

**WORK PLAN FOR  
ADDITIONAL INVESTIGATION**

**Former E-Z Serve Site No. 100877  
525 West A Street  
Hayward, California**

Prepared for:

**E-Z Serve Management Company  
2550 North Loop West, Suite 600  
P.O. Box 922021  
Houston, Texas 77292-2021**

Prepared by:

**HYDRO-ENVIRONMENTAL TECHNOLOGIES, INC.  
2363 Mariner Square Drive, Suite 243  
Alameda, California 94501  
HETI Job No. 7-278**

**June 21, 1994**

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## 1.0 INTRODUCTION AND PURPOSE

The purpose of this work plan is to propose additional off-site investigative activities at the former E-Z Serve Station No. 100877, 525 West A Street, Hayward, California (Figure 1). This proposal has been designed specifically to respond to a request for delineation from the Alameda County Department of Environmental Health (ACDEH).

Investigative work proposed by Hydro-Environmental Technologies, Inc. (HETI) during this phase of activity includes: performing a ground water quality survey using small-diameter driven probes, and installation of four ground water monitoring wells at the estimated lateral extent of hydrocarbons in ground water based on the results of the shallow ground water survey. This screening technique prior to permanent well installation will ensure that the monitoring wells are installed in the appropriate locations.

## 2.0 BACKGROUND

Several episodes of subsurface site assessment have been conducted since the discovery of a leak in the product lines in 1986. Applicable conditions at the site are as follows:

- The site is currently not in use. The only remaining structures on site are the canopy over the former dispenser islands, some lights and a surrounding fence (Figure 2).
- Soils are predominantly silty clay. Sand has been observed in some borings at an approximate depth of 10 to 15 feet below ground surface (ft bgs) and again at approximately 25 to 30 ft bgs. The maximum depth explored was 30 ft bgs.
- Ground water is at approximately 17.8 ft bgs (June 1993). The ground water gradient is toward the west at 0.14% (June 1993). The depth to ground water has ranged from 16 to 22 ft bgs.
- The highest reported concentration of petroleum hydrocarbons in soil samples taken from borings drilled at the site is 19 parts per million (ppm) total petroleum hydrocarbons as gasoline (TPHg) in the boring for well MW-4. The highest concentration of benzene reported in soil samples (at 2.7 ppm) is also from the boring for well MW-4. All other on-site borings contained reportable concentrations of TPHg and benzene.
- Concentrations of petroleum hydrocarbons in the June 1993 on-site ground water samples ranged from 5,700 parts per billion (ppb) TPHg (Well MW-4) to 60,000 ppb TPHg (Well MW-2). Concentrations of petroleum hydrocarbons in the June 1993 samples from off-site wells MW-7, MW-9 and MW-10 were

similar. Petroleum hydrocarbons were reported in the sample from up-gradient well MW-8 at a concentration of 350 ppb TPHg.

- Eleven monitoring wells exist, eight on-site and three off-site. All wells have been completed at a total depth of approximately 30 feet. Well MW-1A, originally reported by Associated Soils Analysis as 17.8 feet deep, was measured as 29.00 feet deep.
- HETI conducted a soil vapor extraction test on January 19, 1994 on wells MW-1A, MW-2 and MW-4. Based on the results of that test, an air sparging and soil vapor extraction system was proposed for remediation of hydrocarbons in the soil and ground water on the site. The test results and proposal were presented in HETI's *Remedial Investigation Report*, dated March 1, 1994.

### 3.0 PROPOSED SCOPE OF WORK

HETI proposes the following scope of work, which has been designed specifically to satisfy the concerns of the ACDEH in the most cost effective manner possible:

- Prepare Site Safety Plan: HETI will prepare this site-specific document prior to the start of field work.
- Obtain Well Permits: HETI will apply for well permits from Zone 7 of the Alameda County Flood Control District for the proposed monitoring wells and temporary ground water probes.
- Conduct Ground Water Quality Survey: Two days of ground water quality surveying will be conducted. The ground water quality survey will be conducted using a specialized sampling device to collect discreet ground water samples at up to sixteen locations surrounding the site. Proposed locations are shown on Figure 3.

A six-foot section of decontaminated, perforated, 3/4-inch pipe would be pneumatically or hydraulically driven to a depth of approximately 20 to 25 feet below ground surface (bgs). Ground water is allowed to fill the probe over a period of up to 24 hours, and a sample will be taken using a miniature bailer. The samples will be carefully transferred to preserved, 40-milliliter VOAs, labeled, placed in a cooler and transferred under chain-of-custody to a state-certified laboratory for analysis. Samples will be analyzed for TPHg and benzene, toluene, ethylbenzene and total xylenes (BTEX).

The sample results will be plotted on a map showing sample locations, and the lateral extent of the dissolved hydrocarbon plume will be estimated. After the survey is completed, the probes will be removed and the small probe holes will

be grouted to the surface with a bentonite and cement mix. The test probes will be decontaminated and the decontaminated water will be properly discarded.

- Install Monitoring Wells: The results of the ground water quality survey will be used to select locations for permanent monitoring wells. It is anticipated that four, two-inch diameter wells will be installed, one in each direction. Well permits will be obtained prior to drilling.

The soil borings for the wells will be drilled using 8-inch diameter, hollow-stem augers. Soil samples will be collected every five feet for characterization using a California-modified split-spoon sampler. Samples will be screened with a Thermo-Environmental photoionization detector. None are anticipated to be submitted for laboratory analysis, since the extent of hydrocarbons in soil has already been delineated. The monitoring wells will be installed according to standard HETI protocols, which are attached as Appendix A.

The anticipated depth of the wells is 30 feet, 10 feet below the ground water surface as shown on Figure 4. In anticipation of encountering fine-grained sediments, the wells will be screened from 15 feet to 30 feet bgs using 0.010-inch, machine-slotted PVC well casing. A sand pack of #1/20 sand will be placed from 13 to 30 feet bgs. A 2-foot bentonite seal will be placed above the sand and hydrated. The remainder of the boring will be filled with cement grout to the surface. A traffic rated well box, expansion plug and lock will be placed at the surface.

- Survey, Develop and Sample the Wells: After installation, the elevations of the new wells will be surveyed using the existing wells as a benchmark. Following the survey, the new wells will be developed using surging and bailing to remove fine-grained sediments which will have accumulated in the wells after drilling. After development, all monitoring wells at the site will be gauged for depth to water and thickness of separate-phase petroleum, if any. Wells without product will be sampled for TPHg and BTEX. The samples will be carefully transferred to preserved, 40-milliliter VOAs, labeled, placed in a cooler and transferred under chain-of-custody to a state-certified laboratory for analysis.
- Report Submittal: The results of the investigation will be documented in a report, which will include, at a minimum, a description of all fieldwork, a site plan showing the quality survey and monitoring well locations, tabulated analytical data, a ground water contour map, a hydrocarbon plume map, boring logs and well construction diagrams.

#### 4.0 PROPOSED SCHEDULE

The additional off-site investigation will commence following approval of this workplan. The following tentative schedule is proposed:

<u>TASK</u>	<u>COMPLETION DATE</u>
Submit workplan to ACDEH	June 24, 1994
Perform ground water quality survey	Within 60 days of plan approval by ACDEH
Install monitoring wells	Within 30 days of ground water quality survey
Submit report	Within 45 days of completion of field work

## 6.0 CERTIFICATION

This work plan was prepared under the supervision of a registered geologist. All statements, and recommendations are based solely upon field observations and laboratory analyses performed by a state-certified laboratory related to the work performed by Hydro-Environmental Technologies, Inc.

It is possible that variations in the soil or ground water conditions exist beyond the points explored in this investigation. Also, site conditions are subject to change at some time in the future due to variations in rainfall, temperature, regional water usage or other factors.

The service performed by Hydro-Environmental Technologies, Inc. has been conducted in a manner consistent with the level of care and skill ordinarily exercised by members of our profession currently practicing under similar conditions in the area of the site. No other warranty, expressed or implied, is made.

Hydro-Environmental Technologies, Inc. includes in this report chemical analytical data from a state-certified laboratory. These analyses are performed according to procedures suggested by the US EPA and the State of California. Hydro-Environmental Technologies, Inc. is not responsible for laboratory errors in procedure or result reporting.

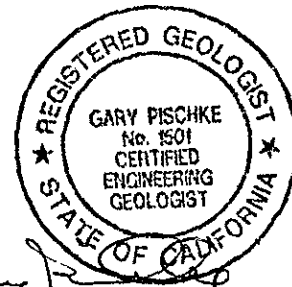
HYDRO-ENVIRONMENTAL TECHNOLOGIES, INC.

Prepared by:

Reviewed by:



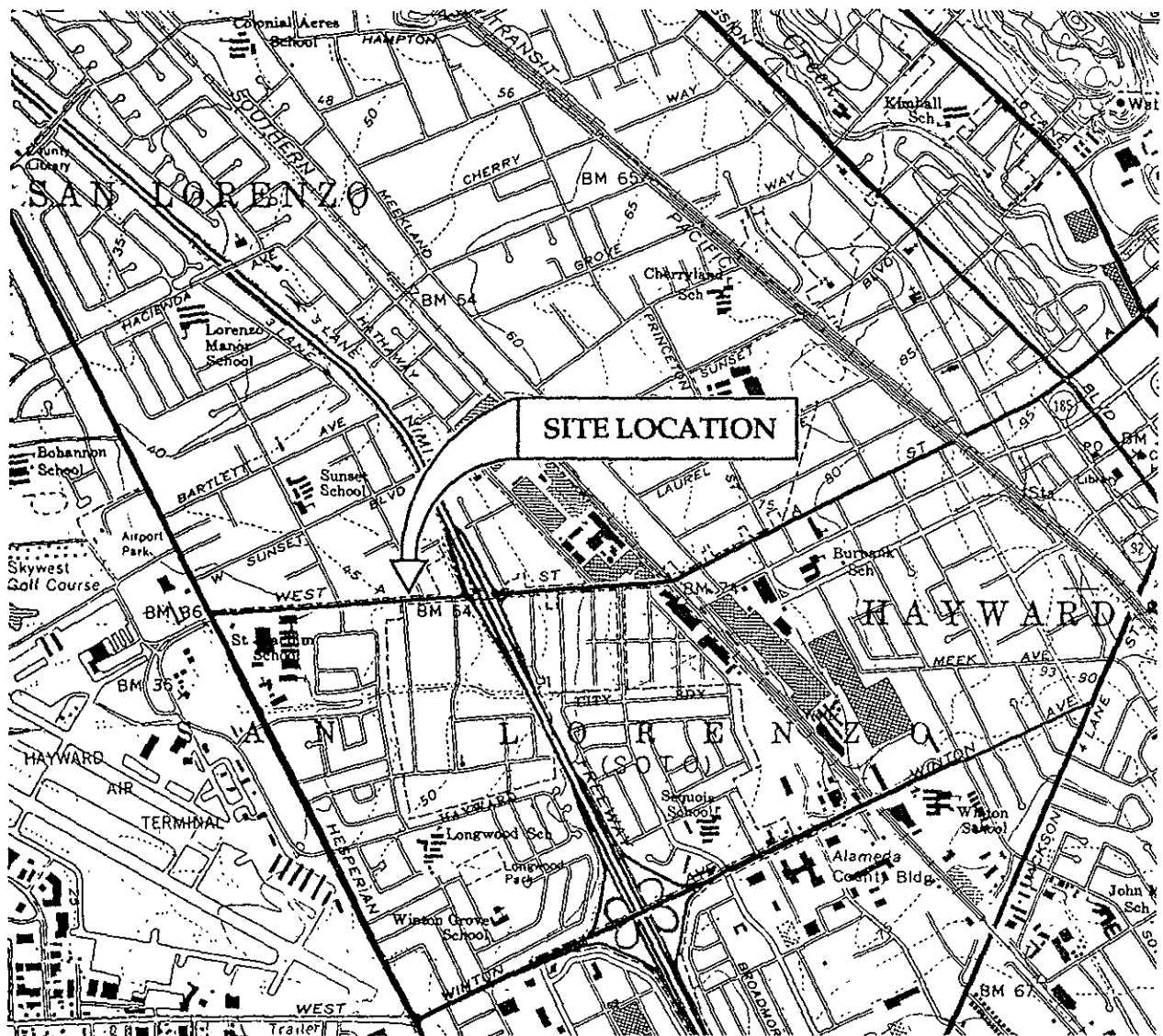
John H. Turney, P.E.  
Senior Engineer



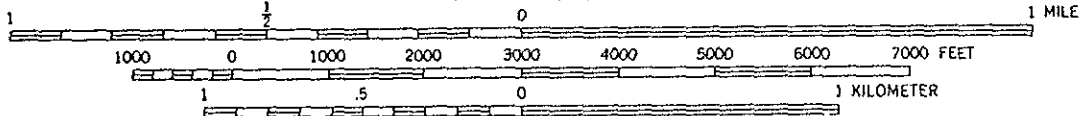
Gary Pischke, C.E.G.  
Senior Geologist

# FIGURES





SCALE 1:24 000



CONTOUR INTERVAL 20 FEET  
 DOTTED LINES REPRESENT 5-FOOT CONTOURS  
 NATIONAL GEODETIC VERTICAL DATUM OF 1929



QUADRANGLE LOCATION

NORTH

Source: USGS 7.5' Quadrangle "Hayward"

**HYDR-  
 ENVIRONMENTAL  
 TECHNOLOGIES, INC.**

**SITE LOCATION MAP**

E-Z Serve Station No. 100877  
 525 West A Street  
 Hayward, California

Job No.  
 7-278  
 Figure 1  
 12/7/93

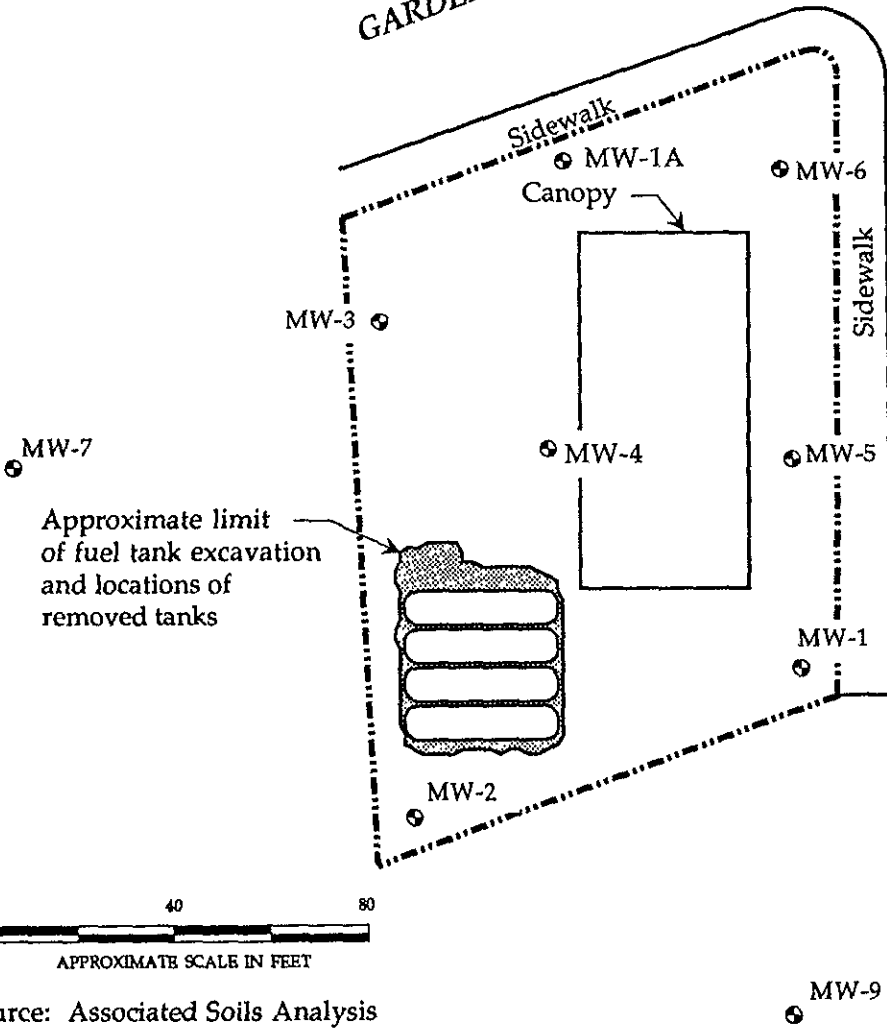
**LEGEND**

- MW-8 = Monitoring Well
- - - - - = Approximate Property Line

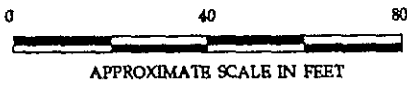


GARDEN STREET

WEST "A" STREET



Approximate limit of fuel tank excavation and locations of removed tanks





Source: Associated Soils Analysis

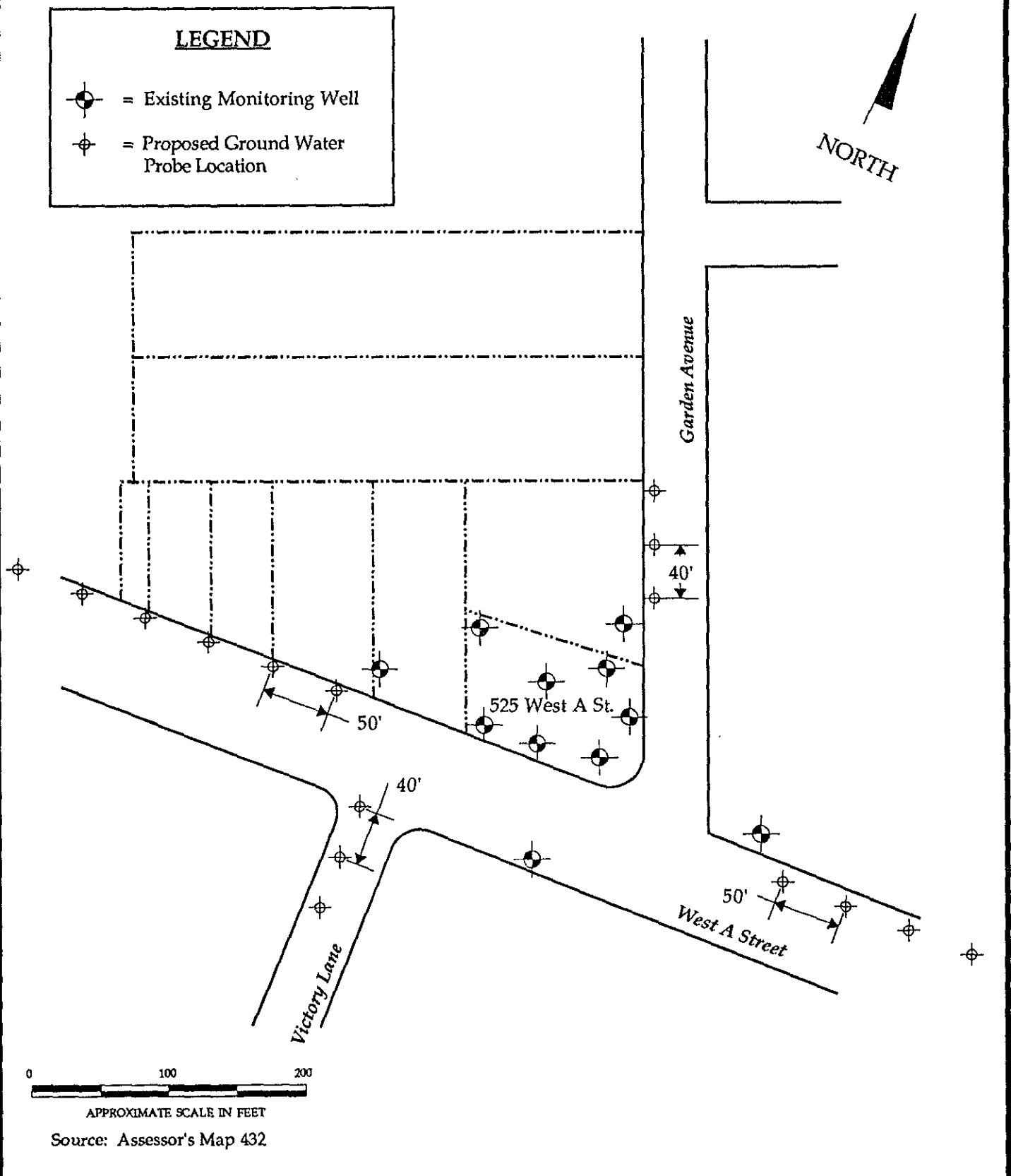
**HYDR-  
ENVIRONMENTAL  
TECHNOLOGIES, INC.**

**SITE PLAN**  
E-Z Serve Station No. 100877  
525 West A Street  
Hayward, California

Figure  
**2**  
7-278 6/20/94

**LEGEND**

-  = Existing Monitoring Well
-  = Proposed Ground Water Probe Location



APPROXIMATE SCALE IN FEET

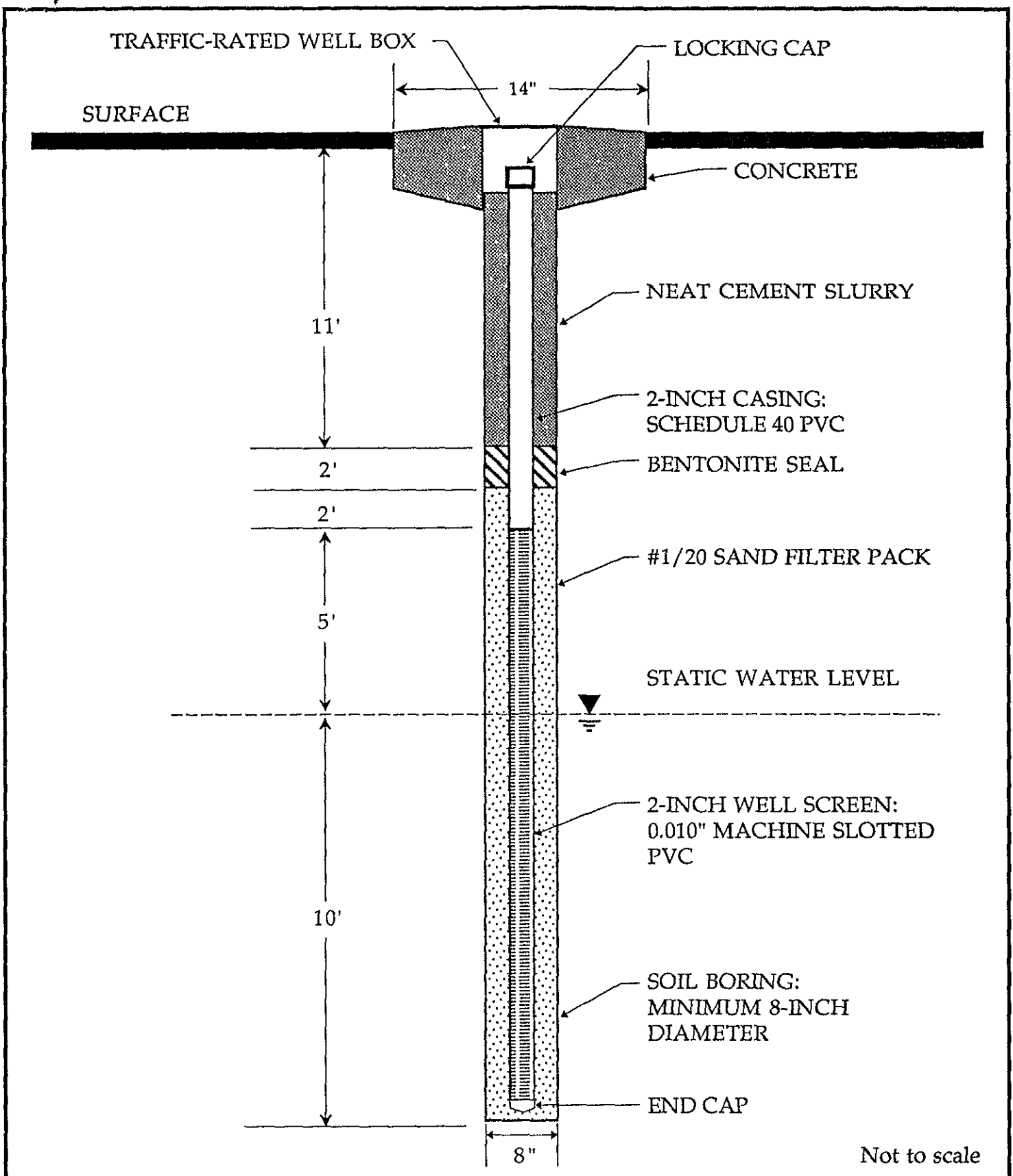
Source: Assessor's Map 432

**HYDR-  
ENVIRONMENTAL  
TECHNOLOGIES, INC.**

**PROPOSED PROBE  
LOCATIONS**  
E-Z Serve Station No. 100877  
525 West A Street  
Hayward, California

Figure  
**3**

7-278 6/20/94



**HYDR** -  
**ENVIR** -  
**TECHN** -  
**ENVIRONMENTAL**  
**LOGIES, INC.**

**PROPOSED WELL  
CONSTRUCTION DETAILS**  
E-Z Serve Station No. 100877  
525 West A Street  
Hayward, California

Figure  
**4**  
7-278 6/17/94

**E-Z SERVE**  
MANAGEMENT COMPANY

June 13, 1994

Ms. Juliette Shin  
Alameda County Health Care Services  
80 Swan Way, Room 200  
Oakland, CA 94621

Re: E-Z Serve #100877  
525 West "A" Street  
Hayward, California

Dear Ms. Shin:

This is in response to your recent request for meeting regarding the referenced location. As discussed by telephone E-Z Serve is in the process of transitioning a new consultant into this project. Because of this we are requesting that any meeting not take place until mid to late July. Also, we would like an extension of time for preparing a Work Plan for additional assessment. I would prefer that our new consultant be involved in preparing this Work Plan.

If you have questions please advise. Your assistance is appreciated.

Sincerely,



Brian Cobb, P.E.  
Environmental Manager

cc: Eddy So - CRWQCB

Post-It™ Fax Note	7671	Date	6-13-94	# of pages	1
To	Juliette Shin	From	Brian Cobb		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	510-569-4757	Fax #			

**E-Z SERVE**  
MANAGEMENT COMPANY

ALCO  
HAZMAT

94 JUN 17 AM 11:29

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80 Swan Way, Room 200  
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Sincerely,



Brian Cobb, P.E.  
Environmental Manager

cc: Eddy So - CRWQCB

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94 JUN -7 PM 2:10

June 4, 1994

Richard White, Esquire  
FITZGERALD, ABBOTT & BEARDSLEY  
1221 Broadway, 21st Floor  
Oakland, CA 94612-1837

Re: Thomsen vs Powerine Oil Company, et. al.  
Your telefaxes of June 3, 1994

Dear Mr. White:

Your comments regarding my "magic mail box" are consistent with the unprofessional conduct we have experienced with your office. Placing your office on written communication has been successful in that it has limited your opportunities to make false statements as to our discussions. In response, you have shifted to a new intimidation tactic; making known to be false accusations regarding service by mail. As usual, you are wasting your clients' money. In truth, as with all of the other documents served by mail to your office, there is no reason to believe that these latest moving papers were not actually received by FAB within a day or two after they were mailed on May 27. As to the absence of a "corresponding mark placed by the United States Postal Service," it is common knowledge that the service does not place its own postmark on metered mail unless the postage meter date is incorrect. Therefore, your assertions were not only known to be false when made and unbelievable, they serve no purpose.

If there are other reasons why you need more time to prepare an opposition, such as the fact that your associate Ms. Nye will be out of town for the next few weeks, we will accomodate any written request to continue the hearing date on that basis. You do not aid the presentation of your clients' claims by making known to be false accusations.

As for Judge Hodge's ruling, as mandated by CCP § 437c(f), summary adjudication can granted only if it disposes of a cause of action or an issue of duty. The ruling of Judge Hodge makes no mention of either. In fact, as argued by the E Z SERVE in its opposition papers, although plaintiffs' motion was supposed to have disposed of the eighth cause of

Continued.

Richard White, Esquire  
June 4, 1994,  
Page two

action, it clearly did not. The mere "finding" of a breach does not dispose of a cause of action, absent a determination of damages and an adjudication of other allegations of the eighth cause of action. Of course, if properly noticed as required by the lease, any breach can be cured at any time during the term, with any and all "removable trade fixtures," such as equipment and/or improvements, later removed at the expiration of the lease.

There are other problems with the ruling on the motion, such as the fact that in oral argument (but not in their moving papers), plaintiffs asserted for the first time that E Z SERVE's ownership of and its right to remove "removable trade fixtures" applied only to those items installed by E Z SERVE after execution of the January 1987 lease. The language of the lease does not specify the period of installation but refers to installed in both the past tense and in the future. Nor was that subject addressed in plaintiffs' moving papers. In fact, as pointed out by E Z SERVE in its opposition to the motion, plaintiffs' Separate Statement included alleged undisputed facts where they specifically deleted the exception for those items installed by E Z SERVE.

Additionally, subparts (f)(2) and (g) of 437c mandate that when summary adjudication is granted, either by written or oral order, reference must be made to the evidence offered in support of and in opposition to the motion, if applicable, which indicate that no triable issue exists. Since, the "evidence offered in support of" specifically excluded the words "except that all movable trade fixtures installed by Lessee shall be and remain the property of Lessee" (meaning those items that had been installed (past tense) remained E Z SERVE's property and meaning that those that shall be (future) would remain E Z SERVE's property, emphasis added), plaintiffs' counsel will be hard pressed to write a formal order that complies with 437c. Any proposed order must be submitted to this office for approval as to form before it is submitted to the court.

Another problem is that the wording of the ruling with respect to the court's power to interpret documents strongly suggests that his Honor went beyond the summary adjudication

Continued.



Richard White, Esquire  
June 4, 1994,  
Page three

function of spotting the existence or the non existence of triable issues in that he appears to have actually weighed the evidence to make a finding based upon that evidence and his own interpretation of documents. The latter conduct is in excess of the jurisdiction of the court in hearing a summary adjudication motion.

Your analysis of the impact of Judge Hodge's ruling is wishful thinking. No determination has been made that plaintiffs are entitled to damages "upwards to \$500,000," or in any amount or that they will ultimately be the prevailing party in the lawsuit on the issue of the leases and therefore entitled to an award of attorney's fees. Contrary to your wishful thinking, the court has not held that E Z SERVE cannot remove "removable trade fixtures" installed by E Z SERVE at the expiration of the lease. Your contention contradicts the specific language of the 1987 lease that was written by plaintiffs. You should recall that in open court during oral argument, his Honor questioned the wisdom of plaintiffs' motion. I also suggest that before committing your clients to asserting ownership of the USTs that were removed in 1990, you re-visit the provisions of the Health & Safety Code, particularly those attendant to such ownership.

There is no reason for E Z SERVE (or any knowledgeable person) to alter its opinion as to the fact that this elderly couple has been and continues to be victimized by their own attorneys. The plaintiffs' motion for summary adjudication and the time and the money that has been wasted on unnecessary communication and motions reinforces that opinion. By contrast, E Z SERVE's conduct has been and, if permitted, will continue to be exemplary. Notwithstanding the constant barrage of rude, harassing and unprofessional behavior from plaintiffs' counsel that began in 1992 and which has interfered with its right to quiet enjoyment and use of the property, E Z SERVE has continued to pay the rent on the lease and it has committed its time and its resources to a complete clean-up of the property regardless of the ultimate determination of the identity of the responsible party or parties.

As to the issue of mediation, E Z SERVE made its offer.

Continued.

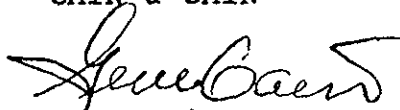
Richard White, Esquire  
June 4, 1994,  
Page four

It was refused. It therefore pressed on with additional discovery and with the preparation of its own motion for summary judgment and/or summary adjudication which will be served within the next few days. E Z SERVE is unable to understand why the plaintiffs have seemingly unlimited funds for discovery and/or motions purposes but none to pay their fair share for mediation. They cannot have it both ways. If the plaintiffs were serious about mediation, they will find the funds.

As to plaintiffs' noticed depositions and their other "discovery," E Z SERVE will make timely decisions as to objections, protective orders, etc.. In the event that one or more witnesses can be and/or needs to be produced, E Z SERVE may elect to present them in California.

Notwithstanding any argument or contention to the contrary, plaintiffs and their attorneys are fully aware that E Z SERVE has fully performed all conditions and covenants to be performed on its part under the 1987 lease. If plaintiffs' and/or their agents make any further attempt to interfere with E Z SERVE's quiet enjoyment and use of the property, in particular, while the remediation is on-going, they must be prepared to face the full consequences of their conduct.

Very truly,  
CAIN & CAIN



Gene Cain

Copy: All counsel  
Ms. Juliet Shin