

Chan, Barney, Env. Health

To: jolson@cambria-env.com

Subject: 1137-1167 65th St., Oakland, RO0000082

Jason: Per our discussion, our office approves the request to initiate quarterly groundwater sampling at the referenced site.

Barney M. Chan
Hazardous Materials Specialist
Alameda County Environmental Health
510-567-6765

11/15/2004

Chan, Barney, Env. Health

From: Jason Olson [jolson@Cambria-env.com]
Sent: Monday, October 20, 2003 4:16 PM
To: 'Chan, Barney, Env. Health'
Cc: Bob Clark-Riddell (E-mail)
Subject: RE: Case No. RO0000082 - 1137-1167 65th St, Oakland - Analytical Concurrence

Barney,

We will be using 8010 analyses instead of 8260, and will analyze soil samples not in the sample schedule (Workplan Table 5) if a reading of 100 PPM or higher is obtained with a PID while field screening.

Jason D. Olson, EIT
Project Manager

Cambria Environmental Technology, Inc.
(510) 420-3338 (direct)
(510) 420-0700 (general office)
(510) 420-9170 (fax)

On Monday, October 20, 2003 4:07 PM, Chan, Barney, Env. Health [SMTP:BChan@co.alameda.ca.us] wrote:

Jason:
After speaking with you, the modifications in the analysis rationale and methodology is approved by our office. As you noted there is no compromise in detection limits going from EPA 8260 to 8020 and although you do not plan to analyze all soil samples, soil samples will be collected approximately every 5 feet and screened with a PID and those samples detecting significant readings (>100ppm ?) will be analyzed.

Please let me know if this is not consistent with your understanding.

Barney Chan
ACEH
510-567-6765

-----Original Message-----

From: Jason Olson [mailto:jolson@Cambria-env.com]
Sent: Friday, October 17, 2003 1:09 PM
To: 'Barney Chan (ACHCSA) (E-mail)'
Cc: Bob Clark-Riddell (E-mail)
Subject: Case No. RO0000082 - 1137-1167 65th St, Oakland - Analytical Concurrence

Barney,

I'm preparing the Cost Pre-Approval for the UST Fund and trying to trim some costs while still achieving our data quality objectives. I have reviewed the VOCs detected at the site above the RWQCB ESLs, and determined that we can analyze for all the site COCs with an 8010 analysis rather than an 8260, which costs twice as much. Also, since we're sampling several groundwater zones, there really isn't any need to analyze soil below 15 feet in most areas of the site (exceptions are data gaps near boring SB-7 and the Exterior Tank Area).

Thus, I propose the following:

1. Change all 8260 analyses to 8010.
2. Collect and analyze soil samples at the discrete depths proposed in Table 5 of the workplan (this only affects the borings you have requested to get deeper groundwater samples at).
3. Analyze soil in the proposed monitoring well clusters MW-1 and MW-6 to

a
maximum depth of 20 ft bgs, and 15 ft bgs in all other well clusters (maximum sample analysis depth for the wells is unclear in the workplan).

This will give us the data we're looking for, and trim around \$20,000 off the analytical bill, making it much more cost effective (and palatable to the UST Fund).

Please respond as soon as possible. I'm hoping to get this Cost Pre-Approval out today to get the ball rolling. If you have any

questions,
please call me.

Thanks,

Jason D. Olson, EIT
Project Manager

Cambria Environmental Technology, Inc.
(510) 420-3338 (direct)
(510) 420-0700 (general office)
(510) 420-9170 (fax)

Chan, Barney, Env. Health

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Subject: RE: Case No. RO0000082 - 1137-1167 65th St, Oakland - Analytical Concurrence

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Please respond as soon as possible. I'm hoping to get this Cost Pre-Approval out today to get the ball rolling. If you have any questions, please call me.

Thanks,

Jason D. Olson, EIT
Project Manager

Cambria Environmental Technology, Inc.
(510) 420-3338 (direct)

(510) 420-0700 (general office)
(510) 420-9170 (fax)

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



September 17, 2003

Mr. John Nady
6701 Shellmound St.
Emeryville, CA 94608

ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

Dear Mr. Nady:

Subject: Fuel Leak Case RO0000082, 1137-1167 65th St., Oakland, CA 94608

Alameda County Environmental Health, Local Oversight Program (LOP), staff has reviewed the August 26, 2003 Cambria Environmental Technology, Inc. (Cambria) *Investigation Work Plan* and met with your consultant, Cambria on September 11, 2003. The referenced work plan provides an interpretation of previous geologic data and proposes a comprehensive approach to determine the lateral and vertical extent of soil and groundwater contamination at this site. Based upon our discussion with your consultant, our office approves the investigation work plan with the following technical comments and conditions.

TECHNICAL COMMENTS

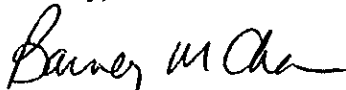
- Our office concurs with the proposal to perform a sensitive receptor survey and an underground utilities survey.
- Our office concurs in performing a soil and groundwater investigation to fill in data gaps. The proposed locations of soil borings and monitoring wells are acceptable. Additional step out borings may be warranted depending on the investigation results. However, specific changes and amendments to the work plan shall include the following:
 1. The borings identified in the Cambria work plan as SB-14, SB-16, SB-18, SB-20, SB-23 and SB-25 shall be advanced to the C zone. These deep borings shall be completed first and, based on their results, will dictate whether other planned borings will also be advanced to the C zone. Soil and groundwater, if encountered, should be collected for chemical analysis from each discrete horizon and water-bearing zone, as appropriate.
 2. Based upon the results of these initial borings, the final, multi-level monitoring plan shall be modified, as appropriate. Our office will be informed for concurrence prior to well installations, the locations and configurations of which will be proposed at a later date. Final configurations of well clusters, i.e., the zones across which the individual screens will be constructed, will be based on the outcome of this current phase of the investigation.
 3. Drilling will be performed in such a manner to prevent the potential for cross contamination while advancing borings through water bearing units.

September 17, 2003
Mr. John Nady
Fuel Leak Case RO0000082
1137-1167 65th St., Oakland, CA 94608
Page 2

- The proposed soil gas probe installation and sampling plan is not approved at this time. Additional research into the appropriate clean-up levels for the contaminants of concern should be done to verify the need for such sampling. Once the data from this investigation is received we will be meet with the RWQCB to discuss whether the site-specific conditions warrant this type of evaluation.
- Our office concurs with the cost control recommendation to analyze soil samples from only the deepest well of any well cluster. We also concur that free product, if encountered, should be sampled and analyzed for identification.
- Soil samples are proposed for collection for physical property analyses. In accordance with the DTSC/LARWQCB January 23, 2003 *Active Soil Gas Investigations Advisory*, samples should be collected from a minimum of 3 locations in non-impacted areas and at depths corresponding to detected VOCs and for each soil type within this depth.

You may contact me at (510) 567-6765 if you have any questions.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

C. B. Chan, D. Drogos, S. Seery

Mr. Bob Clark-Riddell, Cambria Environmental, 5900 Hollis St., Suite A, Emeryville, 94608

Wpap1137 65th

Chan, Barney, Env. Health

To: jolson@cambria-env.com; 'Barney Chan (ACHCSA) (E-mail)'
Cc: Bob Clark-Riddell (E-mail); Frederic D. Schrag (E-mail)
Subject: RE: Case #RO0000082 - Request for Extension

Mr. Olson:
Your request for another work plan extension is approved. Your extension date is now August 22, 2003.

Sincerely,

Barney Chan
Hazardous Materials Specialist
ACEH 510-567-6765

-----Original Message-----

From: Jason Olson [mailto:jolson@cambria-env.com]
Sent: Thursday, July 31, 2003 10:09 AM
To: 'Barney Chan (ACHCSA) (E-mail)'
Cc: Bob Clark-Riddell (E-mail); Frederic D. Schrag (E-mail)
Subject: Case #RO0000082 - Request for Extension

Barney,

I am requesting a workplan extension on behalf of John Nady for the above referenced site. The workplan proposes a data gap investigation which is based on the RWQCB December 2001 Interim-Final Risk Based Screening Levels (RBSLs). With the RWQCB's recent release of the Final Environmental Screening Levels (formerly "RBSLs"), I am re-evaluating changes made to TPH and VOC ESLs, and will make changes to the workplan accordingly. In the long term, I believe this will represent a time savings to the project by clarifying which screening levels should be used to evaluate the site and by eliminating the need for duplicative investigation.

I propose a workplan extension date of August 22, 2003 to complete my review of the new ESLs and implement workplan changes.

I look forward to receiving your response.

Sincerely,

Jason D. Olson, EIT
Project Manager

Cambria Environmental Technology, Inc.
(510) 420-3338 (direct)
(510) 420-0700 (general office)
(510) 420-9170 (fax)

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

June 30, 2003

Mr. John Nady
Nady Systems
6701 Shellmound St.
Emeryville, CA 94608

Dear Mr. Nady:

Subject: Fuel Leak Case RO0000082, 1137-1167 65th Ave., Oakland, CA 94608

This letter confirms the receipt of the June 27, 2003 e mail from Cambria Environmental, your consultant, requesting an extension for the submittal of the work plan for additional soil and groundwater characterization at the referenced site. Our office approves the extension date of August 8, 2003. This will allow the completion of a geophysical survey and preparation of geologic cross sections, which are instrumental in determining the construction of future monitoring wells.

Please contact me at (510) 567-6765 if you have any questions.

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

C. B. Chan, D. Drogos

Mr. B. Clark-Riddell, Cambria Environmental, 5900 Hollis St., Suite A, Emeryville,
94608

1137-1167 65thwprqext

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



May 19, 2003

Mr. John Nady
Nady Systems
6701 Shellmound St.
Emeryville, CA 94608

ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

Dear Mr. Nady:

Subject: Fuel Leak Case RO0000082, 1137-1167 65th Ave., Oakland, CA 94608

Alameda County Environmental Health, Local Oversight Program (LOP) staff has received and reviewed the February 13, 2003 Soil and Groundwater Investigation Report prepared by Cambria Environmental. We have also discussed the results with Mr. Clark-Riddell of Cambria. We have determined that additional information and investigation is needed to progress your site towards case closure. We request that you address the following technical comments and submit the technical report requested below.

Technical Comments

1. Elevated total petroleum hydrocarbons (TPH) as motor oil, diesel, stoddard solvent or gasoline were observed in groundwater samples from borings SB-8, SB-6, SB-7 and SB-1. In addition, halogenated volatile organic compounds (HVOC) were detected in groundwater samples from SB-10, SB-6 and SB-7. The extent of this contamination should be determined.
2. Results from soil and groundwater samples taken from the former underground tank pits detected elevated TPH of various boiling point range and HVOCs. The extent of this contamination should be determined.
3. Free petroleum product was observed in soil boring SB-4. The extent of this free product should be determined and removed to the extent possible.
4. In addition to determining the extent of soil and groundwater contamination, the source area (piping, tanks, dispensers, etc) locations should be verified and sampled appropriately.
5. Site-specific groundwater gradient is needed for site characterization. Therefore, monitoring wells should be installed. Previous results indicate that groundwater may appear as lenses of perched water beneath the site, therefore, additional temporary borings may be necessary prior to permanent well installation. Specify the screen interval if both perched and deep groundwater is being investigated.

Technical Report Request

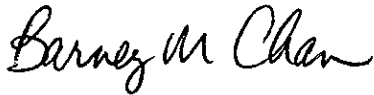
Please submit the following technical report to our office according to the following schedule:

- June 23, 2003- Work plan for the additional soil and groundwater characterization and monitoring well installation.

You may contact me at 510-567-6765 if you have any questions.

Mr. John Nady
RO0000082
1137-1167 65th Ave., Oakland, CA 94608
May 19, 2003
Page 2

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

✓ C: B. Chan, D. Drogos
Mr. B. Clark-Riddell, Cambria Environmental, 5900 Hollis St., Suite A, Emeryville, 94608
1137-1167 65thwprq

2082
BARNES



State Water Resources Control Board



Watson H. Hickox
Secretary for
Environmental
Protection

Division of Financial Assistance

1001 I Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) 341-5714 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf

Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.

MAY 1 2003

John Nady
6701 Shellmound St.
Emeryville, CA 94608

Alameda County

MAY 06 2003

Environmental Health

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), CLAIM NO. 017432, FOR SITE ADDRESS: 1137-1167 65TH ST, OAKLAND

The State Water Resources Control Board (State Board) is able to issue, pursuant to applicable regulations, the enclosed Letter of Commitment (LOC) in an amount not to exceed \$35,000. This LOC is based upon our review of the corrective action costs you reported to have incurred to date. The LOC may be modified by the State Board.

It is very important that you read the terms and conditions listed in the enclosed LOC. Claims filed with the Underground Storage Tank Cleanup Fund far exceed the funding available and it is very important that you make use of the funding that has been committed to your cleanup in a timely manner.

You are reminded that you must comply with all regulatory agency time schedules and requirements and you must obtain three bids for any required corrective action. Only corrective action costs *required* by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. **You are encouraged to obtain preapproval of costs for all future corrective action work (form enclosed).** If you have any questions on obtaining preapproval of your costs or the three bid requirement, please call Sunil Ramdass, our Technical Reviewer assigned to claims in your Region, at (916) 341-5757. Failure to obtain preapproval of your future costs may result in the costs not being reimbursed.

The following documents needed to submit your reimbursement request are enclosed:

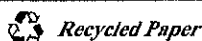
Reimbursement Request Instructions and Information packages. **Retain these packages for future reimbursement requests.** These instructions must be followed when seeking reimbursement for corrective action costs incurred after January 1, 1988.

"Reimbursement Request" forms which you **must use to request reimbursement of costs incurred.**

"Spreadsheet" forms which you **must use in conjunction with your reimbursement request.**

THIS IS IMPORTANT TO YOU, PLEASE NOTE:

California Environmental Protection Agency



ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

December 3, 2002

Mr. John Nady
Nady Systems, Inc.
6701 Shellmound St.
Emeryville, CA 94608

Dear Mr. Nady:

Subject: Work Plan for Soil and Groundwater Investigation, ~~10000002-1137-116765th St~~
Oakland, CA 94608

This letter serves to clarify the sampling and analysis of soil and groundwater samples performed in accordance to the November 21, 2002 work plan addendum submitted by Cambria Environmental and approved in my 11/22/02 letter. Originally, up to eleven (11) borings were to be advanced at or near the referenced site and two soil samples and one groundwater sample collected from each boring. This assumed that groundwater would be encountered at approximately 10-15' below ground surface (bgs) based upon the results of the tank removals. However, during the drilling of the borings groundwater was encountered at variable depths, some shallow as anticipated, some deeper and several boreholes did not encounter any groundwater at all. Based upon these results, I authorized your consultant to analyze more than the two soil samples per borehole in some instances. Although, the number of total samples is close to the anticipated, there may be a few "additional" samples more than originally anticipated. This total number of soil and groundwater samples collected for analysis is considered "approved" by our office prior to submission to the laboratory.

You may contact me at (510) 567-6765 if you have any questions.

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

✓ C: B. Chan, files

Mr. B. Clark-Riddell, Cambria, 1144 65th St., Suite B, Oakland CA 94608

Mr. S. Ramdass, SWRCB Cleanup Fund, 1001 I St., 17th Floor, Sacramento, CA 95814-2828

Mr. H. Gomez, City of Oakland Fire Dept., 1605 MLK Jr. Way, Oakland, CA 94612

Ms. S. Torrence, Alameda County District Attorney Office

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

November 22, 2002

Mr. John Nady
Nady Systems
6701 Shellmound St.
Emeryville, CA 94608

Dear Mr. Nady:

Subject: Fuel Leak Case No. ~~RG0000082~~ 1137-1167 65th St., Oakland, CA 94608

Alameda County Environmental Health, Local Oversight Program (LOP), has received and reviewed the November 21, 2002 Work Plan Addendum- Soil and Groundwater Investigation prepared by Cambria Environmental. We have discussed the changes to the original July 12, 2002 work plan with your consultant and approve of the work plan addendum. Please note, however, that you should also determine the relative site gradient by taking multiple groundwater elevations from the borings as mentioned in my fourth bullet in the July 12, 2002 letter.

You may contact me at (510) 567-6765 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Barney M. Chan".

Barney M. Chan
Hazardous Materials Specialist

cc: B. Chan, files

Mr. B. Clark-Riddell, 1144 65th St., Suite B, Oakland, CA 94608

Mr. H. Gomez, Oakland Fire Dept., 1605 MLK Jr. Way, Oakland, CA 94612

Wpapadd1137-1167 65thSt



Subsurface Consultants, Inc.

Alameda County
Alameda County

NOV 6 2 2002
NOV 26 2002

Environmental Health
Environmental Health

LETTER OF TRANSMITTAL

TO: Barney Chan
Alameda County Health Care Services
Agency
1311 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

FROM: Emily Silverman

PROJECT: 1137-1167 65th Street, Oakland

SCI JOB NUMBER: 855.003

OFFICE SENT FROM: Oakland

DATE: November 18, 2002

WE ARE SENDING YOU: 1 copy(ies)

- | | |
|---|---|
| <input type="checkbox"/> final report | <input type="checkbox"/> if you have any questions, please call |
| <input type="checkbox"/> draft report | <input type="checkbox"/> for your review and comment |
| <input type="checkbox"/> Service Agreement | <input type="checkbox"/> please return an executed copy |
| <input type="checkbox"/> proposed scope of services | <input type="checkbox"/> with our comments |
| <input type="checkbox"/> specifications | <input checked="" type="checkbox"/> for your use |
| <input type="checkbox"/> grading/foundation plans | <input type="checkbox"/> as requested |
| <input type="checkbox"/> soil samples/groundwater samples | <input type="checkbox"/> |
| <input type="checkbox"/> executed contract | <input type="checkbox"/> |

REMARKS:

For your review and use, please find enclosed a copy of a City of Oakland tank removal permit, dated April 15, 1982.

cc: Fred Schrag, Nady Systems, Inc.

Copy for INSPECTOR

Excavation Permit Granted _____ No. _____

CITY OF OAKLAND

Tank Permit 8556

Permit to Excavate and Install, Repair, or Remove Inflammable Liquid Tanks. No. _____

Oakland, California, _____ 19____

PERMISSION IS HEREBY GRANTED TO install ~~remove~~ Gasoline tank and excavate commencing _____ feet inside property line

on the north side of Peabody Lane Street 200 feet west of San Pablo Street Avenue

House No. 1145 - 65th Street Street Avenue Present Storage _____

Owner Allan Wofsy Address 150 Green St., San Francisco Phone 986-3030

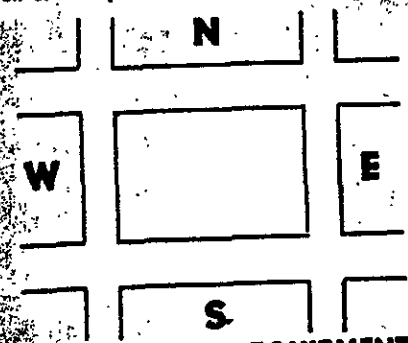
Applicant same Address _____ Phone _____

Dimensions of street (sidewalk) surface to be disturbed _____ X _____ Number of Tanks 1 Capacity 7500 Gallons, each.

Remarks: work to be performed by Blair Excavators TANK REMOVED 4/15/82

This Permit is granted in accordance with existing City Ordinances.
Owner hereby agrees to remove tanks on discontinuance of use or when notified by the City Authorities.
When installing, removing or repairing tanks, no open flame to be on or near premises.

Approved _____ Fire Marshal
Approved _____ Drainage Division Engineering Dept.



EXCAVATING PERMIT

Issued in accordance with Ord. No. 278 CMS, Sec. 6-2.04

_____ square feet of digging or removal granted.

The receipt of \$ _____ special deposit is hereby acknowledged.

GENERAL DEPOSIT.

BUREAU OF PERMITS AND LICENSES.

CERTIFICATE OF TANK AND EQUIPMENT INSPECTION

Inspected and passed on APR 15 1982 19____

By Sam E. Smith Fire Marshal

Inspection Fee Paid _____ \$ 20.00 ck#1118 rec# 107240

Received by [Signature]
FIRE PREVENTION BUREAU

NOTICE

Before Covering Tanks, Above Certificate Must Be Signed.
When ready for inspection notify Fire Prevention Bureau, 273-3851

THIS PERMIT MUST BE LEFT ON THE WORK AS AUTHORITY THEREFOR.

133



State Water Resources Control Board

Division of Clean Water Programs

1001 I Street • Sacramento, California 95814

P.O. Box 944212 • Sacramento, California • 94244-2120

(916) 341-5714 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.

Alameda County

NOV 18 2002

Environmental Health

NOV - 4 2002

John Nady
6701 Shellmound St.
Emeryville, CA 94608

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), NOTICE OF PERMIT WAIVER AND ELIGIBILITY DETERMINATION: CLAIM NUMBER 017432 ; FOR SITE 1137-1167 65TH ST, OAKLAND

Your claim has been accepted for placement on the Priority List in Priority Class "B".

We have completed our initial review. The next step in the claim review process is to conduct a compliance review.

Permit Waiver: Under the amended provisions of Section 25299.57 of the Health and Safety Code (H&SC), the State Board has granted your request for a waiver for the permit requirement as a condition for eligibility to the Fund. It is important to note that when a claimant failed to apply for or obtain the permits required pursuant to Chapter 6.7, Division 20, of the H&SC, by January 1, 1990, and the State Board grants a waiver pursuant to Section 2811(a)(2)(B) of the Underground Storage Tank Cleanup Fund Regulations, the claimant's level of financial responsibility (deductible) is twice the amount otherwise required. In this case, you will be responsible for the first \$10,000 of eligible corrective action costs before the Fund coverage begins.

Compliance Review: Staff reviews, verifies, and processes claims based on the priority and rank within a priority class. After the Board adopts the Priority List, your claim will remain on the Priority List until your Priority Class and rank are reached. At that time, staff will conduct an extensive Compliance Review at the local regulatory agency or Regional Water Quality Control Board. During this Compliance Review, staff may request additional information needed to verify eligibility. Once the Compliance Review is completed, staff will determine if the claim is valid or must be rejected. If the claim is valid, a Letter of Commitment will be issued obligating funds toward the cleanup. If staff determine that you have not complied with regulations governing site cleanup, you have not supplied necessary information or documentation, or your claim application contains a material error, the claim will be rejected. In such event, you will be issued a Notice of Intended Removal from the Priority List, informed of the basis for the proposed removal of your claim, and provided an opportunity to correct the condition that is the basis for the proposed removal. Your claim will be barred from further participation in the Fund, if the claim application contains a material error resulting from fraud or intentional or negligent misrepresentation.

Record keeping: During your cleanup project you should keep complete and well organized records of all corrective action activity and payment transactions. If you are eventually issued a Letter of Commitment, you will be required to submit: (1) copies of detailed invoices for all corrective action activity performed (including subcontractor invoices), (2) copies of canceled checks used to pay for work shown on the invoices, (3) copies of technical documents (bids, narrative work description, reports), and (4) evidence that the claimant paid for the work performed (not paid by another party). These documents are necessary for reimbursement and failure to submit them could impact the amount of reimbursement made by the Fund. **It is not necessary to submit these documents at this time; however, they will definitely be required prior to reimbursement.**

Compliance with Corrective Action Requirements: In order to be reimbursed for your eligible costs of cleanup incurred after December 2, 1991, you must have complied with corrective action requirements of Article 11, Chapter 16, Division 3, Title 23, California Code of Regulations. Article 11 categorized the corrective action

California Environmental Protection Agency



process into *phases*. In addition, Article 11 requires the responsible party to submit an *investigative workplan/Corrective Action Plan (CAP)* before performing any work. This phasing process and the workplan/CAP requirements were intended to:

1. help the responsible party undertake the necessary corrective action in a cost-effective, efficient and timely manner;
2. enable the regulatory agency to review and approve the proposed cost-effective corrective action alternative before any corrective action work was performed; and
3. ensure the Fund will only reimburse the most cost-effective corrective action alternative required by the regulatory agency to achieve the minimum cleanup necessary to protect human health, safety and the environment.

In some limited situations *interim cleanup* will be necessary to mitigate a demonstrated immediate hazard to public health, or the environment. Program regulations allow the responsible party to undertake interim remedial action after: (1) notifying the regulatory agency of the proposed action, and; (2) complying with any requirements that the regulatory agency may set. Interim remedial action should only be proposed when necessary to mitigate an immediate demonstrated hazard. ***Implementing interim remedial action does not eliminate the requirement for a CAP and an evaluation of the most cost-effective corrective action alternative.***

Three bids and Cost Preapproval: Only corrective action costs required by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. You must comply with all regulatory agency time schedules and requirements and you must obtain three bids for any required corrective action. Unless waived in writing, you are required to obtain preapproval of costs for all future corrective action work. ***If you do not obtain three bids or a waiver of the three bid requirement, reimbursement is not assured and costs may be rejected as ineligible.***

If you have any questions, please contact me at (916) 341-5714.

Sincerely,

ORIGINAL SIGNED BY

Shari Knieriem
Claims Review Unit
Underground Storage Tank Cleanup Fund

cc: Mr. Steve Morse
RWQCB, Region 2
1515 Clay Street, Ste. 1400
Oakland, CA 94612

Ms. Donna Drogos
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board

Division of Clean Water Programs

1001 I Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) 341-5757 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf

Winston H. Hickox
Secretary for
Environmental
Protection

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.*



Gray Davis
Governor

October 29, 2002

John Nady
6701 Shellmound St.
Emeryville, CA 94608

Alameda County

NOV 07 2002

Environmental Health

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
TRACKING NO. 099196, PA # 1
SITE ADDRESS: 1137 - 1167 65th Ave., Oakland, CA 94608**

I have reviewed your request, received on September 17, 2002, for pre-approval of corrective action costs. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the July 12, 2002, Subsurface Consultants, Inc. workplan approved by the Alameda County EHD (County) in their August 7, 2002 letter, is \$ 17,255; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: **necessary** (as determined by the Fund) corrective action costs for action work **directed and approved by the County** will be eligible for reimbursement at costs consistent with those pre-approved in this letter. However, depending on what happens in the field, some costs may not actually be necessary.

All costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations in order to be eligible for reimbursement.

COST PRE-APPROVAL BREAKDOWN

#	Task*	Amount Pre-Approved	Comments
1	Pre-Field Activities, Permits & Utility Clearance	\$1,372	This cost includes all time, materials and markups associated with this task. Copies of all permits must be submitted to the Fund.
2	Field Activities - 11 Soil Borings, 6 with Geoprobe Rig and 5 Borings with limited Access Rig	\$5,437	This cost includes all time, materials and markups associated with this task.

California Environmental Protection Agency



#	Task*	Amount Pre-Approved	Comments
3	Laboratory Analysis	\$7,986	This cost includes all time, materials and markups associated with this task. (2 Soil and 1 water sample from each boring will be analyzed.)
4	Data Evaluation and Report	\$2,460	Copies of all reports must be submitted to the Fund. It should be noted that although a pre-approval was issued for this scope of work, not all of the costs incurred might be eligible for reimbursement. Eligibility of all costs incurred will be determined when this investigation is completed.
	TOTAL PRE-APPROVED	\$ 17,255	<i>Change Orders shall not be permitted since this was a three bid job and change orders would give the selected consultant undue/unfair advantage over the other consultants that bid on the Job.</i>

* Task descriptions are the same as those identified in Cambria's September 4, 2002 cost estimate.

- Only the tasks/costs reflected on the above table are pre-approved at this time. The Fund will review any tasks/costs that go beyond the pre-approved amount to be determined if the additional tasks and costs are necessary and reasonable.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated September 4, 2002 by Cambria for conducting the work approved by the County.

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary future corrective action work. If you need assistance in procuring contractor and consultant services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. ***Please insure that your consultant prepares their invoices to include the required breakdown of costs on a time and materials basis, that invoiced tasks are consistent with the original proposal, and that reasonable explanations are provided for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:***

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 341-5757.

Sincerely,

Sunil Ramdass.

Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Ms. Donna Drogos
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board

Division of Clean Water Programs

1001 I Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) 341-5757 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.
For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.*

August 13, 2002

8-20-02

Victor Lum
245 8th St
Oakland, CA 94607

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
CLAIM NO. 017238, PA # 1
SITE ADDRESS: 245 8TH ST, OAKLAND, CA 94607**

I have reviewed your request, received on July 26, 2002, for pre-approval of corrective action costs. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the October 29, 2001, AEI Consultants workplan approved by the Alameda County EHD (County) in their November 7, 2001 letter, is \$ 20,400; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: **necessary** (as determined by the Fund) corrective action costs for action work **directed and approved by the County** will be eligible for reimbursement at costs consistent with those pre-approved in this letter. However, depending on what happens in the field, some costs may not actually be necessary.

In an effort to expedite future reimbursement requests associated with the implementation of the corrective action tasks pre-approved in this letter, we ask that the attached 'Pre-Approval Specific Reimbursement Request Form' be completed, updated and submitted with each reimbursement request. All relevant supporting documentation must also be included with each reimbursement request.

In order for future costs for corrective action to be part of the expedited reimbursement process, they must be pre-approved in writing by Fund staff.

All costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations in order to be eligible for reimbursement.

COST PRE-APPROVAL BREAKDOWN

#	Task*	Amount Pre-Approved	Comments
1	Permits and Fees	\$ 860	This cost includes all time, materials and markups associated with this task. Copies of all permits must be submitted to the Fund.
2	Drill 12-20' Soil Borings, Subcontractors, Materials, Equipment, Analytical, Etc.	\$10,900	This cost includes all time, materials and markups associated with this task. (Drill 12-20' Soil Borings, Subcontractors, Materials, Equipment, Analytical, Etc.) Copies of all sub-invoices must be submitted to the Fund.
3	PM, Reports, SRS, Traffic Control, Etc.	\$8,640	This cost includes all time, materials and markups associated with this task. Copies of all reports must be submitted to the Fund.
TOTAL PRE-APPROVED		\$ 20,400	

* Task descriptions are the same as those identified in AEI Consultants's July 3, 2002 cost estimate.

- Only the tasks/costs reflected on the above table are pre-approved at this time. The Fund will review any tasks/costs that go beyond the pre-approved amount to be determined if the additional tasks and costs are necessary and reasonable. However, if costs exceed the above pre-approved amounts, the Fund will be unable to expedite your Reimbursement Request.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the AEI Consultants proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated July 3, 2002 by AEI Consultants for conducting the work approved by the County.

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary future corrective action work. If you need assistance in procuring contractor and consultant services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. ***Please insure that your consultant prepares their invoices to include the required breakdown of costs on a time and materials basis, that invoiced tasks are consistent with the original proposal, and that reasonable explanations are provided for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:***

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 341-5757.

Sincerely,



Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Mr. Barney M. Chan
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577

Chan, Barney, Env. Health

From: Silverman, Emily [ESilverman@Fugro.com]
Sent: Wednesday, August 07, 2002 9:28 AM
To: Chan, Barney, Env. Health
Subject: Comments on Work Plan - 1137 - 1167 65th Street

Barney -

Here are our comments (in blue) regarding our Work Plan for 1137-1167 65th Street. If these are acceptable, please provide a written letter approving the work plan with the modifications required. If you would like to discuss them further, please call.

* *In regards to the location and number of borings, you were going to see if it was possible to add two borings, one immediately adjacent in the assumed downgradient direction to UST 5 and one at the 90 degree bend of the pipeline emanating from UST 1. Also, the proposed boring adjacent to the former fuel oil tank would be advanced within the former tank pit.*

Adding one boring in the presumed down gradient direction of UST 5 would be possible.

Pipeline sample locations shown on the site plan submitted with the work plan were approximately shown. Actual locations will be based on the results of the pipeline back-tracing survey which is proposed. Attempts will be made to locate pipeline elbow joints and sample locations will then be proposed.

We will attempt to locate the boring in the former fuel oil tank location to be centered in the former pit.

* *You were going to investigate the fact that no piping run was indicated to go northward into the adjacent building next to USTs 5&6, even though piping is shown to go there in UST removal figures and photos.*

The piping runs shown on the site plan submitted with the work plan were those which were identified by the previous geophysical survey. Pipes were identified leading from UST 5/6 into the adjacent tenant units. These additional pipeline runs and those identified by the proposed geophysical survey will be presented in more detail once the proposed investigation is completed.

* *Our office requested that more than one soil sample be analyzed from the borings as necessary to determine the vertical extent of*

8/7/2002

contamination.

The proposed sampling plan will be modified to include analyzing two soil samples from each boring; one within the vadose zone and the other from the bottom of the boring (presumed to be approximately 10 feet bgs).

* *You were going to clarify the way gw (groundwater) gradient was going to be determined in the temporary borings, ie several gw elevation readings would be taken for this determination*

Temporary wells will be installed and groundwater will be allowed to stabilize for at least 24 hours prior to the casings being removed and the holes grouted closed. This will allow several water depth measurements to be obtained. A level survey will be conducted to determine the relative elevation of the top of the casings so that the relative groundwater flow direction can be determined.

* *You were going to investigate the "gas pump" shown on one of the figures submitted to our office. The "gas pump" is shown to be located in the southeast corner of the site.*

We have no other information regarding the "gas pump" other than the note on the old plan. We previously reviewed the OFDs files 1137 to 1167 65th Street and did not observe any documents regarding the "gas pump" in their files. The property owner has indicated that he had permits for a former gasoline storage UST which was removed from the site in 1982, however, we have not been forwarded that information as of today.

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

August 7, 2002

Mr. John Nady
Nady Systems
6701 Shellmound St.
Emeryville, CA 94608

Dear Mr. Nady:

Subject: Fuel Leak Case No. RO0000082, 1137-1167 65th Ave., Oakland, CA 94608

Alameda County Environmental Health, Local Oversight Program (LOP), has received and reviewed the July 12, 2002 Work Plan- Soil and Groundwater Investigation prepared by Subsurface Consultants/Fugro. We have discussed our comments and concerns with your consultant and approve of the work plan with the following conditions:

- The number and locations of the proposed borings will be modified to include additional borings adjacent, in the presumed down-gradient direction to UST 5, and at the 90 degree bend of the pipeline emanating from UST1. In addition, the location of the boring in the vicinity of the former fuel oil tank will be within the former tank pit.
- The piping run from USTs 5 & 6 will be identified in the future by a geophysical survey and investigated if possible.
- Two soil samples will be collected and analyzed from each boring, one within the vadose zone and one at the bottom of the boring.
- The relative site gradient will be determined by taking multiple groundwater elevation readings from the borings and
- All information available will be provided regarding the gasoline tank reportedly removed from the site in 1982. It is assumed the "gas pump" noted on one of the provided figures is related to this tank.

Please notify our office prior to conducting this field work. You may contact me at (510) 567-6765 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Barney M. Chan".

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Ms. J. Alexander, Subsurface Consultants/Fugro, 1000 Broadway, Suite 200, Oakland, CA 94607
Mr. H. Gomez, Oakland Fire Dept., 1605 MLK Jr. Way, Oakland, CA 94612

Wpap1137-1167 65thSt

Chan, Barney, Env. Health

From: Drogos, Donna, Env. Health
Sent: Monday, July 01, 2002 9:56 AM
To: Chan, Barney, Env. Health
Cc: Levi, Ariu, Env. Health
Subject: RE: PRA-Oak site

Barney,

Please take the lead on processing this request.

Set up the 3-way conversation w/the AICo atty, the DA & us. Let me know when the conference call is scheduled so that I may participate. (I am in the office all week.) What is decided on this request will assist us in how we process future LOP requests.

Donna

-----Original Message-----

From: Levi, Ariu, Env. Health
Sent: Friday, June 28, 2002 4:29 PM
To: Drogos, Donna, Env. Health
Cc: Chan, Barney, Env. Health
Subject: PRA-Oak site

Maggins

We need to get back to the PRA request on Barney's site that is also an enforcement site. I sent Tamara (county counsel) a copy of the request and have not heard back yet. Mee Ling talked to her before she went on vacation and she seemed unaware of the case/situation. Tamara is back on Monday. Can you call her and ask about this site? When I spoke to her initially she agreed to a 3 way meet with the DAs. See if you can jog her memory. I also left a message early last week after talking to Mee Ling. Possibly Tamara or Mee Ling were mixing two cases up. Tamara's number is 272-6707.

1137-1167 65th St Oak 94608

- Sonnen schemi

Chan, Barney, Env. Health

From: Law Clerk 3, CEPD, DA
Sent: Friday, June 28, 2002 8:59 AM
To: Chan, Barney, Env. Health
Subject: RE: Two Quick Questions

Barney
Thanks for your help.
Casey

-----Original Message-----

From: Chan, Barney, Env. Health
Sent: Thursday, June 27, 2002 3:15 PM
To: Law Clerk 3, CEPD, DA
Subject: RE: Two Quick Questions

para-isopropyl toluene, aka para cymene or p-cymene, is a solvent with an aromatic odor. It's not commonly found in gasoline. The only guidance exposure level I found was the Maximum Exposure Guidance (MEG) concentration of 70 parts per billion in drinking water. This is a rather rare chemical, therefore, RBSLs do not exist. I will send you a copy of Table 1, Summary of Results of Product Samples from Tanks.
Barney

-----Original Message-----

From: Law Clerk 3, CEPD, DA
Sent: Wednesday, June 26, 2002 3:04 PM
To: Chan, Barney, Env. Health
Subject: Two Quick Questions

Barney,

My name is Casey, and I am Susan Torrence's legal assistant. I have a couple questions that I hope you could answer, I'd really appreciate it. I was reviewing the Nady Environmental Report and that is where the questions came from.

First, on table 2, I was wondering if there are any limits besides the RSBL that can be applied to para-isopropyl toluene. There was quite a bit detected and I wanted to put it into perspective. Can you put them in perspective?

Second, I am missing table 1 in my report, do you have one in your copy?

Thanks, Barney, for any help.
Casey

Law Clerk
Alameda County District Attorney's Office
Consumer and Environmental Protection Division
E-mail: l3@co.alameda.ca.us
Voice: 510-569-9281 ext. 402

Chan, Barney, Env. Health

From: Drogos, Donna, Env. Health
Sent: Monday, June 24, 2002 3:08 PM
To: Chan, Barney, Env. Health
Subject: FW: County Counsel

Barney,

Here is the contact at county council for you & DA Susan to talk with re: the request from Sonnenschein for all paper & electronic files for your DA case.

I sent you an e-mail earlier with the file review date.

Do you need a copy of the file review request?

-----Original Message-----

From: Levi, Ariu, Env. Health
Sent: Friday, June 14, 2002 1:18 PM
To: Drogos, Donna, Env. Health
Subject: County Counsel

The county counsel assigned to DEH is Tamara Wiggins (272-6706). I spoke to her about the DA's interest in a 3 way conversation and she is interested. She would like a copy of the PRA request QIC coded to her to get the background. Her QIC number is 20104. After she gets the request info we can set up the talk.



Subsurface Consultants, Inc.

RO 82
JUN 11 2002

LETTER OF TRANSMITTAL

TO: Barney Chan DATE: June 7, 2002
Alameda County Health Care Services
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502
FROM: Emily Silverman
PROJECT: 1137-1167 65th Street, Oakland
SCI JOB NUMBER: 855.003
OFFICE SENT FROM: Oakland

WE ARE SENDING YOU: 1 copy(ies)

- | | |
|---|---|
| <input type="checkbox"/> final report | <input type="checkbox"/> if you have any questions, please call |
| <input type="checkbox"/> draft report | <input type="checkbox"/> for your review and comment |
| <input type="checkbox"/> Service Agreement | <input type="checkbox"/> please return an executed copy |
| <input type="checkbox"/> proposed scope of services | <input type="checkbox"/> with our comments |
| <input type="checkbox"/> specifications | <input type="checkbox"/> for your use |
| <input type="checkbox"/> grading/foundation plans | <input checked="" type="checkbox"/> as requested |
| <input type="checkbox"/> soil samples/groundwater samples | <input type="checkbox"/> |
| <input type="checkbox"/> executed contract | <input type="checkbox"/> |

REMARKS:

Barney -

Please find enclosed copies of photos that were taken during activities out at the site. To help you out I have made comments regarding locations of buildings and alike.

If you have any questions regarding the report or the photos, please give me a call.

Thanks very much.

cc:

MAPQUEST

1167 65th St
Oakland, CA
94608-1108, US

SEND TO PRINTER

[Back](#)



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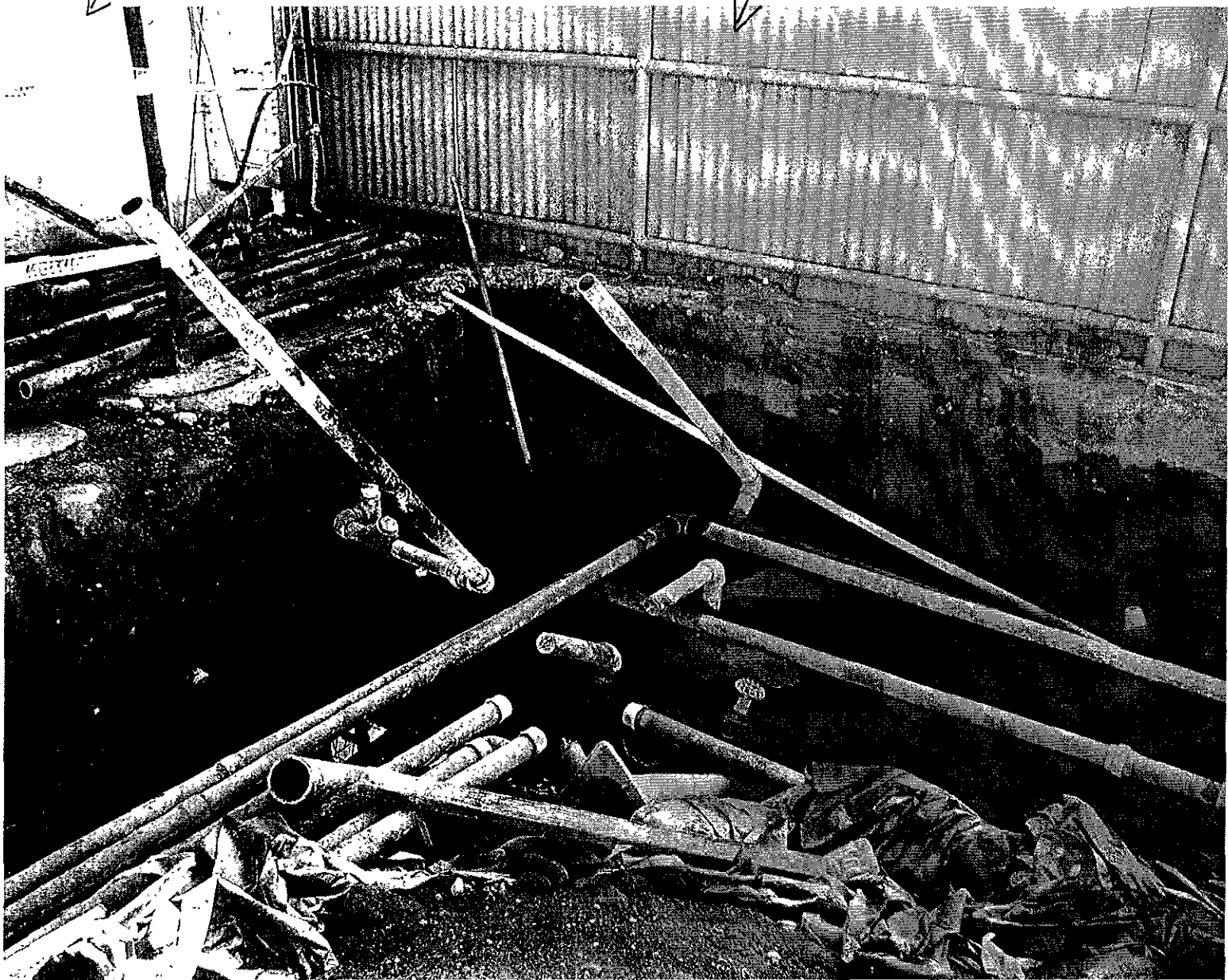
NAVTECH
ON BOARD

JUN 1 1 2002

JUN 11 2002

1145 65th St.

Fence along Peabody Lane



Pipes in exterior tank excavation.
View looking South east.

1167 65th St.

Peabody Lane



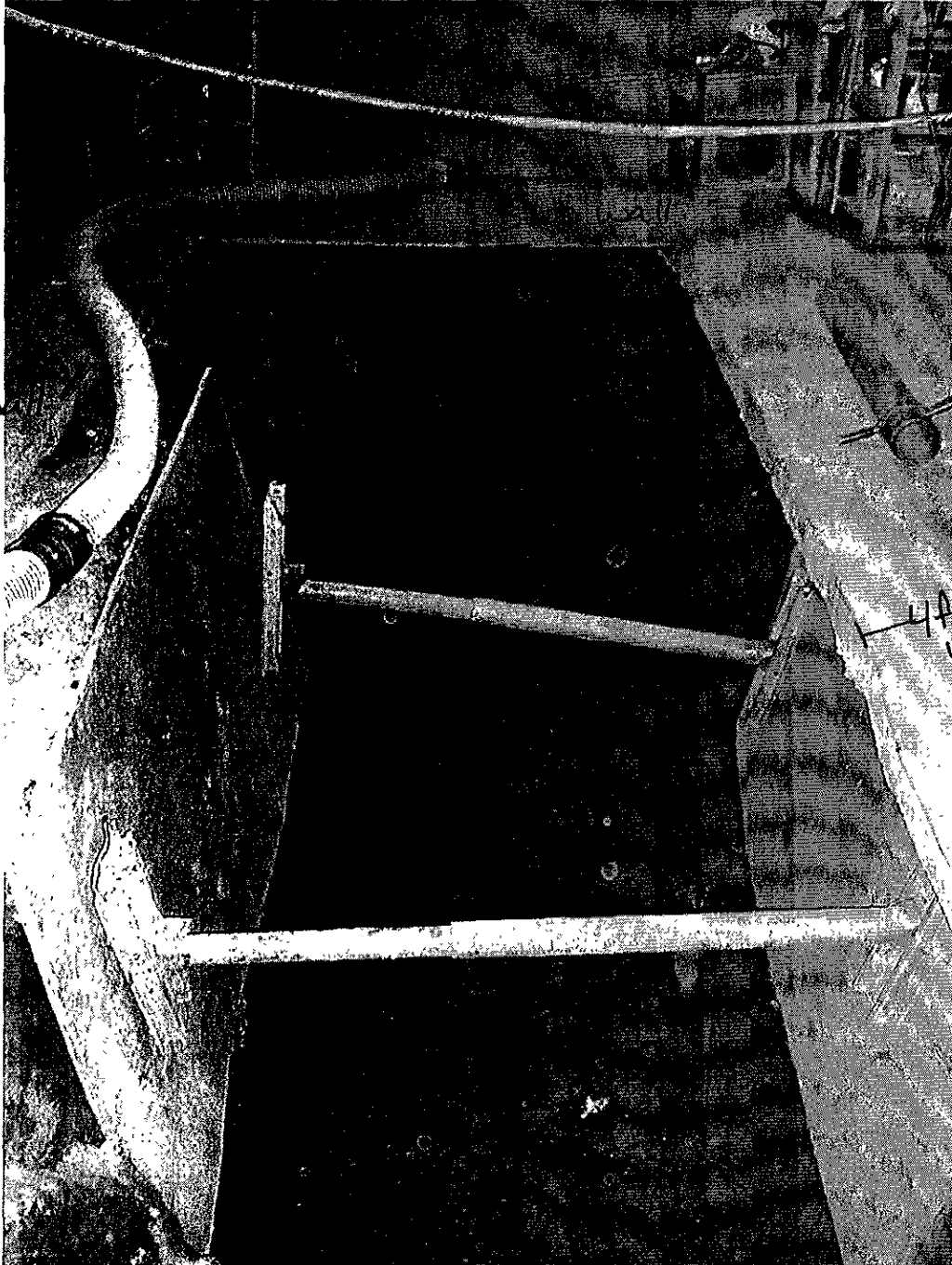
Exterior tanks. View looking North

Residence directly
across Peabody Lane



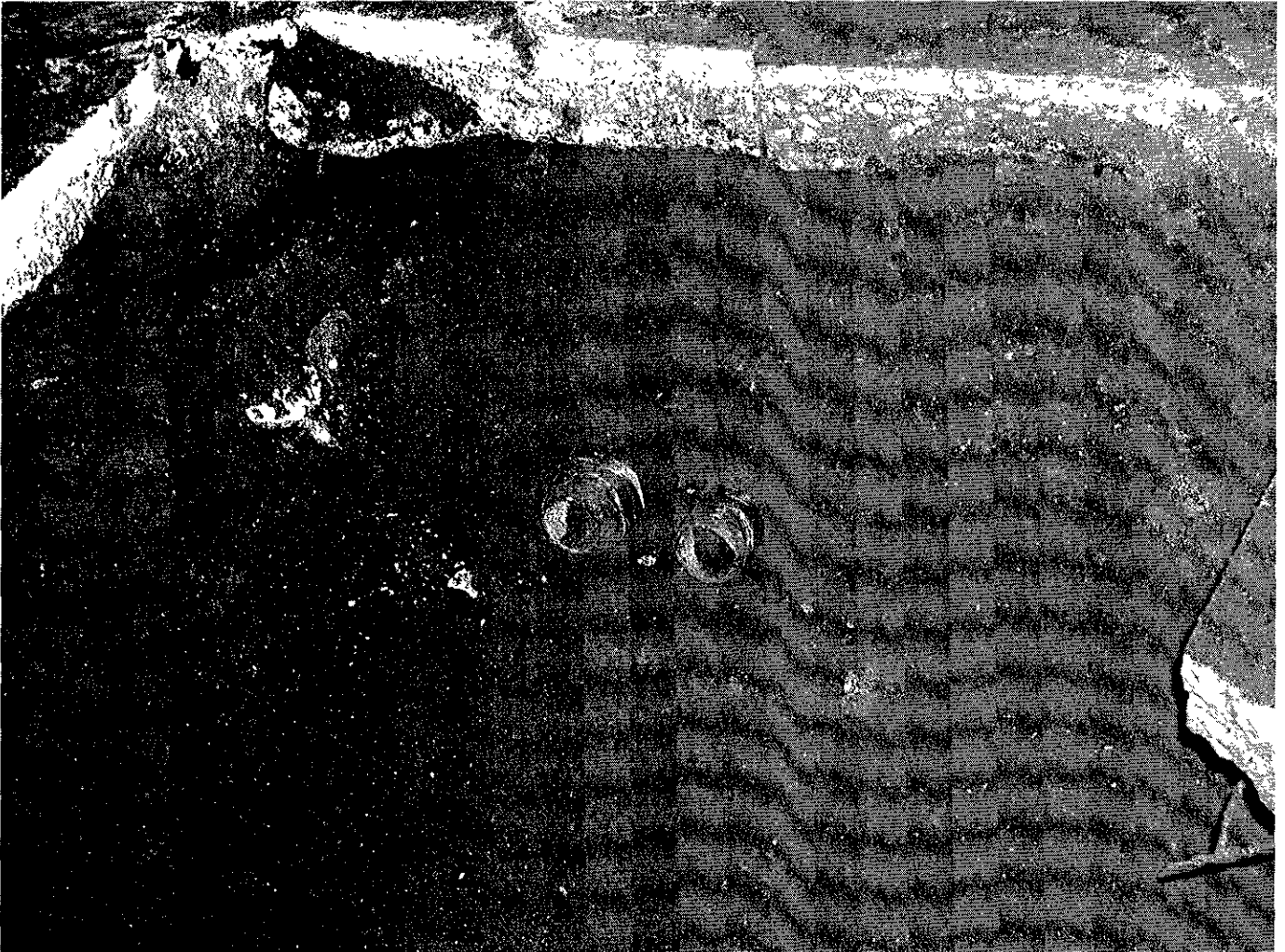
Typical Exterior tank
w/ cone shaped bottom.

3 ft
to wall



4 ft to →
wall

Tank 6 Excavation
Looking East.



Pipes in tank 6 excavation
along the northern wall.



Tank 5 Before abandoning
in place

View looking East

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

June 10, 2002

Mr. John Nady
Nady Systems
6701 Shellmound St.
Emeryville, CA 94608

Dear Mr. Nady:

Subject: Fuel Leak Case No. RO0000082, 1137-1167 65th Ave., Oakland, CA 94621 ⁰⁸

The subject site has been referred to Alameda County Environmental Health, Local Oversight Program (LOP), for case oversight by the City of Oakland Fire Department. Our office works as an agent of the San Francisco Regional Water Quality Control Board (SFRWCB) to oversee the investigation and cleanup of petroleum underground fuel leak sites within the City of Oakland. A Notice of Responsibility (NOR) has been sent to your attention notifying of this administrative action.

We have received and reviewed the May 17, 2002 UST Removal Report prepared by Subsurface Consultants, Inc./Fugro, which documents the February 2002 removal of four approximately 3,000 gallon and one approximately 2500 gallon UST and the closure in-place of one approximately 2500 gallon UST from this site. The four 3,000 gallon USTs were located near Peabody Lane and were called the exterior tanks as opposed to the two interior 2500 gallon tanks. The contents of these tanks were mainly naphtha, which appears in the gasoline range, gasoline and diesel petroleum hydrocarbons as indicated from the analysis of the contents of the USTs. Low levels of chlorinated solvents were detected in soil and groundwater samples and the liquid from the USTs. Bottom soil samples were collected from beneath the four 3000 gallon USTs and from both ends of the 2500 gallon USTs. Groundwater samples were collected from each of the tank pits after purging the liquid from the excavation. One of the 2500 gallon USTs identified as Tank 5 was closed in-place due to potential risk to asbestos exposure. Holes were observed in tanks from each of the excavation pits. Our office has the following technical comments listed below.

Technical Comments

1. Significant Total Petroleum Hydrocarbons in the gasoline, naphtha, stoddard solvent, and diesel range was reported in residual soil and grab groundwater samples collected during the tank removal. A release of petroleum fuel has occurred at this site, the extent of which must be determined in accordance with Section 2724 of the California Underground Storage Tank Regulation, Title 23, Division 3, Chapter 16. The typical Scope of Corrective Action consists of the following phases; Preliminary Site Assessment (PSA), Soil and Water Investigation (SWI), Corrective Action Plan (CAP) Implementation and Verification Monitoring.
2. Although piping runs extended beyond each of the tank excavation pits, only a few piping samples were collected adjacent to the USTs.
3. A 750 gallon heating oil tank was previously removed in November 1998. Although the contamination was limited from this removal, our office did not receive a tank removal report.

Mr. J. Nady
1137-1167 65thSt., Oakland CA 94608
RO0000082
June 10, 2002
Page 2

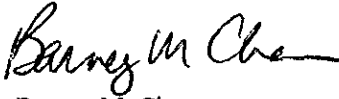
Technical Report Request

Please submit the following technical reports to our office according to the following schedule:

- July 12, 2002- Soil and groundwater investigation work plan. Please also include any maps of the piping runs and photos of the tank removals. Please indicate on a revised Plate 4, the location of all soil samples, as there appears to be some missing on the original.
- June 24, 2002- Please provide a copy of the tank removal report for the former 750 gallon heating oil tank. Please be aware that MTBE and the other ether oxygenates and lead scavengers should be run in a groundwater sample from beneath this former tank.

Please contact me at (510) 567-6765 if you have any questions.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

✓ C: B. Chan, files

Ms. S. Torrence, Alameda County District Attorney Office
Mr. H. Gomez, Oakland Fire Department OES, 1605 MLK Jr. Way, Oakland, CA 94612
Ms. J. Alexander, Subsurface Consultants Inc., 1000 Broadway, Suite 200, Oakland CA 94607

Rprq1137-1167 65th

Chan, Barney, Env. Health

From: Torrence, Susan, DA
Sent: Thursday, June 06, 2002 12:42 PM
To: Chan, Barney, Env. Health
Subject: RE: Nady site, 1137-1167 65th St. Oakland94608

thanks for the update Barney.

1) on Nady, please cc me (email ok) re your 6/7 letter to them

2) I have no objection to cc'ing me on a recalcitrant RP; I agree with the past policy--whatever works. I just file them away and await a call that further is needed from me. I have no objection to continuing this practice, and actually encourage it. It sounds like Donna wants to change your internal policy, which I have no say over...however, do you think I should call Donna up and communicate to her my encouragement of the practice?? Tell me if you think I should touch base with her on it, and if I can tell her you brought it to my attention, or if I should just say "I heard"...

-----Original Message-----

From: Chan, Barney, Env. Health
Sent: Wednesday, June 05, 2002 4:57 PM
To: Torrence, Susan, DA
Subject: Nady site, 1137-1167 65th St. Oakland94608

I wanted to let you know about the status of the site and my intentions just in case you needed to incorporate something in the judgment on this site. I spoke with the consultant, Subsurface Consultants/Fugro, to get a better understanding of the tank removals and the contamination. Significant levels of petroleum hydrocarbons, mainly stoddard solvent (kerosene like), are present in soil and presumably in groundwater beneath the former tanks. Low levels of chlorinated solvents (perchloroethylene aka perc) was found in the product removed from the tanks and will be required to be tested. The only "unusual" thing about the clean-up will be the tight working quarters available for the investigation. We will be requesting the normal soil and groundwater investigation to determine the extent of contamination. They will need at least 3 monitoring wells, two probably within the former tank pits, to determine gradient. Borings will have to be advanced around the former tank pits, therefore, some of the borings will be within buildings. I imagine that some type of passive remediation (addition of oxygen, chemical, nutrients, microbes etc) will be required in the absence of free product. I plan to write the request of subsurface investigation on Friday, June 7, the day of your return. Please let me know if you have any problems with this.

On another topic, I talked to Donna Drogos and she says we should only cc you on letters where you have been advised and are willing to enforce if necessary. In the past, we copied the DAs office as a threat to a uncooperative RP. What do you think? Should we discuss all sites with you which might need enforcement? Thanks for your advise
Barney Chan

Chan, Barney, Env. Health

From: Torrence, Susan, DA
Sent: Friday, May 24, 2002 11:23 AM
To: Chan, Barney, Env. Health
Cc: Drogos, Donna, Env. Health
Subject: Nady site @ 1137-1167 65th St., Oak.

Barney, I am addressing this to you, as I am under the (maybe mistaken) impression this is your case. If it's not, hopefully Donna can help me out with who is/will be assigned.

I understand from Hernan Gomez of Oakland CUPA that he is getting the release report and referral to you today. The consultant apparently just delivered it to him yesterday. If you could possibly give me a preliminary idea of what is going on by next wed., the 29th, I would be very grateful.

I am on the verge of settling this case and the **only** thing holding that up is if there is anything in the release report that is unusual so as to be a mentionable issue in the settlement. I certainly will put in language that property owner must cooperate with any remediation directed by LOP. In addition, I want that responsibility to be included in any sale of the property. What I need to know is if anything needs to be included other than the general language just mentioned.

As always, thank you (both) for any assistance.

Susan Torrence
Alameda County District Attorney's Office
7677 Oakport Suite 650
Oakland, CA 94621
E-mail: storrenc@co.alameda.ca.us
Voice: 510-569-9281

Interior Tanks Area

LOP Case

UNDERGROUND STORAGE TANK UNAUTHORIZED RELEASE (LEAK) / CONTAMINATION SITE REPORT

EMERGENCY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	FOR LOCAL AGENCY USE ONLY I HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM.
--	--	--

REPORT DATE 0 M 5 W 2 D 9 D 0 Y 2 V	CASE # Barney Chan 5-28-02	SIGNED	DATE
--	-------------------------------	--------	------

REPORTED BY	NAME OF INDIVIDUAL FILING REPORT Jeram Alexander	PHONE (510) 268-0461	SIGNATURE [Signature]
	REPRESENTING <input checked="" type="checkbox"/> OWNER/OPERATOR <input type="checkbox"/> REGIONAL BOARD <input type="checkbox"/> LOCAL AGENCY <input type="checkbox"/> OTHER	COMPANY OR AGENCY NAME Subsurface Consultants, Inc.	
	ADDRESS 1000 Broadway, Suite 200 STREET	Oakland CITY	CA STATE

RESPONSIBLE PARTY	NAME Esselte Corporation, former owner <input type="checkbox"/> UNKNOWN	CONTACT PERSON John Nady, Current Owner	PHONE (510) 1652-2411
	ADDRESS 6701 Shellmound STREET	Oakland CITY	CA STATE

SITE LOCATION	FACILITY NAME (IF APPLICABLE)	OPERATOR	PHONE ()
	ADDRESS 1137-1167 65th Street STREET	Oakland CITY	Alameda COUNTY
	CROSS STREET San Pablo Avenue		94608 ZIP

IMPLEMENTING AGENCIES	LOCAL AGENCY Oakland Fire Department	CONTACT PERSON Hernan Gomez	PHONE (510) 238-7253
	REGIONAL BOARD		PHONE ()

SUBSTANCES INVOLVED	(1) Volatile Organic Compounds	QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN
	(2) Petroleum Hydrocarbons	<input checked="" type="checkbox"/> UNKNOWN

DISCOVERY/ABATEMENT	DATE DISCOVERED 0 M 2 W 2 D 0 D 0 Y 2 V	HOW DISCOVERED <input type="checkbox"/> INVENTORY CONTROL <input type="checkbox"/> SUBSURFACE MONITORING <input type="checkbox"/> NUISANCE CONDITIONS <input type="checkbox"/> TANK TEST <input checked="" type="checkbox"/> TANK REMOVAL <input type="checkbox"/> OTHER
	DATE DISCHARGE BEGAN UNKNOWN	METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) <input checked="" type="checkbox"/> REMOVE CONTENTS <input checked="" type="checkbox"/> CLOSE TANK & REMOVE <input type="checkbox"/> REPAIR PIPING <input type="checkbox"/> REPAIR TANK <input checked="" type="checkbox"/> CLOSE TANK & FILL IN PLACE <input type="checkbox"/> CHANGE PROCEDURE <input type="checkbox"/> REPLACE TANK <input type="checkbox"/> OTHER
	HAS DISCHARGE BEEN STOPPED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, DATE 0 M 2 W 2 D 0 D 0 Y 2 V	Product Removed (Tank 6) Product Removed (Tank 5)

SOURCE/CAUSE	SOURCE OF DISCHARGE <input checked="" type="checkbox"/> TANK LEAK <input type="checkbox"/> UNKNOWN <input type="checkbox"/> PIPING LEAK <input type="checkbox"/> OTHER	CAUSE(S) <input type="checkbox"/> OVERFILL <input type="checkbox"/> RUPTURE/FAILURE <input type="checkbox"/> SPILL <input checked="" type="checkbox"/> CORROSION <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER
--------------	--	--

CASE TYPE	CHECK ONE ONLY <input type="checkbox"/> UNDETERMINED <input type="checkbox"/> SOIL ONLY <input checked="" type="checkbox"/> GROUNDWATER <input type="checkbox"/> DRINKING WATER - (CHECK ONLY IF WATER WELLS HAVE ACTUALLY BEEN AFFECTED)
-----------	--

CURRENT STATUS	CHECK ONE ONLY <input type="checkbox"/> NO ACTION TAKEN <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT WORKPLAN SUBMITTED <input type="checkbox"/> POLLUTION CHARACTERIZATION <input type="checkbox"/> LEAK BEING CONFIRMED <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT UNDERWAY <input type="checkbox"/> POST CLEANUP MONITORING IN PROGRESS <input type="checkbox"/> REMEDIATION PLAN <input type="checkbox"/> CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY) <input type="checkbox"/> CLEANUP UNDERWAY
----------------	---

REMEDIAL ACTION	CHECK APPROPRIATE ACTION(S) (SEE BACK FOR DETAILS) <input checked="" type="checkbox"/> CAP SITE (CD) <input type="checkbox"/> EXCAVATE & TREAT (ET) <input type="checkbox"/> REMOVE FREE PRODUCT (FP) <input type="checkbox"/> ENHANCED BIO DEGRADATION (IT) <input type="checkbox"/> CONTAINMENT BARRIER (CB) <input type="checkbox"/> NO ACTION REQUIRED (NA) <input type="checkbox"/> PUMP & TREAT GROUNDWATER (GT) <input type="checkbox"/> REPLACE SUPPLY (RS) <input type="checkbox"/> VACUUM EXTRACT (VE) <input type="checkbox"/> OTHER (OT) <input type="checkbox"/> TREATMENT AT HOOKUP (HU) <input type="checkbox"/> VENT SOIL (VS)
-----------------	---

COMMENTS: One UST (Tank 5) closed in place, one UST (Tank 6) removed. Each UST was a horizontal UST approximately 2,500 gallons.

INSTRUCTIONS

EMERGENCY

Indicate whether emergency response personnel and equipment were involved at any time. If so, a Hazardous Material Incident Report should be filed with the State Office of Emergency Services (OES) at 2600 Meadowview Road, Sacramento, CA 95832. Copies of the OES report form may be obtained at your local underground storage tank permitting agency. Indicate whether the OES report has been filed as of the date of this report.

LOCAL AGENCY ONLY

To avoid duplicate notification pursuant to Health and Safety code Section 25120.5, a government employee should sign and date the form in this block. A signature here does not mean that the leak has been determined to pose a significant threat to human health or safety, only that notification procedures have been followed if required.

REPORTED BY

Enter your name, telephone number, and address. Indicate which party you represent and provide company or agency name.

RESPONSIBLE PARTY

Enter name, telephone number, contact person, and address of the party responsible for the leak. The responsible party would normally be the tank owner.

SITE LOCATION

Enter information regarding the tank facility. At a minimum, you must provide the facility name and full address.

IMPLEMENTING AGENCIES

Enter names of the local agency and Regional Water Quality Control Board involved.

SUBSTANCES INVOLVED

Enter the name and quantity lost of the hazardous substance involved. Room is provided for information on two substances if appropriate. If more than two substances leaked, list the two of most concern for cleanup.

DISCOVERY/ABATEMENT

Provide information regarding the discovery and abatement of the leak.

SOURCE/CAUSE

Indicate source(s) of leak. Check box(es) indicating cause of leak.

CASE TYPE

Indicate the case type category for this leak. Check one box only. Case type is based on the most sensitive resource affected. For example, if both soil and ground water have been affected, case type will be "Ground Water". Indicate "Drinking Water" only if one or more municipal or domestic water wells have actually been affected. A "Ground Water" designation does not imply that the affected water cannot be, or is not, used for drinking water, but only that water wells have not yet been affected. It is understood that case type may change upon further investigation.

CURRENT STATUS

Indicate the category which best describes the current status of the case. Check one box only. The response should be relative to the case type. For example, if case type is "Ground Water", then "Current Status" should refer to the status of the ground water investigation or cleanup, as opposed to that of soil. Descriptions of options follow:

No Action Taken - No action has been taken by responsible party beyond initial report of leak.

Leak Being Contained - Leak suspected at site, but has not been confirmed.
Preliminary Site Assessment Workplan Submitted - workplan/proposal requested of/submitted by responsible party to determine whether ground water has been, or will be, impacted as a result of the release.
Preliminary Site Assessment Underway - implementation of workplan.
Pollution Characterization - responsible party is in the process of fully defining the extent of contamination in soil and ground water and assessing impacts on surface and/or ground water.
Remediation Plan - remediation plan submitted evaluating long term remediation options. Proposal and implementation schedule for appropriate remediation options also submitted.
Cleanup Underway - implementation of remediation plan.
Post Cleanup Monitoring in Progress - periodic ground water or other monitoring at site, as necessary, to verify and/or evaluate effectiveness of remedial activities.
Case Closed - regional board and local agency in concurrence that no further work is necessary at the site.

IMPORTANT: THE INFORMATION PROVIDED ON THIS FORM IS INTENDED FOR GENERAL STATISTICAL PURPOSES ONLY AND IS NOT TO BE CONSTRUED AS REPRESENTING THE OFFICIAL POSITION OF ANY GOVERNMENTAL AGENCY

REMEDIAL ACTION

Indicate which action have been used to cleanup or remediate the leak. Descriptions of options follow:

Cap Site - install horizontal impermeable layer to reduce rainfall infiltration.
Containment Barrier - install vertical dikes to block horizontal movement of contaminant.
Excavate and Dispose - remove contaminated soil and dispose in approved site.
Excavate and Treat - remove contaminated soil and treat (includes spreading or land farming).
Remove Free Product - remove floating product from water table.
Pump and Treat Groundwater - generally employed to remove dissolved contaminants.
Enhanced Biodegradation - use of any available technology to promote bacterial decomposition of contaminants.
Replace Supply - provide alternative water supply to affected parties.
Treatment or Storage - install water treatment device at each dwelling or other place of use.
Vacuum Extract - use pumps or blowers to draw air through soil.
Vent Soil - bore holes in soil to allow volatilization of contaminants.
No Action Required - incident is minor, requiring no remedial action.

COMMENTS - Use this space to elaborate on any aspects of the incident.

SIGNATURE - Sign the form in the space provided.

DISTRIBUTION

If the form is completed by the tank owner or his agent, retain the last copy and forward the remaining copies intact to your local tank permitting agency for distribution.

1. Original - Local Tank Permitting Agency
2. Regional Water Quality Control Board
3. Local Health Officer and County Board of Supervisors or their designee to receive Proposition 65 notifications.
4. Owner/responsible party.

Exterior Tanks Area

LOP case

Barney

UNDERGROUND STORAGE TANK UNAUTHORIZED RELEASE (LEAK) / CONTAMINATION SITE REPORT

EMERGENCY HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? YES NO YES NO

FOR LOCAL AGENCY USE ONLY I HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM

Signed: Jimmy Chen Date: 5-28-02

REPORT DATE: 05/17/02 CASE #

REPORTED BY: Jerriann Alexander, PHONE: (510) 268-0461, SIGNATURE: Jerriann Alexander, COMPANY OR AGENCY NAME: Subsurface Consultants, Inc.

RESPONSIBLE PARTY: NAME: Former Esselte Corporation, owner, CONTACT PERSON: John Nady, current owner, PHONE: (510) 652-2411, ADDRESS: 6701 Shellmound Street, Emeryville, CA 94608

SITE LOCATION: FACILITY NAME: ADDRESS: 1137-1167 65th Street, OPERATOR: Oakland, Alameda 94608, CROSS STREET: San Pablo Avenue

IMPLEMENTING AGENCIES: LOCAL AGENCY: Oakland Fire Department, CONTACT PERSON: Hernan Gomez, PHONE: (510) 238-7253

SUBSTANCES INVOLVED: (1) Volatile Organic Compounds, (2) Petroleum Hydrocarbons

DISCOVERY/ABATEMENT: DATE DISCOVERED: 05/22/02, HOW DISCOVERED: TANK REMOVAL, METHOD USED TO STOP DISCHARGE: REMOVE CONTENTS, CLOSE TANK & REMOVE

SOURCE/CAUSE: SOURCE OF DISCHARGE: TANK LEAK, CAUSE(S): CORROSION

CASE TYPE: CHECK ONE ONLY: GROUNDWATER

CURRENT STATUS: CHECK ONE ONLY: REMEDIATION PLAN, CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY)

REMEDIAL ACTION: CHECK APPROPRIATE ACTION(S): EXCAVATE & DISPOSE (ED), REMOVE FREE PRODUCT (FP)

COMMENTS: Four coneshaped USTs removed in the exterior portion of the site. Each UST was approximately 3,800 gallons.

INSTRUCTIONS

EMERGENCY

Indicate whether emergency response personnel and equipment were involved at any time. If so a Hazardous Material Incident Report should be filed with the State Office of Emergency Services (OES) at 2800 Meadowview Road, Sacramento, CA 95832. Copies of the OES report form may be obtained at your local underground storage tank permitting agency. Indicate whether the OES report has been filed as of the date of this report.

LOCAL AGENCY ONLY

To avoid duplicate notification pursuant to Health and Safety code Section 25129.5, a government employee should sign and date the form in this block. A signature here does not mean that the leak has been determined to pose a significant threat to human health or safety, only that notification procedures have been followed if required.

REPORTED BY

Enter your name, telephone number, and address. Indicate which party you represent and provide company or agency name.

RESPONSIBLE PARTY

Enter name, telephone number, contact person, and address of the party responsible for the leak. The responsible party would normally be the tank owner.

SITE LOCATION

Enter information regarding the tank facility. At a minimum, you must provide the facility name and full address.

IMPLEMENTING AGENCIES

Enter names of the local agency and Regional Water Quality Control Board involved.

SUBSTANCES INVOLVED

Enter the name and quantity lost of the hazardous substance involved. Room is provided for information on two substances if appropriate. If more than two substances leaked, list the two of most concern for cleanup.

DISCOVERY/ABATEMENT

Provide information regarding the discovery and abatement of the leak.

SOURCE/CAUSE

Indicate source(s) of leak. Check box(es) indicating cause of leak.

CASE TYPE

Indicate the case type category for this leak. Check one box only. Case type is based on the most sensitive resource affected. For example, if both soil and ground water have been affected, case type will be "Ground Water". Indicate "Drinking Water" only if one or more municipal or domestic water wells have actually been affected. A "Ground Water" designation does not imply that the affected water cannot be, or is not, used for drinking water, but only that water wells have not yet been affected. It is understood that case type may change upon further investigation.

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Indicate the category which best describes the current status of the case. Check one box only. The response should be relative to the case type. For example, if case type is "Ground Water", then "Current Status" should refer to the status of the ground water investigation or cleanup, as opposed to that of soil. Descriptions of options follow:

No Action Taken - No action has been taken by responsible party beyond initial report of leak.

Leak Years Contained - Leak contained at site but not yet cleaned up.
Preliminary Site Assessment Workplan Submitted - workplan/proposal requested of/submitted by responsible party to determine whether ground water has been, or will be, impacted as a result of the release.
Preliminary Site Assessment Underway - implementation of workplan.
Pollution Characterization - responsible party is in the process of fully defining the extent of contamination in soil and ground water and assessing impacts on surface and/or ground water.
Remediation Plan - remediation plan submitted evaluating long term remediation options. Proposal and implementation schedule for appropriate remediation options also submitted.
Cleanup Underway - implementation of remediation plan.
Post Cleanup Monitoring in Progress - periodic ground water or other monitoring at site, as necessary, to verify and/or evaluate effectiveness of remedial activities.
Case Closed - regional board and local agency in concurrence that no further work is necessary at the site.

IMPORTANT: THE INFORMATION PROVIDED ON THIS FORM IS INTENDED FOR GENERAL STATISTICAL PURPOSES ONLY AND IS NOT TO BE CONSTRUED AS REPRESENTING THE OFFICIAL POSITION OF ANY GOVERNMENTAL AGENCY

REMEDIAL ACTION

Indicate which action have been used to cleanup or remediate the leak. Descriptions of options follow:

Cap Site - install horizontal impermeable layer to reduce rainfall infiltration.
Containment Barrier - install vertical dike to block horizontal movement of contaminant.
Excavate and Dispose - remove contaminated soil and dispose in approved site.
Excavate and Treat - remove contaminated soil and treat (includes spreading or land farming).
Remove Free Product - remove floating product from water table.
Pump and Treat Groundwater - generally employed to remove dissolved contaminants.
Enhanced Biodegradation - use of any available technology to promote bacterial decomposition of contaminants.
Replace Supply - provide alternative water supply to affected parties.
Treatment at Source - install water treatment devices at each dwelling or other place of use.
Vacuum Extract - use pumps or blowers to draw air through soil.
Vent Soil - bore holes in soil to allow volatilization of contaminants.
No Action Required - incident is minor, requiring no remedial action.

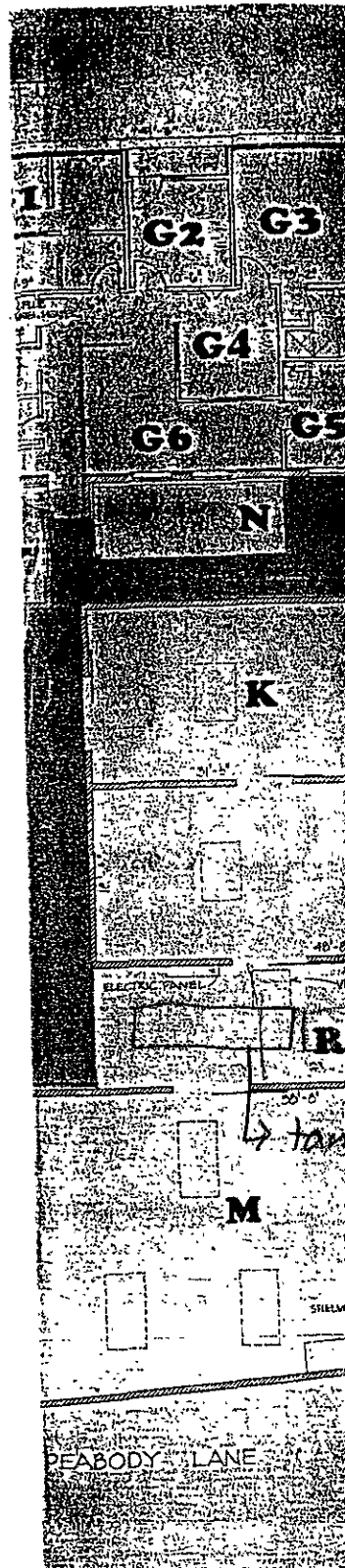
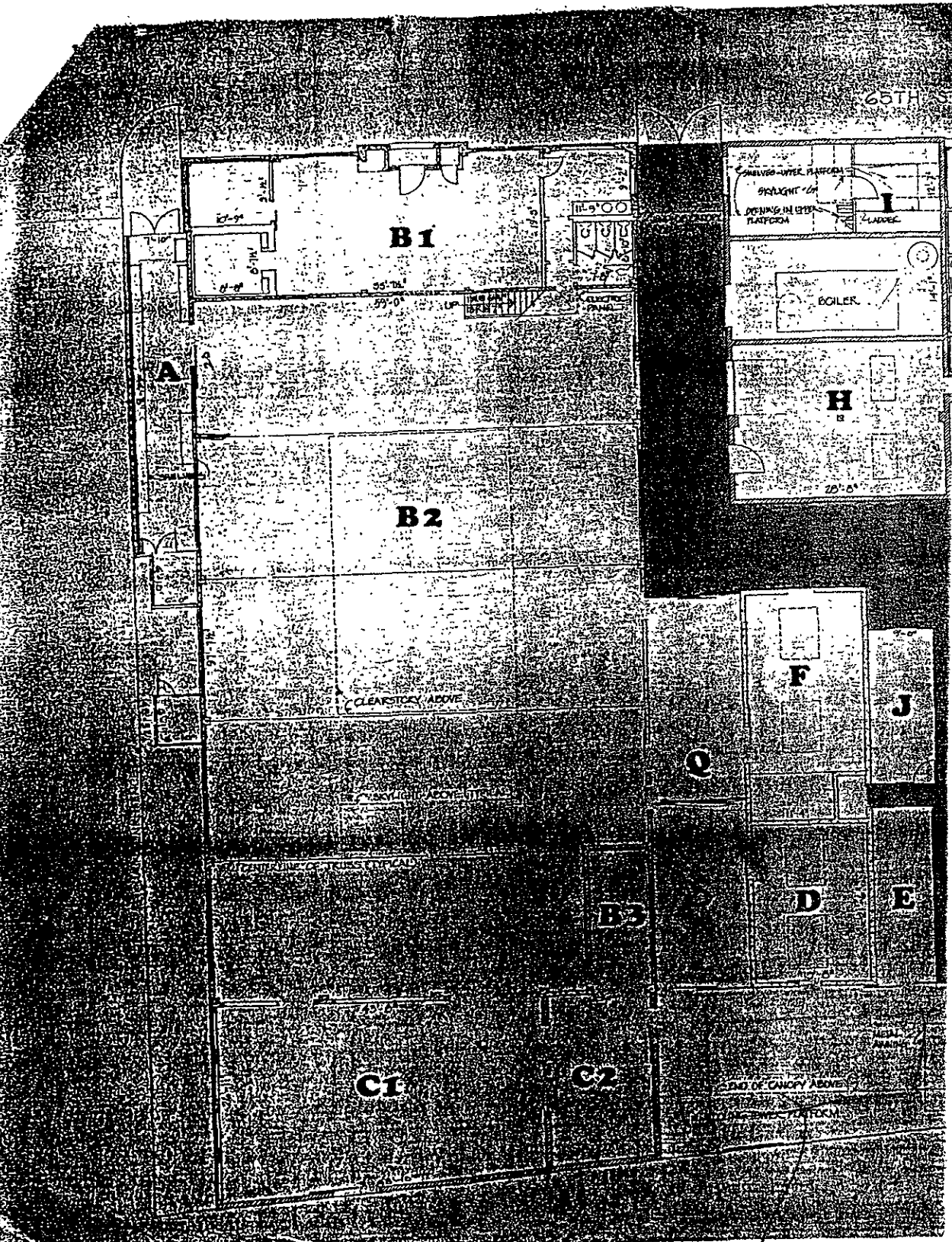
COMMENTS - Use this space to elaborate on any aspects of the incident.

SIGNATURE - Sign the form in the space provided.

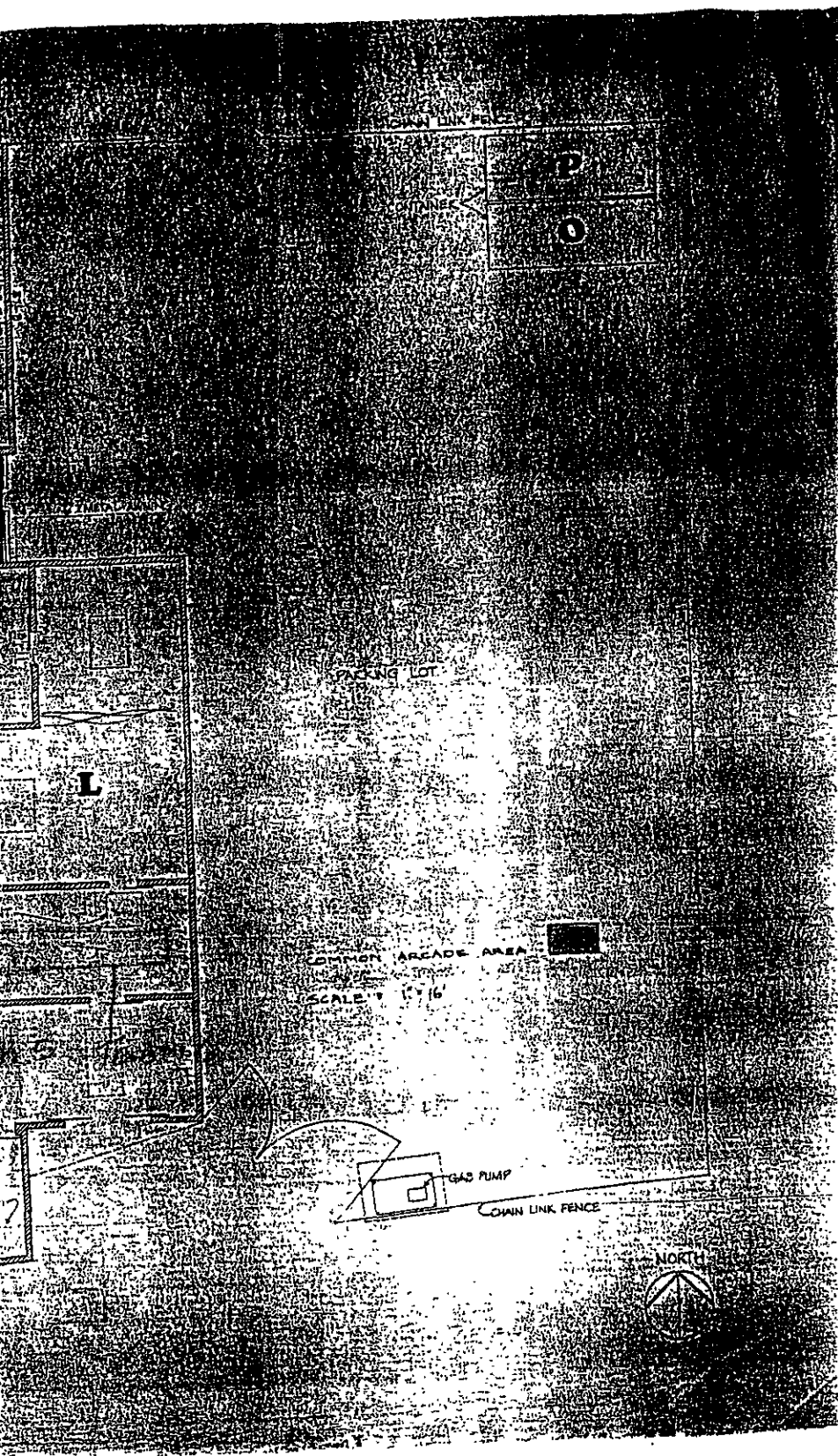
DISTRIBUTION

If the form is completed by the tank owner or his agent, retain the last copy and forward the remaining copies intact to your local tank permitting agency for distribution.

1. Original - Local Tank Permitting Agency
2. Regional Water Quality Control Board
3. Local Health Officer and County Board of Supervisors or their designee to receive Proposition 65 notifications.
4. Owner/responsible party.



Exterior tank area



1" = 20'

ARCADIA AREA

SCALE 1" = 16'

GAS PUMP

CHAIN LINK FENCE

NORTH

Chan, Barney, Env. Health

From: Torrence, Susan, DA
Sent: Friday, April 05, 2002 11:41 AM
To: Chan, Barney, Env. Health
Subject: Nady--1137-1165 Sixty-fifth St., Oakl

1) Ever find this file??

Have any idea what your costs are to date??

Talking settlement with the property owner and would like to include you on some cost reimbursement

2) Please call me ASAP to discuss usefulness of meeting with Shell on 14th St./Saberri property to discuss future expedited remediation.

Susan Torrence

Alameda County District Attorney's Office

7677 Oakport Suite 650

Oakland, CA 94621

E-mail: storrenc@co.alameda.ca.us

Voice: 510-569-9281

Chan, Barney, Env. Health

From: Torrence, Susan, DA
Sent: Wednesday, March 27, 2002 11:04 AM
To: Chan, Barney, Env. Health
Subject: Nady:1137-1167-65th St.Oakl.

Importance: High

Barney,

If you do not already have a release report on this case, it will be coming soon. Nevertheless, we are talking settlement. I have a Draft settlement Stipulation that I would like you to review. Particularly item #5, the duties into the future of the property owner. See if you think it is adequate and correctly phrased. If I could get this back ASAP I would appreciate it, the other attorney is waiting for it. THANKS, call if questions.



DRAFT

Stipulation.dot

Susan Torrence
Alameda County District Attorney's Office
7677 Oakport Suite 650
Oakland, CA 94621
E-mail: storrenc@co.alameda.ca.us
Voice: 510-569-9281

1 THOMAS J. ORLOFF
District Attorney
2 County of Alameda
SUSAN M. TORRENCE (State Bar #132585)
3 Deputy District Attorney
Consumer and Environmental Protection Division
4 7677 Oakport, Suite 650
Oakland, CA 94621-1934
5 (510) 569-9281
6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **COUNTY OF ALAMEDA**

9 THE PEOPLE OF THE STATE OF CALIFORNIA,) No.
10)
Plaintiff,)
11)
v.) **DRAFT STIPULATION**
12)
JOHN NADY,)
13)
14 Defendant.)
15)

16 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, appearing through its
17 attorney, THOMAS J. ORLOFF, District Attorney of the County of Alameda, by SUSAN M.
18 TORRENCE, Deputy District Attorney, acting pursuant to Chapter 6.7 of Division 20 of the Health
19 and Safety Code, and Defendant JOHN NADY appearing through his attorney, without the taking
20 of proof, and without a trial and adjudication of any facts of the law herein, hereby stipulate in
21 compromise and settlement of this action that:
22

23 1. Final Judgment shall be entered on Plaintiff's complaint in accord with the terms
24 herein and Plaintiff hereby waives and releases any further claims arising out of, relating to, or
25 which may have been asserted as result of the acts, omissions, transactions, or matters relating
26 thereto, concerning the closure of underground storage tanks at 1137 - 1167 Sixty-fifth Street,
27 Oakland, California.

1 2. The signing of this agreement does not constitute an admission either of liability or
2 any issue of fact or law or that any claim or action is with or without merit. Judgment is entered
3 without the presentation of evidence and without trial or adjudication of any of the issues of fact or
4 law herein. No findings or determination of any kind with respect to the merits of the within action
5 have been or shall be made.

6 3. Defendant has been served with copies of the complaint herein and hereby
7 acknowledges that the Superior Court, County of Alameda, has personal jurisdiction over
8 Defendant.

9 4. The Superior Court of the State of California, County of Alameda, has jurisdiction of
10 the subject matter hereto.

11 5. The Superior Court of the State of California, County of Alameda, may enter a Final
12 Judgment in the above-captioned matter, providing as follows:
13

14 a) Defendant and its agents, employees and representatives, and any and all of
15 them, shall be restrained and enjoined from violating Chapter 6.7 of the California Health
16 and Safety Code. When the term Defendant is used herein, it applies to the Defendant, as
17 well as an agent, employee or representative.

18 b) Defendant shall comply with all instructions of the City of Oakland's Office
19 of Emergency Services, Hazardous Materials Division, and the Alameda County
20 Department of Environmental Health, Hazardous Materials Division (hereafter
21 "Environmental Health") regarding the site investigation and any remediation of the
22 property at 1137 – 1167 Sixty-fifth Street in Oakland. These instructions include, but are
23 not limited to, the following:

24 i) Defendant shall, within sixty (60) days of the execution of this Stipulation,
25 submit a work plan to Environmental Health. This work plan shall include
26 provisions for investigating the extent of soil contamination, whether groundwater
27 has been contaminated at the site, and if so, the extent of the contamination. Once
28

1 the work plan has been reviewed for its adequacy, and approved, defendant shall
2 begin implementation of the plan within sixty (60) days of the approval.

3 ii) Defendant shall, within forty-five (45) days of the implementation of the
4 work plan for soil and groundwater investigation, submit a report to the Division
5 detailing the findings regarding both soil and groundwater contamination.

6 iii) Defendant shall, once the site soil and groundwater investigation reports are
7 submitted, take whatever steps are requested by Environmental Health to remediate
8 any contamination found as a result of the investigation. Such remediation shall
9 occur as expeditiously as possible.

10 iv) In the event, defendant is instructed to install any monitoring
11 wells to determine groundwater contamination, such wells will be monitored
12 quarterly and for as long as requested by Environmental Health, with quarterly
13 reports submitted to Environmental Health..

14 v) As monitoring continues, defendant shall, if instructed by
15 Environmental Health, utilize the best available technology to expedite the site
16 remediation.

17 c) Defendant shall pay to Plaintiff, PEOPLE OF THE STATE OF
18 CALIFORNIA, through THOMAS J. ORLOFF, District Attorney of the County of
19 Alameda, a total settlement amount of _____.

20
21 6. The parties waive the right to appeal of this Stipulated Final Judgment.

22 ///

23 ///

24 ///

1 7. Jurisdiction shall be retained for the purpose of enabling either party to this
2 Stipulation to apply to the Court at any time for such further orders and directions as may be
3 necessary and appropriate.

4
5 Dated: _____

THOMAS J. ORLOFF
District Attorney

6
7 By: _____

Susan M. Torrence
Deputy District Attorney
Attorneys for Plaintiff

8
9
10 Dated: _____

By: _____

John Nady
Owner 1137 - 1167 - 65th Street, Oakland
And Defendant

11
12
13 Dated: _____

By: _____

Attorney for Defendant

LAW OFFICES OF

HAROLD E. KAHN

33 NEW MONTGOMERY, SUITE 1400
SAN FRANCISCO, CA 94105

HAROLD E. KAHN
e-mail: hkahn@earthlink.net
MICHAEL K. WOO
e-mail: mkwlaw@earthlink.net

TELEPHONE: (415) 896-6203
FACSIMILE: (415) 896-2994

MAR 30 2001

March 28, 2001

Susan Torrence *510-569-6581*
Deputy District Attorney
Consumer & Environmental Protection Division
7677 Oakport Street, Suite 650
Oakland, CA 94621

Re: John Nady
1137-1167 65th Street, Oakland, CA

Dear Ms. Torrence:

This letter is to give you a brief update on the Nady/Wofsy litigation. Judgment in favor of Mr. Wofsy was entered on March 9. Mr. Nady has filed a motion for new trial on the declaratory relief claim. A hearing is set for April 20 on that motion.

A letter I received from Mr. Nady's counsel yesterday stated that Mr. Nady is planning to sell the 65th Street property "as is." It thus appears that after losing the litigation with Mr. Wofsy where he attempted to shift the responsibility for the property to Mr. Wofsy, Mr. Nady now seeks to evade his obligations to remove/close the tanks and remediate the property by selling the property "as is."

If you wish to discuss this matter further, please call.

Very truly yours,


Harold E. Kahn

HEK/csa

cc: Hernan Gomez
Larry Seto

Seto, Lawrence, Public Health, EH

From: Lori Casias[SMTP:casiasl@cwpswrcb.ca.gov]
Sent: Wednesday, June 21, 2000 6:38 PM
To: lseto@co.alameda.ca.us
Subject: Esselte Corp.

I screwed up big time! I unburied a brief letter from Esselte Corp. dated 12-9-99 (I spoke to you about this in January) which they have asked me to consider a protective petition. They asked me to hold it in abeyance while they gathered information. They have never communicated with me since that time. I need to contact them to see if they intend to proceed with the petition. I'll let you know what they say. Also, I have had no communication from them as a result of my letter closing the file on the COIT petition.

Lori

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



June 15, 2000

ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

Mr. John Nady, Property Owner
6701 Bay Street
Emeryville, CA 94608
STID 6394

RE: 1137-1167 65th Street, Oakland, CA 94608

Dear Mr. Schrag:

I have received a copy of a letter dated June 1, 2000 from Special Counsel Frederic D. Schrag with Nady Systems to Mr. Hernan E. Gomez with City of Oakland Fire Services. In addition, I have reviewed the **Draft Project Status Report/ Project Workplan** dated December 1998 that was prepared by Artesian Environmental. This report identified a 750 gallon heating oil tank was removed from the site. Soil sample T-1 was collected approximately 2 feet below the tank. This sample contained concentrations of BTEX below laboratory detection limits and TPH(d) at 14 mg/Kg. The two-point composite soil sample of excavated soil contained up to 220 ppm TPH(d). BTEX was below detection limits. It appears the soil surrounding this tank has been slightly impacted, therefore this is one of my low priority cases.

This report also identified up to eight underground storage tanks, some with product still exist on-site. **The City of Oakland Fire Department has jurisdiction over any issues regarding the permitting or the removal of these tanks.** They can be contacted at (510) 238-7253 or (510) 238-7759.

If you have any questions, please contact me at (510) 567-6774

Sincerely,


Larry Seto
Sr. Hazardous Materials Specialist

Cc: Frederic D. Schrag, Special Counsel, Nady Systems, 6701 Bay Street,
Emeryville, CA 94608
Hernan Gomez, City of Oakland Fire Services, 1605 Martin Luther King,
Oakland, CA 94612
Leroy Griffin, City of Oakland Fire Services, 1605 Martin Luther King,
Oakland, CA 94612

Files



NADY SYSTEMS, INC.

6701 Shellmound Street
Emeryville, CA 94608 USA
510 / 652-2411
FAX: 510 / 652-5075

ENVIRONMENTAL
PROTECTION

please reply to extension 263
00 JUN -6 AM 9:56

VIA FAX and U.S. Mail 510/ 238-7761 [1 page]

June 1, 2000

Hernan E. Gomez
City of Oakland Fire Services Agency
1605 Martin Luther King Jr. Way
Oakland, CA 94612

Re: 1137-1167 65th Street, Oakland CA 94608

Dear Mr. Gomez:

Mr. John Nady is currently the Plaintiff in litigation in Alameda County Superior Court in which he is seeking an injunction ordering the prior owner of the property, Mr. Alan Wofsy, to close and remove the tanks. The trial should be concluded within a few months.

Mr. Wofsy purchased the property in 1979 from the dry-cleaning company that had operated the tanks. Mr. Wofsy had the understanding that underground dry-cleaning solvent tanks were hidden underneath the property, but he didn't disclose that fact to Mr. Nady before he sold the property to Mr. Nady in 1986.

Mr. Wofsy did not apply for permits for the tanks when that became required by law in 1983 nor did he install any monitoring system. Instead, he cemented over tank system fill pipes and abandoned the tanks in violation of the Health and Safety Code.

The Alameda County Health Care Services Agency has named the former owner and operator of the tanks, Esselte Corporation, as a responsible party, and notified Esselte Corporation of that responsibility. Mr. Nady is waiting to hear from the Health Care Services Agency or from Esselte as to what Esselte intends to do to about the tank situation.

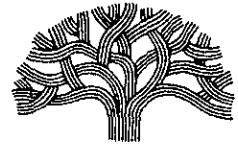
Very truly yours,


Frederic D. Schrag
Special Counsel

✓ CC: Larry Seto

ENVIRONMENTAL
PROTECTION

CITY OF OAKLAND



FIRE SERVICES AGENCY 6091 MARTIN LUTHER KING JR. WAY • OAKLAND, CALIFORNIA 94612

Office of Emergency Services

(510) 238-3938
FAX (510) 238-7761
TDD (510) 839-6451

May 26, 2000

CERTIFIED # Z 441 337 915

Mr. John Nady, owner
Nady Systems Inc.
6701 Bay St.
Emeryville, CA 94608

RE: 1137 to 1167 65th Street

NOTICE OF LEGAL OBLIGATION

Mr. Nady:

Based upon the inspection conducted at your site on November 13, 1998 by the City of Oakland Fire Department/Hazardous materials Management Program (OFD/HMMP) staff, there is reason to believe that at least five USTs (underground storage tanks) of unknown materials are still at your site.

Two notices of violation have already issued asking you to follow several actions to start the process for removal of the USTs. In accordance with the California Code of Regulations, Title 23, Chapter 3, Subchapter 16, Underground Storage Tank Regulations you must perform the following actions:

1. Submit a tank closure plan to this office as required by Article 7, 2670.
2. Apply and submit with the proper fees a City of Oakland application for removal of USTs.
3. Complete and submit State Forms A, B (one for each tank) with the proper information for your site.

Notify this office within 10 days of your intentions and to obtain the necessary instructions and forms.

Please note, that section 25299 of the California Health and Safety Code states that any operator or owner of an underground storage tank is liable for a civil penalty of not less than five hundred dollars or more than five thousand dollars per day for failure to obtain a permit, or failing to properly close an underground storage tank, as required by section 25298.

If you have any questions concerning this matter, please contact me at (510) 238-7253.

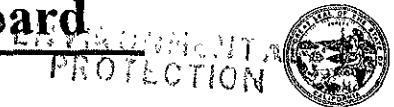
Sincerely,

Hernán E. Gómez
Hazardous Materials Inspector

cc: Henry R. Renteria, Emergency Services Manager
Leroy Griffin, Hazardous Materials Supervisor
✓Larry Seto, Sr. Hazardous Materials Specialist
Michael O'Connor, Alameda County District Attorney



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4325
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>

00 JUN 16 AM 9:00
Gray Davis
Governor

June 13, 2000

Matthew F. Lintner
Sonnenschein Nath & Rosenthal
The Monadnock Building
685 Market Street, 6th Floor
San Francisco, CA 94105

Dear Mr. Lintner:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, SITE NO. 6394, 1137-1167 65TH STREET, OAKLAND, ALAMEDA COUNTY, FILE NO. P99-195

At your request, on September 21, 1999, we reactivated the petition you originally submitted on June 11, 1999 on behalf of Coit Services, Inc. The issue in the petition is that you believe Coit should not be considered a responsible party for this site.

In conversations with Larry Seto with Alameda County, it has been determined that no information has been provided to the County that would suggest an unauthorized release occurred during the time Coit owned the subject site. Also, it is our understanding that Coit never operated the tanks. For these reasons, the County has removed Coit from the responsible party list. They will notify you of this fact in the near future. Please be aware that if information is provided in the future which indicates a release did occur during Coit's ownership of the site, Coit will be added to the responsible party list.

I apologize for the delay in bringing this matter to a conclusion. I believe the issues in the petition have now been resolved; consequently, I am closing the file on this matter. If my understanding is incorrect, or if you have any questions, please contact me at (916) 227-4325 or casiasl@cwps.wrcb.ca.gov.

Sincerely,

Lori Casias
Local Oversight Program

cc: See attached list

California Environmental Protection Agency

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700

October 28, 1999

Mr. Louis Kearn
Coit Services, Inc.
897 Hinckley Road
Burlingame, CA 94010
STID 6394

RE: 1137 - 1167 65th Street, Oakland, CA 94608

Dear Mr. Kearn:

I have reviewed your petition to the State Water Resources Control Board in regards to the determination of Coit Services, Inc. as a responsible party for the clean up at the above address. Ms. Lori Casias with the State Water Resources Control Board and I discussed the site history and your petition at length.

At this time, with the information and data available to our office, your request to have Coit Services removed as a responsible party is granted. However, in the future if additional information becomes available that Coit Services maybe a responsible party, your company will be notified.

If you have any questions, please contact me at (510) 567-6774.

Sincerely,



Larry Seto
Sr. Hazardous Materials Specialist

Cc: John J. Allen, Sonnenschein Nath & Rosenthal, 601 S. Figueroa Street,
Los Angeles, CA 90017-5704
Lori Casias, State Water Resources Control Board, PO Box 944212,
Sacramento, CA 94244-2120
Hernan Gomez, City of Oakland Fire Services, 1603 Martin Luther King,
Oakland, CA 94612

Files

Frequently Asked Questions

For more information, visit our Web site at www.cellone-st.com

1. Does my phone have to be on to ring and/or receive PCS messages?
Yes. All cellular phones must be powered on and in an area with cellular coverage in order to make and receive calls, and PCS messages. However, if your phone is turned off, you will receive your PCS messages when you turn your phone back on.

2. Why isn't there a dial tone when I turn on my phone?
Cellular phones do not have a dial tone.

3. Why doesn't my phone ring?

- First, make sure your cellular phone is turned on.
- Check the ringing volume and tone to make sure you are able to hear the ring.
- Many newer phones have "pager," "Voice Mail only" and "silent" modes. Make sure your phone is not set to one of these modes. Please visit our Web site, www.cellone-st.com, or see your owner's manual for further information.

4. Why does my phone not work consistently indoors?

At times, the structure of a building or house may interfere with the signal, leading to dropped calls or interference. You may improve your signal strength by moving to a window or going outdoors.

5. In some locations I can place an outgoing call with no problems, but when someone tries to call me at that same location I can't be reached. What causes this?

Most likely you are in a weak coverage area. Generally, it takes less signal strength to place an outgoing call than it does to receive an incoming call. Check the signal strength indicator on your phone to ensure you are receiving an adequate signal to make and receive calls.

6. Why does my phone read "Home" on the display?

"Home" on the display of a Cellular One customer's phone indicates that you are within our Local Calling Area.

7. How do I establish Voice Mail?

Voice Mail is a calling feature that is added to your account. Cellular One Voice Mail is free for the first 60 days for new subscribers, just call Customer Care at 1-800-445-6876 to sign-up. Please visit our Web site, www.cellone-st.com, for further information.

8. How do I set up my Voice Mailbox for the first time?

- Call your cellular number from your cellular, home or office phone (no airtime charges apply from your home or office phone).
- When the greeting begins, press "1" and follow the step-by-step instructions.
- When asked for your temporary password, press "123456".
- When prompted, enter a new password of 6-15 digits.
- Please visit our Web site, www.cellone-st.com, for further information.

9. How do I set up my phone to quickly access my Voice Mail messages?

Manufacturer	Model	Instructions
Motorola	StarTac	Enter your 10 digit cellular number. Press Store (STO). Enter Location number. Press Store (STO). If location is FULL Press Store again. To check location of stored number press "RCL" + the Number (location) memory was stored in.
Nokia	5160	Press Menu 2 2 2. Enter 1+10 digit cellular number. Press OK.
Nokia	6160/6162	Press Menu 1 2 2. Enter 1+10 digit cellular number. Press OK.
Ericsson	788	Press 2 4. Enter 1+10 digit cellular number and press "YES." "Selection Stored" will be shown on the display. Press "NO" two times to exit.
Phillips	Aeon	Press Menu 2 1 2. Enter Voice Mailbox number. Press OK.

Consult your owner's manual for more detailed instructions on storing names and numbers in your phone.

Seto, Lawrence, Public Health, EH

To: Lori Casias
Subject: RE: 1137 - 1167 65th St., Oakland

Hi Lori:

We are doing fine here. Tom is on vacation this week. Ariu is looking over the shop. Ariu is going to contact you concerning one of my cases that I am ready to close. I forgot to send out an NOR letter in 7/99 when the case was put into LOP.

Last week I spoke to Alan Wofsy, the person who sold the property to Nady. I am going to meet with him this Wed. 1/26 and go over the site file. He thinks that some of the information the Nady's attorney has given us is incorrect. I will contact you after the meeting to let you know what happened.

Larry

From: Lori Casias[SMTP:casiasl@cwpswrcb.ca.gov]
Sent: Saturday, January 22, 2000 4:57 PM
To: lseto@co.alameda.ca.us
Subject: 1137 - 1167 65th St., Oakland

Hi Larry! What kind of communication has been going on with this site? I received a petition in Dec. from Esselte Corp. They've asked me to hold it in abeyance while they gather information. Before I call them to see what the status is, I thought I'd talk to you first.

How's everyone there? I haven't heard a word from Tom or anyone in ages!

Lori

RO82

ALAN WOFSY

Offices: 401 China Basin St., San Francisco, CA 94107

Telephone: (415) 986-3030

Mailing Address: P.O. Box 2210, San Francisco, CA 94126

Fax: (415) 512-0130

MESSAGE

REPLY

ATTN Susan Hugo
 Hazardous Materials
 Alameda County

DATE

DATE 1-6-2000

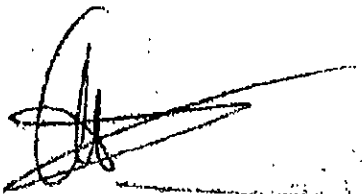
Re: 1137-1167 65th Street, Oakland
formerly French Art Cleaners

Dear Fire Marshall,

I am looking for records about
underground storage tanks at
this location

You have inspection records.
(Copy enclosed).

Yours,



Are there any
records of usft

at 1137-67 65th
Oakland prior
to 1990?

AD

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY

DAVID J. KEARS, Agency Director

ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION (LOP)
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

Certified Mail # Z 773 036 546
03/16/99

Notice of Responsibility

StID#: 6394
1137-1167 65th St
1137 65th St (-1167)
Oakland, CA 94608

SITE

Date First Reported 03/09/99
Substance: Stoddard Solvent
Funding (Federal or State): F
Multiple RPs?: N

Mr. John Nady
Nady Systems Inc.
6701 Bay Street
Emeryville, California 94608

Responsible Party (RP)
Property Owner

You are hereby notified that pursuant to Section 25297.1 of the Health and Safety Code, the above site has been placed in the Local Oversight Program. The above individual(s) or entity(ies) has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 227-4349 or telephone (916) 227-4408.

Pursuant to Section 25299.37(c)(7) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact this office for further information about the site designation process.

Please contact Susan Hugo, Hazardous Materials Specialist at this office at (510) 567-6700 if you have any further questions.

Richard A. Pantages

Richard A. Pantages, Chief
Contract Project Director

Please Circle One Add Delete Change

Reason: NEW CASE

C: Lori Casias, SWRCB
Susan Hugo, Hazardous Materials Specialist



NADU SYSTEMS, INC.

6701 Bay Street
Emeryville, CA 94608 USA
510/652-2411
FAX: 510/652-5075

ENVIRONMENTAL
PROTECTION
please reply to extension 263
99 NOV 12 PM 3: 35

Via Fax (510) 337-9335 [2 pages] and U.S. Mail

November 10, 1999

Larry Seto
Alameda County Health Care Services
Environmental Protection
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: Your StID# 6394
1137-1167 65th Street, Oakland CA 94608

Dear Mr. Seto:

You have asked me to provide you with the mailing address and contact person for Trans-Western if it is available.

My investigation shows that Trans-Western Service Industries, Inc. is now a mere shell of a corporation with no assets, no current address, and that has been suspended by the California Franchise Tax Board since 1991.

Trans-Western Service Industries, Inc. was formerly named Marshall Steel Company. Marshall Steel/Trans-Western was a large company that operated a chain of dry-cleaners, including the plant at the 65th Street site ("the Property").

While the plant (which contained the subject underground storage tanks) was in operation, Dymo Industries, Inc. (now named Esselte Corporation) owned Trans-Western, and owned the Property. In 1978, Dymo sold Trans-Western to Coit Drapery Cleaners, Inc. (now named Coit Services, Inc.) and then granted the Property to Trans-Western. Coit Services, Inc. admits to owning the Property in 1978 (see Declaration of Louis Kearn attached to Coit's Petition to the State WRCB).

In 1978, Coit, who at that time controlled Trans-Western, began bleeding Trans-Western of all its assets, including the Property. In 1981 Coit sold the empty shell of the Trans-Western corporation to Glenn Fink. That year the California Secretary of State certified Trans-Western as being a delinquent corporation. That certification continued up to 1991 when the Franchise Tax Board finally suspended Trans-Western.

Glenn Fink was the last President of Trans-Western whose corporate address is listed with the California Secretary of State as 4225 Park Boulevard, Oakland, CA. I visited that address in December 1998 and found only a café there. I inquired at the café and was told

by its operators that no one named Glenn Fink had anything to do with that address at that time, nor had they heard the name Glenn Fink before.

Coit hoped to avoid liability for the environmental condition of the Property by hiding its control over the underground storage tanks on the Property it owned behind the cloak of Trans-Western. However, 23 California Code of Regulation §2720 subdivision (4) places liability for underground storage tanks on anyone who had "control over" it when an unauthorized release *may* have occurred, not limiting liability, as does subdivision (2), to those who used, operated or owned the tanks immediately before discontinuation of its use.

"Control" has been held by the State Water Board to exist where a person had the legal ability to direct management of the property on which the tank was located. (See Exhibit 1 to Nady's Response to Coit's Petition to the State WRCB, p.2.) Subdivision (4)'s requirement that the control be at the time of or following an unauthorized release of a hazardous substance does not apply to properties on which the use of the tanks was discontinued prior to November 8, 1984. (See Exhibit 1 to Nady's Response to Coit's Petition to the State WRCB, p.3.) In those cases it is sufficient for liability to attach that an unauthorized release may have occurred before November 8, 1984 during ownership of the property by the putative Responsible Party. That definition fits Coit, who had control over the tanks/Property in 1978, after their use had been discontinued.

Coit should be held to be a Responsible Party so that Nady, who has less responsibility than Coit (Nady did not profit, as Coit did, from Trans-Western's assets, or even know that the tanks existed), is not held by the Water Board pursuant to Coit's Petition to be the only Responsible Party should Esselte Corporation somehow later avoid liability. Further, any liability by Nady could be diminished if the liability were split three ways instead of two. "Local agencies must name all persons who meet any of the four sets of circumstances (subdivisions) listed in Section 2720." (See Exhibit 1 to Nady's Response to Coit's Petition to the State WRCB, p.3.) "All" includes Coit who fits the definition of Responsible Party set forth in subdivision (4) of 23 CCR §2720 as it is interpreted by the Water Board.

Very truly yours,



Frederic D. Schrag
Special Counsel

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6700
(510) 337-9432

November 10, 1999

Ms. Lori Casias
State Water Resources Control Board
Local Oversight Program
PO Box 944212
Sacramento, CA 94244-2120

RE: STID 6394, Nady Systems Inc., 1137-1167 65th Street, Oakland, Alameda County

Dear Ms Casias:

Enclosed is a letter dated November 10, 1999 that I received from Frederic D. Schrag, Special Counsel for Nady Systems, Inc. Please review this letter and contact me @ (510) 567-6774 so that we can discuss the contents.

Sincerely,



Larry Seto
Sr. Hazardous Materials Specialist

Cc: Frederic D. Schrag, Nady Systems, 6701 Bay Street, Emeryville, CA 94608
John Nady, Nady Systems, 6701 Bay Street, Emeryville, CA 94608
Files

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
(510) 337-9335 (FAX)

November 8, 1999

Mr. John Nady
Nady Systems, Inc.
6701 Bay Street
Emeryville, CA 94608
STID 6394

RE: Nady Systems Inc., 6701 Bay Street, Emeryville, CA 94608

LANDOWNER NOTIFICATION AND PARTICIPATION REQUIREMENTS

Dear Mr. Nady:

This letter is to inform you of new legislative requirements pertaining to cleanup and closure of sites where an unauthorized release of hazardous substance, including petroleum, has occurred from an underground storage tank (UST). Section 25297.15(a) of Ch. 6.7 of the Health & Safety Code requires the primary or active responsible party to notify all current record owners of fee title to the site of: 1) a site cleanup proposal, 2) a site closure proposal, 3) a local agency intention to make a determination that no further action is required, and 4) a local agency intention to issue a closure letter. Section 25297.15(b) requires the local agency to take all reasonable steps to accommodate responsible landowners' participation in the cleanup or site closure process and to consider their input and recommendations.

For purposes of implementing these sections, you have been identified as the primary or active responsible party. Please provide to this agency, within twenty (20) calendar days of receipt of this notice, a complete mailing list of all current record owners of fee title to the site. You may use the enclosed "list of landowners" form (sample letter 2) as a template to comply with this requirement. If the list of current record owners of fee title to the site changes, you must notify the local agency of the change within 20 calendar days from when you are notified of the change.

If you are the sole landowner, please indicate that on the landowner list form. The following notice requirements do not apply to responsible parties who are the sole landowner for the site.

LANDOWNER NOTIFICATION

Re: Nady Systems Inc., 6701 Bay Street, Emeryville, CA 94608

November 8, 1999

Page 2 of 2

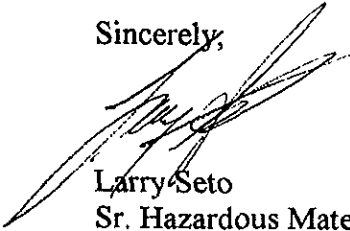
In accordance with Section 25297.15(a) of Ch. 6.7 of the Health & Safety Code, you must certify to the local agency that all current record owners of fee title to the site have been informed of the proposed action before the local agency may do any of the following:

- 1) consider a cleanup proposal (corrective action plan)
- 2) consider a site closure proposal
- 3) make a determination that no further action is required
- 4) issue a closure letter

You may use the enclosed "notice of proposed action" form (sample letter 3) as a template to comply with this requirement. Before approving a cleanup proposal or site closure proposal, determining that no further action is required, or issuing a closure letter, the local agency will take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup and site closure process and will consider all input and recommendations from any responsible landowner.

Please call me at (510) 567-6774 should you have any questions about the content of this letter.

Sincerely,



Larry Seto
Sr. Hazardous Materials Specialist

Attachments

cc: Chuck Headlee, RWQCB

SAMPLE LETTER (2): LIST OF LANDOWNERS FORM

Name of local agency
Street address
City

SUBJECT: CERTIFIED LIST OF RECORD FEE TITLE OWNERS FOR (*Site Name and Address*)

(Note: Fill out item 1 if there are multiple site landowners. If you are the sole site landowner, skip item 1 and fill out item 2.)

1. In accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, (*name of primary responsible party*), certify that the following is a complete list of current record fee title owners and their mailing addresses for the above site:

2. In accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, (*name of primary responsible party*), certify that I am the sole landowner for the above site.

Sincerely,

Signature of primary responsible party

Name of primary responsible party

SAMPLE LETTER 3: NOTICE OF PROPOSED ACTION SUBMITTED TO LOCAL AGENCY

Name of local agency
Street address
City

SUBJECT: NOTICE OF PROPOSED ACTION SUBMITTED TO LOCAL AGENCY
FOR *(Site Name and Address)*

In accordance with section 25297,15(a) of Chapter 6.7 of the Health & Safety Code, I, *(name of primary responsible party)*, certify that I have notified all responsible landowners of the enclosed proposed action. Check space for applicable proposed action(s):

- cleanup proposal (corrective action plan)
- site closure proposal
- local agency intention to make a determination that no further action is required
- local agency intention to issue a closure letter

Sincerely,

Signature of primary responsible party

Name of primary responsible party

cc: Names and addresses of all record fee title owners

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
(510) 337-9335 (FAX)

November 5, 1999

Mr. Robert K. Scribner
Esselte Corporation
71 Clinton Road
Garden City, New York 11530
STID 6394

RE: 1137-1167 65th Street, Oakland, CA 94608

Dear Mr. Scribner:

I would like to introduce myself as the caseworker that is overseeing the subsurface investigation/remediation of the hazardous waste release at the above address. Esselte Corporation (Dymo Industries, Inc.) has been identified as a previous property owner and underground tank operator of the above site by Mr. Frederic D. Schrag, Special Counsel for Nady Systems, Inc., the current property owner.

State Water Resources Control Board, California Environmental Protection Agency regulations define "Responsible Party" for purposes of underground storage tank corrective action requirements as one of the following:

- (1) Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
- (2) In the case of any underground storage tank on longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use;
- (3) Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
- (4) Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance.

In addition, under federal law (42 USC Section 6991(3)(B)), the person who owned a tank which was not used after November 8, 1984 immediately before the discontinuance of its use may be named a responsible party, even though substantial evidence does not exist to show that the leak occurred before discontinuance of use.

This office has been notified that Esselte Corporation (Dymo Industries) owned and operated the underground storage tank immediately before the discontinuation of its use.

Esselte Corporation and Nady Systems, Inc. are considered jointly and severally responsible for site cleanup. The enclosed Notice of Responsibility identifies your role as a responsible party.

If you have any questions, please contact me at (510) 567-6774.

Sincerely,



Larry Seto
Sr. Hazardous Materials Specialist

Cc: John Nady, C/o Mr. Mr. Frederic C. Schrag, 6701 Bay Street, Emeryville,
CA 64608
Lori Casias, State Water Resource Control Board, PO Box.944212,
Sacramento, CA 94244-2120
Files

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700

October 28, 1999

Mr. Louis Kearn
Coit Services, Inc.
897 Hinckley Road
Burlingame, CA 94010
STID 6394

RE: 1137 - 1167 65th Street, Oakland, CA 94608

Dear Mr. Kearn:

I have reviewed your petition to the State Water Resources Control Board in regards to the determination of Coit Services, Inc. as a responsible party for the clean up at the above address. Ms. Lori Casias with the State Water Resources Control Board and I discussed the site history and your petition at length.

At this time, with the information and data available to our office, your request to have Coit Services removed as a responsible party is granted. However, in the future if additional information becomes available that Coit Services maybe a responsible party, your company will be notified.

If you have any questions, please contact me at (510) 567-6774.

Sincerely,



Larry Seto
Sr. Hazardous Materials Specialist

Cc: John J. Allen, Sonnenschein Nath & Rosenthal, 601 S. Figueroa Street,
Los Angeles, CA 90017-5704
Lori Casias, State Water Resources Control Board, PO Box 944212,
Sacramento, CA 94244-2120
Hernan Gomez, City of Oakland Fire Services, 1603 Martin Luther King,
Oakland, CA 94612

Files

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700

October 25, 1999

Ms. Lori Casias
State Water Resources Control Board
Local Oversight Program
PO Box 944212
Sacramento, CA 94244-2120

RE: Petition, Underground Storage Tank Local Oversight Program, STID 6394,
1137-1167 65th Street, Oakland, Alameda County, File # P99-195

Dear Ms. Casias:

I have reviewed the file for this site, and there is no evidence that the underground storage tanks at the above site were involved in a release during the time Coit Services owned the site for a period of months in 1978 and 1979. There is no record that Coit operated the tanks during the time of their ownership. For these reasons, **Coit Services, Inc., 897 Hinckley Road, Burlingame, CA 94010 status as a Responsible Party should be removed.**

Under federal law (42 USC Section 6991 (3) (B)), the person who owned a tank which was not used after November 8, 1984 immediately before the discontinuance of its use may be named a responsible party, even though substantial evidence does not exist to show that the leak occurred before discontinuance of use. For this reason, **Esselte Corporation, 71 Clinton Road, Garden City, New York 11530 should be named as a responsible party. Mr. Robert Scribner, President is the contact person for Esselte Corporation.**

If you have any questions, please contact me at (510) 567-6774.

Sincerely,



Larry Seto
Sr. Hazardous Materials Specialist



State Water Resources Control Board

Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs
2014 T Street • Sacramento, California 95814 • (916) 227-4325
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>

ENVIRONMENTAL
PROTECTION
99 OCT -8 PM 2: 56



October 6, 1999

Amir K. Gholami
Alameda County
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

STID 6394

Dear Mr. Gholami:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, SITE NO. 6394, 1137-1167 65TH STREET, OAKLAND, ALAMEDA COUNTY, FILE NO. P99-195

This will confirm our telephone conversation wherein I granted you a time extension to respond to the subject petition. As agreed upon, your agency's response shall be submitted by October 26, 1999.

If you have any questions, please telephone me at (916) 227-4325.

Sincerely,

L Casias

Lori Casias
Local Oversight Program

Cc: Matthew F. Lintner
Sonnenschein Nath & Rosenthal
The Monadnock Building
685 Market Street, 6th Floor
San Francisco, CA 94105

John Nady
Nady Systems, Inc.
6701 Bay Street
Emeryville, CA 94608

San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street
Oakland, CA 94612

California Environmental Protection Agency

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FREDERIC D. SCHRAG (SBN 124590)
6701 Bay Street
Emeryville, CA 94608
Telephone (510) 652-2411 x 263

Attorney for John Nady and Nady Systems,
Inc.

STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition of Coit)
Services, Inc. for Review of a)
Determination of Alameda County Health)
Services Agency Regarding the Status of)
Coit Services, Inc. as a Responsible Party)
for 1137-1167 65th Street, Oakland,)
California 94608)
_____)

FILE NO. P99-195
RESPONSE TO PETITION TO THE
STATE WATER RESOURCES
CONTROL BOARD

99 OCT -4 PM 4:35
ENVIRONMENTAL
PROTECTION
1

1 COIT IS A RESPONSIBLE PARTY

2 "Responsible party" means one or more of the following: ...4. Any person
3 who had ... control over an underground storage tank at the time of or
4 following an unauthorized release of a hazardous substance."

5 (23 California Code of Regulations §2720.)

6 An exception to the usual requirement that the agency naming the responsible party have
7 substantial evidence supporting a reasonable basis to conclude that an unauthorized release
8 occurred during or prior to the time that the person had control of the UST or property is where
9 "discontinuance of use" of the UST occurred before November 8, 1984. (Declaration of Schrag,
10 Exhibit 1 p.3, Clarification of the Definition of Responsible Party Under the Corrective Action
11 Regulations, State Water Resources Control Board letter, January 25, 1994.)

12 "Discontinuance of use means that (1) product was neither placed in the
13 tank nor removed from the tank (except for product removal at the time of
14 closure) and (2) circumstances indicated that there was no further intent to
15 use the tank. Circumstances which indicate no further intent to use the tank
16 can include such factors as: ...2. The owner abandoned the tank and no one
17 else has used it; ...5. The tank was sold to a person who had no use for the
18 tank (such as a residential real estate developer)."


19 (*Ibid.*)

20 Coit owned the real property containing the UST from 1978 until 1979. (Petition, Exhibit
21 C ¶¶3-5, Declaration of Louis Kearn.) At the time Coit owned the property, Coit was responsible
22 for the UST and its hazardous contents. "'Operational life' means the period beginning when
23 installation of the tank system has begun until the time the tank system should be properly
24 closed." (23 California Code of Regulations [Underground Tank Regulations] §2611.) Coit was
25 aware of the existence of the UST during Coit's ownership of the property. (See Petition, Exhibit
26 C ¶¶7 and 8, Declaration of Louis Kearn.) Discontinuance of use of the tank occurred before
27
28

1 1980. (Petition, Exhibit C ¶¶5 and 7, Declaration of Louis Kearm.) After Coit sold the tank to
2 Alan Wofsy in 1979, neither Wofsy nor the current owner, John Nady, used it. (Declaration of
3 Schrag, Exhibit 2 "I never used the property nor rented the property to anyone who used the
4 UST" and Exhibit 3 "My client is an innocent purchaser who never operated the tanks and had
5 not even known that the tanks were there".) Thus Coit abandoned the tank before November 8,
6 1984 and no one else used it, and Coit sold the tank to a person who had no use for it (both
7 circumstances showing "discontinuance of use").

8 Coit had control over the UST. State Water Board decisions have determined that
9 necessary "control" (as the term is used in the fourth definition of Responsible Party) exists where
10 a person "had the legal ability to direct management of the tank or property on which the tank is
11 or was located". (Declaration of Schrag, Exhibit 1 p.2.) Coit, as owner of the property before
12 November 8, 1984, had the legal ability to direct management of the property on which the tank
13 was located.

14 Date: 10/1/99

15 
16 FREDERIC D. SCHRAG
17 Attorney for JOHN NADY and
18 NADY SYSTEMS, INC.

19 DECLARATION OF FREDERIC SCHRAG

20 I, Frederic Schrag, declare:

- 21 1. I am attorney at law for John Nady and Nady Systems, Inc., have personal
22 knowledge of the below stated matters, and can competently testify thereto.
- 23 2. Exhibit 1 attached hereto is a true and correct copy of a letter I received from the
24 Alameda County Health Services Agency, Environmental Health Services, entitled Clarification of
25 the Definition of Responsible Party Under the Corrective Action Regulations, and dated January
26 25, 1994.

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3. Exhibit 2 attached hereto is a true and correct copy of a letter that John Nady received from Alan Wofsy, on or about April 26, 1994.

4. Exhibit 3 attached hereto is a true and correct copy of a letter I wrote to the San Francisco Bay Regional Water Quality Control Board on January 21, 1999.

5. John Nady never used the tanks.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 10/1/99


Frederic Schrag

Pcoir

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

LOW
PETER WILSON, GOVERNOR

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF CLEAN WATER PROGRAMS
2014 T STREET, SUITE 130
SAN FRANCISCO, CA 94122
SAN FRANCISCO, CA 94244-2120



Post-It™ brand fax transmittal memo 7671		# of pages	4
To	FRED SHRAGG	From	SUSAN HUGO
Co.	NADY	Co.	ACDEH
Dept.		Phone #	
Fax #	652-5075	Fax #	337-9335

(916) 227-4328
FAX: (916) 227-4349

JAN 25 1994

To: Local Oversight Program (LOP) Agencies

CLARIFICATION OF THE DEFINITION OF RESPONSIBLE PARTY UNDER THE CORRECTIVE ACTION REGULATIONS

This letter provides guidance to agencies acting under a Local Oversight Program (LOP) contract on the identification of responsible parties pursuant to the corrective action regulations (Article 11, Chapter 16, Title 23, California Code of Regulations).

The purpose of this letter is to clarify that persons whose ownership or control over the tank or tank site ceased before any unauthorized release occurred cannot be named as responsible parties, except for situations involving tanks where use was discontinued on or before November 8, 1984. Certain owners of tanks which were not used after November 8, 1984, may be named as responsible parties, even if their ownership ceased before the unauthorized release.

Section 2720 of the regulations define "corrective action" and "responsible party" 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). Corrective action does not include any of the following activities:

1. Detection, confirmation, or reporting of the unauthorized release; or
2. Repair, upgrade, replacement, or removal of the underground storage tank.

"Responsible party" means one or more of the following:

SURNAME DWR 8-80 REV. 7/88	<i>L. Casar</i> 1-24-94	<i>Schmeck</i> 1-24-94	<i>Brazell</i> 1/24/94	<i>Duffy</i> 1/25/94
-------------------------------	----------------------------	---------------------------	---------------------------	-------------------------

EXHIBIT 1

Local Implementing Agencies. - 2 -

1. Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
2. In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use;
3. Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
4. Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance.

Reading these definitions together, it is clear that a prerequisite for naming a responsible party in a corrective action order is that there be a reasonable basis to conclude that an unauthorized release occurred during or prior to the time that the person was an owner, operator, or otherwise had control of the tank or property.

A reasonable basis includes such factors as hydrogeologic information, physical evidence, unauthorized release reports and complaints, agency records of discharges and, in limited cases, circumstantial evidence. In all cases, there must be evidence to support the action taken. A reasonable basis does not include the mere fact that a person owned, operated, or controlled the tank or property at sometime in the past without evidence that the release occurred during or prior to that person's ownership, operation, or control of the property or tank.

The fourth definition of responsible party covers all persons who may be considered dischargers under Section 13304 of the Water Code. It is based on the word "control". State Water Board decisions have determined that necessary control exists where a person either: (1) had the legal ability to direct management of the tank or property on which the tank is or was located, (2) was in a legal position to prevent the release, or (3) assumed actual management duties.

Legal ability to direct management or to prevent the release may be set forth in documents such as leases, contracts, franchises, licenses, or monitoring programs. Actual management duties must be ascertained from the circumstances surrounding individual cases.

We recognize that many unauthorized releases are historical events that are discovered when tanks are pulled. This after-the-fact

Local Implementing Agencies . 3 -

discovery sometimes makes it difficult to figure out the exact date of the leak. However, it is critical for the regulatory agency to make a reasonable effort, based on the facts of the case, to establish the probable timing of the leak. Establishing a probable timing of the leak will avoid the extremes of: (1) only naming the current property owner and (2) naming anyone who ever owned, operated or controlled the tank or the property on which the tank is located at any time in the past without regard to whether that person's action contributed to the leak or whether that person had control over the property or tank at the time of or following the release.

One exception to the above discussion involves cases where discontinuance of use of the tank occurred before November 8, 1984. Discontinuance of use means that (1) product was neither placed in the tank nor removed from the tank (except for product removal at the time of tank closure) and (2) circumstances indicated that there was no further intent to use the tank. Circumstances which indicate no further intent to use the tank can include such factors as:

1. The tank is filled with an inert solid or otherwise rendered unusable;
2. The owner abandoned the tank and no one else has used it;
3. The intakes and vents are paved over;
4. Access piping is disconnected or removed; and
5. The tank was sold to a person who had no use for the tank (such as a residential real estate developer).

(See G. J. Leasing et al. v. Union Electric 825 F.Supp. 1363.)

Under federal law [42 USC Section 6991(3)(B)], the person who owned a tank which was not used after November 8, 1984 immediately before the discontinuance of its use may be named a responsible party, even though substantial evidence does not exist to show that the leak occurred before discontinuance of use. We interpret definition number 2 above to include the RCRA provisions defining owners of tanks whose use was discontinued before November 8, 1984.

Finally, it must be understood that the definition of responsible party in Article 11 of the regulations is necessarily broad in scope to cover a variety of situations. Local agencies operating under a IOP contract must name all persons who meet any of the four sets of circumstances listed in Section 2720.

Local Implementing Agencies - 4 -

If you have any questions about this letter, please contact
Ms. Dorothy Jones at (916) 227-4421 or Ms. Lori Casias at
(916) 227-4325.

Sincerely,

ORIGINAL SIGNED BY

Mike McDonald, Manager
Underground Storage Tank Program

cc: Regional Water Quality Control Board
UST Program Managers

11/11
11/05
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C

ALAN WOFSY

Offices: 401 China Basin St., San Francisco, CA 94107 Telephone: (415) 986-3030
Mailing Address: P.O. Box 2210, San Francisco, CA 94126 Fax: (415) 512-0130

4-26-94

To: John Nady
Re: Your fax of today on 1145-65th st.

It is not true that I would be your proxy in your quest to find a responsible party for underground tanks and releases therefrom.

As you know, I never used the property nor rented the property to anyone who used underground tanks.

I purchased the property from Coit Drapery of Burlingame who is the successor in interest to Payless and French Art which operated the facility.

You might want to contact them to see if they have a program to investigate and/or remediate sites which they owned and operated.

Yours,



EXHIBIT 2



NADY SYSTEMS, INC.

6701 Bay Street
Emeryville, CA 94608 USA
510/652-2411
FAX: 510/652-5075

please reply to extension 263

January 21, 1999

Stephen Morse
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Re: 1137-1167 65th Street, Oakland CA 94608

Dear Mr. Morse:

Thank you for taking the time to talk with me on the phone yesterday. As you recommended, I am providing you with a recap of the situation we discussed.

My client has recently discovered underground storage tanks on real property that he purchased in 1986. The tanks are under the concrete floor of the building that he rents out to musicians. The presence of the tanks had not been disclosed to him by the seller, Mr. Alan Wofsy.

Three tanks contain Stoddards solvent mixed with HVOC, including one tank with about 8,000 gallons in it. (See enclosed Project Status Report of environmental consulting firm.) The soil surrounding one of those tanks is contaminated with Stoddards solvent, but not with HVOC. A fourth tank contains 20,000 gallons of liquid containing Stoddards solvent, but not HVOCs.

Years prior to my client's purchase of the property, it had been a dry-cleaning processing plant which used the Stoddards solvent in the tanks. The plant was operated and real property owned by Dymo Industries, Inc., now named Esselte Corporation. Dymo sold the property to Trans-Western Services Industries, Inc. (formerly named Marshall Steel dry-cleaners), a corporation apparently owned by Dymo. It appears that Dymo then sold Trans-Western to a company now named Coit Services, Inc., operators of drapery dry-cleaners. Trans-Western then sold the property to Alan Wofsy, a developer. The dry-cleaner owners and operators left the tanks underground under concrete, filled with tens of thousands of gallons of liquid containing HVOCs.

Esselte Corporation's address is 71 Clinton Road, Garden City, NY 11530. Its President is Robert K. Scribner.

Coit Services, Inc.'s address is 897 Hinckley Road, Burlingame, CA 94010. Its President is Louis J. Kearns.

Alan Wofsy's address is 401 China Basin Street, San Francisco, CA 94107.

EXHIBIT 3

Stephen Morse
January 21, 1999
Page 2

As we discussed, my client is an innocent purchaser who never operated the tanks and had not even known that the tanks were there. He is without the financial resources to dispose of tens of thousands of gallons of hazardous waste and to clean up the leaked product. The dry-cleaning companies who are responsible for the waste, and the developer who bought the property from the dry cleaners, have the financial resources to take care of the problem.

You recommended that I request you to send notice to the generators of the waste, listed above, obliging them to take care of the problem.

Please let me know what action you will take.

Thank you for your anticipated help.

Very truly yours,



Frederic D. Schrag
Special Counsel

lstml

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Proof of Service

I am an active member of the State Bar of California. I am not a party to this action. My business address is 6701 Bay Street, Emeryville, CA 94608.

On the date set forth below, I served a true copy of the following document(s):

RESPONSE TO PETITION TO STATE WATER RESOURCES CONTROL BOARD;

by placing it (them) in a sealed envelope with first class postage prepaid in the United States mail at Emeryville, California, addressed as shown below:

Matthew F. Lintner
Sonnenschein Nath & Rosenthal
685 Market Street, 6th Floor
San Francisco, CA 944105

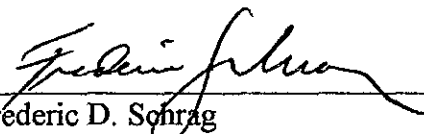
Attorney for Coit Services, Inc.

Susan Hugo
Alameda County Health Care Services Agency
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 10/1/99


Frederic D. Schrag

posattym



State Water Resources Control Board



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4300
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>

ENVIRONMENTAL
PROTECTION
99 SEP 23 PM 2:15

SEP 21 1999

Matthew F. Lintner
Sonnenschein Nath & Rosenthal
The Monadnock Building
685 Market Street, 6th Floor
San Francisco, CA 94105

Dear Mr. Lintner:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, SITE NO. 6394, 1137-1167 65TH STREET, OAKLAND, ALAMEDA COUNTY, FILE NO. P99-195

As you requested in a recent telephone conversation with Dorothy Jones, staff counsel, we have reactivated your petition submitted on behalf of Coit Services, Inc. You will be notified of further action by the State Water Resources Control Board regarding this matter.

By copy of this letter, those shown below are requested to provide a response to the petition within 20 days from the date of this letter. A copy of all responses shall be provided to Petitioner and the County's response to this agency shall include a copy of the site file.

If you have any questions, please telephone me at (916) 227-4325.

Sincerely,

Lori Casias
Local Oversight Program

cc: Susan Hugo
Alameda County
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street
Oakland, CA 94612

John Nady
Nady Systems, Inc.
6701 Bay Street
Emeryville, CA 94608

California Environmental Protection Agency



State Water Resources Control Board



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4400
Mailing Address P O Box 944212 • Sacramento, California • 94244-2120
FAX (916) 227-4349 • Internet Address: <http://www.swrcb.ca.gov>

JUN 18 1999

Matthew F. Lintner
Sonnenschein Nath & Rosenthal
The Monadnock Building
685 Market Street, 6th Floor
San Francisco, CA 94105

Dear Mr. Lintner:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, SITE NO. 6394, 1137-1167 65TH STREET, OAKLAND, ALAMEDA COUNTY, FILE NO. P99-195

This will acknowledge receipt of the petition submitted on behalf of Coit Services, Inc. At your request, we will hold the petition in abeyance until further notice from you.

If you have any questions, please telephone me at (916) 227-4325.

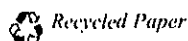
Sincerely,

Lori Casias
Local Oversight Program

cc: Susan Hugo
Alameda County LOP

99 JUN 21 PM 4: 03
ENVIRONMENTAL
PROTECTION

California Environmental Protection Agency



SONNENSCHN NATH & ROSENTHAL

THE MONADNOCK BUILDING
685 MARKET STREET
6TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

ENVIRONMENTAL
PROTECTION
99 JUN 14 PM 3:51
(415) 882-5000
FACSIMILE
(415) 543-5472

Matthew F. Lintner
(415) 882-2429

June 11, 1999

VIA U.S. MAIL

Ms. Susan Hugo
Hazardous Materials Specialist
Alameda County
Health Care Services Agency
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: 1137 - 1167 65th St., Oakland, CA
Notice of Responsibility dated May 12, 1999 to Coit Services, Inc.

Dear Ms. Hugo:

I write to inform you that a petition has been filed with the State Water Resources Control Board, pursuant to Resolution 88-23, requesting review of your Agency's Notice of Responsibility dated May 12, 1999 to Coit Services, Inc. A copy of the petition is enclosed herewith.

I hereby request that you prepare the local agency record in this matter.

Sincerely,



Matthew F. Lintner

27011253v1

SONNENSCHN NATH & ROSENTHAL

THE MONADNOCK BUILDING
685 MARKET STREET
6TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

(415) 882-5000
FACSIMILE
(415) 543-5472

~~Matthew F. Lintner~~
~~(415) 882-2429~~

John Allen
213-623-9924

June 3, 1999

VIA FACSIMILE AND U.S. MAIL

Ms. Susan Hugo
Hazardous Materials Specialist
Alameda County
Health Care Services Agency
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: 1137 - 1167 65th St., Oakland, CA
Notice of Responsibility dated May 12, 1999 to Coit Services, Inc.

Dear Ms. Hugo:

As we discussed yesterday on the telephone, this firm represents Coit Services, Inc. in connection with the Notice of Responsibility sent by the Alameda County Health Care Services Agency to Coit Services dated May 12, 1999.

Based on our conversation, it is my understanding that you have identified Coit Services because you had received information indicating that Coit was an owner and/or operator of certain underground storage tanks at the 65th Street site at the time of their apparent abandonment. As we discussed, this is not the case, and I provide herein some background on the matter which I hope will be of assistance.

A California corporation named Trans-Western Service Industries, Inc. conducted dry-cleaning operations at the site for many years. To Coit's understanding, the site served as a processing center for dry-cleaning storefront operations in the area. Trans-Western ceased dry-cleaning operations at the site, and shortly thereafter, in 1978, Coit Services acquired the stock of Trans-Western. Trans-Western operated a second central processing facility at another location which continued to operate during the time Coit owned the stock of the entity. Coit acquired an

ENVIRONMENTAL
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SONNENSCHN NATH & ROSENTHAL

Ms. Susan Hugo

June 3, 1999

Page 2

ownership interest in the 65th Street parcel at the time it acquired an ownership interest in the stock of Trans-Western, but the tanks were no longer in use at the time of Coit's ownership of the parcel. In 1979, Coit sold the parcel to Alan Wofsy, a real estate developer. To Coit's understanding, Mr. Wofsy sold the parcel at some point thereafter to Mr. John Nady, the person you initially identified as a responsible party at the site, and the person who continues to own the site. In 1981, Coit sold the stock of Trans-Western.

Given these facts, it does not appear that there is any basis to identify Coit as a responsible party. State Water Resources Control Board regulations define "responsible party" for purposes of underground storage tank corrective action requirements as one of the following:

- (1) Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
- (2) In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use;
- (3) Any owner of property where an unauthorized release of a hazardous substance has occurred; and
- (4) Any person who had or has control over a underground storage tank at the time of or following an unauthorized release of a hazardous substance.

See 23 California Code of Regulations section 2720.

Coit does not fall into any of these four categories.

With respect to the first category, Coit does not currently own or operate any tanks at the site.

With respect to the second category, the tanks were taken out of use by Trans-Western prior to Coit's purchase of the stock of Trans-Western, and prior to Coit having any ownership interest in the parcel. Accordingly, Coit can in no sense be said to have owned or operated the tanks "immediately before the discontinuation of [their] use." Indeed, Coit never operated the tanks at any time. Trans-Western did operate the tanks, but Coit has subsequently sold the stock of that entity. Indeed, even if Coit had not sold the stock of this entity, it would not be appropriate to name Coit as a responsible party for the actions of a wholly-owned subsidiary, absent some showing that it would be justified to disregard corporate form. See, e.g., United States v. Bestfoods, 524 U.S. 51 (1998).

SONNENSCHN NATH & ROSENTHAL

Ms. Susan Hugo
June 3, 1999
Page 3

With respect to the third category, again, Coit does not currently own the parcel. Although Coit did hold an ownership interest in the parcel for several months in 1978 and 1979, there is no information of which Coit is aware indicating that there was any release during this period of time. Indeed, as you have indicated, there appears to be significant amounts of stoddard solvent remaining in the tanks, a fact which would be inconsistent with a release twenty years ago.

With respect to the fourth category, Coit at no time has had "control" over the tanks, because it never operated them. Furthermore, during the only period of time that Coit even had any connection to the tanks (the several months when it held an ownership interest in the parcel), there is again no information indicating that there was a release of a hazardous substance during this period of time.

I hope that this information will be helpful to you as you evaluate this matter. Based on the above information, Coit requests that you withdraw your letter dated May 12, 1999 which identifies Coit as a responsible party. Coit would greatly appreciate a decision on this matter as soon as practicable. Coit will be obligated to file a petition to the State Water Resources Control Board challenging the improper designation pursuant to Resolution No. 88-23 on or before June 12, 1999, and accordingly, it would be ideal if at all possible to resolve this matter before that time.

Finally, with respect to the citation in your letter to Health & Safety Code section 25297.15, which requires that primary responsible parties identify to your agency all current record owners of fee title, Coit contests that any such requirement is appropriate for Coit, as it is not an appropriate responsible party. Nonetheless, Coit has contacted counsel for Mr. John Nady in this matter, a Mr. Frederic Schrag, and he indicated that his client, Mr. John Nady, is in fact the current holder of fee title to the parcel.

Please give me a call at ²¹³⁻⁸⁹²⁻⁵⁰⁹⁰~~(415) 882-2429~~ if there is any further information I can provide as you evaluate this site. Thank you for your consideration of this matter.

Fax: 213-623-9924

Sincerely,



Matthew F. Lintner



SONNENSCHN NATH & ROSENTHAL

THE MONADNOCK BUILDING
685 MARKET STREET
6TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

(415) 882-5000
FACSIMILE
(415) 543-5472

Matthew F. Lintner
(415) 882-2429

June 11, 1999

Dorothy Jones, Esq.
Staff Counsel
State Water Resources Control Board
Office of the Chief Counsel
P.O. Box 944212
Sacramento, CA 94244-2120

Re: In the Matter of the Petition of Coit Services, Inc. for Review of a
Determination of Alameda County Health Care Services Agency Regarding the
Status of Coit Services, Inc. as a Responsible Party for 1137-1167 65th Street,
Oakland, California 94608

Dear Ms. Jones:

I enclose for filing with the State Water Resources Control Board a petition requesting review of a determination of responsible party status by the Alameda County Health Care Services Agency. As we discussed recently on the telephone, discussions regarding this matter are continuing with the County, and it may be that the matter can be resolved without the need for proceeding with the petition. As you indicated, however, the Board considers the 30 day rule jurisdictional, and so Coit was left with no option but to submit the enclosed petition.

Please give me a call if you have any questions about the enclosed materials. I will keep you informed of any developments in discussions with the Alameda County Health Care Services Agency.

Thank you for your attention to this matter.

Sincerely,



Matthew F. Lintner

Enclosure

cc: Susan Hugo, Alameda County Health Care Services Agency



NADU SYSTEMS, INC.

6701 Bay Street
Emeryville, CA 94608 USA
510/652-2411
FAX: 510/652-5075

ENVIRONMENTAL
PROTECTION

Please reply to extension 263
APR 28 PM 2:37

April 23, 1999

Susan Hugo
Alameda County Health Care Services
Environmental Protection
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: Your StID# 6394
1137-1167 65th Street, Oakland CA 94608

Dear Ms. Hugo:

You have asked me to provide you with a chronology of the owners and operators of the above referenced property.

According the Sanborn maps, in 1952 the property was operated by dry-cleaners, French Art Cleaners. Alan Wofsy, who acquired the property in 1979, has recently confirmed that when he bought it there was a sign outside of the building with two names: French Art Cleaners and Payless Dry Cleaners.

On March 22, 1962 French Art Cleaners (California Corporation No. C0216975) changed its name to Trans-Western Service Industries. On January 5, 1965 Trans-Western Service Industries merged into Dymo Industries, Inc. (California Corporation No. C0358540), who continued to operate the dry-cleaning plant at the property.

On March 31, 1979 Dymo Industries, Inc. changed its name to Esselte Pendaflex Corporation. On July 16, 1986 Esselte Pendaflex Corporation changed its name to Esselte Boorum & Pease, Inc. On September 12, 1986 Esselte Boorum & Pease, Inc. changed its name to Esselte Pendaflex Corporation. On June 2, 1995 Esselte Pendaflex Corporation changed its name to Esselte Corporation, its current name.

On November 15, 1968, Dymo Industries, Inc. was granted the property (by former owner Estate of Tavares). Around 1978 Dymo Industries, Inc. sold Trans-Western Service Industries, who was operating the dry-cleaning plant, to Coit Drapery Cleaners, Inc. (California Corporation No. 00519877). On June 20, 1978 Dymo Industries, Inc. granted the property to Trans-Western Service Industries, Inc. (California Corporation No. 00461763). Trans-Western Service Industries, Inc. was a division of Coit Drapery & Carpet Cleaners. The recorded deed was mailed to Coit Drapery & Carpet Cleaners. (Trans-Western Service Industries, Inc. had changed its name from dry-cleaners Marshall Steel Company on May 5, 1971.) On January 7, 1993 Coit Drapery Cleaners, Inc. changed its name to Coit Services, Inc., its current name.


Susan Hugo
April 23, 1999
Page 2

On February 16, 1979 Trans-Western Service Industries, Inc. granted the property to developer Alan Wofsy. (See enclosed copy of letter from Alan Wofsy stating that he "purchased the property from Coit Drapery of Burlingame who is the successor in interest to Payless and French Art which operated the facility.") Alan Wofsy gutted the property and turned it into offices. On September 24, 1986 Alan Wofsy granted the property to John Nady.

You told me that if the above named prior owners and operators could be named as responsible parties, you would name them. I trust that the above chronology will be helpful to you in that regard.

Please do not hesitate to contact me should you need additional information.

Very truly yours,


Frederic D. Schrag
Special Counsel

Ishu2

1145-65th st
C

ALAN WOFSY

Offices: 401 China Basin St., San Francisco, CA 94107 Telephone: (415) 986-3030
Mailing Address: P.O. Box 2210, San Francisco, CA 94126 Fax: (415) 512-0130

4-26-94

To: John Nady
Re: Your fax of today on 1145-65th st.


It is not true that I would be your proxy in your quest to find a responsible party for underground tanks and releases therefrom.

As you know, I never used the property nor rented the property to anyone who used underground tanks.

I purchased the property from Coit Drapery of Burlingame who is the successor in interest to Payless and French Art which operated the facility.

You might want to contact them to see if they have a program to investigate and/or remediate sites which they owned and operated.

Yours,





NADY SYSTEMS, INC.

6701 Bay Street
Emeryville, CA 94608 USA
510/652-2411
FAX: 510/652-5075

ENVIRONMENTAL
PROTECTION

please reply to extension 263
99 APR -6 PM 2:33

April 5, 1999

STP

Susan Hugo
Alameda County Health Care Services
Environmental Protection
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: Your StID# 6394
1137-1167 65th Street, Oakland CA 94608

Dear Ms. Hugo:

Thank you for meeting with me at the site on March 23, 1999. As you know, my client recently discovered underground storage tanks on real property that he purchased in 1986. The tanks are under the concrete floor of the building that he rents out to musicians. The presence of the tanks had not been disclosed to him by the seller, Mr. Alan Wofsy.

He knew about the tanks in 4-2-6994. see letter in Resp. to Petition 10/99

According to Artesian Environmental, three tanks contain Stoddards solvent mixed with HVOC, including one tank with about 8,000 gallons in it. The soil surrounding one of those tanks is contaminated with Stoddards solvent, but not with HVOC. A fourth tank contains 20,000 gallons of liquid containing Stoddards solvent, but not HVOCs.

Years prior to my client's purchase of the property, it had been a dry-cleaning processing plant which used the Stoddards solvent in the tanks. The plant was operated and real property owned by Dymo Industries, Inc., now named Esselte Corporation. Dymo sold the property to Trans-Western Services Industries, Inc. (formerly named Marshall Steel dry-cleaners), a corporation apparently owned by Dymo. It appears that Dymo then sold Trans-Western to a company now named Coit Services, Inc., operators of drapery dry-cleaners. Trans-Western then sold the property to Alan Wofsy, a developer. The dry-cleaner owners and operators left the tanks underground under concrete, filled with tens of thousands of gallons of liquid containing HVOCs.

Esselte Corporation's address is 71 Clinton Road, Garden City, NY 11530. Its President is Robert K. Scribner.

Coit Services, Inc.'s address is 897 Hinckley Road, Burlingame, CA 94010 Its President is Louis J. Kearn.

Alan Wofsy's address is 401 China Basin Street, San Francisco, CA 94107.

Susan Hugo
April 5, 1999
Page 2


My client is an innocent purchaser who never operated the tanks and had not even known that the tanks were there. He cannot financially afford to dispose of tens of thousands of gallons of hazardous waste and to clean up the leaked product. The dry-cleaning companies who are responsible for the waste, and the developer who bought the property from the dry cleaners, have the financial ability and ethical responsibility to take care of the problem.

When you and I met at the site, I requested you to send a Notice of Responsibility to each of the above listed three former owners and operators of the property pursuant to section 2720 of title 23 of the California Code of Regulations. That section defines "Responsible party" as including "(2) In the case of an underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use."

You told me that you would research with the appropriate State of California agency whether a regulation prohibited you from sending Notices of Responsibility to those entities, and let me know. My client, having received your Notice of Responsibility, is concerned about being subjected to selective prosecution. You confirmed that your agency had not denied my request and that the beginning of the 30 day period that my client may have to petition to the State Water Resources Control Board to order that Notices of Responsibility be sent to the former owners and operators had not yet started.

Thank you for your anticipated help.

Very truly yours,


Frederic D. Schrag
Special Counsel

Std # 6394 P 3/11/99

DATE: 3/10/99

TO : Local Oversight Program

FROM: H. Gomez Co of Oak FSA

SUBJ: Transfer of Eligible Local Oversight Case

Site name: 1137-1167 65th St.
Address: 1137-1167 65th St city Oak zip 94608

TO BE ELLIGIBLE FOR LOP A CASE MUST MEET 3 QUALIFICATIONS:

- 1. Number of Tanks: 4 removed? Y N Date of removal _____
- 2. Samples received? Y N Contamination level: >100 TPHd.
(ppm and type of test)

Contamination should be over 100 ppm TPH to qualify for LOP

- 3. Petroleum N Types: Avgas Jet leaded unleaded Diesel
fuel oil waste oil kerosene solvents

DepRef remaining \$ _____ Closed with Candace/Leslie? Y N
(If no explain why?)

IF YOUR SITE MEETS ALL OF THE ABOVE QUALIFICATIONS YOU SHOULD DO THE FOLLOWING TO TRANSFER THE SITE:

- 1. YOU MUST CLOSE THE DEPOSIT REFUND CASE AT THIS TIME. YOU MUST ACCOUNT FOR ALL TIME YOU HAVE SPENT ON THE CASE AND TURN IN THE ACCOUNT SHEET TO LESLIE. IF THERE ARE FUNDS STILL REMAINING IT IS STILL BETTER TO TRANSFER THE CASE TO LOP AS THE RATE FOR LOP ALLOWS THE ADDITION OF MANAGEMENT AND CLERICAL TIME. DO NOT ATTEMPT TO CONTINUE TO OVERSEE THE SITE SIMPLY BECAUSE THERE ARE FUNDS REMAINING!
- 2. COMPLETE THE A AND B PERMIT APPLICATION FORMS AND GIVE TO CONNIE/ELAINE
- 3. GIVE THE ENTIRE CASE TO THE PROPER LOP STAFF UPSTAIRS FOR THEM TO DO THE REST OF THE TRANSFER AND YOU ARE DONE!



NADY SYSTEMS, INC.
6701 Bay Street
Emeryville, CA 94608 USA
510/652-2411
FAX. 510/652-5075

*Attached is lab results
for sample collected
during removal.*

please reply to extension 263

VIA FAX only 510/ 238-7761 [6 pages]

March 9, 1999

Hernan E. Gomez
City of Oakland Fire Services Agency
505 Fourteenth Street, Suite 510
Oakland, CA 94612

Re: 1137-1167 65th Street, Oakland CA 94608

Dear Mr. Gomez:

Thank you for telephoning me today in response to my March 2, 1999 letter.

For your information, attached please find a copy of Artesian Environmental's Project Status Report on the site

As you and I discussed, section 2720 of title 23 of the California Code of Regulations defines "Responsible party" as including "(2) In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use."

You have agreed to send a Notice of Violation (similar to the January 19, 1999 Notice you sent to John Nady) to each of the known responsible parties; prior owners and/or operators of the underground storage tanks found on the site. Their names, addresses and Presidents' names are contained in my January 21, 1999 letter to the San Francisco Bay Regional Water Quality Board, a copy of which you have. The telephone numbers of the three responsible parties are:

Esselte Corporation	(516) 741-3200
Coit Services, Inc.	(650) 697-6190
Alan Wofsy	(415) 986-3030

Please "cc" me on each of the Notices of Violation. You agreed to send me a copy of each responsible party's responses to your Notice. ✓

Very truly yours,

Frederic D. Schrag
Special Counsel

1-26-2000

Paul Jones of Artesian Env. said this workplan was never given the okay by Nedy. He took this draft and distributed it.

DRAFT

December **, 1998

Mr. John Nady
c/o Mr. Frederic Schrag, Esq.
6701 Bay Street
Emeryville, CA 94608

Re: **Project Status Report / Project Workplan**
1137-1167 65th Street
Oakland, California
Artesian Project # 391-001-04/ 06

Dear Mr. Schrag,

The following provides details of the status of the above-referenced project on the date of this letter as well as the Workplan for Closure of Underground Storage Tanks (USTs) in Areas 2 and 3 (described herein), as requested by the City of Oakland Fire Services. Figure 1 (contained in attachment I) is a preliminary map of the site showing soil and product sampling locations and the locations (and suspected sizes) of the USTs based on the information that we have at this time. Figure 1 also shows the three separate areas at the site where USTs are located.

Background

Artesian Environmental (Artesian) was contracted by Mr. John Nady (client), property owner, to remove up to eight USTs at the above-referenced site in accordance with a contract dated October 12, 1998, authorized by the client on October 13, 1998. Based on information provided by the client, USTs were suspected to be present in 3 areas at the site. One 1,000-gallon heating oil UST was suspected to be located in Area 1, up to two 250-gallon USTs of unknown former contents in Area 2, and up to five 250 gallon USTs in Area 3 of unknown former contents. According to the client, the site was used as a dry-cleaning facility by a previous owner. There are three connected onsite structures which are currently rented to various tenants for commercial (small business) and residential use.

Area 1

On November 13, 1998, Artesian removed UST #1-1, a 750-gallon heating oil tank, and had it transported as hazardous waste to ECI Erickson, Inc., in Richmond, California for disposal. Soil sample T-1 was collected from approximately 2 feet below the invert elevation of the UST at a depth of 12 feet below ground surface (BGS). Soil samples T1-C1 and T1-C2 were collected as 2-point composites of excavated soils. Each of these samples was analyzed for total petroleum hydrocarbons as diesel (TPHD), and benzene, toluene, ethylbenzene, and xylenes (BTEX). BTEX was below laboratory detection limits in the stockpile composites with the exception of xylenes at 0.023 ug/Kg in sample T1-C1. TPHd was present at concentrations of 220 mg/Kg and 130 mg/Kg in samples T1-C1 and T1-C2, respectively. Laboratory analytical reports are contained in Attachment II. Approximately 18 cubic yards of excavated soils were transported to Forward, Inc. landfill in Stockton, California for disposal. Sample T-1 contained concentrations of BTEX below laboratory detection limits and TPHd at 14 mg/Kg. Artesian does not anticipate these results to warrant further action.

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DRAFT

Area 2

Based on information provided by the client and differences in the texture of the concrete floor in Area 2, Artesian selected three locations where USTs were suspected to be present. After removing surface concrete, Artesian discovered a fine-grained fill sand (non-native material) below the base rock directly subjacent to the concrete floor. The fill sand at each of the three locations in Area 2 exhibited a strong petroleum odor similar to turpentine or heavily weathered diesel. At the westernmost of the three locations, fill sand was removed to a depth of approximately 4 feet BGS where a manway cover was encountered, having an approximate diameter of 36 inches. One 8-inch diameter steel pipe was found to penetrate the tank near the manway. A steel probe was used to determine the extent of the tank with which the manway is associated. Artesian found that the tank appears to extend at least 12 feet eastward to the eastern edge of the middle suspected UST location and is buried at a depth of approximately 4 feet. The third (easternmost) suspected tank location in Area 2 also appears to have a solid object at a depth of approximately 4 feet, however, soil has not been removed to the depth of the suspected tank at this location due to the increased potential for tenant exposure to petroleum vapors. The third location will be explored further (when tenant access can be restricted) if it is determined that the buried solid object is not part of the tank in the westernmost location.

Based on the size of the manway, piping diameter, and length estimates, the tank appears to be large compared to the size of the room within which it is buried (note: building appears to have been constructed after this tank was installed). The tank appears to be at least 12-feet long and has an unknown diameter. Because the tank is buried beneath a room which is 20-feet long by 12-feet wide, the difficulty required to remove it and the potential for destabilizing building foundations appears to warrant closure in place. Artesian recommends that the most efficient, safe, and cost-effective method for closure of this tank is closure in-place by triple rinsing and filling with a 1-sack sand slurry cement. Artesian proposes to close this tank and other tanks in this area (if found) in accordance with a Workplan for UST Closure contained in Attachment III.

To determine the size of the known UST, Artesian attempted to loosen the manway cover to gain access to the inside. When Artesian began to loosen the cover, a small drip of product developed. Artesian contained the dripping product, collected a sample for analysis, and resealed the cover. Artesian surmised that the tank and piping are likely full of product. Product sample 391-2-1 was analyzed for TPHg, TPHd as Stoddards solvent, BTEX, HVOCs, flash point, and total lead. Concentrations of TPHg, BTEX, and lead were below laboratory detection limits. TPHd as Stoddards solvent was detected at a concentration of 140,000,000 µg/L. Perchloroethylene (PCE) was detected at a concentration of 580,000 µg/L, 1,1,1-Trichloroethane (1,1,1-TCA) was detected at 140,000 µg/L, and 1,1,2 Trichloroethane (1,1,2 TCA) was detected at 290,000 µg/L. No other HVOCs were detected. The flash point of the liquid was 105°F. These results indicate that the liquid is a mixture of Stoddards solvent and the HVOCs PCE, 1,1,1-TCA, and 1,1,2-TCA. These concentrations of HVOCs make the liquid a hazardous waste liquid regulated by the Resource Conservation and Recovery Act (RCRA).

Artesian collected two samples of soil excavated from Area 2. Each sample was collected from within 24-inches of the surface to determine the specific contaminants contained in the soils exhibiting strong petroleum odors. On December 1, 1998, Artesian collected samples L2-T1-S1 and L2-T2-S1 from the easternmost and westernmost suspected UST locations,

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(Cal. Lic. 624461 A, B, Haz., Asp, C-57) • e-mail: augerpro@aol.com

229 Tewksbury Ave. • Ft. Richmond, CA 94801 • TEL (510) 307-9943 • FAX (510) 232 2823

DRAFT

respectively. Each sample was analyzed for TPHd as Stoddards solvent, TPHg, BTEX, TPH as kerosene (TPHk), TPH as motor oil (TPHmo), HVOCs, Cadmium, Chromium, Lead, Zinc, and Nickel. Sample results indicate the presence of Stoddards solvent with some chemicals in the gasoline, kerosene and motor oil ranges (likely components or degradation products of Stoddards solvent), low levels of toluene and xylenes, and concentrations of metals consistent with background levels in bay area soils. Laboratory analytical reports are contained in Attachment II

Area 3

Based on information provided by the client, as many as five 250-gallon USTs were suspected to be located in Area 3. Artesian removed surface concrete in five locations based on the presence of circular areas which had been patched with concrete and which demonstrated a high likelihood of containing vertical pipes as observed using magnetic line locating equipment. Artesian suspected the circular areas to be abandoned fill ports and began excavating for the suspected USTs at these locations. Of the five suspected fill ports, only one was found to penetrate a tank. The remaining circular areas are abandoned flush-mounted valve boxes formerly used as part of the UST system.

While excavating, Artesian encountered groundwater at a depth of approximately 2-foot BGS. To allow excavation to continue, Artesian pumped groundwater from the excavation into an onsite storage tank. Because the level of water in the excavation appears to be gradually dropping as more water is pumped out, it appears that the water is impounded in the UST excavation backfill material. When the onsite water storage tank is full or when pumping is no longer necessary, Artesian will collect samples of the water for analysis to determine an appropriate disposal method and facility.

Artesian continued excavating soil to locate USTs and to determine their sizes, orientations, and contents. During the process of excavation, Artesian discovered eleven buried 2-inch diameter steel pipes running within a single piping trench from the excavation area southward. The 2-inch diameter pipes began to diverge at right angles from the main piping trench approximately 12-feet north of Building 3. Based on the confirmed penetrations in the UST 3-2 location, Artesian surmises that each of the tanks has three piping penetrations as seen at UST 3-2. During excavation activities, Artesian identified at least three flat smooth surfaces (differentiated by slight elevation differences) at a depth of approximately 4-foot BGS to which six of the eleven pipes were found to be connected. If each tank has three piping penetrations as seen at the UST 3-2 location, the piping trench must service a total of four tanks. The current arrangement of exposed pipes penetrating the tanks and the remaining number of pipes is consistent with a scenario where four USTs are present in Area 3. By measuring the depths of product in each tank, Artesian was able to confirm the presence of four USTs in Area 3 because four different levels of liquid were measured.

Artesian was able to gain access to USTs 3-1, 3-2, and 3-3 so that samples could be collected for analysis to determine the contents of the tanks. USTs 3-1, 3-2, and 3-3 were found to contain some product, while UST 3-4 was found to be empty. On December 17, 1998, Artesian collected product samples 391-1-3-1, 391-1-3-2, and 391-1-3-3 from USTs 3-1, 3-2, and 3-3, respectively. Each sample was analyzed for total petroleum hydrocarbons as gasoline (TPHg), TPHd as Stoddards solvent, BTEX, lead, flash point, and halogenated volatile organic compounds (HVOCs). Sample results indicate that UST

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(Cal. Lic. 624461: A, B, Haz., Asb, C-57) • e-mail: augerpro@aol.com
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3-1 contains Stoddards solvent; TPHg, BTEX, HVOCs, and lead below laboratory detection limits; and a flash point of 88°F. UST 3-2 contains Stoddards solvent with a total of 209 mg/L HVOCs; TPHg, BTEX, and lead below laboratory detection limits; and a flash point of 107°F. UST 3-3 contains Stoddards solvent with a total of 30.1 mg/L HVOCs; TPHg, BTEX, and lead below laboratory detection limits; and a flash point of 111°F. Sample results indicate that only the liquid found in UST 3-2 will have to be disposed as a RCRA hazardous waste liquid. Laboratory analytical results are contained in Attachment II.

Artesian was able to determine that USTs 3-2, 3-3, and 3-4 are 10-feet deep (invert elevations approximately 14-feet BGS). Artesian was able to determine that USTs 3-2, 3-3, and 3-4 extend as much as 25-feet northward below Peabody Lane by inserting semi-rigid PVC piping into tank penetration pipes. Artesian estimates that UST 3-1 contains approximately 20,000 gallons of liquid which will require pumping and disposal. UST 3-2 contains approximately 48-inches of liquid or approximately 8,000 gallons. UST 3-3 contains approximately 4-inches of liquid or approximately 700 gallons.

Given minimum dimensions for each tank (based on information available at this time), the USTs in Area 3 each appear to be approximately 20,000 gallons in capacity. Artesian has determined that UST 3-1 and UST 3-4 are located within at least 5-feet of foundations for load bearing walls and may actually extend below the foundations. Because at least two of the tanks are known to extend below Peabody Lane for at least 10 feet into the street and because at least two tanks are known to be located within approximately 5-feet of building foundations, Artesian does not believe UST removal to be the best method for closure. To avoid possible destabilization of building foundations and to avoid closing Peabody Lane for an undetermined period of time, Artesian recommends that all tanks located in Area 3 be abandoned in-place by triple rinsing and filling with a 1-sack sand slurry cement. Artesian proposes to close tanks found in this area in accordance with a Workplan for UST Closure contained in Attachment III.

Current spatial and logistical constraints prevent further exploration without removing part or all of the fence at the northern edge of property unless exploration is continued after closure of the exposed USTs. To ensure that all USTs are found and closed, Artesian will excavate to trace the pipes found in the main piping trench until all are found to terminate at USTs or until they are determined not to have serviced USTs.

Artesian is pleased to be of service to Mr. Nady on this project. If you have questions or comments, please contact me at (510) 307-9943, extension 230.

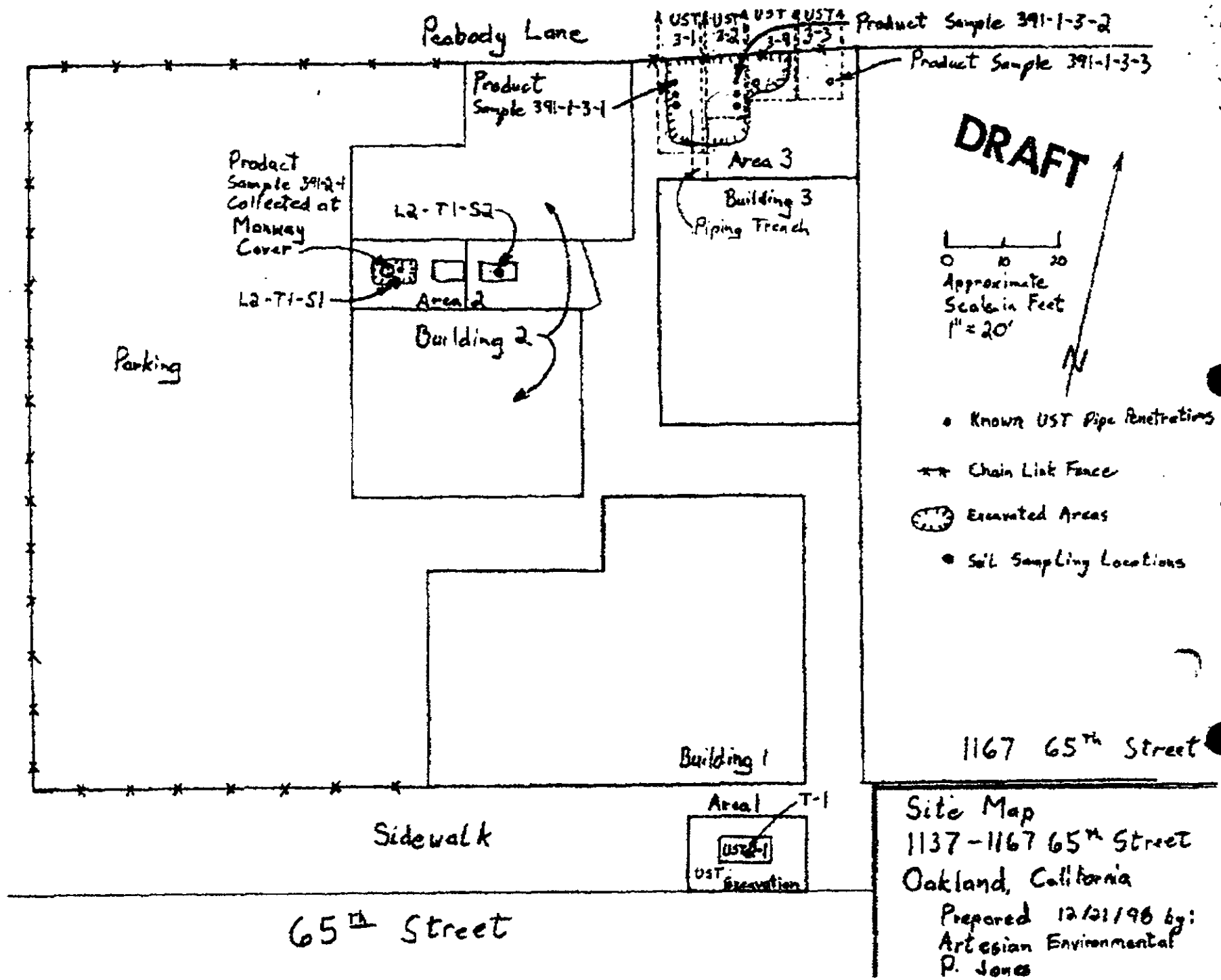
Sincerely,

DRAFT

Paul E. Jones
Project Geologist
Artesian Environmental

Attachments

ARTESIAN ENVIRONMENTAL
(Cal. Lic. 624461 - A, B, Haz., Ash. C-57) • e-mail: augerpro@aol.com
229 Tewksbury Ave. • Pt. Richmond, CA 94801 • TEL (510) 307-9943 • FAX (510) 232 2873



Site Map
 1137-1167 65th Street
 Oakland, California
 Prepared 12/21/98 by:
 Artesian Environmental
 P. Jones

California Regional Water Quality Control Board

San Francisco Bay Region



Gray Davis
Governor

Winston H. Hicks
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 • FAX (510) 622-2460

February 26, 1999
File No. 2223.09 (SAH)

Frederic D. Schrag
Special Counsel
Nady Systems
6701 Bay Street
Emeryville, CA 94608

SUBJECT: Closure of leaking underground storage tanks at 1137-1167 65th Street, Oakland, Alameda County

Dear Mr. Schrag:

You have requested that the Board become the lead agency for purpose of involving past owners and operators in the closure of leaking underground storage tanks (USTs) at the subject site. As explained below, I conclude that it is not necessary or appropriate for the Board to become the lead agency at this time. I encourage you to work with the Oakland Fire Services Agency to address this issue.

Nady purchased the subject property in 1986 and subsequently discovered several unused USTs containing heating oil and solvents, including Stoddard solvent and chlorinated solvents. The solvent USTs were apparently used by past owners/operators in connection with a dry-cleaning business. The Oakland Fire Services Agency has requested proper closure of these USTs, consistent with state and federal law for fuel UST closure or upgrade. To date, you have not provided a workplan for UST closure or upgrade.

In a January 21, 1999, letter to the Board, you have argued that the past owners/operators should be solely responsible for UST closure activities, given that Nady did not own or operate on the site at the time of the release and given Nady's lack of financial resources to conduct closure activities. However, state law as interpreted by the State Water Resources Control Board (State Board) clearly allows for a current owner to be held responsible for soil or groundwater pollution on a site under these circumstances, with or without past owners/operators being held responsible. Also, you have provided no specific evidence of financial hardship.

The oversight of fuel UST closures or upgrades is almost always by local agencies, typically city fire departments or county health departments. In Oakland, the city fire department has assumed

California Environmental Protection Agency

this responsibility pursuant to Health and Safety Code Chapter 6.11 which establishes the Unified Hazardous Waste and Hazardous Materials Management Regulatory Program. This program allows Cal/EPA to designate a local agency as Certified Unified Program Agency (CUPA). As I understand, the city fire department looks exclusively to current owners to comply with UST closure or upgrade requirements. If the current owner fails to comply and the matter is referred to the County District Attorney, then the District Attorney may include past owners/operators in any action to obtain compliance.

I conclude that the Board should not become the lead agency to oversee UST closure for the following reasons:

- o A well-established process already exists at the city level for overseeing UST closure or upgrade, as noted above. Due to the large number of fuel UST sites in our region, we much prefer to see local agency oversight of fuel UST closures.
- o The current situation at the subject site does not appear to pose an immediate threat to public health or the environment, which might warrant Board involvement. Recent reports on groundwater resources in the East Bay Plain suggest that groundwater resources in north Oakland are limited and are unlikely to be used for municipal supply in future.
- o Nady does not appear to be a wholly innocent party in this matter, in that Nady had the opportunity to discover the presence of fuel USTs at the subject site when it bought the property ("due diligence"). "Due diligence" efforts were becoming common in the mid 1980s and we would expect Nady to have been aware of the USTs when it purchased the property.
- o Nady has made little or no effort to press past owners/operators to assume responsibility for UST closure or upgrade. Given that Nady is a responsible party and given Nady's desire to see past owners/operators involved, we don't understand this lack of effort.
- o Nady has provided no specific evidence of financial hardship. As a practical matter, Nady may in fact lower its costs by taking a lead role in UST closure, since this would make it eligible for low-interest loans under the California Trade and Commerce Agency's Repair Underground Storage Tank (RUST) program. Nady would also be eligible for cost reimbursement for any subsequent remediation work from the fuel-UST cleanup fund administered by the State Board.

Please contact Mr. Stephen Hill of my staff at (510) 622-2361 if you have any questions. . .



NADU SYSTEMS, INC.

6701 Bay Street
Emeryville, CA 94608 USA
510/652-2411
FAX: 510/652-5075

please reply to extension 263

VIA FAX 510/ 238-7761 [2 pages] and U.S. MAIL

February 23, 1999

Hernan E. Gomez
Fire Services Agency
505 Fourteenth Street, Suite 510
Oakland, CA 94612

Re: 1137-1167 65th Street, Oakland CA 94608

Dear Mr. Gomez:

I am in receipt of your "Second Notice of Violation" letter to John Nady and alarmed by its threat to refer this matter to the District Attorney if Mr. Nady does not provide certain unspecified documentation by March 1, 1999.

After I received your first Notice of Violation dated January 19, 1999, I sent you a January 29 letter explaining the situation to you and advising that I had already asked the San Francisco Bay Regional Water Board to request the generators of the hazardous waste and prior owners of property at the time the dry cleaning plant was operating to correct the site problem. My letter also explained that Mr. Nady did not have the financial resources to remove or close in place the USTs containing the hazardous waste left by those entities. Finally, I asked you to coordinate your oversight efforts with Mr. Stephen Hill of the Water Board.

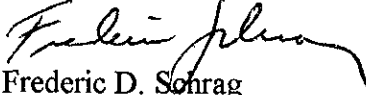
On February 3, 1999 you left me a telephone message acknowledging receipt of my letter and again requesting that I send you a "workplan". I left you a telephone message the following day asking you to telephone me to clarify what documentation I could provide you with inasmuch as a workplan for removal or closure was presently impossible to create due to the cost of the work. (For example, the contractor who was working at the site and to whom you are c.c.ing your letters, Artesian Environmental, is in a contract dispute with us due to their vast overcharging.) You did not respond to my message except to send me your Second Notice of Violation. I still do not know exactly what documentation you are requesting from me.

We are trying in good faith to resolve the site problem by supplying the appropriate government agency with information about the generators and prior owners so that the agency may require them to clean up the problem they created. We are an innocent party.

Hernan E. Gomez
February 23, 1999
Page 2

Again I request that you coordinate your efforts with Mr. Hill.

Very truly yours,


Frederic D. Schrag
Special Counsel

cc: Stephen Hill
John Nady

lhg2

CITY OF OAKLAND



FIRE SERVICES AGENCY • 505 FOURTEENTH STREET • SUITE 702 • OAKLAND, CALIFORNIA 94612

Office of Emergency Services

(510) 238-3938
FAX (510) 238-7761
TDD (510) 839-6451

February 19, 1999
Mr. John Nady, owner
Nady Systems Inc.
6701 Bay St.
Emeryville, CA 94608

Subject: Second Notice of Violation

Dear Mr. Nady:

This second notice of violation (NOV) is to inform you of the failure to meet the dateline of February 3, 1999 with the documentation requested by the City of Oakland, Fire Services Agency/Office of Emergency Services (FSA/OES) in the first NOV dated January 19, 1999. This NOV indicated violations of California Health and Safety Code, Division 20, Chapter 6.7, and Title 23, California Code of Regulations, Division 3, Chapter 16.

If the documentation requested is not received by FSA/OES by March 1, 1999 or sooner, this matter will be referred to the Alameda County District Attorney's office for further action.

If you have any questions concerning this matter, please contact me at (510) 238-7253.

Sincerely,

A handwritten signature in cursive script that reads "Hernán E. Gómez".

Hernán E. Gómez
Hazardous Materials Inspector

cc: Henry R. Renteria, Emergency Services Manager
Leroy Griffin, Hazardous Materials Supervisor
Erick Johnson, Artesian Environmental

NADY SYSTEMS, INC.

Bay Street
Oakland, CA 94608 USA
515-515-2411
515-515-0652/652-5075

please reply to extension 263

6701
515/652
FAX: 515
January 21, 1999
STATE OF CALIFORNIA
OAKLAND

1999

Bay Regional Water Quality Control Board
65th Street, Suite 1400
Oakland, CA 94608
515-515-24612

1137-1167 65th Street, Oakland CA 94608

re:

re:

taking the time to talk with me on the phone yesterday. As you
I am providing you with a recap of the situation we discussed.

at

recently discovered underground storage tanks on real property that he
1986. The tanks are under the concrete floor of the building that he rents out
The presence of the tanks had not been disclosed to him by the seller, Mr.

Pl:

contain Stoddards solvent mixed with HVOC, including one tank with about
in it. (See enclosed Project Status Report of environmental consulting firm.)

Than.

cluding one of those tanks is contaminated with Stoddards solvent, but not
A fourth tank contains 20,000 gallons of liquid containing Stoddards solvent,
Cs.

lstm

o my client's purchase of the property, it had been a dry-cleaning processing
sed the Stoddards solvent in the tanks. The plant was operated and real
ed by Dymo Industries, Inc., now named Esselte Corporation. Dymo sold
to Trans-Western Services Industries, Inc. (formerly named Marshall Steel
, a corporation apparently owned by Dymo. It appears that Dymo then sold
rn to a company now named Coit Services, Inc., operators of drapery dry-
ns-Western than sold the property to Alan Wofsy, a developer. The dry-
rs and operators left the tanks underground under concrete, filled with tens
of gallons of liquid containing HVOCs.

poration's address is 71 Clinton Road, Garden City, NY 11530. Its President is
Scribner.

ices, Inc.'s address is 897 Hinckley Road, Burlingame, CA 94010. Its President
J. Kearns.

Wofsy's address is 401 China Basin Street, San Francisco, CA 94107.

CITY OF OAKLAND



ADMINISTRATIVE OFFICES • 505 FOURTEENTH STREET • SUITE 510 • OAKLAND, CALIFORNIA 94612

Fire Services Agency

(510) 238-3856
FAX (510) 238-2284
TDD (510) 839-6451

January 19, 1999
Mr. John Nady, owner
Nady Systems Inc.
6701 Bay St.
Emeryville, CA 94608

Subject: Notice of Violation

Dear Mr. Nady:

On November 13, 1998 the City of Oakland, Fire Services Agency/Office of Emergency Services (FSA/OES) staff attended the removal of one 750 gallons heating oil Underground Storage Tank (UST) at 1137 to 1167 65th St. Oakland. At the time of the removal, I was informed by the contractor that at least five more USTs of unknown materials were at the site, and that further investigation to identify the location of these USTs was needed.

I informed the contractor that in the event contamination is observed, confirmed or suspected as a result of a leaking UST system it is the responsibility of the owner or operator to submit a workplan to FSA/OES. Based upon the information received the case could be referred to Alameda County Environmental Health Services Local Oversight Program Site Mitigation Unit for review. Prior to approval for initiating any assessment or remediation activities.

Your facility is in violation of:

1. California Health and Safety Code (CH&SC), Division 20, Chapter 6.7, Section 25299(b) (2) which states that the owner is liable for failing to repair or upgrade an UST system, and Title 23, California Code of Regulations (CCR), Division 3, Chapter 16, Article 6 Section 2662(b).
2. CH&SC, Division 20, Chapter 6.7, Section 25299(b)(6) which states that the owner is liable for failing to comply with any applicable requirement of the H&SC, Chapter 6.7.
3. CH&SC, Division 20, Chapter 6.7, Section 25289(b) that requires the owner or operator, upon request from the local agency to submit any information relevant to the compliance of the regulations, and Title 23, CCR, Division 3, Chapter 16, Article 11 Corrective Action Requirements.

January 19, 1999

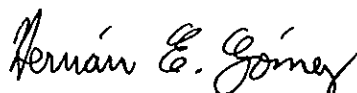
4. CH&SC, Division 20, Chapter 6.7, Section 25299(a)(6) violation of any applicable requirement of the CH&SC.

You are required to submit the following to FSA/OES by no later than February 3, 1999:

1. A workplan with the information relevant to the site.
2. The proper completion of the City of Oakland application for permit to remove USTs
3. A letter requesting the closure in place of one UST system, explaining the reasons for the request. The letter should be sign by a certified engineer or geologist.
4. In addition State Forms A, B (one for each tank) are to be filled with the updated information for your site.

If you have any questions concerning this matter, please contact me at (510) 238-7253.

Sincerely,



Hernán E. Gómez
Hazardous Materials Inspector

cc: Henry R. Renteria, Emergency Services Manager
Leroy Griffin, Hazardous Materials Supervisor
Erick Johnson, Artesian Environmental

CITY OF OAKLAND



ADMINISTRATIVE OFFICES • 505 FOURTEENTH STREET • SUITE 510 • OAKLAND, CALIFORNIA 94612

Fire Services Agency

(510) 238-3856
FAX (510) 238-2284
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January 19, 1999

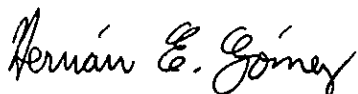
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If you have any questions concerning this matter, please contact me at (510) 238-7253.

Sincerely,



Hernán E. Gómez
Hazardous Materials Inspector

cc: Henry R. Renteria, Emergency Services Manager
Leroy Griffin, Hazardous Materials Supervisor
Erick Johnson, Artesian Environmental

**OAKLAND FIRE SERVICES AGENCY/OFFICE OF EMERGENCY SERVICES
HAZARDOUS MATERIALS UNIT
505 - 14th Street, Oakland, CA 94612 (510) 238-3938**

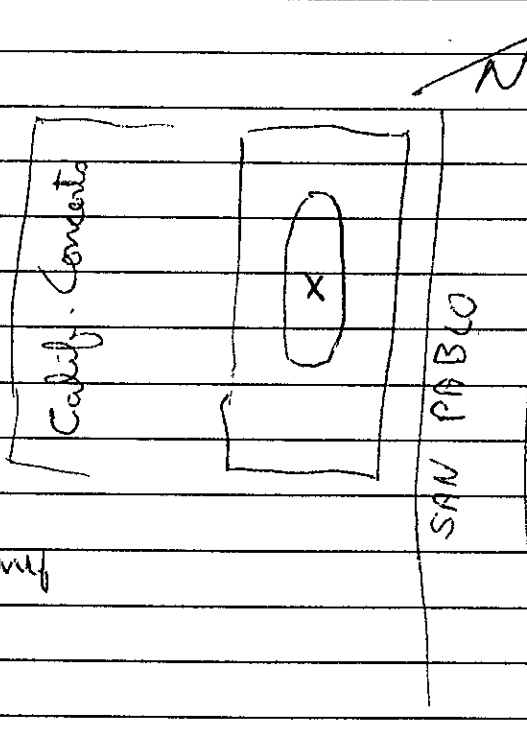
HAZARDOUS MATERIALS INSPECTION REPORT

Site Number	Facility Name	Facility Address	Zip Code
	Cal. Concerts	1137 - 1167 65 TH ST	08

Inspection Report

Tank removal - 1 UST heating oil, believed to be 1K but appears to be smaller (750?)

There is the believe that there are more USTs on site - Site was initially used as a dry cleaning operation. Tank was measured + estimated to be 750 gal



x = 1 soil sample app 12'
T-1

Facility Contact/ Print Name:

Facility Contact/ Signature:

Paul [Signature]

Inspected By:

- Insp. Griffin 238-7759
- Insp. Johnson 238-3804
- Insp. Craford 238-7758
- Insp. Gomez 238-7253

HEGA

Date: 11/13/98

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

June 26, 1998

ATTN: Accounts Payable

Valley Nissan Dodge
6015 Scarlett Ct
Dublin CA 94568

RE: Project # 253A - Type R
at 6015 Scarlett Ct in Dublin 94568

Dear Property Owner/Designee:

Our records indicate the deposit/refund account for the above project has fallen below the minimum deposit amount. To replenish the account, please submit an additional deposit of \$342.00, payable to Alameda County, Environmental Health Services, within two weeks of receipt of this letter.

It is expected that the amount requested will allow the project to be completed with a zero balance. Otherwise, more money will be requested or any unused monies will be refunded to you or your designee.

The deposit refund mechanism is authorized in Section 6.92.040L of the Alameda County Ordinance Code. Work on this project will be debited at the Ordinance specified rate, currently \$94 per hour.

Please be sure to write the following identifying information on your check:

- project #
- type of project and
- site address

(see RE: line above).

If you have any questions, please contact Amir Gholami at (510) 567-6876.

Sincerely,

Tom Peacock, Manager
Environmental Protection

c: files

LOP - CHANGE RECORD REQUEST FORM

printed:
06/21/99

Mark Out What Needs Changing and Hand to LOP Data Entry
(Name/Address changes go to Annual Programs Data Entry)

Insp:

AGENCY # : 10000 SOURCE OF FUNDS: F SUBSTANCE: 8052413
 StID : 6394 LOC: -0-
 SITE NAME: 1137-1167 65th St DATE REPORTED : 03/09/99
 ADDRESS : 1137 65th St (-1167) DATE CONFIRMED: 12/12/98
 CITY/ZIP : Oakland 94608 MULTIPLE RPs : Y

SITE STATUS

 CASE TYPE: U CONTRACT STATUS: 4 PRIOR CODE:1C4 EMERGENCY RESP: -0-
 RP SEARCH: S DATE COMPLETED: 03/15/99
 PRELIMINARY ASMNT: - DATE UNDERWAY: -0- DATE COMPLETED: -0-
 REM INVESTIGATION: - DATE UNDERWAY: -0- DATE COMPLETED: -0-
 REMEDIAL ACTION: - DATE UNDERWAY: -0- DATE COMPLETED: -0-
 POST REMED ACT MON:- DATE UNDERWAY: -0- DATE COMPLETED: -0-

ENFORCEMENT ACTION TYPE: 2 DATE ENFORCEMENT ACTION TAKEN: 02/19/99
 LUFT FIELD MANUAL CONSID: 2ACS
 CASE CLOSED: - DATE CASE CLOSED: -0-
 DATE EXCAVATION STARTED : -0- REMEDIAL ACTIONS TAKEN: -0-

RESPONSIBLE PARTY INFORMATION

 RP#1-CONTACT NAME: Mr. John Nady
 COMPANY NAME: Nady Systems Inc.
 ADDRESS: 6701 Bay Street
 CITY/STATE: Emeryville, California 94608

RP#2-CONTACT NAME: Mr. Louis Kearn
 COMPANY NAME: Coit Services, Inc.
 ADDRESS: 897 Hinckley Road
 CITY/STATE: Burlingame, Ca 94010

INSPECTOR VERIFICATION:

NAME _____	SIGNATURE _____	DATE _____
------------	-----------------	------------

DATA ENTRY INPUT:

Name/Address Changes Only			Case Progress Changes	
ANPPGMS _____	LOP _____	DATE _____	LOP _____	DATE _____

Copy for INSPECTOR

#6

Excavation Permit Granted _____ No. _____

CITY OF OAKLAND

Permit to Excavate and Install, Repair, or Remove Inflammable Liquid Tanks.

Tank Permit No. 7497

Oakland, California, August 6, 1971

*Proves transaction
owned property in
1976 Waspy
reinstated tank
in 1982.*

PERMISSION IS HEREBY GRANTED TO install ~~XXXXXXXXXX~~ Gasoline tank and excavate commencing _____ feet inside _____ line

on the S side of 65th Street 200 feet W of Marshall Street

House No. 1167-65th Present Storage None

Owner Trans-Western Industries Serv. Address Same Phone _____

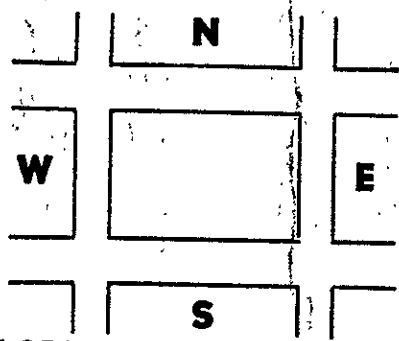
Applicant Robert J. Miller Co. Address 3261 Grove St., Oakland Phone OL35469

Dimensions of street (sidewalk) surface to be disturbed _____ X _____ Number of Tanks 1 Capacity 8M Gallons, each.

Remarks: For private use SEE WRAP TANK

This Permit is granted in accordance with existing City Ordinances.
Owner hereby agrees to remove tanks on discontinuance of use or when notified by the City Authorities.
When installing, removing or repairing tanks, no open flame to be on or near premises.

Approved _____ Fire Marshal
Approved _____ Drainage Division Engineering Dept.



EXCAVATING PERMIT

Issued in accordance with Ord. No. 278 CMS, Sec. 6-2.04

_____ square feet of digging or removal granted.

The receipt of \$ _____ special deposit is hereby acknowledged.
GENERAL DEPOSIT.

BUREAU OF PERMITS AND LICENSES.

SEE PLAN ATTACHED

Inspection Fee Paid 20.00 (Check No. 24944)
(Rec. # 666277)

Received by Pat McIntyre FIRE PREVENTION BUREAU

CERTIFICATE OF TANK AND EQUIPMENT INSPECTION

Inspected and passed on Sept 3 - 1971
By Donald J. Mochel #6 Fire Marshal

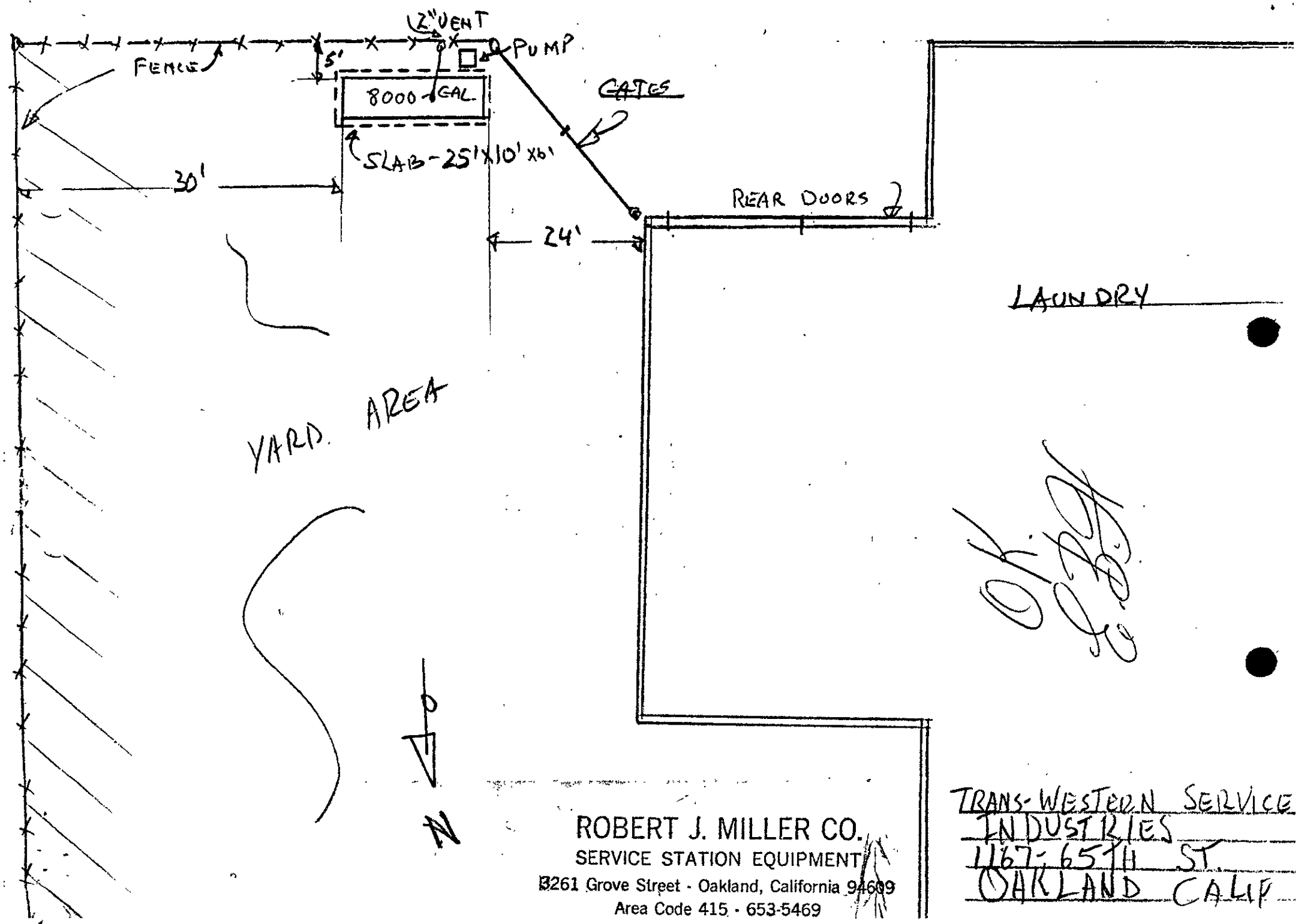
NOTICE

Before Covering Tanks, Above Certificate Must Be Signed.
When ready for inspection notify Fire Prevention Bureau, 273-3851

THIS PERMIT MUST BE LEFT ON THE WORK AS AUTHORITY THEREFOR.



PEABODY LN.



YARD AREA

LAUNDRY

[Handwritten signature]



ROBERT J. MILLER CO.
 SERVICE STATION EQUIPMENT
 3261 Grove Street - Oakland, California 94609
 Area Code 415 - 653-5469

TRANS-WESTERN SERVICE
 INDUSTRIES
 1167 - 65TH ST.
 OAKLAND CALIF.

Copy for INSPECTOR

Excavation Permit Granted _____ No. _____

CITY OF OAKLAND

Tank Permit 8556

Permit to Excavate and Install, Repair, or Remove Inflammable Liquid Tanks. No. _____

Oakland, California, _____ 19____

PERMISSION IS HEREBY GRANTED TO ~~XXXX~~ ~~remove XXXX~~ Gasoline tank and excavate commencing _____ feet inside property line

on the north side of Peabody Lane Street Avenue 200 feet west of San Pablo Street Avenue

House No. 1145 - 65th Street Street Avenue Present Storage _____

Owner Allan Wofsy Address 150 Green St., San Francisco Phone 986-3030

Applicant same Address _____ Phone _____

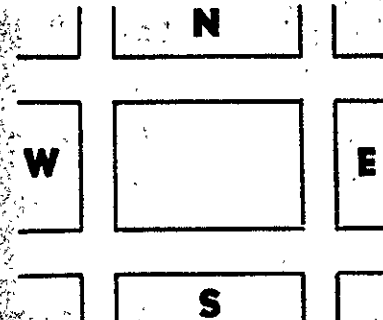
Dimensions of street (sidewalk) surface to be disturbed X Number of Tanks 1 Capacity 7500 Gallons, each.

Remarks: work to be performed by Blair Excavators TANK REMOVED 4/15/82

This Permit is granted in accordance with existing City Ordinances.
Owner hereby agrees to remove tanks on discontinuance of use or when notified by the City Authorities.
When installing, removing or repairing tanks, no open flame to be on or near premises.

Approved _____
Fire Marshal

Approved _____
Drainage Division Engineering Dept.



EXCAVATING PERMIT

Issued in accordance with Ord. No. 278 CMS, Sec. 6-2.04

_____ square feet of digging or removal granted.

The receipt of \$ _____ special deposit is hereby acknowledged.

GENERAL DEPOSIT.

BUREAU OF PERMITS AND LICENSES.

CERTIFICATE OF TANK AND EQUIPMENT INSPECTION

Inspected and passed on APR 15 1982 19____

By Samuel E. Smith
Fire Marshal

Inspection Fee Paid _____ \$ 20.00 ck#1118 rec# 107240

Received By [Signature]
FIRE PREVENTION BUREAU

NOTICE

Before Covering Tanks, Above Certificate Must Be Signed.

When ready for inspection notify Fire Prevention Bureau, 273-3851

THIS PERMIT MUST BE LEFT ON THE WORK AS AUTHORITY THEREFOR.



OFFER TO LEASE

TO BUCKBEE THORNE & CO. (hereafter called Broker)

Oakland, California, October 6, 1978

The undersigned hereby offers to lease at the rental and upon the terms and conditions hereinafter set forth, the following described premises situated in the City of Emeryville, County of Alameda

State of California: 1137-1167 65th Street, comprising sections G, H, I and the boiler area. (See Exhibit "A" attached).

The monthly rental to be payable in advance and to be at the rate of Eight hundred fifty dollars/month

For the term of 3 years, commencing December, 1978 or earlier

Premises to be used for Electronic manufacture

The further conditions of this offer are

- 1. Tenant right to quiet enjoyment of premises.
2. Tenant right to sublet to acceptable subtenant.
3. Front of building will be painted and landscaped.
4. Removal of boiler and chimney stack.
5. Interior will be cleaned and painted white. mutually acceptable color
6. Rent increase after 3rd year based on a mutually acceptable index.
7. Tenant right of first refusal for additional space.
8. Tenant may make alterations acceptable to landlord.
9. Tenant to pay liability insurance, utilities, and after three years a mutually accepted tax increase.
A deposit of One thousand seven hundred (\$ 1,700) Dollars is tendered to Broker,

herewith, in the form of a Check. The sum of Eight hundred fifty (\$ 850) Dollars is to be applied as the first month's rent and the balance of Eight hundred fifty (\$ 850) Dollars as non-interest bearing security for performance of the lease.

If this offer is accepted by the owner within Five (5) days from the date hereof the undersigned agrees within Twenty (20) days after such acceptance to enter into a written lease for said premises upon the terms above offered and upon such other general provisions as may be mutually satisfactory and acceptable to both the owner and the undersigned.

OFFEROR: Nasty Cordless
BY: John Nady
BY: John Nady

BUCKBEE THORNE & CO. hereby acknowledges receipt of the deposit sum of \$1,700 Dollars. No liability shall attach to Buckbee Thorne & Co. either by reason of any failure of the owner to accept said offer, or, if accepted, to consummate the contemplated lease.

The commission will be \$1400.00

BUCKBEE THORNE & CO.
BY: [Signature]

The undersigned warrants and represents that he is the owner of record of the property or is authorized to execute this agreement on behalf of the owner, and hereby accepts the offer above made, and agrees to pay BUCKBEE THORNE & CO. for services rendered a commission

OWNER:
BY:
BY:
DATE: