Busch

Title: _____

Signature: _____

Inspector: Thomas Deacock

Signature: _____

II, III

Compliance Summary for 1432 Harrison St., STID 498

Sep 22, 1993 - Order from Regional Water Quality Control Board directing the RP's to:

- 1) remove tanks, hydraulic lift, piping
- 2) workplan for investigation
- 3) tanks to be removed by Dec. 1, 1993

Oct 14, 1993 - workplan received

Oct 18, 1993 - workplan reviewed and accepted

Nov 8, 1993 - 1 copy of tank removal plan received, need 2 others. Notice of Violation sent out to RP's concerning failure to submit a plan to remove the tanks within 45 days of the Regional Board's letter. 45 days expired on Nov 6, 1993.

Nov 10, 1993 - Tank removal plan reviewed and accepted

Nov 16, 1993 - Gary Collins of Oakland F.D. reported complaints of tank removals, had no knowledge of any permits being applied for with O.F.D.

Nov 17, 1993 - John Sturman reports a delay in the removal schedule. Faxed schedule received.

Nov 23, 1993 - Waste oil tank removal scheduled for today, canceled after arrival. Removal schedule received from Levine-Fricke.

Nov 24, 1993 - waste oil tank removal accomplished. 2 - 750 gal. tanks wrapped and stored on site.

Nov 29, 1993 - 3 hydraulic lifts and one storage tank removed. No schedule for removal of the gasoline tanks. Still need to apply for an excavation permit from the City. Do not anticipate removing tanks until after Dec. 1, 1993. Removal of the gasoline tanks is yet to be accomplished.

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200 Oakland, CA 94621 (415) 271-4320

white -env.health
yellow -facility
pink -files

Hazardous Materials Inspection Form

II, III

Site ID # 498 Site Name Harrison St Garage Today's Date 1/29/93

Site Address 1432 Harrison St
City Oakland Zip 94612 Phone

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
II. Business Plans, Acute Hazardous Materials
III. Underground Tanks removed

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Hydraulic hoists removed, greenish sandy soil w/direct petroleum odor in bottom of hole, down about 7 1/2 ft. looks like all native soil, no backfill. 3 hoists removed + 1 oil storage reservoir - that was in a vault, also removed from underground. Holes in the bottom of the 2 smaller hoists. Removal of the front gasoline tanks is still pending engineering showing report and submission and approval of the excavation with Oakland Bldg. Dept. (NOT done yet) Don't know how long it will take to get it through the city. No schedule yet for removal of gasoline tanks. Excavation of hoist area is limited due to the unreinforced brick footing at the East wall

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
2. Bus. Plan Stds. 25503(b)
3. RR Cars > 30 days 25503.7
4. Inventory Information 25504(a)
5. Inventory Complete 2730
6. Emergency Response 25504(b)
7. Training 25504(c)
8. Deficiency 25505(a)
9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
11. Form Complete 25533(b)
12. RMPP Contents 25534(c)
13. Implement Sch. Req'd? (Y/N)
14. Offsite Conseq. Assess. 25524(c)
15. Probable Risk Assessment 25534(d)
16. Persons Responsible 25534(g)
17. Certification 25534(f)
18. Exemption Request? (Y/N) 25536(b)
19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- General: 1. Permit Application 25284 (H&S), 2. Pipeline Leak Detection 25292 (H&S), 3. Records Maintenance 2712, 4. Release Report 2651, 5. Closure Plans 2670
Monitoring for Existing Tanks: 6. Method: 1) Monthly Test, 2) Daily Vadose Semi-annual groundwater One time soils, 3) Daily Vadose One time soils Annual tank test, 4) Monthly Gndwater One time soils, 5) Daily Inventory Annual tank testing Cont pipe leak det Vadose/gndwater mon., 6) Daily Inventory Annual tank testing Cont pipe leak det, 7) Weekly Tank Gauge Annual tank testing, 8) Annual Tank Testing Daily Inventory, 9) Other
New Tanks: 7. Precls Tank Test Date: 2643, 8. Inventory Rec. 2644, 9. Soil Testing 2646, 10. Ground Water 2647, 11. Monitor Plan 2632, 12. Access. Secure 2634, 13. Plans Submit Date: 2711, 14. As Built Date: 2635

Rev 6/88

Barbara Mark Borsuk

Contact: John Schuman
Title:
Signature: Barbara Borsuk

Inspector: James Beach
Signature: James Beach

II, III

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200 Oakland, CA 94621 (415) 271-4320

white -env.health
yellow -facility
pink -files

Hazardous Materials Inspection Form

II, III

Site ID # 498 Site Name Hornson's Garage Today's Date 1/29/93

Site Address 1432 Hornson St.
City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks removal

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Hydraulic hoists removed.
greenish sandy soil w/discrete petroleum
odor in pit behind hole. Down about
7/8 ft. Looks like all native
soil, no backfill.
3 hoists removed & 1 oil storage
reservoir - that was in a vault also
removed from underground. 1 hole
in the bottom of the 2 smaller hoists
Removal of the front gasoline tanks
, is still pending engineering showing
report and submission and approval
of the excavation with Oakland
Bldg Dept (NOT done yet) Don't
know how long it will take to get
it through the city. No schedule
yet for removal of gasoline tanks.
Excavation of hoist area is
limited due to the unreinforced
brick footing at one east wall

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(i)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|--|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Groundwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| New Tanks | <input type="checkbox"/> 7. Precs Tank Test 2643 |
| | Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing. 2646 |
| <input type="checkbox"/> 10. Ground Water. 2647 | |
| <input type="checkbox"/> 11. Monitor Plan 2632 | |
| <input type="checkbox"/> 12. Access. Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711 | |
| Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635 | |
| Date: _____ | |

Rev 6/88

By John Storman
Mark B. Sule

Contact: John Storman
Title: _____
Signature: _____

Inspector: James Beach
Signature: _____

II, III

212/2

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Inspection Form

80 Swan Way, #200
Oakland, CA 94621
(415) 271-4320

II, III

white -env.health
yellow -facility
pink -files

Site ID # 488 Site Name Harrison St. Garage Today's Date 11/29/93

Site Address 1432 Harrison St
City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks removal

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

and to the dry rot & possible termite damage of wood column supporting structures.

Almost all of front wooden (west) column is dry rotted.

(Box 4 photos)

1st sample side wall -

45 mg Microtox PID - 10 ppm

Discolored soil is heavy, hard to break or sample from - 9 1/2' down.

2nd sample is a bottom sample, 40 ppm

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OnSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|--|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| New Tanks | <input type="checkbox"/> 7. Precs Tank Test 2643 |
| | Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| <input type="checkbox"/> 11. Monitor Plan 2632 | |
| <input type="checkbox"/> 12. Access, Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711 | |
| Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635 | |
| Date: _____ | |

Rev 6/88

Contact: _____

Title: _____

Signature: _____

Inspector: Thomas Farrow

Signature: _____

II, III

19 2/2

white - env. health
yellow - facility
pink - files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

80 Swan Way, #200
Oakland, CA 94621
(415) 271-4320

II, III

Site ID # 498 Site Name Harrison St Garage Today's Date 11/29/93

Site Address 1432 Harrison St
City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks removal

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

and to one dry rot & possible fracture damage of wood column supporting structures.

Almost all of Form written (used) column is disintegrated.

(Back 4 photos)

1st sample: side wall - 45 mg Micro for PID

Discolored soil is heavy, hard to break or sample from. 9 1/2' down.

2nd sample is a bottom sample, 40 ppm

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2720
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OnSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25536

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other |
| New Tanks | <input type="checkbox"/> 7. Pre-c Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| | <input type="checkbox"/> 11. Monitor Plan 2632 |
| <input type="checkbox"/> 12. Access. Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635
Date: _____ | |

Rev 6/88

Contact: _____
 Title: _____
 Signature: _____

Inspector: Thomas Rowan
 Signature: _____

II, III

Pat & Mary -
attorney for Robert Gills
& Associates -
Baccaroch, Barsuk
wants to do a
Duke search

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

p. 1 of 4

II, III

Site ID # _____ Site Name Harrison St Garage Today # 1/24/93

Site Address 1432 Harrison St.
 City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal of waste oil USTs

Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OnSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(e)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank test
Daily Inventory |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| | <input type="checkbox"/> 7. Precs Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| <input type="checkbox"/> 9. Soil Testing 2646 | |
| <input type="checkbox"/> 10. Ground Water. 2647 | |
| New Tanks | <input type="checkbox"/> 11. Monitor Plan 2632 |
| | <input type="checkbox"/> 12. Access. Secure 2634 |
| | <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ |
| | <input type="checkbox"/> 14. As Built 2635
Date: _____ |

8:10 arrived onsite.
 Comments:
 USTs pumped empty yesterday. RPs want to store USTs onsite for several days prior to UST removal.
 9:35 Gary Collins of OFD arrived. USTs are actually 750 gal, not 1000 gal. USTs are located beneath sidewalk of Alice St., under the floor of garage basement. Bottom of tanks is ~ 8' below top of concrete floor of basement.
 10:20 Both USTs have been removed. A small amt of water is in pit below South tank.
 10:45 South tank is rife with splits along seams on both ends near the bottom edges. (3 photos taken). This tank has 8-10" (inches) of sludge that could not be pumped out. Sludge was seen oozing out from the seams. This tank had previously been filled w/water.

Contact: John Sturman
 Title: _____
 Signature: [Signature]

Inspector: Jennifer Eberle
 Signature: [Signature]

II, III

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

p.2 of 4

II, III

Site ID # _____ Site Name Harrison St Garage Today's Date 11/24/93

Site Address 1432 Harrison St.
 City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks removal of waste oil USTs

Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

North tank: Also has splits along seams on both ends. (other people took photos). Sludge was seen oozing slowly out from seams. This tank had been filled w/water, & still has a few inches of sludge which could not be pumped out.
 Both USTs are rusted & pitted in spots. They are single-walled steel.
 Begin excavation of slough in pit.
 Break for lunch
 back onsite. The soil below USTs is stained. John Sturman measured 11'8" from top of sidewalk to top of concrete in basement.
 Finished removal of loose material (slough) in pit. Discussed sample plan. We agreed to sample walls since there is stained soil in pit.

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|-------------------------------|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Groundwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily inventory |
| | 9) Other |
| New Tanks | <input type="checkbox"/> 7. Precls Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| | <input type="checkbox"/> 11. Monitor Plan 2632 |
| | <input type="checkbox"/> 12. Access. Secure 2634 |
| | <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ |
| | <input type="checkbox"/> 14. As Built 2635
Date: _____ |

11:00

11:35

12:10

12:50

1:55

40min <
 .7hr

Contact: John Sturman
 Title: _____
 Signature: [Signature]

Inspector: Jennifer Eberle
 Signature: [Signature]

II, III

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

p. 3 of 4

II, III

Site ID # _____ Site Name Harrison St Garage ^{Today's Date} 2/24/93

Site Address 1432 Harrison St.

City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

1600 ft³

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

2:10 Soil samples taken. See attached map. "Wall" samples SW, EW, + NW ~~are~~ were actually taken w/a slide hammer from the top of pit, directly above the samples. They were taken from the bottom at the edge of pit.

3:00 Took "base" samples (beneath fill ~~end~~) w/the bucket of backhoe. (See map).

3:15 Finished sample pit. Was NW.

3:20 Took samples of stockpile considered as probably "dirty" (~20 yd³). 2 discrete samples to be composited. (SPA + SPB).

3:30 Sampled probable "clean" SP (~45 yd³). Took SPC1 + SPC2 from here.

Note: The pit water was no longer apparent when we dug to 10' in the pit.

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(i)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| New Tanks | <input type="checkbox"/> 7. Precs Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing. 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| <input type="checkbox"/> 11. Monitor Plan 2632 | |
| <input type="checkbox"/> 12. Access. Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635
Date: _____ | |

Contact: John Sterman
 Title: _____
 Signature: John Sterman

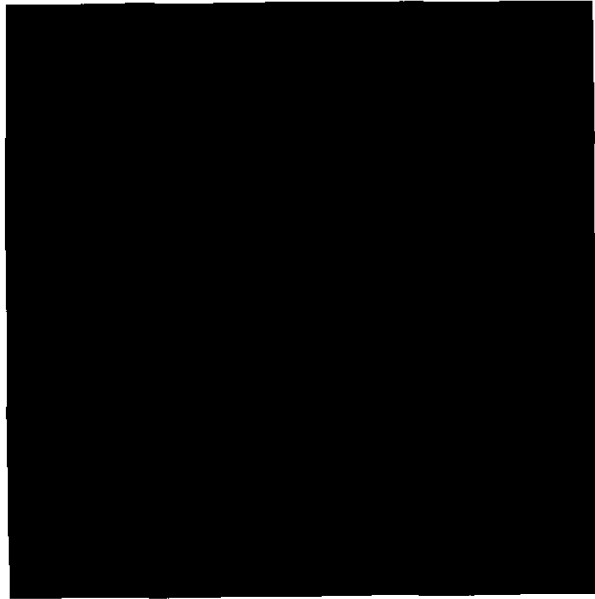
Inspector: Jennifer Eberle
 Signature: J Eberle

II, III

107



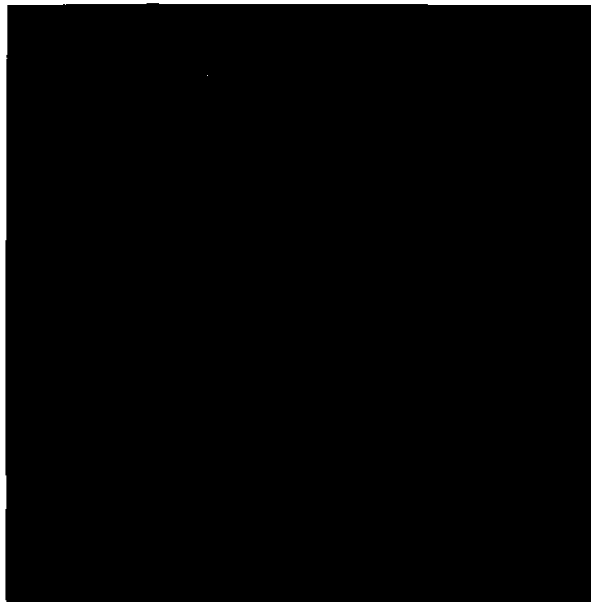
hydraulic lift area
11-29-93



other hydraulic lift
11-29-93

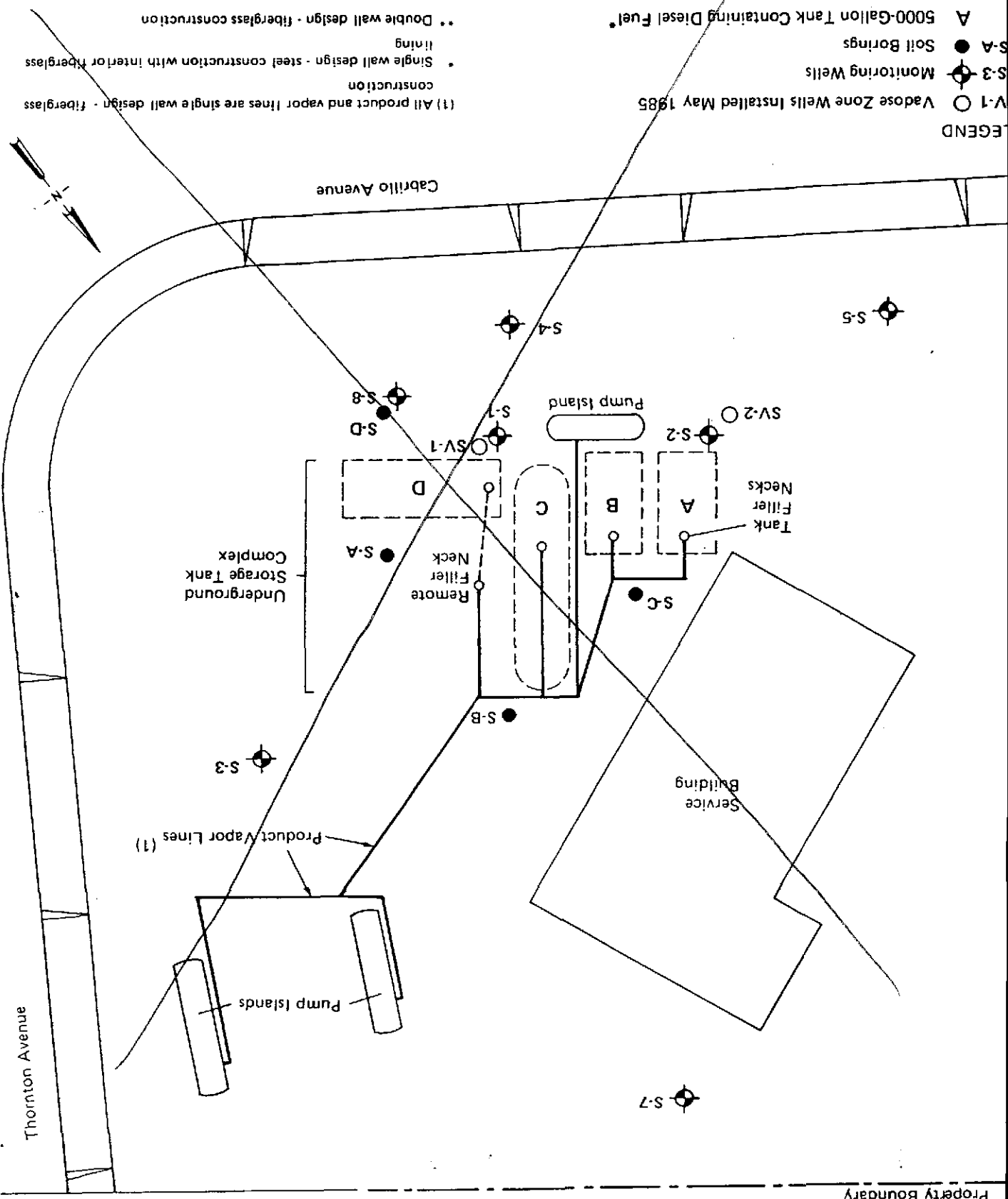
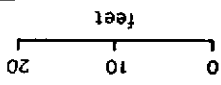
(432) Harmsa St.
Oakland
STID 498

hydraulic
lift
excavation
11-29-93



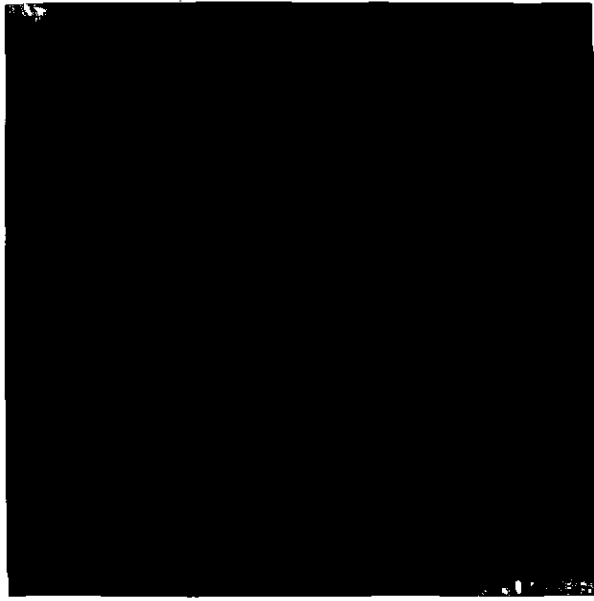
LEGEND

- V-1 ○ Vadose Zone Wells Installed May 1985
 - S-3 ⊕ Monitoring Wells
 - S-A ● Soil Borings
 - A 5000-Gallon Tank Containing Diesel Fuel*
 - B 5000-Gallon Tank Containing Regular Gasoline*
 - C 10,000-Gallon Tank Containing Super Unleaded Gasoline**
 - D 8000-Gallon Tank Containing Unleaded Gasoline*
- (1) All product and vapor lines are single wall design - fiberglass construction
 * Single wall design - steel construction with interior fiberglass lining
 ** Double wall design - fiberglass construction

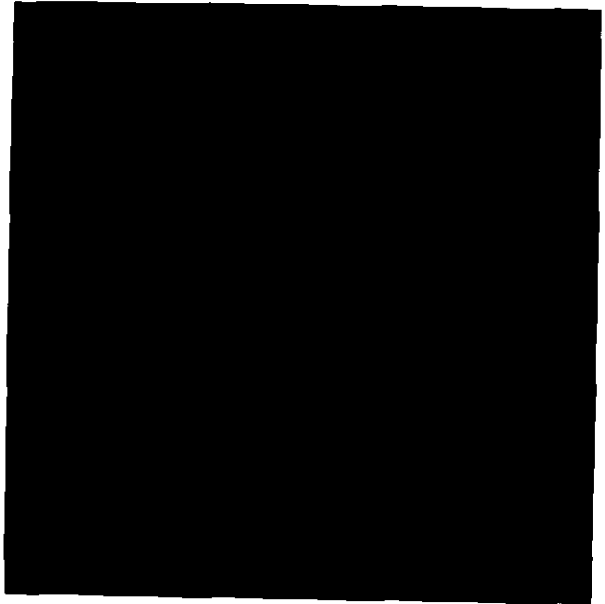


Property Boundary

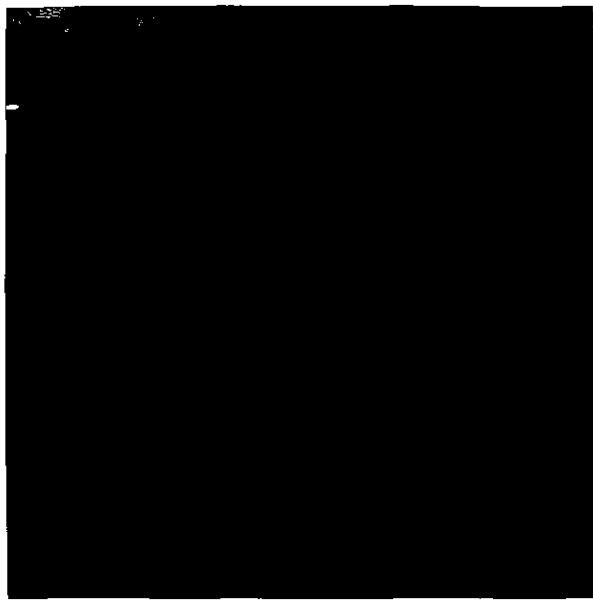
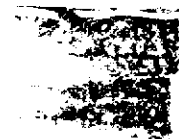
OSF



Waste oil excavation
11-29-93

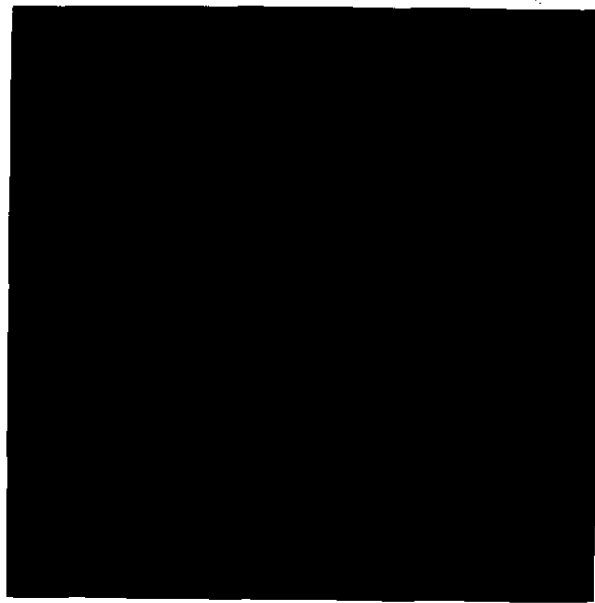


Waste oil tank 11-29-93
wrapped in basement



on
plate
11/29/93
Hydraulic

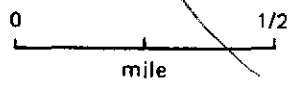
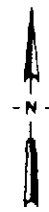
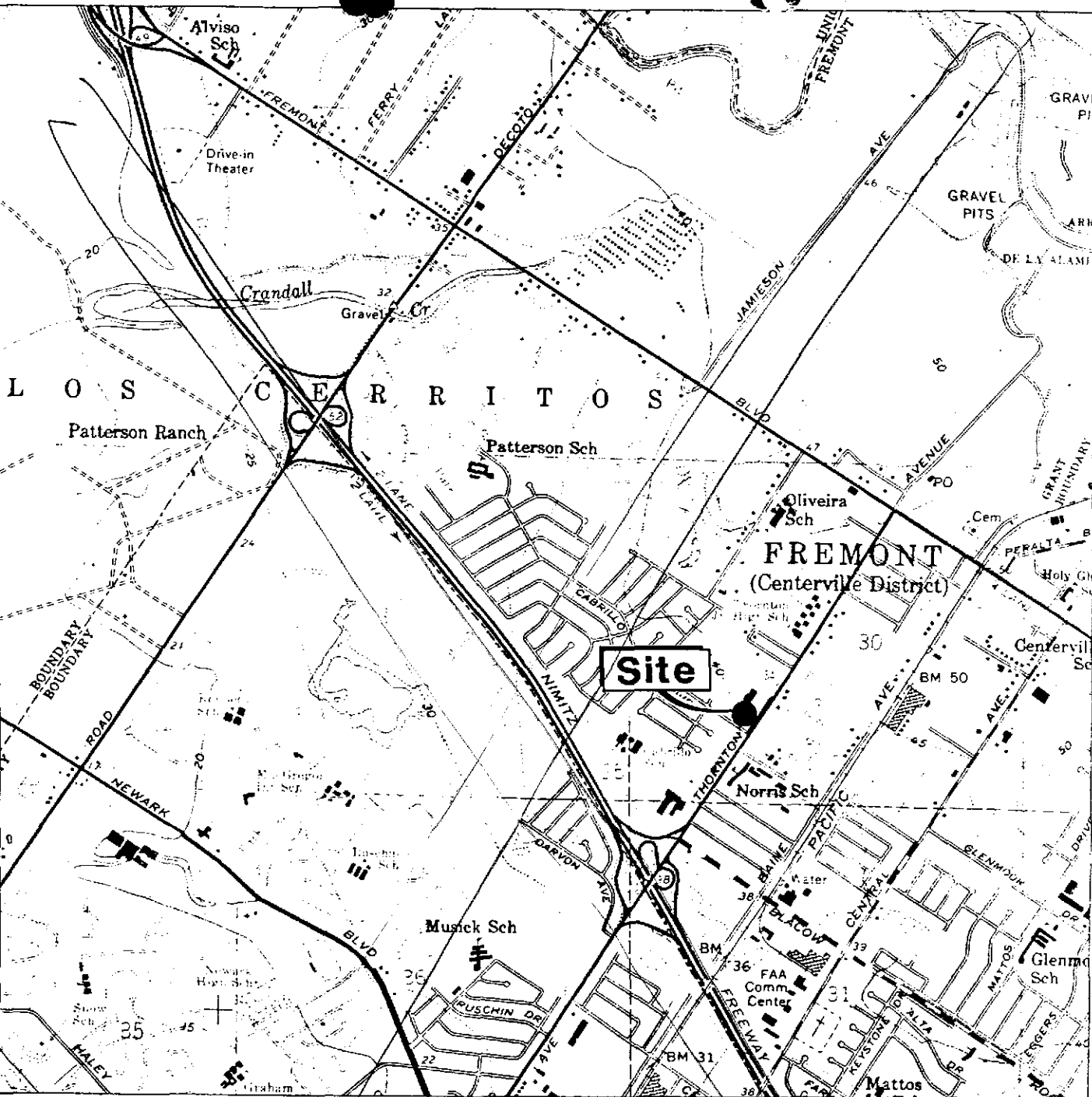
Hydraulic lift 11-29-93



excavation
disclosed soil 11-29-93



hydraulic lift excavation 11-29-93



Project No. 8810227A	Shell Bass	LOCATION MAP SHELL SERVICE STATION 4695 THORNTON AVE., FREMONT, CA	Figure 1
Woodward-Clyde Consultants			

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
 Hazardous Materials Inspection Form

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

p. 4 of 4

II, III

Site ID # _____ Site Name Harrison St. Garage Today's date 12/24/93

Site Address 1432 Harrison St.

City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

bdg. wall

- II.A BUSINESS PLANS (Title 19)
- ___ 1. Immediate Reporting 2703
 - ___ 2. Bus. Plan Stds. 25503(b)
 - ___ 3. RR Cars > 30 days 25503.7
 - ___ 4. Inventory Information 25504(a)
 - ___ 5. Inventory Complete 2730
 - ___ 6. Emergency Response 25504(b)
 - ___ 7. Training 25504(c)
 - ___ 8. Deficiency 25505(a)
 - ___ 9. Modification 25505(b)

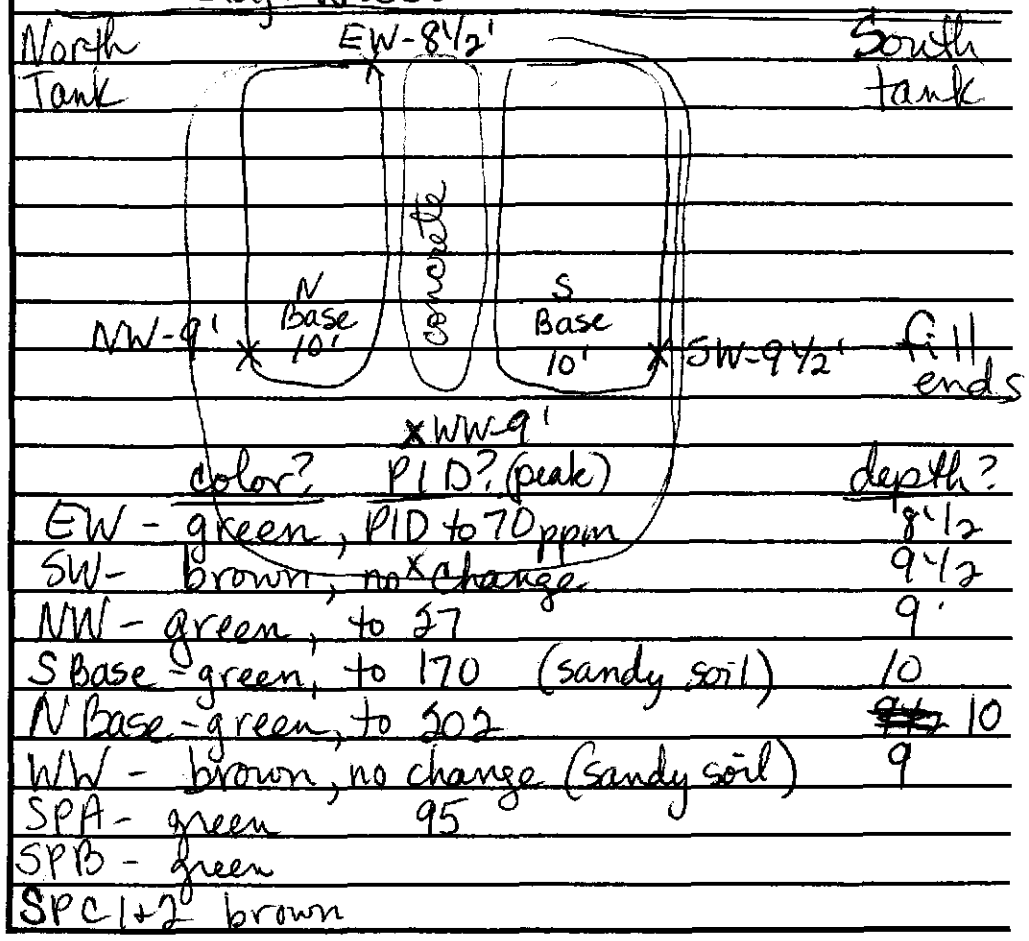
- II.B ACUTELY HAZ. MATLS
- ___ 10. Registration Form Filed 25533(a)
 - ___ 11. Form Complete 25533(b)
 - ___ 12. RMPP Contents 25534(c)
 - ___ 13. Implement Sch. Req'd? (Y/N)
 - ___ 14. OffSite Conseq. Assess. 25524(c)
 - ___ 15. Probable Risk Assessment 25534(d)
 - ___ 16. Persons Responsible 25534(g)
 - ___ 17. Certification 25534(i)
 - ___ 18. Exemption Request? (Y/N) 25536(b)
 - ___ 19. Trade Secret Requested? 25538

- III. UNDERGROUND TANKS (Title 23)
- General
- ___ 1. Permit Application 25284 (H&S)
 - ___ 2. Pipeline Leak Detection 25292 (H&S)
 - ___ 3. Records Maintenance 2712
 - ___ 4. Release Report 2651
 - ___ 5. Closure Plans 2670

- Monitoring for Existing Tanks
- ___ 6. Method
 - 1) Monthly Test
 - 2) Daily Vadose
Semi-annual groundwater
One time soils
 - 3) Daily Vadose
One time soils
Annual tank test
 - 4) Monthly Groundwater
One time soils
 - 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/groundwater mon.
 - 6) Daily Inventory
Annual tank testing
Cont pipe leak det
 - 7) Weekly Tank Gauge
Annual tank testing
 - 8) Annual Tank Testing
Daily Inventory
 - 9) Other _____

- ___ 7. Precs Tank Test Date: _____ 2643
- ___ 8. Inventory Rec. 2644
- ___ 9. Soil Testing 2646
- ___ 10. Ground Water. 2647

- New Tanks
- ___ 11. Mon/for Plan 2632
 - ___ 12. Access. Secure 2634
 - ___ 13. Plans Submit Date: _____ 2711
 - ___ 14. As Built Date: _____ 2635



Rev 8/88

Contact: John Storman
 Title: _____
 Signature: John Storman

Inspector: Jennifer Eberle
 Signature: J Eberle

II, III

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

II, III

Site ID # 498 Site Name Harrison St. Garage Today's Date 11/23/93

Site Address 1432 Harrison St.

City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal

1.3 hrs.

Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Waste oil tank removal delayed until 8:00 tomorrow
still moving tank
2-750 gal waste oil tanks
Rover Engineering.
pumped out mostly sludge -
want to cut pipes to street and
grout up - OK - they go through
concrete structural wall.
Waste Hauler - Erickson
Manifest # 93132183
Total 2,658 gal mostly water, sludge.

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- General**
- 1. Permit Application 25284 (H&S)
- 2. Pipeline Leak Detection 25292 (H&S)
- 3. Records Maintenance 2712
- 4. Release Report 2651
- 5. Closure Plans 2670
- 6. Method
- 1) Monthly Test
- 2) Daily Vadose
- Semi-annual groundwater
- One time soils
- 3) Daily Vadose
- One time soils
- Annual tank test
- 4) Monthly Gndwater
- One time soils
- 5) Daily Inventory
- Annual tank testing
- Cont pipe leak det
- Vadose/gndwater mon.
- 6) Daily Inventory
- Annual tank testing
- Cont pipe leak det
- 7) Weekly Tank Gauge
- Annual tank testing
- 8) Annual Tank Testing
- Daily Inventory
- 9) Other _____
- 7. Precip Tank Test 2643
- Date: _____
- 8. Inventory Rec. 2644
- 9. Soil Testing 2646
- 10. Ground Water. 2647
- New Tanks**
- 11. Monitor Plan 2632
- 12. Access. Secure 2634
- 13. Plans Submit 2711
- Date: _____
- 14. As Built 2635
- Date: _____

Rev 6/88

Contact: Barbara Borsuk
 Title: Owner
 Signature: Barbara Borsuk

Inspector: Howard DeLoach
 Signature: _____

II, III

ALAMEDA COUNTY, DEPARTMENT OF
ENVIRONMENTAL HEALTH
Hazardous Materials Inspection Form

II, III

white -env.health
yellow -facility
pink -files

Site ID # 198 Site Name Harrison St. Garage Today's Date 1/23/93

Site Address 1432 Harrison St

City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.? 1,5 hrs

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks Removal

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Waste oil tanks removal
delayed until 8:00 tomorrow
500 gal existing tank
2-750 gal waste oil tanks
Prover Engineering
removed out immediately -
wait to get access to street and
will be ok. they are through
concrete structural wall.
Waste hauler - Prover
Phone # 971-2153
total 2,500 gal existing tanks

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- | | |
|-------------------------------|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank testing |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| New Tanks | <input type="checkbox"/> 7. Precs Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| | <input type="checkbox"/> 11. Monitor Plan 2632 |
| | <input type="checkbox"/> 12. Access. Secure 2634 |
| | <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ |
| | <input type="checkbox"/> 14. As Built 2635
Date: _____ |

Contact: _____

Title: _____

Signature: _____

Inspector: Prover II, III

Signature: _____



ALCO
HAZMAT

LEVINE•FRICKE

ENGINEERS, HYDROLOGISTS & APPLIED SCIENTISTS
LP 2680

November 16, 1993

93 NOV 23 AM 11:43

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Department of Environmental Health
80 Swan Way, Rm 350
Oakland, California 94621

**Subject: Transmittal of Preliminary Project Schedule,
Harrison Street Garage Tank Removal Project,
1432-1434 Harrison Street,
Oakland, California**

Dear Mr. Peacock:

Please find enclosed the preliminary schedule for site work on the subject project. This preliminary schedule has been prepared by Power Engineering Contractors Inc., the contractor selected for the project.

As noted on the schedule, Power intends to mobilize field operations on Friday, November 19, 1993. Please note that actual tank removal is not planned for the weekend of November 20-21. Removal of the waste oil tanks is presently planned for November 23 or 24. If the building footing adjacent to the Harrison street underground gasoline tanks is deemed adequate to support the building during the time when the tank excavation is open, the gasoline tanks will also be removed on November 23 or 24, weather permitting. If the footing needs support to protect against failure, the removal of the gasoline tanks will be delayed until appropriate measures are implemented.

We invite you or representatives of your agency to observe any of the field activities to be performed. Power Engineering will update you on the planned date and time of the tank removals as the work progresses.

Thank you for your cooperation with us on this project. Please call me or Mr. Robert Longwell of Power Engineering with any questions.

Sincerely,

John Sturman P.E., R.G.
Senior Engineer

cc: Robert Longwell, Power Engineering Contractors
Mark Borsuk
Randall Morrison, Crosby, Heafey, Roach & May

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

POWER
ENGINEERING CONTRACTORS
1275 N. SAN ANTONIO ROAD
PALO ALTO, CA 94303-4312
415/969-9696
LICENSE A/S 483215

16 November 1993

John Sturman
Levine Fricke, Inc.
1900 Powell St., 12th floor
Emeryville, CA 94608

Harrison St Garage

Subj: Preliminary Schedule of operations
Ref: 1) Jobsite meeting of 11/16/93

Dear John:

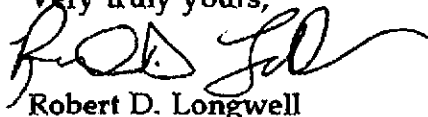
Power intends to accomplish the following work this Friday and continuing through the weekend:

- 1) Layout and sawcut concrete
- 2) Demolish concrete on the Harrison St. side.
- 3) Conduct exploratory excavations for the building foundation
- 4) Demolish piping associated with the hydraulic lifts
- 5) Remove brick wall in the lift area
- 6) Remove slab in the lift area

Should we have time, we plan on pulling the lifts and sumps. All will be stockpiled on site and will be removed by Erickson on Monday or Tuesday next week.

All questions regarding this project should be directed to me at our office.

Very truly yours;



Robert D. Longwell
Project Manager

cc: Mr. Mark Borsuk, esq.

LEVINE-FRICKE

FACSIMILE COVER SHEET

Date	11/17	
Time		
Deliver to	Thomas Peacock	
Name of Firm	Alameda County Haz Mat	
Fax Phone No.	569-4757	L-F Project No.
From	John Sturman	

NUMBER OF PAGES: This cover page plus 1 page(s)

For voice contact call: (510) 652-4500
For return Facsimile message: (510) 652-2246

Telecopy Operator: _____

Any questions or inquiries about missing pages or unreadable copy,
please call (510)652-4500

Remarks Current Schedule - Harrison Street

1900 POWELL STREET, 12TH FLOOR
EMERYVILLE, CA 94608
(510) 652-4500

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; and Honolulu, HI

**LEVINE-FRICKE**ENGINEERS, ARCHITECTS AND APPLIED SCIENTISTS
1926

November 16, 1993

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Department of Environmental Health
80 Swan Way, Rm 350
Oakland, California 94621

Subject: Transmittal of Preliminary Project Schedule,
Harrison Street Garage Tank Removal Project,
1432-1434 Harrison Street,
Oakland, California

Dear Mr. Peacock:

Please find enclosed the preliminary schedule for site work on the subject project. This preliminary schedule has been prepared by Power Engineering Contractors Inc., the contractor selected for the project.

As noted on the schedule, Power intends to mobilize field operations on Friday, November 19, 1993. Please note that actual tank removal is not planned for the weekend of November 20-21. Removal of the waste oil tanks is presently planned for November 23 or 24. If the building footing adjacent to the Harrison street underground gasoline tanks is deemed adequate to support the building during the time when the tank excavation is open, the gasoline tanks will also be removed on November 23 or 24, weather permitting. If the footing needs support to protect against failure, the removal of the gasoline tanks will be delayed until appropriate measures are implemented.

We invite you or representatives of your agency to observe any of the field activities to be performed. Power Engineering will update you on the planned date and time of the tank removals as the work progresses.

Thank you for your cooperation with us on this project. Please call me or Mr. Robert Longwell of Power Engineering with any questions.

Sincerely,


John Sturman P.E., R.G.
Senior Engineer

cc: Robert Longwell, Power Engineering Contractors
Mark Borsuk
Randall Morrison, Crosby, Heafey, Roach & May

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

POWER
ENGINEERING CONTRACTORS
1275 N. SAN ANTONIO ROAD
PALO ALTO, CA 94303-4312
415/965-9698
LICENSE A/S 489215

16 November 1993

John Sturman
Levine Fricke, Inc.
1900 Powell St., 12th floor
Emeryville, CA 94608

Harrison St Garage

Subj: Preliminary Schedule of operations
Ref: 1) Jobsite meeting of 11/16/93

Dear John:

Power intends to accomplish the following work this Friday and continuing through the weekend:

- 1) Layout and sawcut concrete
- 2) Demolish concrete on the Harrison St. side.
- 3) Conduct exploratory excavations for the building foundation
- 4) Demolish piping associated with the hydraulic lifts
- 5) Remove brick wall in the lift area
- 6) Remove slab in the lift area

Should we have time, we plan on pulling the lifts and sumps. All will be stockpiled on site and will be removed by Erickson on Monday or Tuesday next week.

All questions regarding this project should be directed to me at our office.

Very truly yours;


Robert D. Longwell
Project Manager

cc: Mr. Mark Borsuk, esq.

NOV 16 '93 18:55

TOTAL P.02
4159694834 PAGE.002
** TOTAL PAGE.003 **

ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION

ALCO
HAZMAT
COMPLAINT FORM

93 NOV 16 PM 2:17



COMPLAINT REC'D. BY Bruce P. Oler DATE: 11/16/93 TIME: 2:00

ADDRESS OF INCIDENT: 1432 Hanson St

Oakland -

NAME OF FACILITY: Douglas Purkey

CONTACT PERSON: _____

FACILITY PHONE # N/A

NAME OF COMPLAINANT: Archie Dunn PHONE #: _____

SUBJECT OF COMPLAINT: Concerned about the illegal
removal of USTs at the facility -

INITIAL CONTACT DATE:

11/16/93

2:39 pm

ACTIONS TAKEN AND DATES(S):

no removal of wsts noted

there was a "sign" on the garage stating that
"there would be construction on 11/17/93"

I will relay message to Tom Peacock.

DATE INVESTIGATION WAS COMPLETED:

11/16/93

APPLIED TIME IN HOURS:

1.0

NAME OF SPECIALIST:

Oliver

SIGNATURE:

Brian P. Oliver

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION
2101 WEBSTER STREET, SUITE 500
OAKLAND, CA 94612
(510) 286-1255



DRAFT

11/15/93

2198.17

File No. ~~2198-11~~(LF)

Mark Borsuk
Attorney At Law
1626 Vallejo Street
San Francisco, CA 94123-5116

SUBJECT: Alameda County Local Oversight Program

Dear Mr. Borsuk:

I have reviewed your letter of October 11, 1993 concerning the underground storage tank management (UST) program in Alameda County. Your letter questions the practices and procedures of the Alameda County Department of Environmental Health (the local oversight program -LOP- contract agency) and the District Attorney's Office (enforcement support of the LOP). I have discussed the issues raised in your letter with staff and I have the following comments.

As you know, the LOP's derive their funding and authority from the State Water Board under contract. This past year staff have participated in the State Water Board's UST Task Force, where the objective was to streamline the data handling system, define roles and responsibilities of State and local agencies in the leaking UST program, streamline case closure procedure with a focus on the local agencies, and to develop a priority system to maximize the use of limited State and local program resources. This process has resulted in the following products:

1. Priority System - based upon public health protection, water quality policies, and administrative considerations. I understand this priority system will soon to be released by the State Board staff.
2. Streamlined Case Closure Procedures - based upon local agency sign-off with Notice to the Regional Boards. This will streamline the closure process.
3. Roles and Responsibilities - to review how the LOP contract agencies implement the Water Board policies and the Health and Safety Code. This document is still under discussion.
4. Measurable Outputs - to develop a system to determine the best use of limited case oversight resources amongst and between local agencies and Regional Boards.
5. Data Management - to review current LUSTIS database reporting and recording procedures. This is awaiting staff assignment.

DRAFT

11/15/93

You have questioned the practices of Alameda County staff in implementing the LOP contract and have asked that the Regional Board intervene. I believe it appropriate for you to raise these issues with the contracting agency, the State Water Resources Control Board, and I am hereby referring this contract issue by copy of this letter. However, my staff have supported, and continue to support, the specific appropriation of funds to the District Attorney's Office to assist the LOP (Health Agency) in local enforcement, a contract requirement.

You have also questioned the appeal process under the LOP contracts. This requires appeals of local agency decisions to go the State Board for administrative review. My staff believe that some actions by local agencies (both technical and legal matters) can be resolved by Regional Board staff intervention. Therefore staff helped to create the "Pre-Enforcement Hearing Panel" process which you have criticized as having no legal basis. Since the current LOP contract allows for enforcement case referral to the Regional Board, my staff and County staff developed this mechanism to provide the responsible party the ability to participate in this referral process. It also allows a responsible party to request a hearing to review LOP staff actions with Regional Board staff involvement. We believe this openly fulfills our role in the LOP-RP corrective action process. We welcome your ideas as to how to improve this system.

You have criticized the "arbitrary actions" of the District Attorney's Office in selectively enforcing UST corrective actions. My understanding is that the District Attorney's office prioritizes cases based upon the need to resolve the public health and water quality problems especially where corrective action is not happening. We believe the forthcoming State Board Priority System will support this case priority and provide a clear priority order to other cases.

Once again, I encourage your discussion of these matters with my staff and we will continue to work with the State Board and the LOP Agencies to better implement their contracts. Please contact Lester Feldman on Alameda County LOP issues at (510) 286-1332, and Donald Dalke at (510) 286-0503 on all others.

Sincerely,

Steven R. Ritchie,
Executive Officer

cc: Ed Howell, Alameda County LOP
Gil Jensen, Alameda County DA's Office
Mike Harper, State Water Resources Control Board, LOP Manager

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

November 14, 1993
STID 498

Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office has received and reviewed a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. The following comments are to be considered:

1. This office requires at least 1 week notice for the field activities to be conducted on a Saturday.
2. An Underground Tank Removal Plan must be submitted to this office prior to tank removal. A copy of the plan and instructions is attached.
3. The workplan for a soil and ground-water investigation is acceptable.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Enclosures

LAW OFFICES

RANDICK & O'DEA
1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612

ALCO
HAZMAT

93 NOV 12 PM 2:32

TELEPHONE
(510) 836-3555

TELECOPIER
(510) 834-4748

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

November 10, 1993

Randall D. Morrison, Esq.
CROSBY, HEAFEY, ROACH & MAY
1999 Harrison Street
Oakland, CA 94612

Re: Bacharach v. Douglas Motors

Dear Randy:

We have received your letter of November 9, 1993, by way of which, on behalf of Mr. Bacharach and Ms. Borsuk, you returned Douglas Motors' voluntary contribution of \$4,000 toward the cost of preparation of the two (2) technical reports presently required by the Regional Water Quality Control Board and the October 19, 1993 Oversight Costs Invoice.

Frankly, since this contribution was attempted without prejudice to any of the litigation rights of the parties and is substantial in relation to the specific matters to which the contribution was addressed, your clients' rejection of the contribution does not make any sense. They had nothing to lose from acceptance of the contribution.

The contribution was an acknowledgement of the Regional Water Quality Board's determinations and formal requests, although our clients dispute their ultimate responsibility for the premises with your clients.

We suggest that your clients may wish to reconsider why rejection of the contribution makes any sense.

Sincerely,

RANDICK & O'DEA



William J. Trinkle

WJT:cb

cc: Thomas Peacock, Supervising HMS
Richard Hiatt, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda Co. District Attorney's Office
Mr. Leland Douglas

**POWER
ENGINEERING CONTRACTORS**

1275 N. San Antonio Road
PALO ALTO, CALIFORNIA 94303

**(415) 969-9696
FAX #(415) 969-4834**

LETTER OF TRANSMITTAL

TO Alameda County Environmental Health
Division of Hazardous Materials
80 Swan Way, Room 200
Oakland, CA 94621

DATE November 9, 1993	JOB NO. 93-0054
ATTENTION Tom Peacock	
RE: Underground Tank Closure Plan for <u>Harrison Street Garage Project</u>	

WE ARE SENDING YOU Attached Under separate cover via _____ the following items:

- Shop drawings Prints Plans Samples Specifications
 Copy of letter Change order _____

COPIES	DATE	NO.	DESCRIPTION
			Enclosed are two copies of the "Underground Tank Closure Plan" that have been requested by Mark Borsuk for you.

THESE ARE TRANSMITTED as checked below:

- For approval Approved as submitted Resubmit _____ copies for approval
 For your use Approved as noted Submit _____ copies for distribution
 As requested Returned for corrections Return _____ corrected prints
 For review and comment _____
 FOR BIDS DUE _____ 19 _____ PRINTS RETURNED AFTER LOAN TO US

REMARKS

COPY TO Ken Lindberg, Vice President

SIGNED: Martha A. Reynolds

If enclosures are not as noted, kindly notify us at once.

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

Certified Mailer # P 422 218 067
November 8, 1993
STID 498

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

A. Bacharach & B. Borsuk
1432 Harrison St.
Oakland CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

Dear A. Bacharach & B. Borsuk and Leland Douglas:

This office has received a Work Plan for Soil and Ground-Water Investigation by Levine-Fricke, dated October 13, 1993. This was approved and a letter from this office dated October 18, 1993 was sent.

A technical report addressing the removal of underground storage tanks, hydraulic lifts, and associated piping from the site was also to have been submitted. The only reference to these tanks in the above workplan was in the last paragraph of the cover sheet and in the second paragraph of page 1 where it is mentioned that removal of the tanks is planned for the month of November. **This is not a tank removal plan.** An adequate plan, as you and Levine-Fricke have been told, must be in the Alameda County Tank Removal Format. This Tank Removal Plan has numerous items and information which is essential to approval of the plan. **None of these items are addressed in the above cited sentences.**

You are requested to submit 3 copies of an Alameda County Tank Removal Plan. A copy of the plan is attached.

You are therefore in violation of Title 23, Division 3, Chapter 16, 2670 (f), of the California Code of Regulations, which states:

"At least 30 days prior to closure, or for such shorter period of time as may be approved by the local agency, the underground storage tank owner who intends to close a tank shall submit to the local agency a proposal describing how the owner intends to comply with section 2671 or 2672 of this article, as appropriate."

If you have any questions concerning the contents of this letter, please call this office.

Bacharach & Borsuk
November 8, 1993
STID 498
Page 2 of 2

This violation has been referred to the Alameda County District Attorney's office for appropriate action.

Sincerely,



Thomas Peacock
Supervising HMS

cc: Gil Jensen, Alameda County District Attorney
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
William R. Attwater, SWRCB, 901 P St., P.O. Box 100,
Sacramento, CA 95812-0100
Steve Richie, RWQCB
Edgar Howell, Chief - Files

tp

P 422 218 067



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent to	
A. Bacharach & B. Borsuk	
Street and No. 1432 Harrison Street	
P.O. Oakland, CA 94612	
STID# 498	
Postage	\$
Certified Fee	TP
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete Items 1 and/or 2 for additional services.
- Complete Items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

TP

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 A. Bacharach & B. Borsuk
 1432 Harrison Street
 Oakland, CA 94612
 STID# 498

4a. Article Number
 P 422 218 067

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 11-15-93

8. Addressee's Address (Only if requested and fee is paid)

5. Signature (Addressee)

6. Signature (Agent)

Thank you for using Return Receipt Service.

PS Form 3811, December 1991

U.S. GPO: 1992-529-402

DOMESTIC RETURN RECEIPT

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

certified mailer # P 367 603 854

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

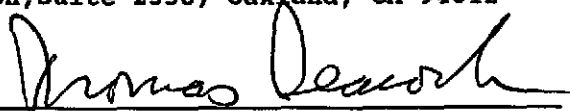
1432 Harrison St. Oakland, CA 94612)

Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on July 27, 1993 at 9:00 a.m. in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

1. **A. Bacharach & B. Borsuk Trust**
383 Diablo Rd. #100, Danville, CA 94526
2. **Leland Douglas, Douglas Parking Co.**
1721 Webster St., Oakland, CA 94612
3. **William J. Trinkle, Randick & O'Dea**
1800 Harrison, Suite 2350, Oakland, CA 94612

Dated: July 7, 1993



P 367 603 854

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 1985-234-555

PS Form 3800, June 1985

Sent to	
Street and No.	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

William J Trinkle
Randick & O'Dea
1800 Harrison ste 2350
Oakland CA 94612

4a. Article Number
P 367 603 854

4b. Service Type

<input type="checkbox"/> Registered	<input type="checkbox"/> Insured
<input checked="" type="checkbox"/> Certified	<input type="checkbox"/> COD
<input type="checkbox"/> Express Mail	<input type="checkbox"/> Return Receipt for Merchandise

5. Signature (Addressee)

TP

7. Date of Delivery
JUL 12 1985

6. Signature (Agent)

William J Trinkle

8. Addressee's Address (only if requested and fee is paid)

Thank you for using Return Receipt Service.

P 367 603 855
RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

U.S.G.P.O. 1985-234-555
 PS Form 3800, June 1985

Sent to	
Street and No.	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

Is your RETURN ADDRESS completed on the reverse side?

3. Article Addressed to:
 Leland Douglas
 Douglas Parking Co
 1721 Webster St
 Oakland CA 94612

4a. Article Number
 P 367 603 855

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 TP 7-12-97

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

certified mailer # P 367 603 857

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

1432 Harrison St. Oakland, CA 94612)

Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on July 27, 1993 at 9:00 a.m. in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

1. **A. Bacharach & B. Borsuk Trust**
383 Diablo Rd. #100, Danville, CA 94526
2. **Leland Douglas, Douglas Parking Co.**
1721 Webster St., Oakland, CA 94612
3. **William J. Trinkle, Randick & O'Dea**
1800 Harrison, Suite 2350, Oakland, CA 94612

Dated: July 7, 1993



P 367 603 857

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

U.S.G.P.O. 1989-234-555

PS Form 3800, June 1985

Sent to	
Street and No.	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

RETURN RECEIPT SERVICE

- Complete items 1 and 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to request the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

A Bacharach
383 Diablo Rd ste 100
Danville CA 94526

4a. Article Number
P 367 603 857

4b. Service Type

Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
7/12/93

5. Signature (Addressee)
M. Baullé TP

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**


Harrison Street Garage
1432 Harrison St., Oakland, CA 94612)

Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on August 31, 1993 at 9:00 a.m. in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

1. **A. Bacharach & B. Borsuk Trust**
383 Diablo Rd. #100
Danville, CA 94526
2. **Leland Douglas**
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94112
3. **William J. Trinkle, Randick & O'Dea**
1800 Harrison St., Suite 2350
Oakland, CA 94612

Dated: July 21, 1993



(signature)

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

1432 Harrison St.
Oakland, CA 94612

)
)
)

Notice of
Pre-Enforcement
Review Panel

I Shirley M. Simril, do hereby certify
that I served A. Bacharach & B. Borsuk Trust
with a copy of the attached Notice of Pre-Enforcement Review
Panel on July 21, 1993 by certified
mailer # P 418 724 543

Dated: July 21, 1993

Shirley M. Simril
(signature)

P 418 724 843



**Receipt for
Certified Mail**

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent to	
Street and No.	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

1432 Harrison St.
Oakland, CA 94612

)
)
)

Notice of
Pre-Enforcement
Review Panel

I Shirley M. Simril, do hereby certify
that I served Leland Douglas
with a copy of the attached Notice of Pre-Enforcement Review
Panel on July 21, 1993 by certified
mailer # P 418 724 544

Dated: July 21, 1993

Shirley M. Simril
(signature)

P 418 724 544



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent to	
Street and No.	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

In your RETURN ADDRESS completed on the reverse side?

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 Leland Douglas
 Douglas Parking Co.
 1721 Webster Street
 Oakland, CA 94112

4a. Article Number
 #P 418 724 544

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
Leland Douglas

7. Date of Delivery
 7-26-93

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

Thank you for using Return Receipt Service.

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :)

**Notice of
Pre-Enforcement
Review Panel**

Harrison Street Garage
1432 Harrison St., Oakland, CA 94612)

Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on August 31, 1993 at 9:00 a.m. in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

1. **A. Bacharach & B. Borsuk Trust**
383 Diablo Rd. #100
Danville, CA 94526
2. **Leland Douglas**
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94112
3. **William J. Trinkle, Randick & O'Dea**
1800 Harrison St., Suite 2350
Oakland, CA 94612

Dated: July 21, 1993



(signature)

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

1432 Harrison St.
Oakland, CA 94612

)
)
)

Notice of
Pre-Enforcement
Review Panel

I Shirley M. Simril, do hereby certify
that I served William J. Trinkle, Randick & O'Dea
with a copy of the attached **Notice of Pre-Enforcement Review**
Panel on July 21, 1993 by certified
mailer #P 418 724 545

Dated: July 21, 1993

Shirley M. Simril
(signature)

P 418 724 545



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent to	
Street and No	
P.O., State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

- INSTRUCTIONS:**
- Complete items 1 and/or 2 for additional services.
 - Complete items 3, and 4a & b.
 - Print your name and address on the reverse of this form so that we can return this card to you.
 - Attach this form to the front of the mailpiece, or on the back if space does not permit.
 - Write "Return Receipt Requested" on the mailpiece below the article number.
 - The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services for an extra fee:

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 William J. Trinkle,
 Randick & O'Dea
 1800 Harrison St., Ste 2350
 Oakland, CA 94612

4a. Article Number
 #P 418 724 545

4b. Service Type

<input type="checkbox"/> Registered	<input type="checkbox"/> Insured
<input checked="" type="checkbox"/> Certified	<input type="checkbox"/> COD
<input type="checkbox"/> Express Mail	<input type="checkbox"/> Return Receipt for Merchandise

7. Date of Delivery
 JUL 27 1993

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

Thank you for using Return Receipt Service.

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

1432 Harrison St.
Oakland, CA 94612

)
)
)

Notice of
Pre-Enforcement
Review Panel

I Shirley M. Simril, do hereby certify
that I served A. Bacharach & B. Borsuk Trust
with a copy of the attached **Notice of Pre-Enforcement Review**
Panel on July 21, 1993 by certified
mailer # P 418 724 543

Dated: July 21, 1993

Shirley M. Simril
(signature)

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 A. Bacharach & B. Borsuk Tr
 383 Diablo Road, #100
 Danville, CA 94526

4a. Article Number
 #P 418 724 543

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 7/28/07

5. Signature (Addressee)


8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)


Thank you for using Return Receipt Service.

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

1432 Harrison St.
Oakland, CA 94612

)
)
)

Notice of
Pre-Enforcement
Review Panel

I Shirley M. Simril, do hereby certify
that I served Leland Douglas
with a copy of the attached **Notice of Pre-Enforcement Review**
Panel on July 21, 1993 by certified
mailer # P 418 724 544

Dated: July 21, 1993

Shirley M. Simril
(signature)

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

1432 Harrison St.
Oakland, CA 94612

)
)
)

Notice of
Pre-Enforcement
Review Panel

I Shirley M. Simril, do hereby certify
that I served William J. Trinkle, Randick & O'Dea
with a copy of the attached **Notice of Pre-Enforcement Review**
Panel on July 21, 1993 by certified
mailer #P 418 724 545

Dated: July 21, 1993

Shirley M. Simril
(signature)

11-23-93: license is current, active, good-
6. Contractor Power Engineering Contractors Inc. standing, corp, exp 3-31-94
Address 1275 North San Antonio Road
City Palo Alto Ca. 94303-4312 Phone (415) 969-9696
License Type* A, B, HAZ ID# 488215

*Effective January 1, 1992, Business and Professional Code Section 7058.7 requires prime contractors to also hold Hazardous Waste Certification issued by the State Contractors License Board. Indicate that the certificate has been received, in addition, to holding the appropriate contractors license type.

7. Consultant Levine-Fricke
Address 1900 Powell Street 12th Floor
City Emeryville Ca Phone (510) 652-4500

8. Contact Person for Investigation
Name John Sturman Title Senior Engineer
Phone (510) 652-4500

9. Number of tanks being closed under this plan 4
Length of piping being removed under this plan 200 l.f. ±
Total number of tanks at facility 4

10. State Registered Hazardous Waste Transporters/Facilities (see instructions).

** Underground tanks are hazardous waste and must be handled **
as hazardous waste

a) Product/Residual Sludge/Rinsate Transporter
Name Erickson, Inc. EPA I.D. No. CAD009466392
Hauler License No. 0019 License Exp. Date 5/94
Address 255 Parr Blvd
City Richmond State Ca Zip 94801

b) Product/Residual Sludge/Rinsate Disposal Site
Name Erickson, Inc. EPA I.D. No. CAD 009466392
Address 255 Parr Blvd.
City Richmond State Ca Zip 94801

c) Tank and Piping Transporter

Name Erickson, Inc. EPA I.D. No. CAD009466392
Hauler License No. 0019 License Exp. Date 5/94
Address 255 Parr Blvd.
City Richmond State Ca. Zip 94801

d) Tank and Piping Disposal Site

Name Erickson Inc.. EPA I.D. No. CAD 009466392
Address 255 Parr Blvd.
City Richmond State Ca. Zip 94801

11. Experienced Sample Collector

Name Ms. Shellie Fletcher
Company Levine-Fricke
Address 1900 Powell St 12th Floor
City Emeryville State Ca. Zip 94608 Phone (510) 652-4500

12. Laboratory

Name American Environmental Network
Address 3440 Vincent Road
City Pleasant Hill State Ca. Zip 94523
State Certification No. 1172

13. Have tanks or pipes leaked in the past? Yes [] No []

If yes, describe. Unknown. However petroleum hydrocarbons have been encountered in the soil and ground-water at the site. The exact sources and causes have not yet been determined.

14. Describe methods to be used for rendering tank inert

One hour prior to scheduled removal of tank, inert tank with dry ice at the rate of 20# per 1000 gal capacity with Fire/Health Insp. on site, test tank with LEL/Oxygen meter.

Before tanks are pumped out and inerted, all associated piping must be flushed out into the tanks. All accessible associated piping must then be removed. Inaccessible piping must be plugged.

The Bay Area Air Quality Management District (771-6000), along with local Fire and Building Departments, must also be contacted for tank removal permits. Fire departments typically require the use of explosion proof combustible gas meters to verify tank inertness. It is the contractor's responsibility to bring a working combustible gas meter on site to verify tank inertness.

15. Tank History and Sampling Information

Tank		Material to be sampled (tank contents, soil, groundwater, etc.)	Location and Depth of Samples
Capacity	Use History (see instructions)		
1000 gal	Installed 1975, gas	Soil/groundwater if encountered	1 @ each end of tank, not to exceed 2 ft below tank
1000 gal.	Installed 1982, gas	Soil/groundwater if encountered	Same as above
Dispenser	Installed 1975	Soil	1 sample 7 ft into native under dispenser
1000 gal	2 ea. installation unknown, contained waste oil.	Soil/groundwater if encountered	Same as previous gas tanks.

One soil sample must be collected for every 20 feet of piping that is removed. A ground water sample must be collected should any ground water be present in the excavation.

Excavated/Stockpiled Soil	
Stockpiled Soil Volume (Estimated)	Sampling Plan
60 c.y.	Two composite samples TPHg, TPHd, TOG

Stockpiled soil must be placed on bermed plastic and must be completely covered by plastic sheeting.

16. Chemical methods and associated detection limits to be used for analyzing samples

The Tri-Regional Board recommended minimum verification analyses and practical quantitation reporting limits should be followed. See attached Table 2.

Contaminant Sought	EPA, DHS, or Other Sample Preparation Method Number	EPA, DHS, or Other Analysis Method Number	Method Detection Limit
TPH Gasoline	GCFID (5030)	8015 G	Soil-water 10 ppm/.5 ppm
BETX		8020	10 ppm/.5 ppm
Oil/Grease		5520 D&F	5 ppb/ 1 ppb
Organic lead <i>total</i>		DHS-LUFT	0.2 ppm/5ppb
<i>4PHd</i>	<i>3550</i>	<i>8015</i>	
<i>VOCs</i>	<i>8010</i>		
<i>SVOCs</i>	<i>8270</i>		
<i>5 metals</i>	<i>AA</i>		

17. Submit Site Health and Safety Plan (See Instructions)

18. Submit Worker's Compensation Certificate copy

Name of Insurer STATE COMPENSATION INSURANCE FUND

19. Submit Plot Plan (See Instructions)

20. Enclose Deposit (See Instructions)

21. Report any leaks or contamination to this office within 5 days of discovery. The report shall be made on an Underground Storage Tank Unauthorized Leak/Contamination Site Report form. (see Instructions)

22. Submit a closure report to this office within 60 days of the tank removal. This report must contain all the information listed in item 22 of the instructions.

I declare that to the best of my knowledge and belief the statements and information provided above are correct and true.

I understand that information in addition to that provided above may be needed in order to obtain an approval from the Department of Environmental Health and that no work is to begin on this project until this plan is approved.

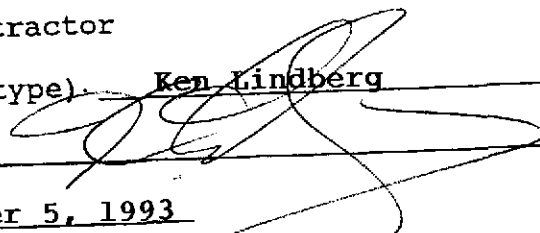
I understand that any changes in design, materials or equipment will void this plan if prior approval is not obtained.

I understand that all work performed during this project will be done in compliance with all applicable OSHA (Occupational Safety and Health Administration) requirements concerning personnel health and safety. I understand that site and worker safety are solely the responsibility of the property owner or his agent and that this responsibility is not shared nor assumed by the County of Alameda.

Once I have received my stamped, accepted closure plan, I will contact the project Hazardous Materials Specialist at least three working days in advance of site work to schedule the required inspections.

Signature of Contractor

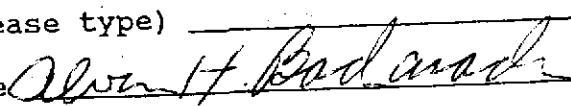
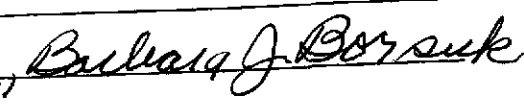
Name (please type) Ken Lindberg

Signature 

Date November 5, 1993

Signature of Site Owner or Operator

Name (please type) _____

Signature  

Date 11-5-93

18. Submit Worker's Compensation Certificate copy

Name of Insurer STATE COMPENSATION INSURANCE FUND

19. Submit Plot Plan (See Instructions)

20. Enclose Deposit (See Instructions)

21. Report any leaks or contamination to this office within 5 days of discovery. The report shall be made on an Underground Storage Tank Unauthorized Leak/Contamination Site Report form. (see Instructions)

22. Submit a closure report to this office within 60 days of the tank removal. This report must contain all the information listed in item 22 of the instructions.

I declare that to the best of my knowledge and belief the statements and information provided above are correct and true.

I understand that information in addition to that provided above may be needed in order to obtain an approval from the Department of Environmental Health and that no work is to begin on this project until this plan is approved.


I understand that any changes in design, materials or equipment will void this plan if prior approval is not obtained.

I understand that all work performed during this project will be done in compliance with all applicable OSHA (Occupational Safety and Health Administration) requirements concerning personnel health and safety. I understand that site and worker safety are solely the responsibility of the property owner or his agent and that this responsibility is not shared nor assumed by the County of Alameda.

Once I have received my stamped, accepted closure plan, I will contact the project Hazardous Materials Specialist at least three working days in advance of site work to schedule the required inspections.

Signature of Contractor

Name (please type) Ken Lindberg


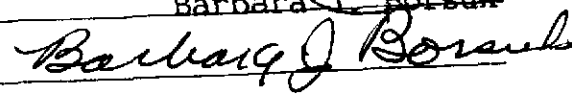
Signature 

Date November 5, 1993

Signature of Site Owner or Operator

Name (please type) Alvin H. Bacharach

Barbara J. Borsuk

Signature  

Date 11-5-93

**STATE
COMPENSATION
INSURANCE
FUND**

P.O. BOX 420807, SAN FRANCISCO, CA 94142-0807

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

OCTOBER 15, 1993

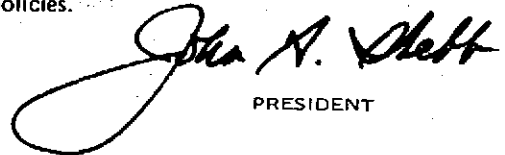
POLICY NUMBER: 571-93 UNIT 0006142
CERTIFICATE EXPIRES: 10-1-94

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon ³⁰ten days' advance written notice to the employer.

We will also give you ³⁰ten days' advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.


PRESIDENT

EMPLOYER'S LIABILITY LIMIT: \$3,000,000 PER OCCURRENCE.

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 10/01/93 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

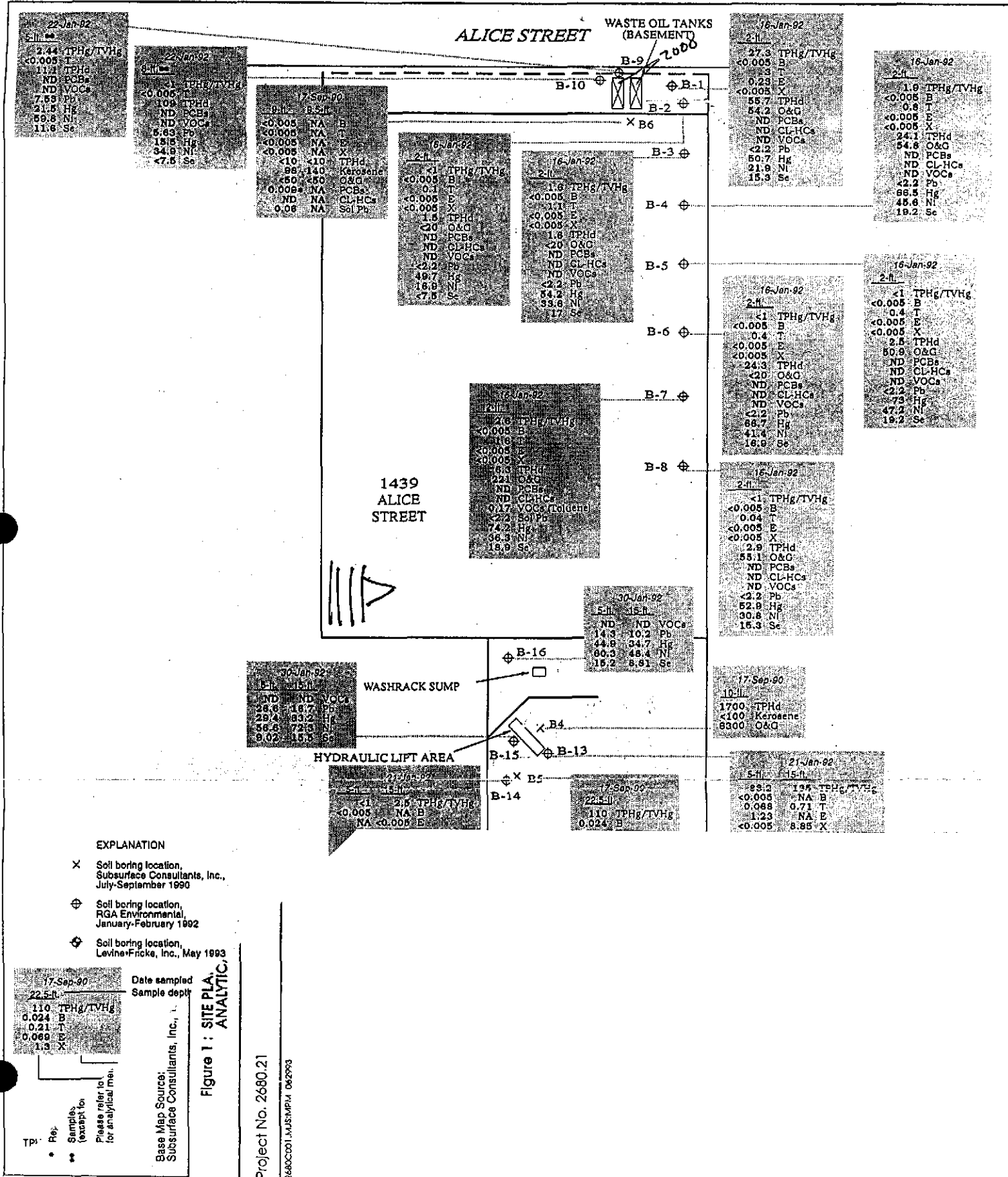
EMPLOYER

POWER ENGINEERING CONTRACTORS INC
1275 N SAN ANTONIO RD
PALO ALTO CA 94303

RECEIVED

OCT 18 1993

Ans'd



22-Jan-92
2.44 TPHg/TVHg
<0.005 T
11.1 TPHd
ND PCBs
ND VOCs
7.83 Ni
21.8 Hg
59.8 Ni
11.6 Se

22-Jan-92
2.1 TPHg/TVHg
<0.005 B
109 TPHd
ND PCBs
ND VOCs
5.83 Pb
13.8 Ni
34.8 Ni
<7.5 Se

17-Sep-90
8.2ft
<0.005 NA B
<0.005 NA B
<0.005 NA B
<0.005 NA X
<10 <10 TPHd
99 140 Kerosene
<50 <50 O&G
0.008 NA PCBs
0.06 NA CL-HCs
Sol Pb

16-Jan-92
2-ft
<1 TPHg/TVHg
<0.005 B
0.1 T
<0.005 E
<0.005 X
1.8 TPHd
20 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
49.7 Hg
18.9 Ni
<7.5 Se

16-Jan-92
2-ft
1.6 TPHg/TVHg
<0.005 B
0.1 T
<0.005 E
<0.005 X
1.8 TPHd
20 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
54.2 Hg
33.8 Ni
17 Se

16-Jan-92
2-ft
4.6 TPHg/TVHg
<0.005 B
0.1 T
<0.005 E
<0.005 X
6.3 TPHd
22.1 O&G
ND PCBs
ND CL-HCs
0.17 VOCs (toluene)
2.2 Sol Pb
7.2 Hg
36.3 Ni
18.9 Se

30-Jan-92
5-ft 15-ft
ND ND VOCs
14.3 10.2 Pb
44.8 34.7 Hg
80.3 48.4 Ni
15.2 8.81 Se

10-Jan-92
5-ft 15-ft
ND ND VOCs
26.8 16.7 Pb
29.4 33.2 Hg
56.8 72.3 Ni
8.02 15.5 Se

17-Jan-92
4.5-ft
<1 2.5 TPHg/TVHg
<0.005 NA B
NA <0.005 E

17-Sep-90
22.5-ft
110 TPHg/TVHg
0.024 B

18-Jan-92
2-ft
27.3 TPHg/TVHg
<0.005 B
0.23 T
<0.005 E
<0.005 X
56.7 TPHd
54.2 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
50.7 Hg
21.9 Ni
15.3 Se

16-Jan-92
2-ft
1.6 TPHg/TVHg
<0.005 B
0.1 T
<0.005 E
<0.005 X
24.1 TPHd
54.8 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
66.5 Hg
45.6 Ni
19.2 Se

16-Jan-92
2-ft
<1 TPHg/TVHg
<0.005 B
0.4 T
<0.005 E
<0.005 X
2.5 TPHd
50.9 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
47.3 Hg
47.2 Ni
19.2 Se

16-Jan-92
2-ft
<1 TPHg/TVHg
<0.005 B
0.4 T
<0.005 E
<0.005 X
24.3 TPHd
20 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
68.7 Hg
41.4 Ni
16.9 Se

16-Jan-92
2-ft
<1 TPHg/TVHg
<0.005 B
0.04 T
<0.005 E
<0.005 X
2.9 TPHd
55.1 O&G
ND PCBs
ND CL-HCs
ND VOCs
<2.2 Pb
52.9 Hg
30.8 Ni
16.3 Se

17-Sep-90
10-ft
1700 TPHd
<100 Kerosene
8300 O&G

21-Jan-92
5-ft 15-ft
8.12 1.94 TPHg/TVHg
<0.005 NA B
0.089 0.71 T
1.23 NA E
<0.005 8.85 X

MARK BORSUK
ATTORNEY AT LAW

93 NOV -8 AM 9: 22

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FEDX

November 6, 1993

Mr. Thomas Peacock
Supervising HMS
UST Local Oversight Program
Alameda County Health Care Services Agency
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4530
FAX 569-4757

SUBJECT: WORKPLAN / LOP STID #498
1432 HARRISON STREET

*11-10-93
Borsuk re: Hong Kong*

Dear Tom:

Enclosed is the workplan you requested on October 14, 1993 (original letter dated November 14, 1993). Mr. Mike Swaney of Power Engineering Contractors, Inc. (415-969-9696 X201) will run the job under the direction of Mr. John Sturman of Levine-Fricke (510-652-4500 X589).

If possible, please FAX your approval of the workplan to me by 5:00 p.m. on Monday, November 8. Our tentative schedule is to mobilize on November 18 and begin with Harrison Street tanks on November 20. We will provide you with one week's notice for the Saturday field activities.

Upon approval of the workplan, I will request the "Letter of Commitment" from the UST FUND. Your assistance with the UST FUND is most appreciated.

Sincerely yours,



Mark Borsuk

cc: Mr. Steven Ritchie, Executive Officer, SFBRWQCB
Mr. Larry Kolb, Assistant Exec. Officer, SFBRWQCB
Mr. Richard Hiatt, SEA, SFBRWQCB w/enclosure
Mr. Mike McDonald, Division of Clean Waters, UST Section
Ms. Lori Casias, Division of Clean Waters, Local Oversight Program

Mr. Dave Deaner, UST FUND
Mr. Ron Markle, UST FUND
Mr. Steve Parada, UST FUND
Ms. Blessy Torres, UST FUND
Mr. Gilbert Jensen, Deputy District Attorney, Alameda County
Mr. Edgar Howell, III, Hazardous Materials Division, ACHCSA
Mr. Randall Morrison, Esq.
Bernard Rose, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk



QUESTIONS? CALL 800-238-5355 TOLL FREE.

AIRBILL PACKAGE TRACKING NUMBER

7508374462

7508374462

RECIPIENT'S COPY

Date: 11/8/13

From (Your Name) Please Print: [Redacted] Your Phone Number (Very Important): (815) 999-4200 To (Recipient's Name) Please Print: [Redacted] Recipient's Phone Number (Very Important): (815) 241-0520

Company: [Redacted] Department/Floor No.: [Redacted] Company: [Redacted] Department/Floor No.: [Redacted]

Street Address: [Redacted] Street Address: [Redacted] Exact Street Address (We Cannot Deliver to P.O. Boxes or P.O. Zip Codes.): [Redacted]

City: [Redacted] State: [Redacted] ZIP Required: [Redacted] City: [Redacted] State: [Redacted] ZIP Required: [Redacted]

YOUR INTERNAL BILLING REFERENCE INFORMATION (optional) (First 24 characters will appear on invoice.): [Redacted]

IF HOLD FOR PICK-UP, Print FEDEX Address Here: [Redacted]

PAYMENT: Bill Sender Bill Recipient's FedEx Acct. No. Bill 3rd Party FedEx Acct. No. Bill Credit Card Cash/Check

4 SERVICES (Check only one box)		5 DELIVERY AND SPECIAL HANDLING (Check services required)		6 PACKAGES WEIGHT In Pounds Only YOUR DECLARED VALUE (See right)		Federal Express Use	
Priority Overnight (Delivery by next business morning) 11 <input type="checkbox"/> OTHER PACKAGING 16 <input type="checkbox"/> FEDEX LETTER* 12 <input checked="" type="checkbox"/> FEDEX PAK* 13 <input type="checkbox"/> FEDEX BOX 14 <input type="checkbox"/> FEDEX TUBE Economy Two-Day (Delivery by second business day) 30 <input type="checkbox"/> ECONOMY Standard Overnight (Delivery by next business afternoon, no Saturday delivery) 51 <input type="checkbox"/> OTHER PACKAGING 56 <input type="checkbox"/> FEDEX LETTER* 52 <input type="checkbox"/> FEDEX PAK* 53 <input type="checkbox"/> FEDEX BOX 54 <input type="checkbox"/> FEDEX TUBE Government Overnight (Restricted for authorized users only) 46 <input type="checkbox"/> GOVT LETTER 41 <input type="checkbox"/> GOVT PACKAGE Freight Service (for packages over 150 lbs) 70 <input type="checkbox"/> OVERNIGHT FREIGHT** 80 <input type="checkbox"/> TWO-DAY FREIGHT**	HOLD FOR PICK-UP (Fill in Box #) 1 <input type="checkbox"/> WEEKDAY 31 <input type="checkbox"/> SATURDAY DELIVER 2 <input checked="" type="checkbox"/> WEEKDAY 3 <input type="checkbox"/> SATURDAY (Extra charge) (Not available to all locations) 4 <input type="checkbox"/> DANGEROUS GOODS (Extra charge) 5 <input type="checkbox"/> 6 <input type="checkbox"/> DRY ICE (Deliveries: Goods, Shipments, Deliveries) Dry Ice: 9 UN1825, X kg, lb 7 <input type="checkbox"/> OTHER SPECIAL SERVICE 9 <input type="checkbox"/> SATURDAY PICK-UP (Extra charge) 12 <input type="checkbox"/> HOLIDAY DELIVERY (if offered) (Extra charge)	Total: [Redacted] Total: [Redacted] Total: [Redacted] DIM SHIPMENT (Chargeable Weight) 1 <input type="checkbox"/> Regular Stop 2 <input type="checkbox"/> Drop Box 3 <input type="checkbox"/> B.S.C. 4 <input type="checkbox"/> On-Call Stop 5 <input type="checkbox"/> Station	Emp. No.: [Redacted] Date: [Redacted] <input type="checkbox"/> Cash Received <input type="checkbox"/> Return Shipment <input type="checkbox"/> Third Party <input type="checkbox"/> Chg. To Del. <input type="checkbox"/> Chg. To Hold Street Address: [Redacted] City: [Redacted] State: [Redacted] Zip: [Redacted] Received By: [Redacted] Date/Time Received: [Redacted] FedEx Employee Number: [Redacted]	Basic Charges Declared Value Charge Other 1 Other 2 Total Charges REVISION DATE 6/02 PART 1137205 GBFE FORMAT #136 136 © 1997-02 FEDEX PRINTED IN U.S.A.			

DOUGLAS PARKING COMPANY
1721 WEBSTER STREET
OAKLAND, CA 94612

45053

10/21 1983

11-35
1210

PAY
TO THE ORDER
OF

THE SUM 4000 DOLLARS

DOLLARS \$ 4000

THIS CHECK IS DELIVERED FOR PAYMENT
ON THE FOLLOWING ACCOUNTS.

Crosby, Hoops, Powell, & Co

VOID AFTER 60 DAYS

John Doe

⑈045053⑈ ⑆121000358⑆ 02510⑈03348⑈

Bank of America
Oakland Main Branch 0251 (510) 649-6600
2000 Broadway
Oakland, CA 94612

© DELUXE - WEX

93 OCT 25 PM 4: 10



QUESTIONS? CALL 800-238-5355 TOLL FREE

5131751752

AIRBILL
PACKAGE
TRACKING NUMBER

5131751752

RECIPIENT'S COPY

Date

10-21-83

From (Your Name) Please Print

William J. Brinkie, Sr. (410) 866-3555

Your Phone Number (Very Important)

To (Recipient's Name) Please Print

Mr. Thomas Peacock

Recipient's Phone Number (Very Important)

619 278 4329

Company

Department/Floor No.

Company

Department/Floor No.

Street Address

Alameda Co. Dept. of Health BMD
Exact Street Address (We Cannot Deliver to P.O. Boxes or P.D. Zip Codes.)

City

State

ZIP Required

City

20 Swan Way, Room 200

State

ZIP Required

Oakland, CA

94621

YOUR INTERNAL BILLING REFERENCE INFORMATION (optional) (First 24 characters will appear on invoice.)

IF HOLD FOR PICK-UP, Print FEDEX Address Here

Street Address

City

State

ZIP Required

PAYMENT 1 Bill Sender 2 Bill Recipient's FedEx Acct. No. 3 Bill 3rd Party FedEx Acct. No. 4 Bill Credit Card

5 Cash Check

SERVICES (Check only one box)

DELIVERY AND SPECIAL HANDLING (Check services required)

- 11 YOUR PACKAGING
- 16 FEDEX LETTER*
- 12 FEDEX PAK*
- 13 FEDEX BOX
- 14 FEDEX TUBE
- 30 ECONOMY
- 51 YOUR PACKAGING
- 56 FEDEX LETTER*
- 52 FEDEX PAK*
- 53 FEDEX BOX
- 54 FEDEX TUBE
- 46 GOVT LETTER
- 41 GOVT PACKAGE

- 1 HOLD FOR PICK-UP (Fill in Box H)
- 2 DELIVER WEEKDAY
- 3 DELIVER SATURDAY (Extra charge) (Not available to all locations)
- 4 DANGEROUS GOODS (Extra charge)
- 5 DRY ICE lbs.
- 6 OTHER SPECIAL SERVICE
- 7 SATURDAY PICK-UP (Extra charge)
- 8
- 9
- 10
- 12 HOLIDAY DELIVERY (if altered) (Extra charge)

70 OVERNIGHT FREIGHT** (Confirmed reservation required)

80 TWO-DAY FREIGHT** (Confirmed reservation required)

*Declared Value Limit \$500. **Call for delivery schedule.

PACKAGES	WEIGHT in Pounds Only	YOUR DECLARED VALUE
Total	Total	Total
DIM SHIPMENT (Chargeable Weight)		
		lbs.
Received At:		
<input type="checkbox"/> Regular Stop	<input checked="" type="checkbox"/> Drop Box	4:17 B.S.C.
<input type="checkbox"/> On-Call Stop	<input type="checkbox"/> Station	5:11 Station

Emp. No. _____ Date _____

Cash Received

Return Shipment

Third Party Chg. To Del. Chg. To Hold

Street Address _____

City _____ State _____ Zip _____

Received By: _____

Date/Time Received _____ FedEx Employee Number _____

Release Signature: _____

Federal Express Use

Base Charges _____

Declared Value Charge _____

Other 1 _____

Other 2 _____

Total Charges _____

REVISION DATE 2/92

PART #137204 FXEM 7/92

FORMAT #126

126

© 1991-92 FEDEX PRINTED IN U.S.A.

RH

LAW OFFICES

RANDICK & O'DEA

(800 HARRISON, SUITE 2350

OAKLAND, CALIFORNIA 94612

TELEPHONE
(510) 836-3555

TELECOPIER
(510) 834-4748

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

October 21, 1993

CALIFORNIA REGIONAL WATER

OCT 22 1993

QUALITY CONTROL BOARD

Randall D. Morrison, Esq.
CROSBY, HEAFEY, ROACH & MAY
1999 Harrison Street
Oakland, CA 94612

Re: Response to Request for Technical Reports from
Alameda County Department of Environmental Health
and Regional Water Quality Control Board

Dear Randy:

In response to the September 22, 1993 letter from the Regional Water Quality Control Board and the 10/19/93 Invoice for Oversight Costs, please find enclosed a check from the Douglas Motor parties in the amount of \$4,000.00. This check and the funds it represents are submitted to you, in trust. The funds are the Douglas Motors parties' voluntary contribution toward the cost of timely complying with the formal request for technical reports contained in the September 22, 1993 letter and toward payment of the October 19, 1993 Overnight Costs Invoice. The funds are to be used exclusively for such costs.

While preparing this letter, on October 19, 1993, we received Thomas Peacock's letter mistakenly dated November 14, 1993 to Mr. Bacharach and Ms. Borsuk regarding the Levine-Fricke Work Plan for Soil and Ground-water Investigation and the Underground Tank Removal Plan. Apparently, your clients have already submitted a soil and ground-water investigation work plan which has been accepted. Mr. Peacock's letter was our client's first notice of such submission. In view of our clients' contribution, we request that a copy of the work plan be provided to our office as soon as possible including any cost estimate or bid submitted by Levine-Fricke for the work, any invoice for preparation of the work plan, and any schedule for performance of the work. Also, it would appear more than appropriate for your firm and consultants to copy our office with any future transmittals to Alameda County authorities regarding the site.

The Douglas Motors parties' voluntary contribution is made without prejudice to the rights, claims or defenses of either your clients or ours in the cross-complaint action between them in

DOUGLAS PARKING COMPANY
1721 WEBSTER STREET
OAKLAND, CA 94612

45053

10/21 1983 11-35
1210

THE SUM 4000 DOLLARS

DOLLARS \$ 4000

PAY TO THE ORDER OF

Crosby, Hoops, Powell, & Co.

THIS CHECK IS DELIVERED FOR PAYMENT ON THE FOLLOWING ACCOUNTS

VOID AFTER 60 DAYS

[Signature]

⑈045053⑈ ⑆121000358⑆ 02510⑈03348⑈

Bank of America
Oakland Main Branch 0251 (510) 649-6600
2000 Broadway
Oakland, CA 94612

DELUXE - WEV

LAW OFFICES

RANDICK & O'DEA

1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612
93 OCT 25 PM 4 10

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

TELEPHONE
(510) 836-3555

TELECOPIER
(510) 834-4748

October 21, 1993

Randall D. Morrison, Esq.
CROSBY, HEAFEY, ROACH & MAY
1999 Harrison Street
Oakland, CA 94612

Re: Response to Request for Technical Reports from
Alameda County Department of Environmental Health
and Regional Water Quality Control Board

Dear Randy:

In response to the September 22, 1993 letter from the Regional Water Quality Control Board and the 10/19/93 Invoice for Oversight Costs, please find enclosed a check from the Douglas Motor parties in the amount of \$4,000.00. This check and the funds it represents are submitted to you, in trust. The funds are the Douglas Motors parties' voluntary contribution toward the cost of timely complying with the formal request for technical reports contained in the September 22, 1993 letter and toward payment of the October 19, 1993 Overnight Costs Invoice. The funds are to be used exclusively for such costs.

While preparing this letter, on October 19, 1993, we received Thomas Peacock's letter mistakenly dated November 14, 1993 to Mr. Bacharach and Ms. Borsuk regarding the Levine-Fricke Work Plan for Soil and Ground-water Investigation and the Underground Tank Removal Plan. Apparently, your clients have already submitted a soil and ground-water investigation work plan which has been accepted. Mr. Peacock's letter was our client's first notice of such submission. In view of our clients' contribution, we request that a copy of the work plan be provided to our office as soon as possible including any cost estimate or bid submitted by Levine-Fricke for the work, any invoice for preparation of the work plan, and any schedule for performance of the work. Also, it would appear more than appropriate for your firm and consultants to copy our office with any future transmittals to Alameda County authorities regarding the site.

The Douglas Motors parties' voluntary contribution is made without prejudice to the rights, claims or defenses of either your clients or ours in the cross-complaint action between them in

October 21, 1993
Page 2

Alameda County Superior Court Case No. 666290-3, Bacharach v. Davis, and related cross-actions and is not to be treated in any manner as evidence or admission of liability.

We are aware that your clients have a pending application to the California UST Cleanup Fund. A condition to the contribution is that to the extent your clients are successful in their fund application and receive reimbursement for the expenses to which our clients are contributing, your clients agree that within 45 days of receipt of such fund reimbursement to pay and reimburse our clients pro rata for the contribution made by them, free of any claim of offset. Cashing of the check or retention of it for in excess of 30 days shall constitute your clients' agreement to this provision, without further action.

Sincerely,

RANDICK & O'DEA

A handwritten signature in cursive script, appearing to read "William J. Trinkle". The signature is written in dark ink and is positioned above the printed name.

William J. Trinkle

WJT:cb

Enclosure

cc: Thomas Peacock, Supervising HMS
Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda Co. District Attorney's Office
Mr. Leland Douglas

INVOICE FOR OVERSIGHT COSTS

fin510a

<< mrp:1 >>

Send Payment to: State Water Resources Control Board
Underground Storage Tank Local Oversight Program
PO Box 944212
Sacramento, CA 94244-2120

Bill Date:
10/19/93

ALCO
HAZMAT
JAN 19 PM 2:57

Local Agency: COUNTY OF ALAMEDA

Site Location:

SITE # 498
A BACHARACH/B BORSUK TRUST
TRUST
383 DIABLO ROAD #100
DANVILLE, CA 94526

A. BACHARACH TR & B. BORSUK
1432 HARRISON ST
OAKLAND, CA
94612

Total previously billed \$ 0.00
Payment(s) received as of / / \$ 0.00
**New Charges - Billing Period:01/01/93 through 06/30/93 \$ 2,193.26

FUND: F Total amount due: \$ 2,193.26

State Health and Safety Code Sections 25297.1 and 25360 and Title 42 of the United States Code Section 6991b(h)(6) require recovery of costs associated with the local oversight program. When your site was put in the local oversight program, you received a letter explaining that the State Water Resources Control Board (State Board) would bill you for public costs of cleanup oversight.

This bill includes site specific and program management charges. Site specific charges directly relate to your site. Examples are sampling for soil and ground water contamination, site inspections, and reviewing reports and workplans. A description of activity codes follows the itemized charges. Program management includes other costs associated with program operation. Such costs may include: space rental, office services and supplies, purchase of sampling equipment, training and the salary and benefits of support personnel (i.e., clerical staff, accountant, program supervisor). Program management charges are calculated at not more than 50 percent of site specific charges. The exact rate is shown on the last page of your bill.

If you received an invoice for a previous billing period, those charges are shown as "Total Previously Billed". Any payments you made on the previous billing are shown as "Payment Received". The total of any unpaid previous balance plus new charges is shown as "Total Amount Due".

** See itemized list of new charges on next page(s).

FOR INFORMATION CALL: LORI CASIAS

(916) 227-4325

-----cut on this line-----
Return this part with your check made payable to SWRCB. Use the enclosed envelope and send to the address above.

Local Agency: COUNTY OF ALAMEDA

Site #: 498
Site Location:

A BACHARACH/B BORSUK TRUST
TRUST
383 DIABLO ROAD #100
DANVILLE, CA 94526

A. BACHARACH TR & B. BORSUK
1432 HARRISON ST
OAKLAND, CA
94612

Total amount due: \$ 2,193.26

Enter amount paid: \$ _____

ITEMIZED NEW CHARGES

Site specific charges for billing period: 01/01/93 - 06/30/93

DATE	NAME	*ACT	HOURS		RATE		IND	TRAVEL	TOTAL
			ST	OT	ST	OT			
01/28/93	SMITH	215	2.90	0.0	41.12	0.00	0.1266	0.00	134.34
01/28/93	SMITH	200	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/01/93	SMITH	215	6.00	0.0	41.12	0.00	0.1266	0.00	277.95
02/02/93	SMITH	215	6.00	0.0	41.12	0.00	0.1266	0.00	277.95
02/03/93	SMITH	206	1.50	0.0	41.12	0.00	0.1266	0.00	69.49
02/04/93	SMITH	215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/05/93	SMITH	215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/09/93	SMITH	212	0.30	0.0	41.12	0.00	0.1266	0.00	13.90
02/16/93	SMITH	215	0.30	0.0	41.12	0.00	0.1266	0.00	13.90
02/16/93	PEACOCK	212	0.40	0.0	51.17	0.00	0.1266	0.00	23.06
02/17/93	SMITH	215	2.50	0.0	41.12	0.00	0.1266	0.00	115.81
02/18/93	SMITH	215	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/23/93	SMITH	212	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
02/24/93	SMITH	212	2.50	0.0	41.12	0.00	0.1266	0.00	115.81
03/01/93	SMITH	215	1.00	0.0	41.12	0.00	0.1266	0.00	46.33
03/08/93	PEACOCK	215	0.50	0.0	51.17	0.00	0.1266	0.00	28.82
03/08/93	PEACOCK	206	0.30	0.0	51.17	0.00	0.1266	0.00	17.29
03/08/93	SMITH	206	0.50	0.0	41.12	0.00	0.1266	0.00	23.16
03/11/93	PEACOCK	206	1.00	0.0	51.17	0.00	0.1266	0.00	57.65
03/11/93	PEACOCK	215	2.10	0.0	51.17	0.00	0.1266	0.00	121.06
03/11/93	PEACOCK	212	0.30	0.0	51.17	0.00	0.1266	0.00	17.29
03/18/93	PEACOCK	215	0.30	0.0	51.17	0.00	0.1266	0.00	17.29
03/18/93	PEACOCK	212	0.80	0.0	51.17	0.00	0.1266	0.00	46.12
03/30/93	PEACOCK	206	0.20	0.0	51.17	0.00	0.1266	0.00	11.53

SITE SPECIFIC TOTALS: 31.9 0.0 \$ 1544.55

PROGRAM MANAGEMENT CHARGE (calculated at 42% of site specific charges): \$ 648.71

TOTAL NEW CHARGES \$ 2193.26

* ACTIVITY CODES AND DESCRIPTIONS: (ACT)

- 300 (200) Responsible Party identification and notification
- 304 (204) Meeting with Regional Board or other affected agencies regarding a specific site
- 306 (206) Development of enforcement actions against a Responsible Party
- 307 (207) Issuance of a closure document
- 310 (210) Site visits
- 311 (211) Sampling activities
- 312 (212) Meetings with responsible parties or responsible party consultants
- 315 (215) Review of reports, workplans, preliminary assessments, remedial action plans, or post-remedial monitoring

LAMEDA

3

SITE #: 498

(cont)

NOTE: More than one responsible party (RP) has been identified for this site. All RPs are shown below. This invoice has been sent to all RPs for this site. RPs may be held jointly and severally liable for site cleanup costs. You may wish to coordinate with the other RP(s) to allocate the site cleanup costs among yourselves.

A BACHARACH/B BORSUK TRUST
TRUST
383 DIABLO ROAD #100
DANVILLE, CA 94526

LELAND DOUGLAS
DOUGLAS PARKING CO.
1721 WEBSTER ST
OAKLAND, CA 94612

Listing of all 1992 activities for StID # 498
as of 01/24/94

ActivDat	Insp	ACT	Activ	StID	ActCostF	aComment
-01/28/93	PS	200	0.5	498	\$23.16	case transfer to LOP
-01/28/93	PS	215	2.9	498	\$134.34	case review
-02/01/93	PS	215	6.	498	\$277.95	review depositions Douglas bros. and meet wBill Trinkle and Bernie Rose
-02/02/93	PS	215	6.	498	\$277.95	review depositions-Ron Douglas re appeal process and confer w/ Mark T. re issuance of revised H&S 25299.37 cleanup order
-02/03/93	PS	206	1.5	498	\$69.49	meet w/ Mark T. re appeal from Bacharach to SWRCB
-02/04/93	PS	215	0.5	498	\$23.16	write letter to Morrison and Trinkle re appeal decision from Ala Co.
-02/05/93	PS	215	0.5	498	\$23.16	
02/09/93	PS	212	0.3	498	\$13.90	telcon John Sturman Levine-Fricke re workplan
02/16/93	TP	212	0.4	498	\$23.06	w/Mark Borsuk, PS, update data
02/16/93	PS	215	0.3	498	\$13.90	telcon Gil Jensen re: meeting upcomming w/ Borsuk et al.
02/17/93	PS	215	2.5	498	\$115.81	review and letter to Morrison approval workplan
02/18/93	PS	215	0.5	498	\$23.16	revision to Morrison letter
02/23/93	PS	212	0.5	498	\$23.16	telcon Randy Morrison, Gil Jensen re appeal
02/24/93	PS	212	2.5	498	\$115.81	meet w/ John Sturman, Randy Morrison, Mark Borsuk, Barbara Jean Borsuk re adding Douglas Parking on the Order to Cleanup Harrison Site.
03/01/93	PS	215	1.	498	\$46.33	organized file reverse chronologically for transfer Tom
03/08/93	PS	206	0.5	498	\$23.16	confer w/ Tom re appeal
03/08/93	TP	206	0.3	498	\$17.29	w/GJ re: letters
03/08/93	TP	215	0.5	498	\$28.82	w/PS over 2 letter from lawyers
03/11/93	TP	206	1.	498	\$57.65	review w/GJ
03/11/93	TP	212	0.3	498	\$17.29	w/Mark Borsuk,LS
03/11/93	TP	215	2.1	498	\$121.06	review files & brief w/PS
03/18/93	TP	212	0.8	498	\$46.12	w/Borsuk, site review
03/18/93	TP	215	0.3	498	\$17.29	w/JE,tanks still in the ground
-03/30/93	TP	206	0.2	498	\$11.53	w/Gil

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

October 18, 1993
STID 498

Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office has received and reviewed a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. The following comments are to be considered:

1. This office requires at least 1 week notice for the field activities to be conducted on a Saturday.
2. An Underground Tank Removal Plan must be submitted to this office prior to tank removal. A copy of the plan and instructions is attached.
3. The workplan for a soil and ground-water investigation is acceptable.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Enclosures

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

November 14, 1993
STID 498

Alvin H. Bacharach and Barbara J. Borsuk
383 Diablo Rd., Suite 100
Danville, CA 94526

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office has received and reviewed a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. The following comments are to be considered:

1. This office requires at least 1 week notice for the field activities to be conducted on a Saturday.
2. An Underground Tank Removal Plan must be submitted to this office prior to tank removal. A copy of the plan and instructions is attached.
3. The workplan for a soil and ground-water investigation is acceptable.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Richard Hiett, RWQCB
Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
Enclosures

MARK BORSUK
ATTORNEY AT LAW

93 OCT 18 PM 3:54

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FEDX

October 15, 1993

Ms. Blessy Torres
Staff Service Analyst
UST CLEANUP FUND
State Water Resource Control Board
2014 T Street
Sacramento, CA 94244-2120
(916) 227-4535
FAX 227-4530

SUBJECT: Claim 2219
Bacharach & Borsuk
1432 Harrison Street, Oakland, CA 94612

Dear Blessy:

Enclosed is the technical report requested by Mr. Ritchie, Executive Officer, S.F. Bay RWQCB on September 22, 1993, as a condition precedent to "compliance" for purposes of obtaining a letter of commitment from the UST FUND. Mr. Ritchie specifically noted the claimant was in all other respects in compliance for purposes of the UST FUND.* Please contact Mr. Edgar Howell, Project Director for the LOP at the Alameda County Health Care Services Agency (ACHCSA) for "sign off." His phone number is (510) 271-4320. If you are unable to obtain "sign off" from the LOP within five (5) days after receipt of this letter, please contact me immediately, so I may notify Mr. Ritchie, Ms. Casias, Mr. McDonald and the Board.

If you have additional questions, please contact me.

Sincerely yours,



Mark Borsuk

*In May, I sent you the claimant's site history. The report details the claimant's continued compliance with the demands of the Alameda District Attorney's Office and the ACHCSA. Thus, from the beginning of this matter, the claimant has been at all times in compliance with government directives.

Attachment
-Ritchie letter.

-Technical report.

cc:

Alvin H. Bacharach
Barbara Jean Borsuk
Mr. John Caffrey, Chairman, SWRCB
Mr. Marc Del Piero, Member, SWRCB
Mr. Steven Ritchie, Executive Officer, S.F. Bay RWQCB
Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB
Mr. Mike McDonald, Division of Clean Waters, UST Section
Ms. Lori Casias, Division of Clean Waters, Local Oversight Program
Mr. Dave Deaner, UST FUND
Mr. Ron Markle, UST FUND
Mr. Steve Parada, UST FUND
Mr. Edgar B. Howell, III, Chief, Hazardous Material Div., ACHCSA

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

October 11, 1993

Mr. Steven Ritchie
Executive Officer
San Francisco Bay Regional Water Quality Control Board
Suite 500
2101 Webster Street
Oakland, CA 94612
(510) 286-1255
FAX: 286-1380

SUBJECT: 1432 Harrison Street, Oakland, CA 94612
LOP Site #498
File #01-0739 & 2189.17

Dear Mr. Ritchie:

I wish to thank you on behalf of my clients, Mr. Alvin H. Bacharach and Ms. Barbara Jean Borsuk, for taking the time to understand their situation and for mitigating the inequitable and unreasonable treatment they have received since 1990 from the Alameda County District Attorney's office. The D.A. refused from 1990 to 1993 to name Douglas Motor Services, a sixteen year tenant (1972 to 1988), as a responsible party for the contamination of the property despite a State Water Board order. The Water Board's order (QW 91-07) required the County to name Douglas if there was substantial evidence to support doing so, and there clearly was. The Regional Board's involvement with the site guarantees the property owners will receive fair and equitable treatment. Already, Mr. Hiatt's understanding and insights reassure them the site is no longer being demonized or singled out for unusual treatment. They are further encouraged that Mr. Peacock of the Alameda County Health Care Services Agency (ACHCSA) is participating in the case. The property owners can now continue with the cleanup.

While Mr. Bacharach and Ms. Borsuk's treatment by the D.A. was an extreme example of unfairness, their story is in many ways emblematic of other real property owners who come to find their properties contaminated by petroleum products. In many instances, landlords do nothing more than lease their property to tenants who operate gas stations, parking garages and repair facilities. State and local laws require placing all petroleum tanks underground. However, after obeying the law and utilizing the best available technology, property owners find themselves subjected to enormous financial burdens and too often treated like criminals for having leaking underground storage tanks.

This is the tragic flaw in the underground storage tank (UST) laws: no feedback mechanism exists to alert the legislature and regulators to the unintended financial

*LOP contract mailed 10/21 or 22
Mark Borsuk - speak to special
at BOS when on agenda
Lori Casse SNB will send letter
to Pres. of BOS re Dave Rano & yourself*

93 OCT 14 PM 12:26

+ will come to BOS 415 922-4740 if needs

consequences of environmental laws on small businesses. For real property owners these laws are an emotional and financial catastrophe. Real property owners have become a despised class, treated as if criminals and shunned by the lending and development community for owning contaminated property. Further, after being treated like criminals and suffering a sharp decline in the value of their property, they must pay a disproportionate share of the cleanup cost. This imposes a microeconomic penalty on a macroeconomic problem.

Leaking USTs are a societal problem. The economic, political and social survival of California is dependent on petroleum powered vehicles. It is a faulty assumption to hold that an individual is responsible for hydrocarbon contamination in a society totally dependent on the automobile. In too many instances, regulators consider property owners as "bad" people or, even worse, as criminals for having leaking USTs. The Water Board estimates more than 20,000 underground petroleum storage tanks are leaking in California. Can all these property owners be criminals?

When a property owner discovers a leaking UST, the owner must comply with expensive regulations governing site characterization and remediation. For many property owners in Alameda County this shock is bad enough. However, in the case of Mr. Bacharach and Ms. Borsuk, the financial and emotional consequences were made far worse by the one-sided and punitive approach taken by the D.A., with no justification. The Board may be surprised to learn that the D.A. in this case:

- Treated the property owners like criminals;
- Took sides in civil litigation between the landlord and tenants;
- Insisted on using specious analytical data to make the property owners spend tens of thousand of dollars in unnecessary reports and testing;
- Arbitrarily took sides on responsible party status by refusing to follow Water Board's orders, precedents and regulations;
- Improperly enlisted the Alameda County Health Care Services Agency in harassment against the property owners;
- Selectively investigated the property owners' site but failed to apply a consistent standard to other sites where overwhelming evidence existed of systematic and ongoing violations;
- Convened a "Pre-Enforcement Hearing Panel" acting as the Regional Board's attorney that lacked due process safeguards;
- Berated the property owners for appealing to the State Board the D.A.'s decision not to name Douglas Motor Services as a responsible party;
- Castigated the property owners for retaining legal counsel to appeal the D.A.'s determination of responsible party status and to review the scope of work demand by the County; and
- Refused to allow the property owners access to the UST FUND as a means "leverage" over the property owners.

Not only are the D.A.'s actions in this case inexplicable, but within the government itself agencies are interfering with each other to the detriment of sound environment policy. An example of this dysfunction is the Alameda County D.A.'s attempt to block a UST FUND claimant's acceptance into the UST FUND as a means of obtaining "leverage" over the claimant. The D.A.'s action is at cross-purposes with the Water Board's policy of fostering cleanups. Such arbitrary actions on the part of local agencies like the Alameda County D.A. requires investigation and reform to comport with the Water Board's strategy for leaking USTs.

The Environmental Resource Council and other property owners including my clients call upon the Regional Board to make the following issues as an agenda item for the November 1993 meeting. We ask the Board to:

- Review the arbitrary actions of the Alameda County District Attorney's office in the conduct of UST investigations and its selective investigation of sites in Oakland;
- Review the legal basis for the D.A.'s the authority to convene and conduct the "Pre-Enforcement Hearing Panel";
- Establish due process rules for conducting the "Pre-Enforcement Hearing Panel", if the procedure is deemed desirable;
- Establish Regional Board guidelines and oversight for any D.A. initiated petroleum UST investigations and enforcement;
- Establish a priority system for oversight and enforcement of UST investigations and remediations.

Further, we ask the Board to recommend postponement to the State Board in ratification of the 1993/1994 Alameda County Local Oversight Program (LOP) until the Regional Board considers the following:

- Reform the LOP appeal process. The initial appeal from local agency decisions should be to the Regional Board instead of the State Board;
- Review the necessity of the D.A.'s annual appropriation of \$50,000 from the LOP. This money can likely be better spent by assisting property owners with cleanup; and
- Authorize an independent audit of the D.A.'s billings to the LOP. The scope of the audit should include amounts expended in the Bacharach/Borsuk matter and whether the D.A.'s time is being billed to the LOP at reasonable rates.

Extremism in the name environmental protection is not a virtue. Rather it is a vice causing financial harm to small businesses and private citizens without advancing environmental goals. Pursuit of environmental protection by spreading the social and financial costs to the greater society for its pollution is a fair and sensible solution. Now is the time for the Board to reassess these negative impacts on property owners of having to bear the brunt of environmental polices that treat them as criminals and destroy property values. Instead, the Board should direct UST efforts to assisting owners with cleanup, removing the

"contamination" stigma from their properties and in treating them as clients requiring good advice and assistance.

The above issues deserve the Board's attention. If you require additional information on the issues raised, please contact me.

Thank you for your assistance and cooperation.

Sincerely yours,



Mark Borsuk

cc: Mr. James Strock, Sec. for Env. Protection
Mr. Michael Kahoe, Assist. Sec. for Env. Protection
Mr. John Caffrey, Chairman, SWRCB
Mr. Marc Del Piero, Member, SWRCB
Mr. William Attwater, Chief Counsel, SWRCB
Ms. Pamela Lloyd, Chair & Members, S.F. Bay RWQCB
Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB
Mr. Mike McDonald, Division of Clean Waters, UST Section
Ms. Lori Casias, Division of Clean Waters, Local Oversight Program
Mr. Dave Deaner, UST FUND
Mr. Ron Markle, UST FUND
Mr. John Meehan, Alameda County District Attorney
Mr. Gilbert Jensen, Deputy District Attorney, Alameda County
Mr. Edgar Howell, III, Hazardous Materials Division, ACHCSA
Mr. Ron Brust, P.E., Environmental Resource Council
Mr. Hans W. Herb, Esq.
Mr. William A. Hand, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk

**MARK BORSUK
ATTORNEY AT LAW**

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

October 11, 1993

Mr. Steven Ritchie
Executive Officer
San Francisco Bay Regional Water Quality Control Board
Suite 500
2101 Webster Street
Oakland, CA 94612
(510) 286-1255
FAX 286-1380

RECEIVED
OCT 15 1993

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPD

**SUBJECT: 1432 Harrison Street, Oakland, CA 94612
LOP Site #498
File #01-0739 & 2189.17**

Dear Mr. Ritchie:

I wish to thank you on behalf of my clients, Mr. Alvin H. Bacharach and Ms. Barbara Jean Borsuk, for taking the time to understand their situation and for mitigating the inequitable and unreasonable treatment they have received since 1990 from the Alameda County District Attorney's office. The D.A. refused from 1990 to 1993 to name Douglas Motor Services, a sixteen year tenant (1972 to 1988), as a responsible party for the contamination of the property despite a State Water Board order. The Water Board's order (QW 91-07) required the County to name Douglas if there was substantial evidence to support doing so, and there clearly was. The Regional Board's involvement with the site guarantees the property owners will receive fair and equitable treatment. Already, Mr. Hiatt's understanding and insights reassure them the site is no longer being demonized or singled out for unusual treatment. They are further encouraged that Mr. Peacock of the Alameda County Health Care Services Agency (ACHCSA) is participating in the case. The property owners can now continue with the cleanup.

While Mr. Bacharach and Ms. Borsuk's treatment by the D.A. was an extreme example of unfairness, their story is in many ways emblematic of other real property owners who come to find their properties contaminated by petroleum products. In many instances, landlords do nothing more than lease their property to tenants who operate gas stations, parking garages and repair facilities. State and local laws require placing all petroleum tanks underground. However, after obeying the law and utilizing the best available technology, property owners find themselves subjected to enormous financial burdens and too often treated like criminals for having leaking underground storage tanks.

This is the tragic flaw in the underground storage tank (UST) laws: no feedback mechanism exists to alert the legislature and regulators to the unintended financial

consequences of environmental laws on small businesses. For real property owners these laws are an emotional and financial catastrophe. Real property owners have become a despised class, treated as if criminals and shunned by the lending and development community for owning contaminated property. Further, after being treated like criminals and suffering a sharp decline in the value of their property, they must pay a disproportionate share of the cleanup cost. This imposes a microeconomic penalty on a macroeconomic problem.

Leaking USTs are a societal problem. The economic, political and social survival of California is dependent on petroleum powered vehicles. It is a faulty assumption to hold that an individual is responsible for hydrocarbon contamination in a society totally dependent on the automobile. In too many instances, regulators consider property owners as "bad" people or, even worse, as criminals for having leaking USTs. The Water Board estimates more than 20,000 underground petroleum storage tanks are leaking in California. Can all these property owners be criminals?

When a property owner discovers a leaking UST, the owner must comply with expensive regulations governing site characterization and remediation. For many property owners in Alameda County this shock is bad enough. However, in the case of Mr. Bacharach and Ms. Borsuk, the financial and emotional consequences were made far worse by the one-sided and punitive approach taken by the D.A., with no justification. The Board may be surprised to learn that the D.A. in this case:

- Treated the property owners like criminals;
- Took sides in civil litigation between the landlord and tenants;
- Insisted on using specious analytical data to make the property owners spend tens of thousand of dollars in unnecessary reports and testing;
- Arbitrarily took sides on responsible party status by refusing to follow Water Board's orders, precedents and regulations;
- Improperly enlisted the Alameda County Health Care Services Agency in harassment against the property owners;
- Selectively investigated the property owners' site but failed to apply a consistent standard to other sites where overwhelming evidence existed of systematic and ongoing violations;
- Convened a "Pre-Enforcement Hearing Panel" acting as the Regional Board's attorney that lacked due process safeguards;
- Berated the property owners for appealing to the State Board the D.A.'s decision not to name Douglas Motor Services as a responsible party;
- Castigated the property owners for retaining legal counsel to appeal the D.A.'s determination of responsible party status and to review the scope of work demand by the County; and
- Refused to allow the property owners access to the UST FUND as a means "leverage" over the property owners.

Not only are the D.A.'s actions in this case inexplicable, but within the government itself agencies are interfering with each other to the detriment of sound environment policy. An example of this dysfunction is the Alameda County D.A.'s attempt to block a UST FUND claimant's acceptance into the UST FUND as a means of obtaining "leverage" over the claimant. The D.A.'s action is at cross-purposes with the Water Board's policy of fostering cleanups. Such arbitrary actions on the part of local agencies like the Alameda County D.A. requires investigation and reform to comport with the Water Board's strategy for leaking USTs.

The Environmental Resource Council and other property owners including my clients call upon the Regional Board to make the following issues as an agenda item for the November 1993 meeting. We ask the Board to:

- Review the arbitrary actions of the Alameda County District Attorney's office in the conduct of UST investigations and its selective investigation of sites in Oakland;
- Review the legal basis for the D.A.'s the authority to convene and conduct the "Pre-Enforcement Hearing Panel";
- Establish due process rules for conducting the "Pre-Enforcement Hearing Panel", if the procedure is deemed desirable;
- Establish Regional Board guidelines and oversight for any D.A. initiated petroleum UST investigations and enforcement;
- Establish a priority system for oversight and enforcement of UST investigations and remediations.

Further, we ask the Board to recommend postponement to the State Board in ratification of the 1993/1994 Alameda County Local Oversight Program (LOP) until the Regional Board considers the following:

- Reform the LOP appeal process. The initial appeal from local agency decisions should be to the Regional Board instead of the State Board;
- Review the necessity of the D.A.'s annual appropriation of \$50,000 from the LOP. This money can likely be better spent by assisting property owners with cleanup; and
- Authorize an independent audit of the D.A.'s billings to the LOP. The scope of the audit should include amounts expended in the Bacharach/Borsuk matter and whether the D.A.'s time is being billed to the LOP at reasonable rates.

Extremism in the name environmental protection is not a virtue. Rather it is a vice causing financial harm to small businesses and private citizens without advancing environmental goals. Pursuit of environmental protection by spreading the social and financial costs to the greater society for its pollution is a fair and sensible solution. Now is the time for the Board to reassess these negative impacts on property owners of having to bear the brunt of environmental polices that treat them as criminals and destroy property values. Instead, the Board should direct UST efforts to assisting owners with cleanup, removing the

"contamination" stigma from their properties and in treating them as clients requiring good advice and assistance.

The above issues deserve the Board's attention. If you require additional information on the issues raised, please contact me.

Thank you for your assistance and cooperation.

Sincerely yours,



Mark Borsuk

cc: Mr. James Strock, Sec. for Env. Protection
Mr. Michael Kahoe, Assist. Sec. for Env. Protection
Mr. John Caffrey, Chairman, SWRCB
Mr. Marc Del Piero, Member, SWRCB
Mr. William Attwater, Chief Counsel, SWRCB
Ms. Pamela Lloyd, Chair & Members, S.F. Bay RWQCB
Mr. Larry Kolb, Assistant Exec. Officer, S.F. Bay RWQCB
Mr. Mike McDonald, Division of Clean Waters, UST Section
Ms. Lori Casias, Division of Clean Waters, Local Oversight Program
Mr. Dave Deaner, UST FUND
Mr. Ron Markle, UST FUND
Mr. John Meehan, Alameda County District Attorney
Mr. Gilbert Jensen, Deputy District Attorney, Alameda County
Mr. Edgar Howell, III, Hazardous Materials Division, ACHCSA
Mr. Ron Brust, P.E., Environmental Resource Council
Mr. Hans W. Herb, Esq.
Mr. William A. Hand, Esq.
Mr. Alvin H. Bacharach
Ms. Barbara Jean Borsuk

MARK BORSUK
ATTORNEY AT LAW

RECEIVED

OCT 8 1993

FAX 922-1485

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPD
(415) 922-4740

PRESENTATION BEFORE THE
SAN FRANCISCO BAY AREA REGIONAL WATER QUALITY CONTROL BOARD
SEPTEMBER 15, 1993

I. INTRODUCTION

I am Mark Borsuk, attorney at law, speaking on behalf of my clients, the property owners of the Harrison Garage at 14th & Harrison Streets in Oakland, who wish to know:

What the Board's policy is for involvement of the Alameda County District Attorney's Office in UST cases; and

When is a responsible party in compliance for UST FUND purposes with local agency directives?

They wish to know how their situation differs from the thousands of other property owners and operators with leaking tanks?

What makes their situation different from another site two blocks away owned by the admitted polluter of the Harrison Garage, a tenant from 1972 to 1988?

They also wish to know what Board policies protect a responsible party from arbitrary actions by the D.A.?

Finally, they wish to know why the D.A. is holding up their acceptance into the UST FUND?

II. QUESTIONS PRESENTED FOR THE BOARD'S CONSIDERATION.

The owners of the Harrison Garage wish to know the Board's answer to four questions:

A. ON WHAT BASIS DOES THE DISTRICT ATTORNEY BECOME INVOLVED IN THE SITE AFTER THE COUNTY ACCEPTS A TIMELY CLOSURE PLAN?

B. ON WHAT BASIS DOES THE D.A. DETERMINE WHO IS A RESPONSIBLE PARTY?

C. ON WHAT BASIS DOES THE D.A.'S OFFICE DECIDE TO INVESTIGATE PETROLEUM CONTAMINATED SITES?

D. UNDER WHAT AUTHORITY CAN THE D.A. PREVENT AN OTHERWISE QUALIFIED PROPERTY OWNER FROM ACCESSING THE UST FUND FOR CLEANUP MONIES?

III. SPECIFIC QUESTIONS.

I wish the Board to consider how each of the above policy questions relates to my clients' situation. The attached chronology demonstrates the prejudice and harm the property owners have suffered by the D.A.'s actions

Specifically, the owners wish to know:

A. WHY DID THE DISTRICT ATTORNEY BECOME INVOLVED IN THE SITE AFTER THE COUNTY HAD ACCEPTED A TIMELY CLOSURE PLAN IN SEPTEMBER, 1990?

This question is especially pertinent due to the ease and lack of problems Chevron had in dealing with their site at 14th & Harrison, only 100 feet away from the Harrison Garage. The Chevron site had several feet of free product in the groundwater.

Further, why did the D.A. choose to not to name as a responsible party, the tenant who admitted under oath that he allowed a tank to leak?

1. We believe the D.A.'s office took sides, after discovery of the contamination, in civil litigation between the property owners and the then current (Davis) and former tenants (Douglas Motor Service).
2. We believe the extent of the property's suspected contamination was exaggerated by the D.A.'s office to exert the maximum pressure on the property owners for reasons totally unrelated to the cleanup of the Harrison Garage.

The D.A. sought to accomplish this by having the Alameda County Health Care Services Agency ("ACHCSA") undertake a hyper-technical/critical review of the tank removal procedures and site characterization.

This unnecessary and excessive oversight has resulted in consultant costs of \$230,000 without the tanks coming out of the ground

- a. The D.A.'s unjustified involvement consisted of:
 1. Treating the property like a SUPERFUND site

necessitating an elaborate H&S plan for the basement tank removal and for the protection of the surrounding high density office buildings. (P. Smith letter, 10/29/91, p. 5)

>There are no high density office buildings near the property.

More importantly, Chevron was allowed to stockpile contaminated soil at 14th & Harrison St. across the street from the Hotel Oakland without a health and safety problem.

LOP/Regional Board staff no longer requires these extreme precautions. (Telephone memo by J. Sturman, Levine-Fricke with Tom Peacock, Supervision Hazardous Material Specialist, 9/10/93)

2. The County advised the property owners to change their consultant. The consultant, SCS Engineers, had argued science didn't necessitate these extreme health & safety actions. (SCS letter 9/24/91; P. Smith letter, 10/29/91, p.1, 5-6)

>LOP also believes this is a relatively straight forward tank pull and any fumes released will dissipate before reaching the surrounding properties. (Telephone memo by J. Sturman, Levine-Fricke with Tom Peacock, Supervision Hazardous Material Specialist, 9/10/93)

3. The "Benzene Incident" in July, 1991 is characteristic of the County's palpable bias.

The tenant, Davis, had conducted soil sampling and sent the results to the County in August and October, 1990.

Almost a year later, the tenant sent a lab report from October, 1990, alleging benzene concentrations in the gasoline tanks of 13% & 14%. The County knows benzene rarely exceeds 2% of gasoline but choose to ignore this fact.

The gasoline tanks already been emptied in October, 1990. (SCS letter to B. Buchman, 11/14/90)

Without bringing this grossly inaccurate report to the attention to the owners, the County preceded to act on the information as if it were true and revised the health and

safety requirements accordingly. (P. Smith letter, 7/12/91, pp. 2-4)

This revision to the health and safety plan greatly increased the cost to pull the tanks.

Only later after the owners resampled the tanks, were the allegations proved groundless.

At no time did the County admit it should have first notified the owners about this flawed data or taken steps to disregard the data as an obvious litigation ploy by the tenant. (Redding letter, 7/1/91; SCS letter, 9/24/91, p. 2).

4. The ACHCSA told the owners that "costs" were not to be a consideration in removing the tanks. (P. Smith letter, 10/29/91, p. 6)

>Ignoring investigation costs is directly contrary to Water Board Resolution 92-49, Section III, pp. 8-10, June 1992.

Previously the ACHCSA had insisted on real time sampling for all substances found in the basement, even if minimal or non-detect. (P. Smith letter, 10/29/91, p.2; SCS letter, 9/24/91)

LOP doesn't believe this is the case. For example, to monitor air quality in the basement during tank removal, the LOP requires only real time monitoring of oxygen & hydrocarbons. (Telephone memo by J. Sturman, Levine-Fricke with Tom Peacock, Supervision Hazardous Material Specialist, 9/10/93)

B. WHY DID THE D.A. REFUSE FOR OVER TWO YEARS TO NAME DOUGLAS AS A RESPONSIBLE PARTY WHEN DOUGLAS ADMITTED ALLOWING A TANK TO LEAK?

1. Douglas was a tenant of the Harrison Garage, selling gasoline from 1972 to 1988.
2. In sworn testimony before the Water Board in June, 1991 and later in deposition testimony provided to the D.A., Douglas admitted it knew one tank leaked and had abandoned another tank at the garage. (State Board Transcript, June 5, 1991, p. 20; Leland

Douglas Deposition, June 24, 1992, Vol. I, p. 118)

3. Further, a former mechanic declared under oath that waste oil was disposed of on-site and the hydraulic lift was used constantly during the time the mechanic was Douglas' subtenant. (Declaration of William A Thompson, III, December 23, 1992)

C. WHY HASN'T THE D.A.'S OFFICE INVESTIGATED THE GASOLINE CONTAMINATION AT THE DOUGLAS PROPERTY ON WEBSTER STREET, TWO BLOCKS FROM THE HARRISON GARAGE?

1. Why hasn't the D.A.'s Office conducted a similar investigation into the Webster Street property when County records disclose:
 - a. Douglas abandoned one UST in 1987.
(Application to Operate UST
1721 Webster Street
Douglas Motor Service
"Abandoned 1/87")
 - b. Douglas never made any attempt to comply with the tank closure requirements of H&S 25298.
(Leland Douglas Deposition, June 24, 1992, Vol. I, p. 118)

>Douglas had earlier abandoned a tank at the Harrison Garage.
(Application to Operate UST
1432 Harrison Street
Douglas Parking
"Abandoned 6/86")
 - c. Douglas never filed gasoline inventory reconciliation reports with the County as required by 23 CCR 2646 (j). This procedure discloses potential UST leakage.

>Douglas also failed to perform the required inventory reconciliation at the Harrison Garage.
 - d. The ACHCSA allowed Douglas to stockpile petroleum contaminated soil next to an apartment house on Webster Street.
(Webster Street. site diagram, 8/92)

>Why was the County so concerned with the

tank pull and fumes at the Harrison Garage, when it ignored gasoline contaminated soil dumped next to an apartment house?

Why didn't the County object to Chevron's stockpile of contaminated soil next to the Hotel Oakland?

- e. Douglas failed to submit an authorized leak report as required by H&S 25295 for over 6 months and no action was taken.
- f. Douglas has failed to follow the County's directive to investigate the soil and groundwater from the August, 1992 tank pull. Douglas has received a "Second Notice" for failing to comply with the County's February, 1993 directive. (ACHCSA letter to Douglas Motor Service, August 17, 1993)

Again no action by the D.A.'s Office-Why?

- g. Douglas has told the County that his firm is a "small business" and can't afford the additional costs to comply with the soil and groundwater monitoring. (Leland Douglas letter to T. Peacock, January 29, 1993)

A public records search discloses Douglas Parking has in excess of 8,000 parking spaces under its control in Alameda, Contra Costa and San Francisco counties. Hardly a small business. (City of Oakland Office Memo to Henry L. Gardner, May 25, 1993)

Again no action by the D.A.'s office-Why?

- h. Why when the LOP data profiles are compared for Douglas' Webster St. property & the Harrison Garage, neither has an enforcement action pending? But why does the D.A. treat the property owners differently? (LOP-Record Change Request Form, 8/17/93; Data Input instructions for "ENFORCEMENT ACTION TYPES, page 8 of 9, Attachment "FOUR" to Exhibit "B" to Water Resources Control Board Standard Agreement No.)

D. WHY IS THE D.A. PREVENTING THE OWNERS FROM ACCESSING THE UST FUND TO ASSIST IN THE CLEANUP?

1. The UST FUND assists property owners in cleanup. How can the Board allow the D.A. to block funding for investigating and remediation of the Harrison Garage?

A. We believe the D.A.'s actions are arbitrary, designed to punish the property owners for acting to protect themselves against the D.A.'s unwarranted decisions and measures. Specifically :

1. The owners challenged the County's initial refusal to release the public files on Douglas' other properties. (Letter to Paul Smith from J. Leo, 3/8/91)
2. The owners successfully appealed the D.A.'s order only naming the property owner as the responsible party in 1991. (In the Matter of Alvin Bacharach and Barbara Borsuk, WQ 91-07, June 20, 1991)
3. The owners have filed a second appeal with the State Board challenging the D.A.'s determination that Douglas was only responsible for the gasoline tanks.
4. The owners objected to the scientific basis and procedures insisted upon by the County for removing the tanks in the Harrison Garage. Subsequent review by the LOP and Regional Board staff concurs with the property owners' contentions.
5. The owners brought the D.A.'s actions to the attention of the UST FUND to show they were in compliance with the UST FUND's regulations. A local agency "Compliance" statement is the last step necessary for acceptance into the UST FUND.

IV. CONCLUSION

Therefore, the property owners request the Board to:

- A. Review the enforcement guidelines for the Alameda County's D.A. involvement in UST cases with specific reference to the Harrison Garage case;
- B. Review the County's guidelines for determining when a UST FUND

claimant is in compliance with a specific finding that the Harrison
Garage owners are in compliance.

In conclusion, the tanks should have been removed three years ago. However, the Alameda County District Attorney's unnecessary involvement in this case without the Board's concurrence delayed them from being removed and cleanup to commence. Instead, three years and hundreds of thousands of dollars have been wasted in trying to satisfy the County regarding completely unnecessary and scientifically irrelevant matters. It is important for the Board to know how property owners are prejudiced by arbitrary agency actions, especially when a local D.A. is influenced by one party to a civil suit. Treating property owners like criminals and forcing them into poverty and ill health are not the answers for solving the pervasive problem of leaking underground storage tanks.
THANK YOU.

++++

SWRCB / ERC MEETING 8/26/93

NAME	REPRESENTING	TELEPHONE NUMBER
David Rice	LLNL	(510) 423-5069
J.J. Krug	Sonoma Co. Env. Hlth.	(707) 525-6522
Cardyn Studeny	ICF KAISER ENGINEERS	(510) 419-5440
LYNNE PRESLO	ICF KAISER ENGINEERS	510.419.6532
VOYV MERCHANT	NAPA TANK OWNERS	707-912 9913
DARRELL NATIONS	NATIONS GROUNDWATER ASSOCIATE	916 -36 1-8095
TERRY BRADZELL	SWRCB	916-227-4404
Ralph Hunter	NAPA County Env. Mgmt	707-253-4269
David Iskaly	BET	909-460-5510
TIRK VEALE	VEALE INVESTMENT ERC	707 575-3752
Hans W. Herb	Attorney	800 767 9562
MARK BOZSUK	Attorneys	415-922-4740
Barbara Bozduk	underground owner	(510) 530 9140
G.H. BOGGS	Central Valley Regional WOCB	(916) 255-3139
Michael LAFAVE	Allwest Environmental	415-391-2510
Jon Marshack	Central Valley Regional Water Bd.	916/255-3123
Ed Wosika	SWRCB	916/227-4389
Kuis Rivera	CRWQCB - North Coast	707-576-2220
Jane Dewar	SWRCB - <small>Underground Storage Tank Cleanup Fund</small>	916-227-4360
Jeff Lewin	County of Sonoma Public Health	(707) 525-6560
Dore Zedrick	ERC	(707) 528-3677
William P. Hand	Attorney	707 996 3647
Margot Rued *	ERC	(707) 542-4049
Tanner McCracken	attor for K. Veale / ERC	(707) 575-3752
David Hauer	ERC	(707) 829-1025
John A. KINZELL	CHEVRON RESEARCH & TECH	510. 242. 7010
Pat Hughes	Chevron Research & Technology	(510) 242-5952
Stephen Havlicek	CCAS Labs	805-389 1453
MIKE Mc DONALD	SWRCB	(916) 227-4322
RL HOETZER	HUTS/OEHHA/CA-SPA	916 324 2829
David Siegel	OEHHA	916 322-5624
JOHN CAFFEY	SWRCB	(916) 6572399
Jim Stubehaer	"	"

* If possible,
 may I have a copy
 of this list for our minutes?
 - M. Rued, ERC also

Stephen Havlicek, CCAS

DATE _____
 PAGE 1 OF 2

NAME	REPRESENTING	TELEPHONE NUMBER
Ron Brust	ERC	(707) 795-2411
Dennis Miskiek	RWQCB # 2	(510) 286-0618
Lester Feldman	"	"

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION
2101 WEBSTER STREET, SUITE 500
OAKLAND, CA 94612
(510) 286-1255

93 SEP 28 PM 3:12



A. Bacharach & B. Borsuk
1432 Harrison Street
Oakland, CA 94612

September 22, 1993
File: 01-0739 & 2198.17

Leland Douglas
Douglas Parking Co.
1721 Webster Street
Oakland, CA 94612

RE: Legal Designation of Responsible Party and Request for Submittal of a Technical Report Resulting from the Alameda County Department of Environmental Health's Pre-Enforcement Review Panel Meeting on August 31, 1993

Dear Sirs :

It has been brought to my attention by Regional Board staff that a condition of soil and groundwater pollution exists on the property located at 1432 Harrison Street, Oakland, as a result of underground storage tank releases. The Alameda County Department of Environmental Health (ACHD) staff have requested technical reports from you to fulfill your obligations per California Code of Regulations, Title 23 Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements. It is my understanding that the tanks and hydraulic lifts remain in the ground and need to be removed. I understand that they are scheduled to be removed by December 1, 1993.

A Pre-Enforcement Review Panel was held at the ACHD offices on August 31, 1993, attended by Mr. Richard Hiatt of my staff. Pursuant to the Regional Board's authority under Section 13267 (b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the underground storage tank immediately before the discontinuation of its use." A responsible party also includes any owner of property from which an unauthorized release of a hazardous substance from an underground storage tank has occurred.

As a responsible party, you are required to conduct both soil and groundwater investigations to determine the extent of the environmental pollution resulting from the release. Therefore you are requested to submit technical reports within 45 days of the date of this letter specifically addressing the following numbered items:

Enforcement Panel Meeting
Page 2 of 2

- 1) The removal of underground storage tanks, hydraulic lifts, and associated piping from the site.
- 2) A work plan to define the lateral and vertical extent of pollution in soil and groundwater.

All work should adhere to the requirements of the Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - August 10, 1990 and Article 11 of Title 23, Waters, California Code of Regulations.

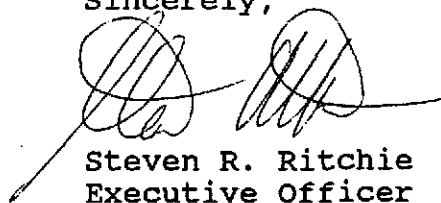
For purposes of the Underground Storage Tank Cleanup Fund it is my understanding that the claimant is in compliance subject to the implementation of the aforementioned items.

I am hereby transmitting this request for a technical report to ACHD for service and continued case handling. You should be aware that failure on your part to submit the requested technical report, or late submittal may result in fines up to \$1000 per day of delinquency. Your response to this technical report request should be sent to the attention of Mr. Tom Peacock at ACHD. Please inform Mr. Peacock at least three working days in advance of all field activities.

Please be advised that this is a formal request for a technical reports pursuant to California Water Code Section 13267 (b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the ACHD.

If you have any questions regarding the contents of this letter, Please contact Mr. Peacock, of ACHD, at (510) 271-4530.

Sincerely,



Steven R. Ritchie
Executive Officer

cc: Gil Jensen, ACDA, 7677 Oakport Street, Suite 400, Oakland
94621
~~Tom Peacock, ACHD,~~ 80 Swan Way, Suite 200, Oakland 94621

LAW OFFICES

RANDICK & O'DEA

1800 HARRISON, SUITE 2350

OAKLAND, CALIFORNIA 94612

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

93 SEP 10 PM 12:43

TELEPHONE
(510) 836-3555

TELECOPIER
(510) 834-4748

September 8, 1993

VIA FACSIMILE TRANSMISSION

Gilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer & Environmental
Protection Division
7677 Oakport Street, Suite 400
Oakland, CA 94621

Re: Harrison St. Garage

Dear Mr. Jensen:

We have just received (9/07/93) Mr. Morrison's September 2, 1993 letter, which was facsimiled to the entire panel, but sent by regular mail to our office.

Most importantly, we must note that the Bacharach/Borsuk parties are already backing off of their October 24, 1993 "target date" for tank removal. Now they only promise "a schedule" and 12 weeks is the end of November.

Secondarily, we request that the letter simply be rejected out of hand. The property owners continue to refuse to accept that they have had more than their fair share of opportunities to be heard. It is just such approach which while delaying work has increased exponentially the "costs" to everyone at this site. We trust that such tactics will not alter the agenda before the panel.

September 8, 1993
Page 2

If not, please advise.

Sincerely,

RANDICK & O'DEA



William J. Trinkle
Attorneys for Douglas Motors
Service

WJT:co'b

cc: Via Facsimile
Mr. Richard Hiett
Mr. Lester Feldman
Mr. Edward Howell
Mr. Thomas Peacock
Randall D. Morrison, Esq.

LAW OFFICES

RANDICK & O'DEA
1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

TELEPHONE
(510) 836-3555

TELECOPIER
(510) 834-4748

93 SEP 10 PM 12:45

September 8, 1993

VIA FACSIMILE TRANSMISSION

Gilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer & Environmental
Protection Division
7677 Oakport Street, Suite 400
Oakland, CA 94621

Re: Harrison St. Garage

Dear Mr. Jensen:

We have just received (9/07/93) Mr. Morrison's September 2, 1993 letter, which was facsimiled to the entire panel, but sent by regular mail to our office.

Most importantly, we must note that the Bacharach/Borsuk parties are already backing off of their October 24, 1993 "target date" for tank removal. Now they only promise "a schedule" and 12 weeks is the end of November.

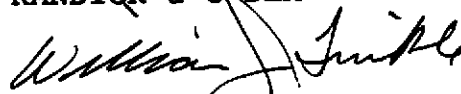
Secondarily, we request that the letter simply be rejected out of hand. The property owners continue to refuse to accept that they have had more than their fair share of opportunities to be heard. It is just such approach which while delaying work has increased exponentially the "costs" to everyone at this site. We trust that such tactics will not alter the agenda before the panel.

September 8, 1993
Page 2

If not, please advise.

Sincerely,

RANDICK & O'DEA



William J. Trinkle
Attorneys for Douglas Motors
Service

WJT:co'b

cc: Via Facsimile
Mr. Richard Hiett
Mr. Lester Feldman
Mr. Edward Howell
Mr. Thomas Peacock
Randall D. Morrison, Esq.

ALAMEDA COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

HAZARDOUS MATERIALS DIVISION

M E M O R A N D U M

DATE: September 8, 1993

TO: Mike McDonald, Mgr. UNDERGROUND STORAGE TANK PROGRAM

FROM: *EPA* (916) 227-4349
Edgar Howell, Chief, HazMat Division

SUBJECT: REQUEST OF DRAFT LETTER TO BORSUK & BACHARACH

The draft letter attached is to be sent to the named parties after a hearing at our office attended by RWQCB representative, Alameda County D.A. and our office on Aug. 31, 1993. As I stated on the phone the tanks have not been pulled to date.

We informed Mr. Borsuk that we could neither notify SWRCB that he is either in compliance or out of compliance as the tanks have not been removed. This letter identifies the needs for the applicants to be in compliance, once this has been accomplished we will send a letter to 2004 group so that their application can continue.

Thank you for your interest in this project and we hope that once they hear from you they will be able to proceed with the removal and remediation of their site. If you have any questions or comments please call me at (510) 271-4320.

A. Bacharach Trust &
B. Borsuk
1432 Harrison St.
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

RE: **Legal Designation of Responsible Party and Request for Submittal of a Technical Report Resulting from the Alameda County Department of Environmental Health's Enforcement Panel Meeting of August 31, 1993.**

Dear Sirs:

It has been brought to my attention by Regional Board staff that a condition of soil pollution exists on your property from an underground storage tank release. The Alameda County Department of Environmental Health (ACHD) staff have requested technical reports from you to fulfill your obligations per California Code of Regulations, Title 23, Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements. It is my understanding that ACHD staff were unsuccessful in eliciting your co-operation in resolving these issues through normal correspondence.

A Pre-Enforcement Review Panel was held at the ACHD Offices on **August 31, 1993**, attended by **Rich Hiett**, of my staff. Pursuant to the Regional Board's authority under Section 13267(b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the underground storage tank immediately before the discontinuation of its use." A responsible party also includes any owner of property from which an unauthorized release of a hazardous substance from an underground storage tank has occurred.

As a Responsible Party, you are required to conduct both soil and ground water investigations to determine the extent of environmental contamination resulting from the release. You are therefore directed to submit a technical report to address soil and ground water pollution at this site by **October 15, 1993**. This

Enforcement Panel Meeting
Page 2 of 2
STID 498

technical report should specifically address the following numbered items:

- 1) A proposal for the removal of the petroleum underground storage tanks and associated piping from the site. This should be submitted on ACHD forms and include a site safety plan;
- 2) A proposal to define the lateral and vertical extent of pollution in soil and ground water;
- 3) A plan for submission of quarterly monitoring reports on a regular and timely basis.

All proposed work should adhere to the requirements articulated in The Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - 8/10/90 and Article 11 of Title 23, Waters, California Code of Regulations.


I am hereby transmitting this request for a technical report to ACHD for service and continued case handling. You should be aware that failure on your part to submit the requested technical report, or a submittal received after the date specified in this request may result in fines up to \$1,000 per day of delinquency. Please inform their office at least three working days in advance of all field activities.

Please be advised that this is a formal request for technical reports pursuant to California Water Code Section 13267(b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the Alameda County Department of Environmental Health, Hazardous Materials Division.

If you have any questions regarding the contents of this letter, please contact Thomas Peacock, of ACHD, at (510) 271-4530.

Sincerely,

Steven R. Ritchie
Executive Officer

cc: Gil Jensen, Alameda County District Attorney's Office,
Consumer & Environmental Protection Division.
 Thomas Peacock, Supervising Haz Mat Specialist, ACHD.

LAW OFFICES

RANDICK & O'DEA

1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD P. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

TELEPHONE
(510) 836-8858

TELECOPIER
(510) 834-4746

FACSIMILE COVER PAGE

DATE: September 8, 1993

TO: Thomas Peacock

FAX NO: 569-4757

FROM: William J. Trinkle

RE: Harrison St. Garage

OUR FILE #: 2978.1

Number of pages (including this cover page): 3 pages

For voice contact, call: (510) 836-3555

For return facsimile: (510) 834-4748

Remarks:

Confirmed receipt: Christine

Original will not or will follow by:
 Regular mail
 Certified Mail, Return Receipt Requested
 Express Mail/UPS
 Hand Delivery
 Other: _____

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED, AND CONTAINS INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT YOU ARE HEREBY NOTIFIED THAT ANY UNAUTHORIZED DISCLOSURE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE POSTAL SERVICE. THANK YOU.

LAW OFFICES

RANDICK & O'DEA1500 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLETELEPHONE
(510) 834-3855
TELECOMER
(510) 834-0748

September 8, 1993

VIA FACSIMILE TRANSMISSIONGilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer & Environmental
Protection Division
7677 Oakport Street, Suite 400
Oakland, CA 94621Re: Harrison St. Garage

Dear Mr. Jensen:

We have just received (9/07/93) Mr. Morrison's September 2, 1993 letter, which was facsimiled to the entire panel, but sent by regular mail to our office.

Most importantly, we must note that the Bacharach/Borsuk parties are already backing off of their October 24, 1993 "target date" for tank removal. Now they only promise "a schedule" and 12 weeks is the end of November.

Secondarily, we request that the letter simply be rejected out of hand. The property owners continue to refuse to accept that they have had more than their fair share of opportunities to be heard. It is just such approach which while delaying work has increased exponentially the "costs" to everyone at this site. We trust that such tactics will not alter the agenda before the panel.

September 8, 1993
Page 2

If not, please advise.

Sincerely,

RANDICK & O'DEA



William J. Trinkle
Attorneys for Douglas Motors
Service

WJT:co'b

cc: Via Facsimile
Mr. Richard Hiett
Mr. Lester Feldman
Mr. Edward Howell
Mr. Thomas Peacock
Randall D. Morrison, Esq.

LAW OFFICES

RANDICK & O'DEA

1800 HARRISON, SUITE 2380
OAKLAND, CALIFORNIA 94612

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. YEEL
BERNARD P. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLE

TELEPHONE
(510) 839-3888

TELECOPIER
(510) 834-4748

FACSIMILE COVER PAGE

DATE: September 8, 1993
TO: Edward Howell
FAX NO: 569-4757
FROM: William J. Trinkle
RE: Harrison St. Garage
OUR FILE #: 2978.1

E.B.T.
give to
for file
sed

Number of pages (including this cover page): 3 pages

For voice contact, call: (510) 836-3555

For return facsimile: (510) 834-4748

Remarks:

93 SEP -8 PM 21 33

Confirmed receipt: Christine

Original will not or will follow by:
 Regular mail
 Certified Mail, Return Receipt Requested
 Express Mail/UPS
 Hand Delivery
 Other: _____

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED, AND CONTAINS INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT YOU ARE HEREBY NOTIFIED THAT ANY UNAUTHORIZED DISCLOSURE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE POSTAL SERVICE. THANK YOU.

LAW OFFICES

RANDICK & O'DEA1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
JULIE M. ROSE
WILLIAM J. TRINKLETELEPHONE
(510) 830-3555
TELECOPIER
(510) 834-4749

September 8, 1993

VIA FACSIMILE TRANSMISSIONGilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer & Environmental
Protection Division
7677 Oakport Street, Suite 400
Oakland, CA 94621Re: Harrison St. Garage

Dear Mr. Jensen:

We have just received (9/07/93) Mr. Morrison's September 2, 1993 letter, which was facsimiled to the entire panel, but sent by regular mail to our office.

Most importantly, we must note that the Bacharach/Borsuk parties are already backing off of their October 24, 1993 "target date" for tank removal. Now they only promise "a schedule" and 12 weeks is the end of November.

Secondarily, we request that the letter simply be rejected out of hand. The property owners continue to refuse to accept that they have had more than their fair share of opportunities to be heard. It is just such approach which while delaying work has increased exponentially the "costs" to everyone at this site. We trust that such tactics will not alter the agenda before the panel.

September 8, 1993
Page 2

If not, please advise.

Sincerely,

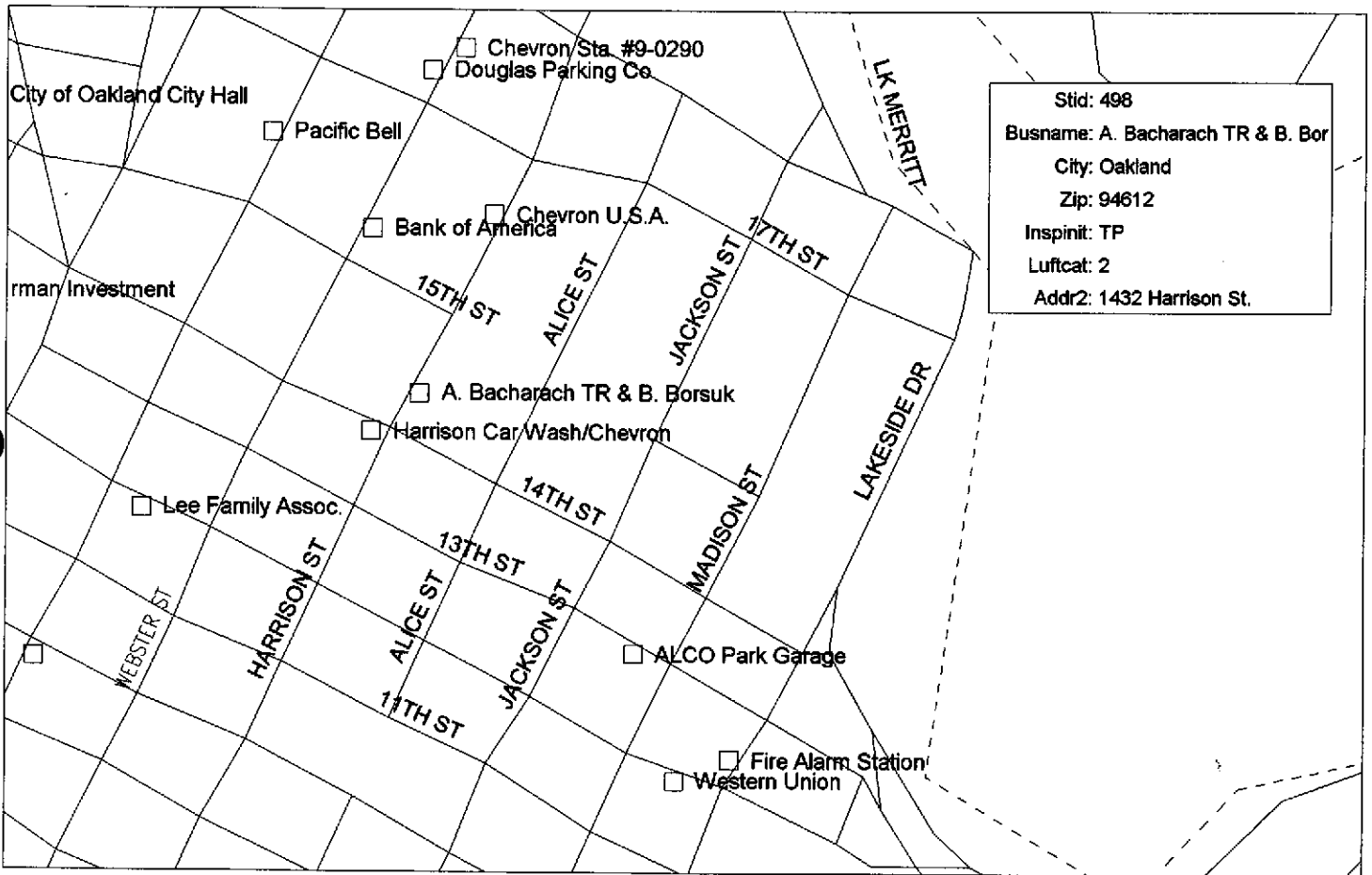
RANDICK & O'DEA



William J. Trinkle
Attorneys for Douglas Motors
Service

WJT:co'b

cc: Via Facsimile
Mr. Richard Hiett
Mr. Lester Feldman
Mr. Edward Howell
Mr. Thomas Peacock
Randall D. Morrison, Esq.



CROSBY, HEAFY, ROACH & MAY
Professional Corporation
1999 Harrison Street
Oakland, CA 94612
Phone: (510) 763-2000
Fax: (510) 273-8866

FAX COVER SHEET

DATE: September 2, 1993

OUR FILE NO: 17598.00016

TO: Mr. Edward Howell

FIRM NAME: ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH

CITY AND STATE: Oakland, CA

TELECOPIER NO.: (510) 569-4757

TELEPHONE NO.: (510) 271-4320

TOTAL NUMBER OF PAGES TRANSMITTED (including cover sheet): 12

This transmission will not be followed up with a hard copy version.

COMMENTS:

* * * * *

FROM: Randall D. Morrison

ATTY NO.: 803

SECRETARY: Mary Abbott

DIRECT DIAL: (510) 466-6927

If you have questions about this FAX, please call (510) 466-6169

THIS INFORMATION IS INTENDED SOLELY FOR USE BY THE INDIVIDUAL OR ENTITY NAMED AS THE RECIPIENT HEREOF AND MAY BE ATTORNEY-CLIENT PRIVILEGED OR CONTAIN CONFIDENTIAL/INSIDE INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT, BE AWARE THAT ANY DISCLOSURE, COPYING, DISTRIBUTION, OR USE OF THE CONTENTS OF THIS TRANSMISSION IS PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY AND DESTROY ALL PAGES RELATED TO THE INCORRECT TRANSMISSION.

Los Angeles * Oakland * San Francisco

CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 783-2000 • (415) 886-3400

FAX (510) 273-8832

700 SOUTH FLOWER STREET, SUITE 2200
LOS ANGELES, CALIFORNIA 90007
(213) 696-8000
FAX (213) 696-8090333 BUSH STREET, SUITE 2200
SAN FRANCISCO, CALIFORNIA 94104-2899
(415) 543-8700
FAX (415) 391-6669

MAILING ADDRESS:

POST OFFICE BOX 2084

OAKLAND, CALIFORNIA 94604-2084

Direct Dial (610) 468-8857

September 2, 1993

VIA FACSIMILE WITH HARD COPY TO FOLLOWGilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer and Environmental
Protection Division
7677 Oakport Street
Suite 400
Oakland, CA 94621

Re: 1432 Harrison Street Garage

Dear Gil:

We believe the Review Panel yesterday was useful in focusing attention on the need for prompt removal of the underground tanks and participation by both parties in the site investigation and cleanup. In our view, two points require further emphasis.

First, the Water Board's Authority is not limited to gasoline discharges, and the Panel should name Douglas with regard to releases and threatened releases from the hydraulic lifts and waste oil tanks as well as the gasoline tanks. It is clear that Water Code Section 13304 provides the Board jurisdiction over any person who,

". . . causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 2

and creates, or threatens to create, a condition of pollution or nuisance. . . " (Section 13304(a)).

The Code thus includes actual or threatened discharges of contaminants from hydraulic lifts and waste oil tanks as well as gasoline tanks.

Furthermore, the State Board's own Order in this case makes clear that the County should name Douglas as a responsible party if there is substantial evidence that leaks from any of the underground tanks occurred while Douglas was operating them. The Board recognized that the owners were asking to have Douglas Motor Service named as a responsible party with regard to subsurface contamination in the garage, not one portion or another. The Board stated:

"Petitioner contends that the County erred in refusing to add the name of Douglas Motor Services to the Order to investigate subsurface contamination of the parking garage." (Order No. WQ 91-07, p.3; emphasis added).

The Board also made clear that the County, in issuing cleanup orders, has the power ". . . to issue what amounts to a cleanup and abatement Order" like those issued by the Regional Board. The Board stated:

"From the language as well as the context of that section (H&S Code § 25299.37(d)), it seems clear the Legislature intended to give a local agency power to issue what amounts to a cleanup and abatement Order in this limited context. We will review the County's Order as if it were a cleanup and abatement Order issued by a Regional Board." (Order No. WQ 91-07, p.2).

This statement shows the Board's intent that the County exercise the full scope of its jurisdiction under the Water Code. There is no limitation of the Order to "gas tanks."

Finally, the Board's Conclusion shows that the Board was requiring the County to name Douglas if there was substantial evidence that

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 3

leaks from any of underground tanks occurred while Douglas was operating them. The Board did not differentiate between one tank or part of the garage and another. The Board stated:

"Petitioner's contention that Douglas ought to be added to the County's Order appears to have merit. If the County has substantial evidence that the leaks from the underground tanks occurred during the time Douglas was operating them, the County should add Douglas to its Order." (Id., et al., p.4; emphasis added).

In short, it is clear from both the Water Code and the State Board's Order that Douglas should be named as a responsible party for the entire site if there is substantial evidence that leaks from any of the underground tanks occurred while Douglas was operating them. There is no basis in the Water Code or the Board's Order for parceling out different tanks or areas of the garage.

Factually, as well as legally, there is no basis for such a distinction. There is no dispute that releases or threatened releases have occurred in all three areas of the garage and that the County has required the owners to investigate each of them. Since the County has demanded that the owners investigate contamination from the hydraulic lifts and waste oil tanks as well as gasoline tanks, it would be completely inequitable and contrary to Order No. WQ 91-07 for the Review Panel to decide that the tenant is responsible for only "part of" the site. It is undisputed that Douglas operated the entire garage for 16 years and that Douglas' subtenants operated the hydraulic lift and waste oil facilities while Douglas operated the gasoline facilities. It is also clear that the County's uniform practice -- except here -- is to name responsible parties for an entire site, and not to "split up" the responsibility tank by tank or area by area.

Either the County had reasonable grounds for requiring investigation of all areas of the garage or it didn't. The County demanded that the owners investigate the whole site, and the tenant along with the owners must now be named a responsible party for that investigation and any cleanup. It is not proper to require an owner to conduct an expensive and prolonged

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 4

investigation and then to look back with hindsight and say that, since the contamination levels in the hydraulic lift and waste oil tank areas "do not look that high," the Panel will excuse the tenant from any responsibility in order to focus on the gasoline tanks as a "tactical" matter. The best "tactic" to promote efficiency and cooperation in the cleanup is to do what the law requires and name Douglas as a jointly responsible party for the entire site.

The second point requiring emphasis is the owners' compliance with all directives of the County for a period of three years. True, it is an extraordinary situation in which the tanks have not been removed during a period of three years, but the correspondence between the County and the owners shows why. I have enclosed a Corrective Action Compliance Chronology previously prepared by Mark Borsuk for the State Cleanup Fund, and you will see in the chronology that the owners have complied with every one of the County's directives for site investigation during the last three years. Indeed, the owners proposed removing the tanks as early as September 5, 1990, two months after the County's Notice of Violation.

You will see that the delays since then were caused in substantial part by the County's continual demands for more testing, more data, and more health and safety precautions based on the allegedly "enclosed area" in which this work will be done. If you discuss this matter frankly with Tom Peacock, I think you will find that the County no longer views these matters the same way. The simple truth is that most of this elaborate and expensive work was unnecessary. Now, ironically, the County wants to ignore a large part of this investigation work, in the hydraulic lift area and basement, when it comes to naming Douglas on the Order. The County must make up its mind: Either this investigation was required -- in which case Douglas is jointly responsible for it -- or the County was in error in requiring the owner to spend hundreds of thousands of dollars in doing this work.

Any fair review of the chronology in this case will show that the County's own requirements were a major reason for the delay in getting this site to the point of tank removal. Once again, the County must make up its mind: This either is a "unique" site or it

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 5

isn't. The County has treated it as a unique site for purposes of investigation, and the County must, in fairness, advise the State Board that the owners have complied with all of the County's directives and that the owners are therefore "in compliance" even though the tanks, in this unique situation, have not yet been removed.

Furthermore, the owners are in compliance with the definition of "corrective action" in the California Code of Regulations. Section 2720 defines corrective action as follows:

"'Corrective action' means any activity necessary to investigate and analyze the effects of an unauthorized release; propose a cost-effective plan to adequately protect human health, safety, and the environment and to restore or protect current and potential beneficial uses of water; and implement and evaluate the effectiveness of the activity(ies)" (23 Code of Regulations § 2720)

The owners' extensive site investigation constitutes "corrective action," and Section 2722 of the Code explicitly states that "corrective action" includes each of the following phases: "Preliminary Site Assessment Phase, Soil and Water Investigation Phase," etc. Note also that "corrective action" calls for "cost-effective plans to adequately protect human health, safety, and the environment." Here, the County's demands far surpassed anything that could be considered scientifically justified or cost-effective, but the County now ignores these facts in considering whether the delays in the project are reasonable and whether the owners are "in compliance."

And, finally, to the extent the County is considering whether the "tanks have been removed" in determining whether the owners are "in compliance" with corrective action requirements, please note that the County is misinterpreting the Code. Section 2720(2) makes clear that "corrective action" does not include "repair, upgrade, replacement or removal of the underground storage tank." (emphasis added).

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 6

In summary, the owners are in compliance with each of the County's directives and they have undertaken "corrective action" within the meaning of the Code of Regulations. In these circumstances, and given the unique history if not character of this site, the County should advise the State Board that the owners are "in compliance" when the Board asks that question.

The best way for the County and Regional Board to insure that this site continues to make progress is to name the tenant along with the owner as a responsible party for the entire site and to inform the State Board that the owners are in compliance with the County's directives to date and have promised a schedule for tank removal to be accomplished in the next 12 weeks.

Very truly yours,



Randall D. Morrison

RDM:ma

Enclosure

cc via facsimile:

Mr. Richard Hiett
Mr. Edward Howell
Mr. Thomas Peacock
Mr. Alvin Bacharach

cc via regular mail:

Mr. Lester Feldman
San Francisco Regional Water Quality Control Board

William J. Trinkle, Esq.
Barbara Jean Borsuk

CORRECTIVE ACTION COMPLIANCE CHRONOLOGY

CLAIM #2219

**ALVIN H. BACHARACH & BARBARA JEAN BORSUK
HARRISON STREET GARAGE**

Participants

ACHCSA: Alameda County Health Care Services Agency. Local oversight.
DA: Mr. Mark Thomson, Assistant District Attorney, Alameda County.
SCS: SCS Engineers. The Claimant's original environmental consultant.
LF: Levine-Fricke. The Claimant's environmental consultant.
RGA: RGA Environmental, Inc. The Claimant's original certified industrial hygienist (CIH).
***:** Document referenced in subsequent correspondence.

<u>DATE</u>	<u>FROM/TO</u>	<u>SUBJECT/ACTION</u>
July 31, 1990	ACHCSA to Claimant	Notice of Violation.
August 27	ACHCSA to Claimant	Notice to perform preliminary site assessment.
September 5	SCS to ACHCSA	Proposal to investigate site and remove tanks. Underground tank closure plan filed with ACHCSA by Ver's Construction.*
September 24	ACHCSA to SCS	Request to modify the tank closure plan of August 28.
October 12	SCS to ACHCSA	Response to September 24 modifications.
October 27	SCS	Consultant removes residual amounts of gasoline and waste oil from tanks.*
November	DA	Alameda County's Assistant District Attorney Mark Thomson becomes involved in project.

January 25, 1991	ACHCSA to SCS	Additional request to modify site characterization.
February 15	SCS to ACHCSA	Revise site characterization proposal submitted. *
February 21	ACHCSA to SCS	Additional request to modify site characterization of February 15.
March 3	SCS to ACHCSA	Addendum to February 15 site characterization submitted. *
March 6	ACHCSA to SCS	Need to resolve additional issues prior to work plan approval.
March 11 & 12	SCS to ACHCSA	Revisions submitted as requested. *
March 14	ACHCSA to SCS	Additional revision required.
March 18	SCS to ACHCSA	Revision completed.
March 22	ACHCSA to SCS	February 15, 1991 site characterization plan as revised approved. Forty-five days to implement work.
April 26	Claimant's counsel (Leo) to DA	Request to modify site characterization based on outside review of SCS's plan by Harding-Lawson Associates, environmental consultants.
April 29	DA to Claimant's Counsel (Leo)	Statement of the County's position.
May 14	ACHCSA, DA & Claimant's Counsel (Leo)	Verbal agreement to permit "modified work plan." **
June 6	SCS to ACHCSA	Modified site characterization plan submitted for approval.
July 12	ACHCSA to SCS	Revisions to modified work plan requested.
August 19	SCS to ACHCSA	Revised and modified work plan per July 12 request submitted. *

September 3	ACHCSA to SCS	Additional modifications requested by County.
September 24	SCS to ACHCSA	Reply to points raised on September 3. Some modifications made to plan.
October 29	ACHCSA to SCS	Reply to SCS's September 24 correspondence. Raises questions regarding SCS's competency.
November		Claimant engages services of RGA Environmental, Inc. to augment SCS's Health and Safety plan.
December 26	RGA to ACHCSA	RGA to address ACHCSA's concerns of October 29.
December 27	Claimant's Counsel (Morrison) to DA	Update on RGA's activities to provide Health and Safety component to revised work plan.
January 7, 1992	ACHCSA to RGA	Additional points of concern for Health and Safety plan.
January 10	RGA to ACHCSA	RGA addresses concerns of January 7.*
January 14	ACHCSA to RGA	Approval of RGA work plan.
March 6	SCS to Claimant's Counsel (Borsuk)	SCS alerts Claimant to water leak causing the ground water level to rise to just four feet below the sidewalk. SCS recommends halting tank removal until situation investigated.
May 8	RGA to ACHCSA	Preliminary site safety and assessment report sent to County.
May 18	Claimant's Counsel (Morrison) to DA & ACHCSA	RGA's site safety and assessment plan sent for review.
June 23	Claimant's Counsel	Levine-Fricke, environmental

	(Morrison) to DA	consultants tentatively selected to replace RGA and SCS.
June 30	ACHCSA to Claimant's Counsel (Morrison)	Additional questions and concerns by the County. Request for response.
July 24	Claimant's Counsel (Morrison) to DA	Update on meeting ACHCSA and LF.
August 31	LF to ACHCSA	Addendum to Site Safety Plan submitted to ACHCSA.*
September 25	ACHCSA to Claimant's Counsel (Morrison)	Additional changes to plan requested.
November 3	Claimant's Counsel (Morrison) to DA	Update on work plan submission and need to obtain three bids for corrective action work.
December 15	LF to ACHCSA	LF work plan submitted for review.
January 8, 1993	ACHCSA to LF	Additional guidance given by ACHCSA for work plan.
February 9	LF to ACHCSA	Response to ACHCSA letter of January 8*
February 18	ACHCSA to LF	Approval of work plan to determine ground water level near to gasoline storage tanks.
May		LF commences investigation of ground water level per approved work plan.

June 1	LF submits modified work plan for soil investigation based on discussions with Tom Peacock.
June 8	Owners' counsel requests County action on naming responsible parties on order.
July 7	County provides Notice of Pre-enforcement Review Panel.
July 28	State Board notifies parties petitions held in abeyance.
August 30	Review Panel meeting.

400

CROSBY, HEAFEY, ROACH & MAY
Professional Corporation
1999 Harrison Street
Oakland, CA 94612
Phone: (510) 763-2000
Fax: (510) 273-8866

FAX COVER SHEET

DATE: September 2, 1993

OUR FILE NO: 17598.00016

TO: Mr. Thomas Peacock

FIRM NAME: ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH

CITY AND STATE: Oakland, CA

TELECOPIER NO.: (510) 569-4757

TELEPHONE NO.: (510) 271-4320

TOTAL NUMBER OF PAGES TRANSMITTED (including cover sheet): 12

This transmission will not be followed up with a hard copy version.

COMMENTS:

* * * * *

FROM: Randall D. Morrison

ATTY NO.: 803

SECRETARY: Mary Abbott

DIRECT DIAL: (510) 466-6927

If you have questions about this FAX, please call (510) 466-6169

~~THIS INFORMATION IS INTENDED SOLELY FOR USE BY THE INDIVIDUAL OR ENTITY~~
~~NAMED AS THE RECIPIENT HEREOF AND MAY BE UNLAWFUL TO DISCLOSE OR~~
~~CONTAIN CONFIDENTIAL/INSIDE INFORMATION. IF YOU ARE NOT THE INTENDED~~
RECIPIENT, BE AWARE THAT ANY DISCLOSURE, COPYING, DISTRIBUTION, OR USE OF
THE CONTENTS OF THIS TRANSMISSION IS PROHIBITED. IF YOU HAVE RECEIVED THIS
TRANSMISSION IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY AND
DESTROY ALL PAGES RELATED TO THE INCORRECT TRANSMISSION.

Los Angeles * Oakland * San Francisco

CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 763-2000 • (415) 986-3400

FAX (510) 273-8932

700 SOUTH FLOWER STREET, SUITE 2200
LOS ANGELES, CALIFORNIA 90017
(213) 698-8000
FAX (213) 698-8000333 BUSH STREET, SUITE 2000
SAN FRANCISCO, CALIFORNIA 94104-2500
(415) 543-8700
FAX (415) 391-0200

MAILING ADDRESS:

POST OFFICE BOX 2084

OAKLAND, CALIFORNIA 94604-2084

Direct Dial (510) 488-8857

September 2, 1993

VIA FACSIMILE WITH HARD COPY TO FOLLOWGilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer and Environmental
Protection Division
7677 Oakport Street
Suite 400
Oakland, CA 94621

Re: 1432 Harrison Street Garage

Dear Gil:

We believe the Review Panel yesterday was useful in focusing attention on the need for prompt removal of the underground tanks and participation by both parties in the site investigation and cleanup. In our view, two points require further emphasis.

First, the Water Board's Authority is not limited to gasoline discharges, and the Panel should name Douglas with regard to releases and threatened releases from the hydraulic lifts and waste oil tanks as well as the gasoline tanks. It is clear that Water Code Section 13304 provides the Board jurisdiction over any person who,

" . . . causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 2

and creates, or threatens to create, a condition of pollution or nuisance. . . " (Section 13304(a)).

The Code thus includes actual or threatened discharges of contaminants from hydraulic lifts and waste oil tanks as well as gasoline tanks.

Furthermore, the State Board's own Order in this case makes clear that the County should name Douglas as a responsible party if there is substantial evidence that leaks from any of the underground tanks occurred while Douglas was operating them. The Board recognized that the owners were asking to have Douglas Motor Service named as a responsible party with regard to subsurface contamination in the garage, not one portion or another. The Board stated:

"Petitioner contends that the County erred in refusing to add the name of Douglas Motor Services to the Order to investigate subsurface contamination of the parking garage." (Order No. WQ 91-07, p.3; emphasis added).

The Board also made clear that the County, in issuing cleanup orders, has the power ". . . to issue what amounts to a cleanup and abatement Order" like those issued by the Regional Board. The Board stated:

"From the language as well as the context of that section (H&S Code § 25299.37(d)), it seems clear the Legislature intended to give a local agency power to issue what amounts to a cleanup and abatement Order in this limited context. We will review the County's Order as if it were a cleanup and abatement Order issued by a Regional Board." (Order No. WQ 91-07, p.2).

This statement shows the Board's intent that the County exercise the full scope of its jurisdiction under the Water Code. There is no limitation of the Order to "gas tanks."

Finally, the Board's Conclusion shows that the Board was requiring the County to name Douglas if there was substantial evidence that

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 3

leaks from any of underground tanks occurred while Douglas was operating them. The Board did not differentiate between one tank or part of the garage and another. The Board stated:

"Petitioner's contention that Douglas ought to be added to the County's Order appears to have merit. If the County has substantial evidence that the leaks from the underground tanks occurred during the time Douglas was operating them, the County should add Douglas to its Order." (*Id.*, et al., p.4; emphasis added).

In short, it is clear from both the Water Code and the State Board's Order that Douglas should be named as a responsible party for the entire site if there is substantial evidence that leaks from any of the underground tanks occurred while Douglas was operating them. There is no basis in the Water Code or the Board's Order for parceling out different tanks or areas of the garage.

Factually, as well as legally, there is no basis for such a distinction. There is no dispute that releases or threatened releases have occurred in all three areas of the garage and that the County has required the owners to investigate each of them. Since the County has demanded that the owners investigate contamination from the hydraulic lifts and waste oil tanks as well as gasoline tanks, it would be completely inequitable and contrary to Order No. WQ 91-07 for the Review Panel to decide that the tenant is responsible for only "part of" the site. It is undisputed that Douglas operated the entire garage for 16 years and that Douglas' subtenants operated the hydraulic lift and waste oil facilities while Douglas operated the gasoline facilities. It is also clear that the County's uniform practice -- except here -- is to name responsible parties for an entire site, and not to "split up" the responsibility tank by tank or area by area.

Either the County had reasonable grounds for requiring investigation of all areas of the garage or it didn't. The County demanded that the owners investigate the whole site, and the tenant along with the owners must now be named a responsible party for that investigation and any cleanup. It is not proper to require an owner to conduct an expensive and prolonged

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 4

investigation and then to look back with hindsight and say that, since the contamination levels in the hydraulic lift and waste oil tank areas "~~do not look that high~~," the Panel will excuse the tenant from any responsibility in order to focus on the gasoline tanks as a "tactical" matter. The best "tactic" to promote efficiency and cooperation in the cleanup is to do what the law requires and name Douglas as a jointly responsible party for the entire site.

The second point requiring emphasis is the owners' compliance with all directives of the County for a period of three years. True, it is an extraordinary situation in which the tanks have not been removed during a period of three years, but the correspondence between the County and the owners shows why. I have enclosed a Corrective Action Compliance Chronology previously prepared by Mark Borsuk for the State Cleanup Fund, and you will see in the chronology that the owners have complied with every one of the County's directives for site investigation during the last three years. Indeed, the owners proposed removing the tanks as early as September 5, 1990, two months after the County's Notice of Violation.

You will see that the delays since then were caused in substantial part by the County's ~~continual demands for more testing, more data, and more health and safety precautions based on the allegedly "enclosed area" in which this work will be done~~. If you discuss this matter frankly with Tom Peacock, I think you will find that the County no longer views these matters the same way. The simple truth is that most of this elaborate and expensive work was unnecessary. Now, ironically, the County wants to ignore a large part of this investigation work, in the hydraulic lift area and basement, when it comes to naming Douglas on the Order. The County must make up its mind: Either this investigation was required - in which case Douglas is jointly responsible for it - or the County was in error in requiring the owner to spend hundreds of thousands of dollars in doing this work.

Any fair review of the chronology in this case will show that the County's own requirements were a major reason for the delay in getting this site to the point of tank removal. Once again, the County must make up its mind: This either is a "unique" site or it

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 5

isn't. The County has treated it as a unique site for purposes of investigation, and the County must, in fairness, advise the State Board that the owners have complied with all of the County's directives and that the owners are therefore "in compliance" even though the tanks, in this unique situation, have not yet been removed.

Furthermore, the owners are in compliance with the definition of "corrective action" in the California Code of Regulations. Section 2720 defines corrective action as follows:

"'Corrective action' means any activity necessary to investigate and analyze the effects of an unauthorized release; propose a cost-effective plan to adequately protect human health, safety, and the environment and to restore or protect current and potential beneficial uses of water; and implement and evaluate the effectiveness of the activity(ies)" (23 Code of Regulations § 2720)

The owners' extensive site investigation constitutes "corrective action," and Section 2722 of the Code explicitly states that "corrective action" includes each of the following phases: "Preliminary Site Assessment Phase, Soil and Water Investigation Phase," etc. Note also that "corrective action" calls for "cost-effective plans to adequately protect human health, safety, and the environment." Here, the County's demands far surpassed anything that could be considered scientifically justified or cost-effective, but the County now ignores these facts in considering whether the delays in the project are reasonable and whether the owners are "in compliance."

And, finally, to the extent the County is considering whether the "tanks have been removed" in determining whether the owners are "in compliance" with corrective action requirements, please note that the County is misinterpreting the Code. Section 2720(2) makes clear that "corrective action" does not include "repair, upgrade, replacement or removal of the underground storage tank." (emphasis added).

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
September 2, 1993
Page 6

In summary, the owners are in compliance with each of the County's directives and they have undertaken "corrective action" within the meaning of the Code of Regulations. In these circumstances, and given the unique history if not character of this site, the County should advise the State Board that the owners are "in compliance" when the Board asks that question.

The best way for the County and Regional Board to insure that this site continues to make progress is to name the tenant along with the owner as a responsible party for the entire site and to inform the State Board that the owners are in compliance with the County's directives to date and have promised a schedule for tank removal to be accomplished in the next 12 weeks.

Very truly yours,



Randall D. Morrison

RDM:ma

Enclosure

cc via facsimile:

Mr. Richard Hiatt
Mr. Edward Howell
Mr. Thomas Peacock
Mr. Alvin Bacharach

cc via regular mail:

Mr. Lester Feldman
San Francisco Regional Water Quality Control Board

William J. Trinkle, Esq.
Barbara Jean Borsuk

CORRECTIVE ACTION COMPLIANCE CHRONOLOGY**CLAIM #2219****ALVIN H. BACHARACH & BARBARA JEAN BORSUK
HARRISON STREET GARAGE****Participants**

ACHCSA: Alameda County Health Care Services Agency. Local oversight.
DA: Mr. Mark Thomson, Assistant District Attorney, Alameda County.
SCS: SCS Engineers. The Claimant's original environmental consultant.
LF: Levine-Fricks. The Claimant's environmental consultant.
RGA: RGA Environmental, Inc. The Claimant's original certified industrial hygienist (CIH).
*****: Document referenced in subsequent correspondence.

<u>DATE</u>	<u>FROM/TO</u>	<u>SUBJECT/ACTION</u>
July 31, 1990	ACHCSA to Claimant	Notice of Violation.
August 27	ACHCSA to Claimant	Notice to perform preliminary site assessment.
September 5	SCS to ACHCSA	Proposal to investigate site and remove tanks. Underground tank closure plan filed with ACHCSA by Veri's Construction.*
September 24	ACHCSA to SCS	Request to modify the tank closure plan of August 28.
October 12	SCS to ACHCSA	Response to September 24 modifications.
October 27	SCS	Consultant removes residual amounts of gasoline and waste oil from tanks.*
November	DA	Alameda County's Assistant District Attorney Mark Thomson becomes involved in project.

January 25, 1991	ACHCSA to SCS	Additional request to modify site characterization.
February 15	SCS to ACHCSA	Revise site characterization proposal submitted. *
February 21	ACHCSA to SCS	Additional request to modify site characterization of February 15.
March 3	SCS to ACHCSA	Addendum to February 15 site characterization submitted. *
March 6	ACHCSA to SCS	Need to resolve additional issues prior to work plan approval.
March 11 & 12	SCS to ACHCSA	Revisions submitted as requested. *
March 14	ACHCSA to SCS	Additional revision required.
March 18	SCS to ACHCSA	Revision completed.
March 22	ACHCSA to SCS	February 15, 1991 site characterization plan as revised approved. Forty-five days to implement work.
April 26	Claimant's counsel (Leo) to DA	Request to modify site characterization based on outside review of SCS's plan by Harding-Lawson Associates, environmental consultants.
April 29	DA to Claimant's Counsel (Leo)	Statement of the County's position.
May 14	ACHCSA, DA & Claimant's Counsel (Leo)	Verbal agreement to permit *modified work plan. **
June 6	SCS to ACHCSA	Modified site characterization plan submitted for approval.
July 12	ACHCSA to SCS	Revisions to modified work plan requested.
August 19	SCS to ACHCSA	Revised and modified work plan per July 12 request submitted. *

September 3	ACHCSA to SCS	Additional modifications requested by County.
September 24	SCS to ACHCSA	Reply to points raised on September 3. Some modifications made to plan.
October 29	ACHCSA to SCS	Reply to SCS's September 24 correspondence. Raises questions regarding SCS's competency.
November		Claimant engages services of RGA Environmental, Inc. to augment SCS's Health and Safety plan.
December 26	RGA to ACHCSA	RGA to address ACHCSA's concerns of October 29.
December 27	Claimant's Counsel (Morrison) to DA	Update on RGA's activities to provide Health and Safety component to revised work plan.
January 7, 1992	ACHCSA to RGA	Additional points of concern for Health and Safety plan.
January 10	RGA to ACHCSA	RGA addresses concerns of January 7.*
January 14	ACHCSA to RGA	Approval of RGA work plan.
March 6	SCS to Claimant's Counsel (Borzuk)	SCS alerts Claimant to water leak causing the ground water level to rise to just four feet below the sidewalk. SCS recommends halting tank removal until situation investigated.
May 8	RGA to ACHCSA	Preliminary site safety and assessment report sent to County.
May 18	Claimant's Counsel (Morrison) to DA & ACHCSA	RGA's site safety and assessment plan sent for review.
June 23	Claimant's Counsel	Levine-Fricka, environmental

	(Morrison) to DA	consultants tentatively selected to replace RGA and SCS.
June 30	ACHCSA to Claimant's Counsel (Morrison)	Additional questions and concerns by the County. Request for response.
July 24	Claimant's Counsel (Morrison) to DA	Update on meeting ACHCSA and LF.
August 31	LF to ACHCSA	Addendum to Site Safety Plan submitted to ACHCSA.*
September 25	ACHCSA to Claimant's Counsel (Morrison)	Additional changes to plan requested.
November 3	Claimant's Counsel (Morrison) to DA	Update on work plan submission and need to obtain three bids for corrective action work.
December 15	LF to ACHCSA	LF work plan submitted for review.
January 8, 1993	ACHCSA to LF	Additional guidance given by ACHCSA for work plan.
February 9	LF to ACHCSA	Response to ACHCSA letter of January 8*
February 18	ACHCSA to LF	Approval of work plan to determine ground water level near to gasoline storage tanks.
May		LF commences investigation of ground water level per approved work plan.

June 1	LF submits modified work plan for soil investigation based on discussions with Tom Peacock.
June 8	Owners' counsel requests County action on naming responsible parties on order.
July 7	County provides Notice of Pre-enforcement Review Panel.
July 28	State Board notifies parties petitions held in abeyance.
August 30	Review Panel meeting.

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



BAFATA SHAHID, ASST. AGENCY DIRECTOR
DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

A. Bacharach Trust &
B. Borsuk
1432 Harrison St.
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

RE: **Legal Designation of Responsible Party and Request for Submittal of a Technical Report Resulting from the Alameda County Department of Environmental Health's Enforcement Panel Meeting of August 31, 1993.**

Dear Sirs:

It has been brought to my attention by Regional Board staff that a condition of soil pollution exists on your property from an underground storage tank release. The Alameda County Department of Environmental Health (ACHD) staff have requested technical reports from you to fulfill your obligations per California Code of Regulations, Title 23, Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements. It is my understanding that ACHD staff were unsuccessful in eliciting your co-operation in resolving these issues through normal correspondence.

A Pre-Enforcement Review Panel was held at the ACHD Offices on August 31, 1993, attended by Rich Hiatt, of my staff. Pursuant to the Regional Board's authority under Section 13267(b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the underground storage tank immediately before the discontinuation of its use." A responsible party also includes any owner of property from which an unauthorized release of a hazardous substance from an underground storage tank has occurred.

As a Responsible Party, you are required to conduct both soil and ground water investigations to determine the extent of environmental contamination resulting from the release. You are therefore directed to submit a technical report to address soil and ground water pollution at this site by October 15, 1993. This

Enforcement Panel Meeting
Page 2 of 2
STID 498

technical report should specifically address the following numbered items:

- 1) A proposal for the removal of the petroleum underground storage tanks and associated piping from the site. This should be submitted on ACHD forms and include a site safety plan;
- 2) A proposal to define the lateral and vertical extent of pollution in soil and ground water;
- 3) A plan for submission of quarterly monitoring reports on a regular and timely basis.

All proposed work should adhere to the requirements articulated in The Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - 8/10/90 and Article 11 of Title 23, Waters, California Code of Regulations.

I am hereby transmitting this request for a technical report to ACHD for service and continued case handling. You should be aware that failure on your part to submit the requested technical report, or a submittal received after the date specified in this request may result in fines up to \$1,000 per day of delinquency. Please inform their office at least three working days in advance of all field activities.


Please be advised that this is a formal request for technical reports pursuant to California Water Code Section 13267(b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the Alameda County Department of Environmental Health, Hazardous Materials Division.

If you have any questions regarding the contents of this letter, please contact Thomas Peacock, of ACHD, at (510) 271-4530.

Sincerely,

Steven R. Ritchie
Executive Officer

cc: Gil Jensen, Alameda County District Attorney's Office,
Consumer & Environmental Protection Division.

 Thomas Peacock, Supervising Haz Mat Specialist, ACHD.

CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 783-2000 • (415) 986-3400

FAX (510) 273-8832

700 SOUTH FLOWER STREET, SUITE 2200
LOS ANGELES, CALIFORNIA 90017
(818) 896-0000
FAX (213) 896-8080333 BUSH STREET, SUITE 2800
SAN FRANCISCO, CALIFORNIA 94104-2800
(415) 543-8700
FAX (415) 391-8288MAILING ADDRESS:
POST OFFICE BOX 2084
OAKLAND, CALIFORNIA 94604-2084

Direct Dial (510) 466-6667

August 27, 1993

VIA FACSIMILE WITH HARD COPY TO FOLLOWGilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer and Environmental
Protection Division
7677 Oakport Street
Suite 400
Oakland, CA 94621

Re: 1432 Harrison Street Garage

Dear Gil:

As you know, we will be meeting with Tom Peacock of the County and Rich Hielt of the RWQCB Tuesday, August 31, at 9:00 a.m. to discuss this site. I understand that you and perhaps others from the County may attend as well. Since this is a new procedure, I wanted to convey our understanding of the purpose of the meeting.

First, based on our recent conversations with Tom Peacock, we understand that the County and RWQCB are most interested in a firm schedule for removal of the underground storage tanks, so that these sources can be eliminated, the site fully assessed, and any remediation planned. We expect to remove the tanks shortly and will provide a schedule at the meeting.

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
August 27, 1993
Page 2

Second, we understand that the County and RWQCB will address the issue of Douglas being named on the County Order. As you know, Douglas is already on the Order with regard to the gasoline tanks, but has still refused to participate in any site investigation activity.

These are the two principal purposes of the meeting, as we understand it. Since you have been on vacation, I will try to call you Monday to confirm this agenda. We hope the meeting will be helpful and that it will eliminate the need for further petitions and responses to the State Board. We also expect that the meeting and the owners' progress in the site investigation and tank removal will permit you to confirm for the State Board next week that the owners are in compliance with County directives as regards the owners' application for State Cleanup funds.

Finally, while we expect the meeting on Tuesday to be very useful, it is a new procedure and we are not aware of any specific statutory or regulatory basis for it. We therefore reserve all rights on behalf of Mr. Bacharach and Ms. Borsuk to proceed with their petition to the State Board or other remedies if the meeting does not resolve these issues satisfactorily. We will do our best to see that it does.

Very truly yours,



Randall D. Morrison

RDM:ma

cc via regular mail:

Mr. Lester Feldman, Environmental Specialist IV

San Francisco Regional Water Quality Control Board

William J. Trinkle, Esq.

Alvin Bacharach

Barbara Jean Borsuk

Mark Borsuk

Name	Representing	Phone #
Edgar Howell	Ala County	271-4320
Randall Morrison	Owners, Bacharach	(510) 763-2000
John Sturman	"	510-652-4500
MARK Gorsuch	Owners Bacharach	415-922-4740
William Trinkle	Randick & O'Dea for Douglas Motors	(510) 836-3555
Richt Hiett	ZWOCS	(510) 282-4359
Murray Beach	Ala County	271-4530
GIL JENSEN	ALAMEDA County D.A	(510) 569-5281
William Hand	Orrison & Gallegos	707 576 0757
ARVIN H. BACHARACH	SELF	510-820-8468

LOP - CHANGE RECORD REQUEST FORM

printed:
08/17/93

Mark Out What Needs Changing and Hand to LOP Data Entry
(Name/Address changes go to Annual Programs Data Entry)

AGENCY # : 10000 SOURCE OF FUNDS: F SUBSTANCE: 8006619
 StID : 478
 SITE NAME: Harrison Car Wash/Chevron DATE REPORTED : 06/15/90
 ADDRESS : 301 -0 14th St. DATE CONFIRMED: -0-
 CITY/ZIP : Oakland 94612 MULTIPLE RPs : Y

SITE STATUS

CASE TYPE: G CONTRACT STATUS: 6 EMERGENCY RESP: -0-
 RP SEARCH: S DATE COMPLETED: 03/27/92
 PRELIMINARY ASMNT: C DATE UNDERWAY: -0- DATE COMPLETED: -0-
 REM INVESTIGATION: C DATE UNDERWAY: -0- DATE COMPLETED: -0-
 REMEDIAL ACTION: U DATE UNDERWAY: 03/12/92 *SUE* DATE COMPLETED: -0-
 POST REMED ACT MON:- DATE UNDERWAY: -0- DATE COMPLETED: -0-

ENFORCEMENT ACTION TYPE: 1 DATE ENFORCEMENT ACTION TAKEN: 03/27/92
 LUFT FIELD MANUAL CONSID: 3WHSAC *E*
 CASE CLOSED: - DATE CASE CLOSED: -0-
 DATE EXCAVATION STARTED : 06/15/90 REMEDIAL ACTIONS TAKEN: VE

RESPONSIBLE PARTY INFORMATION

RP#1-CONTACT NAME: Beth Castleberry
 COMPANY NAME: Joyce Massaro, Trustee
 ADDRESS: 400 Hamilton Ave
 CITY/STATE: Palo Alto, C A 94301

RP#2-CONTACT NAME: Nancy Vukelich
 COMPANY NAME: Chevron U. S. A
 ADDRESS: P O Box 5004
 CITY/STATE: San Ramon, C A 94583-0804

INSPECTOR VERIFICATION:			
NAME	SIGNATURE	DATE	
	<i>JL</i>		
DATA ENTRY INPUT:			
Name/Address Changes Only		Case Progress Changes	
ANNPGMS	LOP	LOP	DATE

See
 Hanson St. case wants to know how
 things are going here - Get back
 to me by Wed.
 SUE started
 in 3-~~9~~92
 Tell em they
 have 11 mws
 on that small
 site!

CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 763-2000 • (415) 986-3400

FAX (510) 273-8632

700 SOUTH FLOWER STREET, SUITE 2200
LOS ANGELES, CALIFORNIA 90017
(213) 896-8000
FAX (213) 896-8080

333 BUSH STREET, SUITE 2580
SAN FRANCISCO, CALIFORNIA 94104-2899
(415) 543-6700
FAX (415) 391-8269

MAILING ADDRESS:
POST OFFICE BOX 2084
OAKLAND, CALIFORNIA 94604-2084

August 2, 1993

Donald F. Drummond, Esq.
LUKENS AND DRUMMOND
One Maritime Plaza, Suite 1600
San Francisco, CA 94111

Re: Alvin H. Bacharach and Barbara Jean Borsuk v.
Steven Davis, et al.; Steven Davis v. Alvin H.
Bacharach, et al.; Alameda County Superior Court
Consolidated Action No. 666290-3

Dear Don:

With regard to your letter of July 28, 1993, we will provide ample advance notice to all parties regarding removal of the underground storage tanks at the garage. We are hopeful that the tanks can be removed in September or early October. As you know, Judge Marsh has asked us to arrange a date for all parties to attend a follow-up settlement conference in October after the tanks have been removed. We will also take steps to ensure that the tanks and piping are preserved as evidence.

My only disagreement with your letter is the statement that you were not informed of the inspection of the garage with Judge Marsh prior to the Settlement Conference on July 9. I personally called you two days earlier and informed you of our suggestion that the Settlement Conference begin with a short walk-through of the garage. You remarked that you had not been through the garage before. I also faxed you a copy of my July 7 letter to Judge Marsh suggesting the walk-through. Judge Marsh, Edwin Heafey, Mr. Bacharach and I waited awhile for you on the 9th before briefly walking

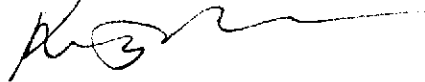
93 AUG -3 PM 4: 09

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Donald F. Drummond, Esq.
August 2, 1993
Page 2

through the first floor and basement. You will have another opportunity to view the garage when the tanks are removed.

Very truly yours,



Randall D. Morrison

RDM:ma

cc: The Honorable Joseph Carson
The Honorable Raymond Marsh
Mr. Thomas Peacock
William J. Trinkle, Esq.
Charles M. Riffle, Esq.
Elizabeth A. England, Esq.

LAW OFFICES OF
LUKENS AND DRUMMOND
ALCOA BUILDING, SUITE 1600
ONE MARITIME PLAZA
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 433-2261
FAX (415) 781-1034

July 28, 1993

VIA FACSIMILE TRANSMISSION

(510) 273-8898

Randall Morrison, Esq.
Crosby, Heafey, Roach & May
1999 Harrison Street
Oakland, California 94612

Re: Davis adv. Bacharach

Dear Mr. Morrison:

I write in connection with your letter of July 23, 1993.

While we are pleased to see that the owners are apparently proceeding with the removal of the tanks at the Harrison Street garage, we are also required to remind you that the court has ordered that you provide us with prior notice of any work in connection with the removal of the tanks so that we may attend those activities and make our own individual evaluations. Specifically, we intend to have our own expert, Mr. Bowers, present to take samples at the site when the tanks are removed, and to have a photographer present.

Further, we wish to ensure that the tanks will be preserved, and not destroyed. We are very sensitive to this issue, particularly in light of the fact that we were not informed that an inspection of the Harrison Street garage was going to take place with Judge Marsh during our last settlement conference.

I would appreciate it if you would keep us advised of the progress on the removal of the tanks, sufficiently in advance so that we can take steps to obtain the information we deem necessary.

Randall Morrison, Esq.
July 28, 1993
Page 2

If you have any questions, please do not hesitate to contact me so that we can work out the details.

Very truly yours,



Donald F. Drummond

cc: The Honorable Joseph Carson
The Honorable Raymond Marsh
Paul Smith, Alameda County Health Services
James Bowers
Steven Davis - via FAX

CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 763-2000 • (415) 986-3400

FAX (510) 273-8832

700 SOUTH FLOWER STREET, SUITE 2200

LOS ANGELES, CALIFORNIA 90017

(213) 896-8000

FAX (213) 896-8080

333 BUSH STREET, SUITE 2580

SAN FRANCISCO, CALIFORNIA 94104-2899

(415) 543-8700

FAX (415) 391-8269

MAILING ADDRESS:

POST OFFICE BOX 2084

OAKLAND, CALIFORNIA 94604-2084

June 8, 1993

Gilbert A. Jensen, Esq.
Sr. Deputy District Attorney
Consumer and Environmental
Protection Division
Alameda County
District Attorney's Office
7677 Oakport Street
Suite 400
Oakland, CA 94621

Mr. Thomas Peacock
Alameda County Department
of Environmental Health
Hazardous Materials Division
80 Swan Way, Room 200
Oakland, CA 94621

**Re: Request To County Of Alameda To Name Douglas
Motor Service And Its Partners As Responsible Parties
As To 1428-1434 Harrison St. and 1435-1443 Alice
St., Oakland, California**

Dear Gil and Tom:

We would like to see the issue as to the County's Order resolved as soon as possible and with minimal effort by your offices and the parties. The present Order, issued by Paul Smith on February 5, 1993, only refers to leakage from the underground gasoline tanks, but it is clear from all the consultant reports that there is other underground storage tank leakage in the garage as well -- at the hydraulic lift and around the waste oil drain line and storage tanks in the basement.

Paul's Order should have included releases from all the tanks. The parties, Bacharach and Douglas, could then have sorted out their responsibilities for the contamination in the trial Court. Unfortunately, when Paul drafted the Order so that it referred only to the gasoline leakage, Douglas took the position that it had no

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
Mr. Thomas Peacock
June 8, 1993
Page 2

responsibility for any other releases in the garage. When we met with Paul a few months ago, Paul explained that he did not name Douglas with regard to the other contamination, because the County's original Orders to the owners did not include this subsequently discovered contamination. The County's original Orders of July 31 and September 24, 1990 only applied to gasoline leakage.

As we all know now, there was leakage from other underground storage tanks as well, and the owners have investigated that contamination along with the gasoline leakage. The County's Order should thus apply to all releases from underground storage tanks and apply to both parties, the owners and former tenants. In our conversation last week, Tom indicated that he himself would interpret the County's Orders to apply to other releases subsequently discovered. We would like to interpret the Orders that way too, but we know quite well that Douglas will claim this interpretation is inappropriate. The only way to make the February 5, 1993 Order accurate is to modify it so that it applies to all unauthorized releases from underground storage tanks in the garage. This could easily be accomplished by changing the February 5 Order as follows:

"The County has been presented substantial evidence that leaks from underground tanks used for storage of petroleum products occurred during the time Douglas Motor Service was operating them. Therefore, Douglas Motor Service is a responsible party. Pursuant to Health & Safety Code §25299.37(c), Alvin Bacharach, Barbara Borsuk, and Douglas Motor Service and its Partners shall take appropriate corrective action in response to the discovery of unauthorized releases from all underground petroleum storage tanks at the property."

By making this slight change in wording, the County will clarify that both parties, the owners and former tenants, are responsible for investigating and cleaning up these releases. This clarification will eliminate the oddity in the present Order, which names Douglas as a responsible party for only part of the site. As Tom explained at our meeting some weeks ago, the County's Orders always refer to the entire site, unless there is a split parcel occupied by different tenants, or other unique circumstances.

CROSBY, HEAFEY, ROACH & MAY
PROFESSIONAL CORPORATION

Gilbert A. Jensen, Esq.
Mr. Thomas Peacock
June 8, 1993
Page 3

Modifying the Order as suggested above will greatly simplify the County's role in this dispute. If the Order is modified, the owners will not find it necessary to proceed with their Petition to the State Board. Furthermore, even if Douglas unwisely proceeds with its Petition, the County's Order will in all probability be upheld by the Board, because the County will have correctly named Douglas as a responsible party as to all releases from underground petroleum storage tanks in the garage. By contrast, if the Order is appealed to the State Board in its present defective form, there is a strong probability that the State Board will once again remand the Order and require the County to name Douglas as to the other releases. The owners have already successfully appealed the County's Order once to have Douglas named, and it would certainly be embarrassing for the County -- as well as a huge waste of time -- to have the State Board require the County to amend its Order a second time to name Douglas again.

In short, the decision before you is whether to retain an Order that is imperfectly drafted, or to correct the Order to make it conform with other orders issued by the County and to make it consistent with State Board precedent. We hope you will take the simple step of correcting the Order now, rather than forcing the owners and your offices to participate in another expensive and time-consuming Petition to the State Board. To allow adequate time for your decision, we have obtained another 30-day extension of time from the State Board, to July 12th, for Bacharach's and Douglas' responses to each other's Petitions. Please advise us as soon as possible of your decision regarding correction of the County's Order.

Very truly yours,



Randall D. Morrison

RDM:ma

cc: William J. Trinkle, Esq.



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

98 JUN -2 10:12 AM '93

June 1, 1993

LF 2680.19

Mr. Thomas F. Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Division of Hazardous Materials
80 Swan Way, Rm. 350
Oakland, California 94621

Subject: Modifications to Work Plan for Further Soil
Characterization, Harrison Street Garage Site,
1432 - 1434 Harrison Street, Oakland, California

Dear Mr. Peacock:

This letter is to advise you that Levine-Fricke has modified our December 15, 1992 work plan for the Harrison Street Garage Site ("the Site"). Based on our discussion during our meeting at the Site (May 11, 1993) and on subsequent discussions with representatives of the owner of the Site, the following modifications were implemented during the drilling of soil borings at the Site on May 22, 1993, and during subsequent submittal of soil samples to the laboratory:

- The number of soil borings was reduced from three to two.
- The hydrocarbon "fingerprinting" has been deferred to the time of the tank removal.
- The hydrocarbon analyses have been limited to total petroleum hydrocarbons as gasoline (TPHg) and the fuel constituents benzene, toluene, ethylbenzene, and xylenes (BTEX).
- Analyses of soil samples for nickel and mercury have been omitted.

These modifications have been made to streamline the investigation, recognizing that further soil characterization will take place during tank removal. Although the number of soil borings has been reduced, it is our opinion that the data obtained will be sufficient to prepare a work plan for tank removal and soil excavation activities. Remaining soil-quality issues will be addressed, if appropriate, at a future date, either during tank removal activities or during subsequent ground-water monitoring activities.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE·FRICKE

If you have any questions or would like to discuss these modifications further, please call me or Michael Stoll at (510) 652-4500, or Mr. Mark Borsuk at (415) 922-4740.

Sincerely,

Winnie Kelley for

John Sturman
Senior Engineer

cc: Alvin H. Bacharach
Mark Borsuk
Randall Morrison, Crosby, Heafey, Roach & May
Jennifer Eberle, Alameda County Health Care Services

LAW OFFICES

RANDICK & O'DEA

1800 HARRISON, SUITE 2350
OAKLAND, CALIFORNIA 94612

ROBERT A. RANDICK, JR.
BRIAN M. O'DEA
SUSAN M. TEEL
BERNARD F. ROSE, PH.D.
REBECCA T. DIXON
JULIE M. ROSE
WILLIAM J. TRINKLE

TELEPHONE
(510) 836-3555
TELECOPIER
(510) 834-4748

May 26, 1993

Mr. Paul Smith
Sr. Hazardous Material Specialist
Alameda County Dept. of Environmental Health
Hazardous Materials Division
80 Swan Way, Room 200
Oakland, CA 94621

Re: Douglas Motor Service Response and Opposition to the Bacharach/Borsuk Request that Alameda County Reconsider and Amend its February 5, 1993 ORDER as to the Harrison St. Garage.

Dear Mr. Smith:

In February, after the expenditure of substantial time and effort by all involved your office issued an Order naming Douglas Motor Service and Its Partners additional responsible parties with respect to unauthorized releases associated with gasoline tanks at the Harrison St. Garage. All parties had specifically addressed the issues regarding the hydraulic lift and waste oil system; however, the County did not name Douglas Motors responsible parties as to those areas. Immediately, the Bacharach/Borsuk parties complained again of the County's action (February 10, 1993 letter of Randall Morrison), implicitly threatening appeal to the State Board, which they in fact later filed.

Bacharach/Borsuk's requests for reconsideration do not present any new evidence, but simply repeat their efforts to get the County involved in the battle over who has what legal responsibility related to the property. As the County has correctly noted in the past, those issues can only be properly resolved in a court of law, and they are already pending before the Alameda County Superior Court.

Bacharach/Borsuk argue that Douglas Motor does not dispute that the hydraulic lift and waste oil system were used during their tenancy at the garage. Such a claim is nothing more than gross exaggeration. Douglas Motor does strenuously dispute the Thompson declaration, and did so previously. We also, however, noted that even if that declaration were accurate, it did not evidence in the slightest any release from the lift or waste oil tank areas, rather indicated no problems during the minimal time period of a few months when Thompson allegedly used the lift and waste oil system.

May 26, 1993

Page 2

Curiously, Bacharach/Borsuk while attempting to attack Douglas Motor for the claimed use by William Thompson, do not even suggest that he be named a responsible party, although he allegedly operated and used the relevant systems.

In their effort to shift responsibility elsewhere, Bacharach/Borsuk conveniently fail to advise the County of the length of time the lift and waste oil tanks have been present on the property; how and when they were utilized from 1945-1972 (27 years); what problems arose regarding such usage; what repairs and/or replacements were made in that 27 year period; whether there were leaks prior to 1972; who utilized the lift and waste oil tank, etc. In point of fact, as with all of the papers they have submitted, they simply choose to ignore, and conveniently so, their ownership and responsibility for this property over the past 48 years. With the manner of their approach, the likelihood that they in fact are hiding what has in fact happened at the property must be seriously considered.

We must note that Bacharach/Borsuk are in control of the property and all investigations that have occurred. They have spent thousands of dollars in investigation of outside witnesses. Yet in these circumstances, with all of those efforts there is simply no evidence tying Douglas Motors Service to a release from the lift or waste oil tanks.

CONCLUSION

We all know that no matter how thoroughly and appropriately the County deals with these issues (as you have already done), Bacharach/Borsuk are going to fight and appeal every decision unless they get what they want. They are willing to expend hundreds of thousands of dollars in legal battles, although in the 3 years this matter has been pending they have avoided any real work at the site. The tanks are still in place, although they should have been pulled long ago. Alameda County and you have already evaluated the factual issues here before and we submit that Bacharach/Borsuk have submitted nothing new to you.

With respect to the hydraulic lift area and the waste oil tank area, there is simply no evidence of any unauthorized release of any kind during any period of Douglas Motor's tenancy. Opinions and presumptions by Bacharach/Borsuk's people are obviously slanted to suit their needs and desires. Their arguments for naming Douglas Motor compound those presumptions by assuming "probabilities" of events speculated to have occurred.

With respect to the gasoline tank areas, you resisted Douglas's reliance on probabilities, even though there is a very high probability, based on an analysis of actual data obtained from the site, that the ground water contamination at this site migrated

May 26, 1993

Page 3

from off-site. We ask now that the County not get involved in Bacharach/Borsuk's invitation (tied to a threat) to consider "probabilities" where there is absolutely no evidence that "Douglas was in control of the property and using the [lift and waste oil tanks]... while leaks were taking place." (Order No. WQ 91-07, p.4) Any association of Douglas Motor to the lift and waste oil system is minimal. If for some reason you disagree with our analysis, then as to these areas, we believe that Douglas Motor is, at most, a classic secondarily responsible party.

Very truly yours,

RANDICK & O'DEA



William J. Trinkle

WJT:co'b

cc: Randall Morrison, Esq.

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
Oakland, CA 94621
(415) 271-4320

Hazardous Materials Division Inspection Form

Site ID# _____ Site Name Harrison St. Garage Today's Date Sat 5/22/93
 Site Address 1432 Harrison St. EPA ID# _____
 City Oakland Zip 94 Phone _____

MAX Amt. Stored > 500lbs/55g/200cf? Y N
 Hazardous Waste generated per month? _____

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

The marked items represent violations of the Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

I.A. GENERATOR (Title 22)	
___	1. Waste ID * 66471
___	2. EPA ID 66472
___	3. > 90 days 66508
___	4. Label dates 66508
___	5. Biennial 66493
<hr/>	
Manifest	___ 6. Records 66492
	___ 7. Correct 66484
	___ 8. Copy sent 66492
	___ 9. Exception 66484
	___ 10. Copies Rec'd 66492
<hr/>	
Misc.	___ 11. Treatment 66371
	___ 12. On-site Disp. (H.S.&C.) 26189.5
	___ 13. Ex Haz. Waste 66570
<hr/>	
Prevention	___ 14. Communications 67121
	___ 15. Able Space 67124
	___ 16. Local Authority 67126
	___ 17. Maintenance 67120
	___ 18. Training 67105
<hr/>	
Contn. gency	___ 19. Prepared 67140
	___ 20. Name List 67141
	___ 21. Copies 67141
	___ 22. Emg. Coord. Trng. 67144
<hr/>	
Containers, Tanks	___ 23. Condition 67241
	___ 24. Compatibility 67242
	___ 25. Maintenance 67243
	___ 26. Inspection 67244
	___ 27. Buffer Zone 67246
	___ 28. Tank Inspection 67259
	___ 29. Containment 67245
	___ 30. Safe Storage 67261
	___ 31. Freeboard 67257
<hr/>	
I.B. TRANSPORTER (Title 22)	
___	32. Applic./Insurance 66428
___	33. Comp. Cert./CHP Insp. 66448
___	34. Containers 66465
<hr/>	
Manifest	___ 35. Vehicles 66465
	___ 36. EPA ID #s 66531
	___ 37. Correct 66541
	___ 38. HW Delivery 66543
	___ 39. Records 66544
<hr/>	
Cont'n	___ 40. Name/ Covers 66545
	___ 41. Recyclables 66800

Comments:

Lewine-Fricke is drilling soil borings in front of garage (near gasoline USTs) July 2 SBs instead of 3 SBs. They're dropping metals + Cl HCs from sampling matrix, as per a conversation w/ Tom & Peacock. 1st SB hit water at ~ 21.5' bgs.

There's a hydraulic hoist inside garage which ~~has~~ ^{contains} liquid. They're pumping out the liquid for disposal! There are also 4 drums labeled "soil borings / HC contaminated soil" which L-F plans to dispose.

USTs are slated for removal this summer.

Rev 6/88
 Contact: Taylor Bennett
 Title: St. Staff Hydrogeologist
 Signature: Taylor Bennett

Inspector: Jennifer Eberle
 Signature: J Eberle



5-22-93
Gibberle
Harrison St. Garage
1432 Harrison St.
Oakland CA



LEVINE-FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

MICHAEL J. STOLL
PROJECT GEOTECHNICAL ENGINEER

1900 POWELL STREET, 12TH FLOOR
EMERYVILLE, CA 94608
(510) 652-4500
FAX (510) 652-2246

Other Offices: CA; HI



LEVINE-FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

JOHN O. STURMAN, P.E., R.G.
SENIOR GEOTECHNICAL ENGINEER

1900 POWELL STREET, 12TH FLOOR
EMERYVILLE, CA 94608
(510) 652-4500
FAX (510) 652-2246

Other Offices: CA - Sacramento/Roseville, CA; HI

LEVINE•FRICKE

FACSIMILE COVER SHEET

Date	5-18-93	
Time	5pm	
Deliver to	Mr. Paul Smith Thomas (please file)	
Name of Firm	Alameda County Health Care Services Agency	
Fax Phone No.	569-4757	L-F Project No. 2680.12
From	Michael Stoll	

NUMBER OF PAGES: This cover page plus 1 page(s)

For voice contact call: (510) 652-4500

For return Facsimile message: (510) 652-2246

Telecopy Operator: _____

Any questions or inquiries about missing pages or unreadable copy,
please call (510)652-4500

Remarks Re: Harrison Street Garage Project, Oakland

As per our conversation

1900 POWELL STREET, 12TH FLOOR
EMERYVILLE, CA 94608
(510) 652-4500

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; and Honolulu, HI

**LEVINE-FRICKE**

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

via facsimile and mail
May 18, 1993

LF 2680.12

Mr. Paul Smith
Senior Hazardous Materials Specialist
Alameda County Health Care
Services Agency
80 Swan Way, Room 200
Oakland, California 94621

Subject: Drilling Activities at the Harrison Street Garage,
1432-1434 Harrison Street, Oakland, California.

Dear Mr. Smith:

This letter has been written to confirm our telephone conversation on May 17, 1993. As we discussed, Levine-Fricke will begin drilling activities at the subject site on Saturday May 22, 1993 at 7:30 A.M. We have also informed Mr. Thomas Peacock of the Alameda County UST Local Oversight program of our planned activities and schedule.

If you have any questions or comments, please contact me or John Sturman at (510) 652-4500.

Sincerely,

Michael Stoll
Project Engineer

cc: Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May

P:\lfpublic\mj\2680drnt.ps

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; Honolulu, HI

** TOTAL PAGE.002 **



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

via facsimile and mail
May 18, 1993

LF 2680.12

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care
Services Agency
80 Swan Way, Room 200
Oakland, California 94621

Subject: Drilling Activities at the Harrison Street Garage,
1432-1434 Harrison Street, Oakland, California.

Dear Mr. Peacock:

This letter has been written to confirm our telephone conversation on May 18, 1993. As we discussed, Levine-Fricke will begin drilling activities at the subject site on Saturday May 22, 1993 at 7:30 A.M. We have also informed Mr. Paul Smith of your agency of our planned activities and schedule.

If you have any questions or comments, please contact me or John Sturman at (510)652-4500.

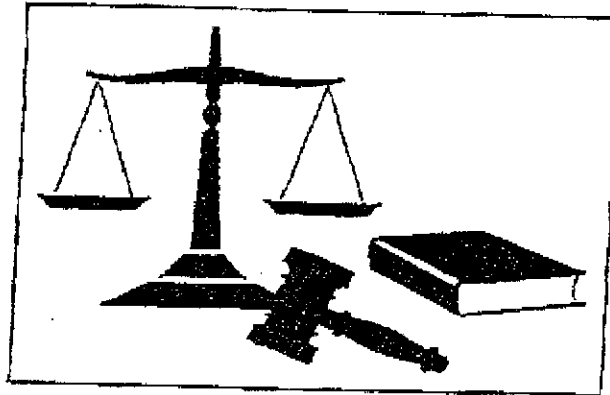
Sincerely,

Michael Stoll
Project Engineer

cc: Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May

P:\lpublic\mjs\2680drnt.tp

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246



FACSIMILE TRANSMITTAL

TO: 569-4757
Fax Phone Number

NAME: Tom Pearson

AGENCY: _____

TELEPHONE NUMBER: _____

FROM: (510) 569-0505
Fax Phone Number

DATE: 5-6-93

SENDER: Gil Jensen

TELEPHONE NUMBER: 569-9281

NUMBER OF PAGES INCLUDING TRANSMITTAL SHEET: 9

SPECIAL INSTRUCTIONS/COMMENTS: _____

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

PETE WILSON, Governor

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF CLEAN WATER PROGRAMS
2014 T STREET, SUITE 130
P.O. BOX 944212
SACRAMENTO, CA 94244-2120



FAX (916) 227-4349
FAX (916) 227-4530

TRANSMITTAL OF FAX MATERIAL

DATE: 5/5/99

TO: Gil Jensen

FAX # (510) 569-0505

FROM: DIVISION OF CLEAN WATER PROGRAMS
FAX # (916) 227-4349
CLEANUP FUND FAX (916) 227-4530

*(If you did not receive all your FAX,
please call (916) 227- 4535)*

NO. OF PAGES 7 (including this sheet)

For your information

Per your request

For your review and comments

REMARKS:
Chron prepared by
Mark Borsuk for
Bacharach & Borsuk

1/22/93

MARK BORSUK
ATTORNEY AT LAW

1828 VALLEJO STREET
SAN FRANCISCO, CA 94133-2385

FAX 822-3483
(415) 822-4740

VIA FAX
SIX PAGES

May 3, 1993

Mr. Steve Parada
UST FUND
Division of Clean Water Program
State Water Resource Control Board
Suite 130
2014 T Street
Sacramento, CA 94244-2120
(916) 227-4486
FAX 227-4530

SUBJECT: CORRECTIVE ACTION COMPLIANCE CHRONOLOGY
CLAIM #2219
ALVIN H. BACHARACH & BARBARA JEAN BORSUK
HARRISON STREET GARAGE

Dear Steve:

Actions by Alameda County and a rise in the ground water level are the main factors for delaying the removal of the USTs at the Harrison Street Garage. The chronology and supporting correspondence fully demonstrate the claimant's ongoing efforts to comply with the County's demands.

The primary reasons for the long delay in implementing corrective action are:

- A. The degree of involvement by the Alameda County District Attorney's office in the case.
- B. The Alameda County Health Care Services Agency's (ACHCSA) requirements for extensive site characterization. The plan became so elaborate, the claimant sought peer review for the proposed March 1992 work plan. Peer review recommended substantial revisions to the work plan. This resulted in a significant cost savings.
- C. The County found fault with the claimant's original consultant in late 1991 and the claimant retained a new consultant.

- D. A substantial rise in the ground water to approximately four (4') feet, or some other as yet unexplained source of water has created a new problem: unstable soil conditions in the tank area. Extensive shoring during the tank pull and additional soil excavation may be required. Water infiltration may also require reinforcement of the building's party wall. A geotechnical investigation will commence shortly to determine the extent of water infiltration, appropriate method for pulling the tanks, and stabilizing the structure.

As a result of these events, the tanks have not been pulled or the site fully characterized. The claimants, however, have continuously complied with the County's directives. Under these circumstances, it would be inequitable and unjust to conclude the claimants are not in compliance with Section 2811 of the regulations.

You also questioned the high cost of the project. A brief review of the correspondence between the Alameda County District Attorney's Office, ACHCSA, and the claimants' consultants and attorneys provides the answer. Based on the County's requirements, the costs escalated dramatically. Most of the increase is attributable to multiple iterations of the work and health and safety plans. It was impossible to contain costs due to the County's continuing demands for revisions. The voluminous correspondence between the parties regarding the need for additions, changes and revisions thoroughly demonstrate this point.

I look forward to our meeting Wednesday, May 5. We can review the chronology, the correspondence and reasons for the delay. Should you require additional information, please feel free to contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Barabara Jean Borsuk

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94122-5115

FAX 922-1485
(415) 922-4740

CORRECTIVE ACTION COMPLIANCE CHRONOLOGY

CLAIM #2219

ALVIN H. BACHARACH & BARBARA JEAN BORSUK
HARRISON STREET GARAGE
May 3, 1993

Participants

ACHCSA: Alameda County Health Care Services Agency. Local oversight.
DA: Mr. Mark Thomson, Assistant District Attorney, Alameda County.
SCS: SCS Engineers. The Claimant's original environmental consultant.
LF: Levine-Fricke. The Claimant's environmental consultant.
RGA: RGA Environmental, Inc. The Claimant's original certified industrial hygienist (CIH).
*: Document referenced in subsequent correspondence.

<u>DATE</u>	<u>FROM/TO</u>	<u>SUBJECT/ACTION</u>
July 31, 1990	ACHCSA to Claimant	Notice of Violation.
August 27	ACHCSA to Claimant	Notice to perform preliminary site assessment.
September 5	SCS to ACHCSA	Proposal to investigate site and remove tanks. Underground tank closure plan filed with ACHCSA by Ver's Construction.*
September 24	ACHCSA to SCS	Request to modify the tank closure plan of August 28.
October 12	SCS to ACHCSA	Response to September 24 modifications.
October 27	SCS	Consultant removes residual amounts of gasoline and waste oil from tanks.*
November	DA	Alameda County's Assistant District Attorney Mark Thomson becomes involved in project.

January 25, 1991	ACHCSA to SCS	Additional request to modify site characterization.
February 15	SCS to ACHCSA	Revise site characterization proposal submitted.*
February 21	ACHCSA to SCS	Additional request to modify site characterization of February 15.
March 3	SCS to ACHCSA	Addendum to February 15 site characterization submitted.*
March 6	ACHCSA to SCS	Need to resolve additional issues prior to work plan approval.
March 11 & 12	SCS to ACHCSA	Revisions submitted as requested.*
March 14	ACHCSA to SCS	Additional revision required.
March 18	SCS to ACHCSA	Revision completed.
March 22	ACHCSA to SCS	February 15, 1991 site characterization plan as revised approved. Forty-five days to implement work.
April 26	Claimant's counsel (Leo) to DA	Request to modify site characterization based on outside review of SCS's plan by Harding-Lawson Associates, environmental consultants.
April 29	DA to Claimant's Counsel (Leo)	Statement of the County's position.
May 14	ACHCSA, DA & Claimant's Counsel (Leo)	Verbal agreement to permit "modified work plan."*
June 6	SCS to ACHCSA	Modified site characterization plan submitted for approval.
July 12	ACHCSA to SCS	Revisions to modified work plan requested.
August 19	SCS to ACHCSA	Revised and modified work plan per July 12 request submitted.*

September 3	ACHCSA to SCS	Additional modifications requested by County.
September 24	SCS to ACHCSA	Reply to points raised on September 3. Some modifications made to plan.
October 29	ACHCSA to SCS	Reply to SCS's September 24 correspondence. Raises questions regarding SCS's competency.
November		Claimant engages services of RGA Environmental, Inc. to augment SCS's Health and Safety plan.
December 26	RGA to ACHCSA	RGA to address ACHCSA's concerns of October 29.
December 27	Claimant's Counsel (Morrison) to DA	Update on RGA's activities to provide Health and Safety component to revised work plan.
January 7, 1992	ACHCSA to RGA	Additional points of concern for Health and Safety plan.
January 10	RGA to ACHCSA	RGA addresses concerns of January 7. *
January 14	ACHCSA to RGA	Approval of RGA work plan.
March 6	SCS to Claimant's Counsel (Borsuk)	SCS alerts Claimant to water leak causing the ground water level to rise to just four feet below the sidewalk. SCS recommends halting tank removal until situation investigated.
May 8	RGA to ACHCSA	Preliminary site safety and assessment report sent to County.
May 18	Claimant's Counsel (Morrison) to DA & ACHCSA	RGA's site safety and assessment plan sent for review.
June 23	Claimant's Counsel	Levine-Fricka, environmental

	(Morrison) to DA	consultants tentatively selected to replace RGA and SCS as overall project consultant.
June 30	ACHCSA to Claimant's Counsel (Morrison)	Additional questions and concerns by the County. Request for response.
July 24	Claimant's Counsel (Morrison) to DA	Update on meeting between ACHCSA and LF.
August 31	LF to ACHCSA	Addendum to Site Safety Plan submitted to ACHCSA.*
September 25	ACHCSA to Claimant's Counsel (Morrison)	Additional changes to plan requested.
November 3	Claimant's Counsel (Morrison) to DA	Update on work plan submission and need to obtain three bids for corrective action work.
December 15	LF to ACHCSA	LF work plan submitted for review.*
January 8, 1993	ACHCSA to LF	Additional guidance given by ACHCSA for work plan.
February 9	LF to ACHCSA	Response to ACHCSA letter of January 8.*
February 18	ACHCSA to LF	Approval of work plan to determine ground water level near to gasoline storage tanks.
May		LF to commence investigation of ground water level per approved work plan. Drilling contractor and analytical laboratory selected.
+++++		

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

PETE WILSON, Governor

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 T STREET, SUITE 130

P.O. BOX 944212

SACRAMENTO, CA 94244-2120



FAX (916) 227-4349

FAX (916) 227-4530

TRANSMITTAL OF FAX MATERIAL

DATE: 5/5/93

TO: Gil Jensen

FAX # (510) 569-0505

FROM: DIVISION OF CLEAN WATER PROGRAMS
FAX # (916) 227-4349
CLEANUP FUND FAX (916) 227-4530

Blessy Torres

(If you did not receive all your FAX,
please call (916) 227-4530)

NO. OF PAGES 7 (including this sheet)

For your information

Per your request

For your review and comments

REMARKS: _____

Chron prepared by
Mark Borsuk for
Bacharach + Borsuk

1/22/93

**MARK BORSUK
ATTORNEY AT LAW**

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1405
(415) 922-4740

**VIA FAX
ONE PAGE**

February 23, 1993

Mr. Tim Spates / Larry Seto
Division of Hazardous Materials
Department of Environmental Health
Alameda County Health Care Services
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4320
FAX 569-4757

*9:00
March 1st*

SUBJECT: FILE REVIEW

Dear Tim:

Please confirm my appointment to review the files listed below on **Friday, February 26** or **Monday, March 1** after 3:00 p.m. If these dates are not possible, then **Tuesday, March 2** after 3:00 p.m. is acceptable.

-1432 Harrison Street, Oakland, CA 94612
-1721 Webster Street, Oakland, CA 94612 (LOP #4070)

*— Tim
— Larry*

Your assistance is appreciated. Thank you.

Sincerely yours,



Mark Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Division
80 Swan Way, Rm. 200
Oakland, CA 94621
(510) 271-4320

February 18, 1993

Mr. Randall Morrison
Crosby, Heafy, Roach and May
1999 Harrison Street
Oakland, CA 94612-3573

**Re: Further Site Characterization Workplan for 1432
Harrison Street Garage Site, Oakland, CA 94612**

Dear Mr. Morrison:

Alameda County Environmental Health Department, Hazardous Materials Division has received and reviewed the workplan, dated December 15, 1992, and the workplan revision dated February 9, 1993, prepared by Levine-Fricke.

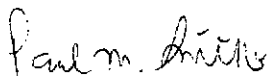
The workplan is hereby approved with the inclusion of the following:

- 1) A fingerprint analysis of three representative samples is acceptable to determine which hydrocarbon constituents are present in the area of the Harrison Street underground tanks and pipes. The appropriate hydrocarbon analyses in the subsequent nine samples will be performed based upon these results.
- 2) Regarding leachability testing for nickel and mercury, you are requested to have the your consultant measure the pH of the rainfall at the site (depending on available rainfall) and to buffer the de-ionized water accordingly, using carbonic acid, for the leachability test.
- 3) As mentioned in previous correspondence from this Department you should be aware that because metals and chlorinated compounds were previously detected in grab samples at the Harrison St. tank location, during installation and initial sampling of monitoring wells, you are required to sample soil and groundwater for the presence of all contaminants previously detected at the site.
- 4) As specified, a Health and Safety Plan Addendum is expected prior to the initiation of field activities at the site
- 5) Please have your consultant notify this office with as much advance notice as possible prior to initiation of any scheduled work at the site.

Mr. Morrison
February 18, 1993
page 2 of 2

If you have any questions please feel free to contact me through
Gil Jensen or have your consultant contact me directly.

Sincerely,



Paul M. Smith
Senior Hazardous Materials Specialist

cc:

Alvin Bacharach, 383 Diablo Road, #100, Danville, CA 94526
Barbara Borsuk, 383 Diablo Road, #100, Danville, CA 94526
John Sturman/Michael Stoll, Levine Fricke, 1900 Powell
Street, 12th Floor, Emeryville, CA 94608
Jonathan Rossen, Cal OSHA, 7700 Edgewater Dr., Suite 125,
Oakland, CA 94621
Gil Jensen, Alameda County District Attorneys Office, Consumer
and Environmental Protection, 7677 Oakport, Suite 400,
Oakland, CA 94621



55 FEB 11 1993

LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

February 9, 1993

LF 2680.04

Mr. Paul Smith
Senior Hazardous Materials Specialist
Alameda County Health Care Services
Division of Hazardous Materials
Department of Environmental Health
80 Swan Way, Room 200
Oakland, California 94621

Subject: Response to Your Letter Dated January 8, 1993
Concerning the Work Plan for Further Soil
Characterization, 1432 Harrison Street, Oakland,
California

Dear Mr. Smith:

As you are aware, in a January 8, 1993 letter to Mr. Randall Morrison of Crosby, Heafey, Roach and May, you provided comments to Levine-Fricke's December 15, 1992 work plan entitled "Work Plan for Further Soil Characterization, Harrison Street Garage Site, 1432 - 1434 Harrison Street, Oakland, California." That letter outlined the following concerns:

- Soil and ground-water samples must be analyzed for total petroleum hydrocarbons (TPH) as gasoline (TPHg), TPH as diesel (TPHd), benzene, toluene, ethylbenzene, and xylenes (BTEX), total oil and grease (TOG), nickel, mercury, lead, bromodichloromethane, and chloroform.
- Why has the sampling regime been limited to 5-foot intervals?
- Shouldn't additional water samples be collected during this phase of work? Why not install a well rather than a boring?
- As indicated in the work plan, please provide an addendum to the Health and Safety Plan reflecting the proposed drilling activities and specifying the name of the drilling contractor.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

I discussed these issues with you during a telephone conversation on January 14, 1993. This letter documents that discussion and addresses unresolved issues concerning our proposed investigation of the area around the underground storage tanks (USTs).

Analysis and Characterization of Hydrocarbons (TPHg, TPHd, BTEX, and TOG)

As we discussed in our telephone conversation, the previous soil-quality investigation in the area around the Harrison Street USTs has not fully characterized the source of product(s) as gasoline, diesel, or waste oil, although each of these has been identified in quantitative results. During our January conversation, we proposed performing "fingerprinting" analyses of the hydrocarbons to better identify the source product(s). During drilling activities, we intend to collect and retain at least three soil samples from each of the three borings. Of the samples retained, we plan to analyze three soil samples (one from each soil boring) for hydrocarbon type characterization. Based on our review of the characterization results obtained, nine samples will be selected for quantification of hydrocarbons using EPA standard methods for priority pollutant quantification. *BTEX*

Analysis of Soil Samples for Nickel and Mercury

Existing data indicate two soil samples (B20-15' and B17-5') collected near the USTs and analyzed for CAM-17 metals have mercury at concentrations below the Total Threshold Limit Concentration (TTLC) but exceeding 10 times the California Soluble Threshold Limit Concentration (STLC) of 0.2 parts per million (ppm) for mercury. Additionally, sample B20-15' had a concentration of nickel exceeding 10 times the STLC of 20 ppm for nickel, although nickel was not detected in the other sample. Available background soil metals data for the Oakland area are limited; however, these results may indicate elevated concentrations with respect to naturally occurring soil metals.

As we discussed, the soil metals data obtained by Robert Gils Associates (RGA) may not necessarily be representative of the soil in the vicinity of the tanks. Additionally, if the RGA data are representative, it is our opinion that metals most likely do not present a potential health concern. We agreed that since the site is paved, the only potential human health threat associated with the metals in soil would be if these

LEVINE·FRICKE

metals were to leach into shallow ground water, which would then be contacted by humans.

However, to address this potential health concern, we propose to collect two soil samples from the same area as the RGA samples and submit them for analysis of nickel and mercury. If those results indicate concentrations exceeding 10 times the STLC for nickel or mercury, a leachability test will be performed on the sample(s) for the respective metal. The leachability test will be performed using de-ionized water at a normal pH, which is considered more representative of natural ground-water conditions than a low pH solvent.

Analysis for Lead

RGA collected two "grab" samples from ground water that entered soil borings near the Harrison Street USTs. Results from one sample (Boring B-17) did not detect lead at a minimum detection limit of 0.58 ppm. In the other sample (Boring B-20), lead was detected at a concentration of 0.81 ppm. It is not clear from the RGA report whether the grab ground-water sample was filtered for sediments before analysis. If the sample was not filtered, the lead results could be reflecting lead in suspended solids in the water, not lead in ground water itself. The samples were analyzed for total lead only, not tetraethyl lead (TEL). Also, because the sampling methodology is non-standard, these results do not necessarily indicate the presence of lead in ground water.

The two soil samples in the vicinity of the tanks which were analyzed for metals (B17-5' and B20-15') both detected total lead at a concentration of 10.4 ppm. This concentration would be considered within typical background ranges for lead in soils.

As the existing soil quality data do not indicate elevated lead concentrations, we do not intend to collect additional soil quality samples for lead. Well installation and ground-water sampling are not part of the scope of this investigation; therefore, we do not intend to sample ground water for lead. A discussion of well installation and proposed ground-water sampling associated with this investigation is presented below.

Analysis for Chlorinated Hydrocarbons (Bromodichloromethane and Chloroform)

As stated in your letter, one grab ground-water sample (B-17) collected near the Harrison Street USTs was found to contain

bromodichloromethane at 2.4 parts per billion (ppb) and chloroform at 30 ppb. As we discussed, the concentrations detected are near the laboratory method detection limits, and therefore do not necessarily indicate the presence of these compounds. Additionally, our knowledge of the site history does not include use of chlorinated solvents in this area.

It is our opinion that the State of California drinking water standards would be conservative guidelines by which to judge these results. The State does not have drinking water maximum contaminant levels (MCLs) for these compounds but requires monitoring of drinking water for them. Therefore, it is our opinion that the concentrations reported for these compounds do not represent actionable concentrations of contaminants. We do not intend to analyze soil samples or ground-water samples associated with the Harrison Street USTs for chlorinated hydrocarbons.

Soil Sample Frequency

As we discussed, during drilling activities, soil samples will be collected at an interval no greater than 5 vertical feet per sample. Samples may be collected more frequently, if lithologic, ground water, or hydrocarbon conditions indicate a reasonable need for more characterization and/or soil samples.

Well Installation and Ground-Water Sampling

We do not believe it is necessary to install a well at the site at this time because, after completing UST removal and associated soil excavation activities, it is the intent of the property owner to install shallow ground-water monitoring wells to assess the impact of leaks associated with the USTs on shallow ground water. In our opinion, data that would be obtained from a well installed before excavation activities are not critical to developing a UST removal plan.

Additionally, the UST removal and associated soil excavation activities will include the demolition of the sidewalk and possibly the street around the USTs. Because the excavation likely will come very near the proposed boring locations, if not include them, it would be our recommendation to properly destroy wells that might have been installed at these boring locations before initiating excavation activities. Because long-term (at least 1 year) monitoring will be performed associated with the UST leak, it is our opinion that well installation at this time (and future destruction and re-installation) is not a cost-effective approach.

During drilling for the soil investigation, we will screen soil samples around the shallow ground-water table (if encountered) for volatile hydrocarbons using a field flame ionization detector (FID) to assess the possible presence of floating hydrocarbon product. We will also leave the borings open for at least one hour (or until the water-level stabilizes) to assess the shallow ground-water level and the possible presence of hydrocarbon product. Because the site soils are predominantly sandy, it is our opinion that we can assess these conditions at the time of drilling. If hydrocarbon product is encountered, we will collect a product sample for hydrocarbon fingerprinting. We are not otherwise proposing to collect and analyze ground-water samples because of the uncertainties involved with "grab" ground-water sampling.

After UST removal and installation of additional ground-water monitoring wells, the shallow ground-water gradient in the area will be assessed using either water elevation data from at least three on-site wells, or a combination of on-site and existing or new off-site wells. The wells will also be used to evaluate the yield and TDS of this ground water source with respect to the criteria for possible beneficial uses.

Health and Safety Plan Addendum

As you requested, a copy of the Health and Safety Plan Addendum, which will address the safety procedures associated with drilling and sampling activities, will be forwarded to your office before we initiate field work. Additionally, we are in the process of selecting a drilling contractor and we will tell you which firm we have selected to perform drilling once the selection has been made.

If you have any questions, or wish to discuss the matter further, please contact me or Michael Stoll. We are prepared to move forward with the activities described in the subject work plan and this letter. If we do not hear from you by February 23, 1993, we shall assume that the work plan, as revised herein, is acceptable. We shall therefore initiate

LEVINE·FRICKE

the investigation activities and notify you of the anticipated field schedule.

Sincerely,



John Sturman, P.E.
Senior Geotechnical Engineer

cc: Mr. Alvin H. Bacharach
Mr. Jonathan Rossen, Cal OSHA
Mr. Gil Jensen, Alameda County District Attorney's Office
Mr. Mark Borsuk
Mr. Craig S. J. Johns, Crosby, Heafey, Roach & May

LEVINE•FRICKE

FACSIMILE COVER SHEET

Date	2/9/93	
Time	5 pm	
Deliver to	Mr. Paul Smith	
Name of Firm		
Fax Phone No.	569-4757	L-F Project No. 2680.04
From	John Starman	

NUMBER OF PAGES: This cover page plus 6 page(s)

For voice contact call: (510) 652-4500
 For return Facsimile message: (510) 652-2246

Telecopy Operator: _____

Any questions or inquiries about missing pages or unreadable copy,
 please call (510)652-4500

Remarks _____

1900 POWELL STREET, 12TH FLOOR
 EMERYVILLE, CA 94608
 (510) 652-4500

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; and Honolulu, HI

**LEVINE-FRICKE**

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

February 9, 1993

LF 2680.04

Mr. Paul Smith
Senior Hazardous Materials Specialist
Alameda County Health Care Services
Division of Hazardous Materials
Department of Environmental Health
80 Swan Way, Room 200
Oakland, California 94621

Subject: Response to Your Letter Dated January 8, 1993
Concerning the Work Plan for Further Soil
Characterization, 1432 Harrison Street, Oakland,
California

Dear Mr. Smith:

As you are aware, in a January 8, 1993 letter to Mr. Randall Morrison of Crosby, Heafey, Roach and May, you provided comments to Levine-Fricke's December 15, 1992 work plan entitled "Work Plan for Further Soil Characterization, Harrison Street Garage Site, 1432 - 1434 Harrison Street, Oakland, California." That letter outlined the following concerns:

- Soil and ground-water samples must be analyzed for total petroleum hydrocarbons (TPH) as gasoline (TPHg), TPH as diesel (TPHd), benzene, toluene, ethylbenzene, and xylenes (BTEX), total oil and grease (TOG), nickel, mercury, lead, bromodichloromethane, and chloroform.
- Why has the sampling regime been limited to 5-foot intervals?
- Shouldn't additional water samples be collected during this phase of work? Why not install a well rather than a boring?
- As indicated in the work plan, please provide an addendum to the Health and Safety Plan reflecting the proposed drilling activities and specifying the name of the drilling contractor.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE-FRICKE

I discussed these issues with you during a telephone conversation on January 14, 1993. This letter documents that discussion and addresses unresolved issues concerning our proposed investigation of the area around the underground storage tanks (USTs).

Analysis and Characterization of Hydrocarbons (TPHg, TPHd, BTEX, and TOG)

As we discussed in our telephone conversation, the previous soil-quality investigation in the area around the Harrison Street USTs has not fully characterized the source of product(s) as gasoline, diesel, or waste oil, although each of these has been identified in quantitative results. During our January conversation, we proposed performing "fingerprinting" analyses of the hydrocarbons to better identify the source product(s). During drilling activities, we intend to collect and retain at least three soil samples from each of the three borings. Of the samples retained, we plan to analyze three soil samples (one from each soil boring) for hydrocarbon type characterization. Based on our review of the characterization results obtained, nine samples will be selected for quantification of hydrocarbons using EPA standard methods for priority pollutant quantification.

Analysis of Soil Samples for Nickel and Mercury

Existing data indicate two soil samples (B20-15' and B17-5') collected near the USTs and analyzed for CAM-17 metals have mercury at concentrations below the Total Threshold Limit Concentration (TTLIC) but exceeding 10 times the California Soluble Threshold Limit Concentration (STLC) of 0.2 parts per million (ppm) for mercury. Additionally, sample B20-15' had a concentration of nickel exceeding 10 times the STLC of 20 ppm for nickel, although nickel was not detected in the other sample. Available background soil metals data for the Oakland area are limited; however, these results may indicate elevated concentrations with respect to naturally occurring soil metals.

As we discussed, the soil metals data obtained by Robert Gile Associates (RGA) may not necessarily be representative of the soil in the vicinity of the tanks. Additionally, if the RGA data are representative, it is our opinion that metals most likely do not present a potential health concern. We agreed that since the site is paved, the only potential human health threat associated with the metals in soil would be if these

Mr. Morrison
Mr. Trinkle
February 5, 1993
page 2 of 2

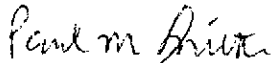
On January 15, 1993, Douglas Motors Service presented evidence to the Alameda County Department of Health in arguing against adding Douglas Motor Service as a responsible party for appropriate corrective action for unauthorized releases associated with gasoline tanks.

On January 29, 1993, Mr. Bacharach and Ms. Borsuk replied to the January 15, 1993 Douglas Motors Service presentation.

Order:

The County has been presented substantial evidence that leaks from the underground gasoline tanks occurred during the time Douglas Motor Service was operating them. Therefore, Douglas Motor Service is a responsible party. Pursuant to Health and Safety code Section 25299.37(c), Alvin Bacharach, Barbara Borsuk, and Douglas Motor Service and Its Partners shall take appropriate corrective action in response to the discovery of unauthorized releases associated with gasoline tanks located at 1432 Harrison St., Oakland, CA.

Sincerely,



Paul M. Smith
Senior Hazardous Materials Specialist

cc:

Gil Jensen Esq., Alameda County District Attorneys Office,
Consumer and Environmental Protection, 7677 Oakport
Dr., Suite 400, Oakland, CA 94621
Alvin Bacharach, 383 Diablo Road, #100, Danville, CA 94526
Barbara Jean Borsuk, 383 Diablo Road, #100, Danville, CA
94526
Leland Douglas, Douglas Parking Company, 1721 Webster
Street, Oakland, CA 94612
Lester Feldman, CA Regional Water Quality Control Board, San
Francisco Bay Region, 2101 Webster St., Fifth Floor,
Oakland, CA 94612

272-1184

John Anderson

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
DAVID J. KEARS, Agency Director



143-2HAR

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94621
(415)

January 8, 1993

Mr. Randall Morrison
Crosby, Heafy, Roach and May
1999 Harrison Street
Oakland, CA 94612-3573

John Sturman -

Re: Further Site Characterization Workplan for 1432
Harrison Street Garage Site, Oakland, CA 94612

Sentille

Freeman

Dear Mr. Morrison:

2/18/93

Frederick - Brice

Alameda County Environmental Health Department, Hazardous Materials Division has received and reviewed the workplan, dated December 15, 1992, prepared by Levine-Fricke. The workplan proposes to install and collect soil samples from three borings surrounding the two underground fuel tanks beneath the Harrison Street sidewalk.

talk to Barry re fingerprint

The proposal states that nine soil samples will be analyzed for total petroleum hydrocarbons as gasoline (TPHg), three soil samples will be analyzed for total petroleum hydrocarbons as diesel (TPHd), and that nine soil samples will be analyzed for benzene, toluene, ethylbenzene and xylene (BTEX). The April 2, 1992 Robert Gils Associate Report states that in groundwater samples collected near the area of the Harrison Street tanks total lead at 0.81 ppb (a water sample taken at the dispenser location indicated lead at 8.3 ppb), bromodichloromethane at 2.4 ppb, and chloroform at 30 ppb were each detected. Analysis of soil in the area of the Harrison tanks indicated TPHg at 1540 ppm, TPHd at 670 ppm, benzene at 0.987 ppm, total oil and grease (TOG) at 35.2 ppm, mercury at 2.48 ppm and nickel at 224.8 ppm.

5520 e, f

For this reason when performing soil and groundwater analysis you are required to analyze for the presence of each of these materials in at least some of the samples.

The report states that soil samples will be collected at a frequency of no greater than one sample per five vertical feet. If your intention is to attempt to determine the vertical extent of the contamination why has the sampling regime been limited to five foot intervals?

The proposal does not mention the collection of any groundwater samples. In light of the above groundwater data shouldn't additional water samples also be collected in this phase of work? There is some question as to why instead of installing a boring on Harrison street a monitoring well has not been specified. As