

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

July 22, 2004

Ms. Diane Heinze  
Port of Oakland  
530 Water St.  
P.O. Box 2064  
Oakland, CA 94604-2064

Dear Ms. Heinze:

Subject: TOXICS Case RO0002492, Port of Oakland/Ninth Avenue Terminal,  
370 8<sup>th</sup> Ave., Oakland, CA 94606

In order for ACEH to review reports for your site, we would require an oversight account for the above-referenced site. As you are aware, we have recently merged a number of former underground storage tank LOP cases with the existing Toxics (SLIC) case at this site. In order to continue to provide regulatory oversight we are requesting the submittal of a check made payable to Alameda County Environmental Health in the amount of \$12,000.00. Please send your check to the attention of our Finance Department.

This initial deposit may or may not be sufficient to provide all necessary regulatory oversight. ACEH will deduct actual costs incurred based upon the hourly rate specified below. If these funds are insufficient, additional deposit will be requested. Otherwise, any unused monies will be refunded to you or your designee.

The deposit is authorized in Section 6.92.040L of the Alameda County Ordinance Code. Work on this project is being debited at the Ordinance specified rate, currently \$160.00 per hour.

Please write "TOXICS" (the type of project), the site address and the AR# 03410.90 on your check.

If you have any questions, please contact me at (510) 567-6862.

Sincerely,

Ariu Levi  
Division Chief

cc: D. Drogos, B. Chan

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



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July 22, 2004

Ms. Diane Heinze  
Port of Oakland  
PO Box 2064  
Oakland, CA 94604-2064

Dear Ms. Heinze:

Subject: TOXIC Case No, RO2492 (and previous RO106, RO108, RO109, RO110, RO244, RO485) Port of Oakland / Ninth Avenue Terminal, 370 8<sup>th</sup> Avenue, Oakland, CA 94606

Alameda County Environmental Health (ACEH) staff has recently reviewed the case file for the subject site and the October 13, 2003 Port of Oakland letter proposing specific monitoring changes, well closures, LOP site closure and work plans. We have the following technical comments to this letter.

#### TECHNICAL COMMENTS

The Ninth Avenue Terminal site consists of Port of Oakland properties in the areas bordered by the Embarcadero, 7<sup>th</sup> Avenue, 10<sup>th</sup> Avenue and the Oakland-Alameda estuary. Impacted parcels and areas have been identified from authoritative sampling of UST areas, aboveground tank locations, subsurface utilities and former surface release and hazardous materials storage areas. ACEH has approved the investigations of the suspected impacted areas, however, heretofore, the Port and their consultants have directed investigations. The work was done to identify source areas related to past operations and storage of hazardous materials. Initially, other sources were investigated to determine if they could have contributed to the historic release observed from the "Keep-On-Trucking" site. Most sites identified were determined not to have contributed to this historic release. However, the Port identified additional RPs as owners and/or operators of USTs in locations where petroleum contamination had been detected. Those sites associated with the USTs were put into ACEH LOP. Apparently, the Port has settled responsibility issues with these RPs, since it has accepted primary RP status for the entire site, collectively and commonly known as the Ninth Ave. Terminal. Although some of the sites have been investigated more than others, much of the investigation was performed treating the multiple sites using a regional site-wide approach. Remediation has consisted solely of free product removal from areas where it has collected, i.e. manholes and wells, and USTs and soil removal.

The Port requested, in their July 29, 2003 letter, that work at the entire site be suspended until the close of escrow with Oakland Harbor Partners (OHP), projected to be between September 2005 and September 2007. The assumption was that OHP would develop a Regional Approach for the remediation of this site, which is part of the Oak to Ninth project encompassing approximately 62 acres. ACEH's September 11, 2003 letter stated we did not concur with this proposal since this would not be protective of human health and the environment, nor in compliance with environmental regulations. The Port's responded to ACEH's letter in their October 13, 2003, Ninth Avenue Terminal letter, which ACEH addresses below.

1. **Regional Case Approach** – ACEH has decided to combine all existing and all future release areas at this site into one site, which is consistent with the Regional Approach. This decision is based upon the following observations:
  - Site information has previously been presented individually or consolidated into a site-wide monitoring report. Several of the LOP sites within the Ninth Ave. Terminal area have been proposed for no further action by the Port. Data is scattered among seven sites, six LOP and one TOXIC (SLIC). Consolidation of sites and data will allow for easier data presentation, review and interpretation. No further action can be given to specific tank locations while the other areas of concern continue to be investigated, with site closure as the ultimate objective.
  - Cost apportionment has been completed between the Port and RPs and no other RPs are expected to be identified.
  - Given the expected most conservative future residential use of the site, it makes sense to use a regional approach and consolidate all sites.
  - Additional contamination is likely to be identified given the historic industrial site use and the presence of solvent contamination. Petroleum contamination has been identified in areas remote from known UST releases indicating the potential of additional surface releases. Contamination may be discovered during the demolition of buildings during development. Under the single site scenario, no new sites would need to be established.

As such, ACEH will consolidate Fuel Leak Case No. RO106, RO108, RO109, RO110, RO244, RO485 into one case, RO2492, named Port of Oakland / Ninth Avenue Terminal. A letter requesting additional fees for this account will follow.

2. **Work Plan Review** - Based upon the assumption that OHP would develop a regional approach, the Port suspended monitoring and proposed work plan activities. However delays in the sales has made this regional approach unpredictable. Several site-specific work plans have been submitted to ACEH, which the Port has recently committed to implement. ACEH will be providing comment on the submitted work plans addressing specific UST release areas. ACEH will also be requesting work plan(s) for additional site characterization of contaminants at this site.
3. **Plume Characterization** - The Port's October 13, 2003 letter states that groundwater impacts remain relatively consistent and plumes are stable, however, no specific data was provided to support this claim. In addition, most sites have not been completely characterized, therefore, it is not yet appropriate to discuss plume stability.
4. **Human Health and Ecological Risk Assessment** - A formal human health or environmental risk assessment has not been performed for the site; therefore, it is premature to suggest that the site currently poses minimal risk to human health and the environment. ACEH notes that a prior soil vapor study performed at the site identified numerous locations where soil vapor samples exceeded 10% of the LEL of methane, indicative of a potential hazardous condition.

5. **Comments to Technical Proposals** - The Port has made a number of proposals in reference to the investigation, remediation and monitoring of this site. ACEH has the following technical response to the proposed changes in monitoring and recommendations for UST investigation and closure.

a. **Monitoring and Well Decommissioning Recommendations**

MW #	Port of Oakland Proposal	County Comment/Rationale
MW-2	Discontinue TEHd, mo	KOT UST area. Perimeter well around FP. Continue annual TEHd, mo w/silica gel
MW-3	Discontinue BTEX, MTBE, Continue annual TEHd, mo	Concur
MW-4	Discontinue all analysis, remove FP annually	Bailing not sufficient, propose remediation method, analyze FP for TPHg, d, mo, BTEX and MTBE.
MW-5	Discontinue	KOT UST area. Perimeter well around FP. Continue annual TEHd, mo w/silica gel
MW-6	Discontinue	Bailing not sufficient, propose remediation method, analyze FP for TPHg, d, mo, BTEX and MTBE.
MW-7	Destroy well	Continue DTW annually. County will consider Port's closure request for no further work
SCIMW-1	Discontinue	Continue DTW annually.
SCIMW-2	Annual TEHd, mo w/silica gel, discontinue metals	Concur, perimeter well, near former ASTs, historic TEHd, mo impact, up to 2001, currently 120 ppb diesel.
SCIMW-3	Continue annual TEHd, mo	Concur, down gradient of former AST farm
SCIMW-4	Water level readings only	Concur, up gradient perimeter well
SCIMW-6	Water level readings only	Concur, perimeter well, not impacted
SCIMW-7	TEHd, mo, VOCs, pesticides annually	Solvent, TPH, pesticides release. Sample qtrly for TPHg, BTEX, VOCs, TPHd, mo and pesticides. Area will require additional investigation & possible remediation, WP will be requested.
SCIMW-8	TEHd, mo w/silica gel annual	Concur, along bulkhead, TEHd, mo ND since 1998
SCIMW-9	Continue annual TEHd, mo	Concur, former AST area, up to 7000ppb TEHmo (1/2003)
SCIMW-10	Discontinue TEHd, mo	Concur, annual water elevation readings
SCIMW-11	TVH, BTEX, TEHd, mo SA to A	Concur, well down gradient of UST
SCIMW-13	Discontinue annual TEHd, mo	Well within former AST area with historic release, continue annual TEHd, mo
SCIMW-15	SA to A, TEHd, mo	Concur, well along bulkhead
SCIMW-16	Water level only	Concur, TEHd low to ND
SCIMW-18	Discontinue TEHd, mo	Concur, annual DTW level, down gradient of former ASTs, near storm drain
SCIMW-19	Water level only	Concur, up gradient perimeter well, TEHd, mo ND
SCIMW-21	Discontinue	Annual DTW level, outside of Bldg H-229, TEHd, mo ND since 1998
SCIMW-22	Discontinue	Solvent area well, run VOCs annually
SCIMW-23	Destroy well	Concur, well has low to ND TEHd, mo, and is at risk from potential surface releases due

		to no surfacing and high vehicle traffic
SCIMW-24	BTEX, TVH and TEHd, mo SA to A	Monitoring should remain as SA. Elevated concentrations present (1997-2003). Will review Port's 11/7/03 second phase investigation wp
SCIMW-26	Discontinue BTEX, MTBE, continue A TEHd, mo	Concur, but run TVH annually since it has been analyzed only once, well is up gradient & at perimeter of FP area.
SCIMW-28	Heavy metals SA to A	Concur, also run VOCs annually, well is near the solvent release area along RR track & down gradient of Lakeside Metal UST
SCIMW-29	Discontinue BTEX and MTBE	Concur, but run TEHd, mo annually, this well is near impacted well MW-6, in the KOT UST area.
SCIMW-30	Discontinue all analyses	Well was installed in VOC release area, monitor for VOCs annually
SCIMW-31D	VOCs SA to A	Concur, County will request additional invest. wp for the VOC release, including possible additional deep gw sampling
SCIMW-32	No monitoring proposed	Well is within the solvent release area, run VOCs annually, gradient appears radial
SCIMW-33	TEHd, mo, VOCs and pesticides annually	Concur, well is monitoring solvent release area
SCIMW-34	Discontinue BTEX, MTBE, TVH, PNAs and metals, TEHd, mo SA to A	Concur, also add TVH annually along with TEHd, mo, well was installed for the investigation of diesel and gasoline USTs, County to review 5/03 wp
SCIMW-35	Discontinue BTEX and TVH	Analyze for TVH, BTEX and TPHd annually, monitoring is subject to results of future investigation, County to review 5/03 wp

**b. UST Removal and Closure Status**

Case #	UST Name	Bldg Location	Current Status	County Response
RO0000106	HF-03	H-107	Closure requested	County will review site for potential no further action
-----	HF-02	H-213	Port submitted wp, 5/2003	County will review wp
RO0000109	HF-12 & HF-13	H-211	11/02 wp approved, Port requests suspension, Bldg above UST occupied by OPD	Concur, Port should evaluate data and propose investigation of area outside of building.
RO0000108	HF-14 & HF-15	H-209	USTs closed-in-place, closure requested	County will review closure report and NFA request
RO0000485	HF-16	H-204	8/2003 invest report submitted to County, Port submitted 11/7/03 addnl s&gw wp	County will review 8/03 report and 11/7/03 wp

-----	HF-17	H-227	8/2003 invest report submitted to County	County will review 8/03 report, provide comments & respond to request to put site invest on hold.
RO0000244	HF-19	H-314	Port submitted wp 5/03.	County will review 5/03 wp
RO0000110	HF-20&HF-21	H-317	Port submitted wp 5/03.	County will review 5/03 wp
RO0002492	Solvent release area, surface release areas, HF-02, HF-17	Entire site	SLIC case for entire 9 <sup>th</sup> Ave. Terminal site, wp and reports exist for USTs, HF-02 and HF-17	a specific wp request will be sent pertaining to the solvent release(s)

6. **Professional Registration Requirement** - It is noted that the Port has made specific observations and recommendations for this site in the October 13, 2003 Response Letter. The California Business and Professions Code (Sections 6735, 6835, and 7835.1) require that all work plans and technical reports containing professional geologic or engineering evaluations and/or judgments be completed under the direction of an appropriately registered or certified professional. This registered or certified professional shall sign and wet stamp all such reports and work plans. Therefore, please resubmit your response letter under your registered professional stamp.

7. **Perjury Statement** – All work plans, technical reports, or technical documents submitted to this office must be accompanied by a cover letter from the responsible party that states, at minimum, the following:

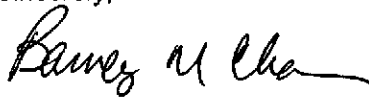
"I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true to the best of my knowledge."

This letter must be signed by an officer or legally authorized representative of your organization. A review of our case files indicates that none of your reports were submitted with a perjury statement.

As previously mentioned, ACEH will be responding to investigation work plans and reports for each individual referenced site. We will also be responding to the Port recommendations to put some investigations on hold. At this time, we request that you proceed with groundwater monitoring according to the proposed County Response schedule.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

C: B. Chan, D. Drogos  
B. Graham, RWQCB



ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY

DAVID J. KEARS, Agency Director

August 1, 2000

Mr. Douglas Herman  
Port of Oakland, EHSC  
P.O. Box 2064  
Oakland CA 94604-2064

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

**Re: Request of Deposit for Oversight of Non-Underground Tank Sites at the Ninth Ave.  
Terminal, Oakland CA 94606**

Dear Mr. Herman:

This written request for oversight deposit fees for sites within the Ninth Ave. terminal follows our recent conversation regarding the status of 901 Embarcadero Ave., the former Liquid Carbonic site. You have requested that this site be added to the other non-UST sites and areas identified as contaminated, also situated in the general area of Ninth Ave. Currently, our office does not have a SLIC account for the Ninth Ave. Terminal. Our oversight time has been up to now, distributed among the existing LOP sites. Obviously, the Ninth Ave. Terminal site consists of both underground and non-underground releases and our oversight time must be charged accordingly. You are reminded that our office has not yet received a written request by the City of Oakland to oversee the investigation of the former Liquid Carbonic site. You may want to speak with Mr. Leroy Griffin to expedite this matter.

For the sake of clarification, our office requests that you submit a site map indicating the the current boundaries of the "Ninth Ave. Terminal", with the locations of each of the environmental areas of concern labeled. It is understood that the limits of the site may change as new information is obtained. Please submit a check for \$2000.00 payable to Alameda County Environmental Health with "Ninth Ave. Terminal" written on it. This new account will be debited for oversight on those SLIC areas identified. Our office will continue to charge time to the existing LOP sites relative to activities associated with underground tank releases. You are encouraged to request closure of the LOP sites when deemed appropriate by your consultant. Upon conclusion of this project, the remainder of the deposit will be refunded to the Port.

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

Sincerely,

Barney M. Chan  
Hazardous Materials Specialist

✓ C: B. Chan, files

Ms. R. Schoenholz, Port of Oakland, EH&SC

Ms. M. Heffes, Port of Oakland Attorney

Mr. L. Griffin, City of Oakland OES, 1605 MLK Jr. Drive, Oakland CA 94612

SLICdep9thAveTerminal



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

July 27, 2000

Mr. Douglas Herman  
Environmental Health & Safety Compliance Department  
Port of Oakland  
P.O. Box 2064  
Oakland CA 94607-2064

**Re: Proposed Monitoring Changes at Ninth Ave. Terminal, Oakland CA 94606**

Dear Mr. Herman:

An error in my July 11, 2000 letter was recently brought to my attention regarding the required groundwater monitoring of well SCIMW-11. There was a contradiction in my bulleted items. This letter serves to correct this contradiction. This well should continue to be monitored according to the first bulleted item ie the well should be monitored semi-annually for the existing analytes. It's monitoring should not be discontinued nor should the well be abandoned as inferred in the third bullet in the July 11, 2000 letter.

I regret any inconvenience or confusion this may have caused. Please contact me at (510) 567-6765 should you have any questions.

Sincerely,

Barney M. Chan  
Hazardous Materials Specialist

C: B. Chan, files  
Ms. J. Alexander, Subsurface Consultants, Inc., 3736 Mt. Diablo Blvd., Suite 200, Lafayette,  
CA 94549-3659

corr9thAveMon

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

July 11, 2000

Mr. Douglas Herman  
Environmental Health & Safety Compliance Department  
Port of Oakland  
P.O. Box 2064  
Oakland CA 94607-2064

**Re: Proposed Monitoring Changes at Ninth Ave. Terminal, Oakland CA 94606**

Dear Mr. Herman:

Our office has received and reviewed the June 15, 2000 Groundwater Monitoring Program Report for the above site. Included in this report is your consultant's recommendation for modifications to the existing sampling program. This letter serves to comment on these recommendations. Upon review of current and historical monitoring data and information, our office has the following comments/observations:

- The following wells are proposed to be abandoned: MW-1, SCIMW-5, SCIMW-11, SCIMW-14, SCIMW-17, SCIMW-20, SCIMW-25 and SCIMW-35. Our office agrees with the abandonment of these wells with the exception of SCIMW-11 and SCIMW-35. SCIMW-24, up-gradient of SCIMW-11, still has high TPHg, d, mo and BTEX concentrations in groundwater. SCIMW-11 should continued to be monitored for the existing parameters semi-annually. SCIMW-35 is down-gradient of a former UST where significant concentrations of TPHg, d, mo, BTEX, lead, and PNAs were exhibited in soil. Please run groundwater samples on this well annually for TPHg and BTEX, until the LOP case (StID #5067) is closed.
- The following wells are proposed to be monitored for water level only: MW-7, SCIMW-4, SCIMW-6, SCIMW-12, SCIMW-16, SCIMW-19, SCIMW-27 and SCIMW-32. Our office agrees with this proposal.
- The following wells are proposed to reduce their TVH testing frequency from quarterly to semi-annually: SCIMW-24 and SCIMW-34. SCIMW-34 is installed adjacent to a former UST where significant soil contamination was observed (same UST mentioned for SCIMW-35 above). To complete groundwater sampling at this LOP site, please analyze this well for semi-volatiles by EPA 8270 and the soluble metals; cadmium, chromium, nickel and zinc. After this, the well should be monitored like SCIMW-35. TVH testing is proposed to be discontinued in wells MW-6 and SCIMW-11. ~~(Note, since our office concurs with the abandonment of SCIMW-11, monitoring is irrelevant)~~ Testing of MW-6 may be discontinued until the free product has been removed, at which time annual testing should continue similar to that of MW-4, which also has a free product problem.

Mr. D. Herman  
Ninth Ave. Terminal, Oakland 94606  
July 11, 2000  
Page 2.

- The following wells are proposed to reduce their TEH analysis from quarterly to semi-annually: SCIMW-23, SCIMW-24 and SCIMW-34. This is approved. Monitoring of SCIMW-2 for TEH is proposed to be changed from quarterly to annually. Because the TEH results only recently decreased in concentration, you are requested to monitor this well semi-annually. TEH is proposed to be discontinued entirely in wells MW-6, SCIMW-6, SCIMW-11, SCIMW-12, SCIMW-16, SCIMW-19, SCIMW-27 and SCIMW-32. Our office concurs with this with the exception that monitoring should continue annually in MW-6, when free product is removed. *& SCIMW-11 added in first bullet.*
- Our office also concurs with the recommended changes for monitoring of the following parameters: solvents, PNAs, pesticides, lead, heavy metals, and the biological parameters; pH, eH, DO, TDS, and DOC.
- To comply with our office's request to add MTBE analysis to the monitoring program, your consultant proposes to analyze the following wells for MTBE: MW-3, MW-4, MW-5, SCIMW-21, SCIMW-26, SCIMW-29 and SCIMW-34. Any detected MTBE will be confirmed using EPA Method 8260. This is acceptable.

In addition, our office has received a copy of a proposal for Soil Gas and Flux Chamber Testing at this site. I have discussed this proposal with you and Subsurface Consultants. Our office cannot at this time render an opinion on the need or merit of this proposal without additional technical background. However, as you are aware, you may proceed with this investigation without our office's comment. We would, however, like to receive a copy of this report when available.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

C: B. Chan, files

Ms. J. Alexander, Subsurface Consultants, Inc., 3736 Mt. Diablo Blvd., Suite 200, Lafayette,  
CA 94549-3659

ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY  
DAVID J. KEARS, Agency Director

April 16, 1999  
StID # 3335

Ms. Michelle Heffes  
Deputy Port Attorney  
Port of Oakland  
530 Water St.  
Oakland CA 94607

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

**Re: Groundwater Monitoring Report and Proposed Monitoring Schedule for Ninth Ave.  
Terminal, Oakland CA 94606**

Dear Ms. Heffes:

Our office has received and reviewed the **March 29, 1999 Groundwater Monitoring Report December 1998 Event** for the above site as prepared by your consultant, Subsurface Consultants, Inc. (SCI). In addition to reporting the results of selective monitoring at the above site during December 1998, a revised monitoring plan was provided for our office's review. I have discussed the proposal with Ms. J. Alexander of SCI and have agreed to these specified changes:

- **The analysis of the analytes DO, Eh and pH will be discontinued in the laboratory**, since these analyses are best performed in the field during groundwater sampling. The actual groundwater conditions are best represented by the field data.
- **The analysis of PNAs in unfiltered samples is not necessary** since the data does not show any difference in the results for the filtered versus unfiltered samples. This may be due to the insoluble nature of these compounds.
- **Similarly, PNAs will also be discontinued in filtered samples from all wells except SCIMW-24.** I was informed that this well will be monitored only to generate enough data to use in a forthcoming risk assessment, not because PNA was being detected in groundwater.
- **The analysis of TEH will be reduced from quarterly to semi-annually on wells SCIMW-5,-6,-11,-12 and -35 based on the prior monitoring results.**
- **The analysis of TVH will be discontinued in MW-5 and SCIMW-11.** This change is due to the prior monitoring results and the sufficient data for the forthcoming risk assessment. In addition, BTEX will be discontinued in SCIMW-11. Although SCIMW-11 is a perimeter well, it is located within the tidal zone of the estuary. SCI believes that the flushing action of the tide removes the volatile hydrocarbons, thus explaining why TVH and BTEX, although present up-gradient of SCIMW-11, are not detected in this well.
- **The analysis of pesticides in wells SCIMW-6 and SCIMW-23 will be reduced in frequency from quarterly to semi-annually.** Prior monitoring has not detected these compounds, however, the area adjacent to these wells is known to have previously stored pesticides.
- **The analysis of PCBs in well SCIMW-28 will be discontinued based on prior monitoring results.** It is noted, the results of PCBs analyses reported in other monitoring wells was done so as a courtesy of the laboratory, and was never part of the requested analysis. It is believed that PCBs in groundwater is not a concern.

Ms. M. Heffes  
Ninth Ave. Terminal, Oakland 94606  
April 16, 1999  
Page 2.

- **The reduction of the analysis of heavy metals from quarterly to semi-annually is proposed because of the prior monitoring results and a sufficient amount of data for the future risk assessment.**

The above changes in monitoring may be incorporated in the next monitoring event.

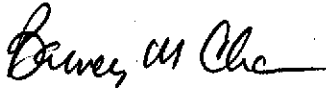
Our office looks forward to the forthcoming human health and ecological risk assessment. I have been informed that the risk assessments have been developed by JSA Environmental. Also included in the risk assessment will be an evaluation of contaminant source areas on the site and a proposed corrective action. It is assumed that an important part of the remediation of the site will include a specific risk management plan.

Please provide copies of the risk assessment to our office and that of the RWQCB to the attention of Mr. Derek Lee as soon as possible. Our office will be requesting the assistance of the RWQCB to review the risk assessment and provide guidance in developing cleanup requirements. We further believe that in order to administer the oversight of the risk management plan, it will be necessary for the RWQCB to issue an order. Therefore, any future correspondences or meetings involving risk assessment or risk management should include representatives from at least both our offices. In addition, if the Port wants to use any of the guidance cleanup levels within the Draft Urban Land Redevelopment Program, the RWQCB will need to confirm that these values are appropriate for this site.

The County will continue to oversee any sites within this area which has been previously transferred to the Local Oversight Program (LOP) and will, when requested, review specific sites within the Ninth Ave. terminal area for closure.

You may contact me at (510) 567-6765 if you have any questions or comments to this letter.

Sincerely,



Barney M Chan  
Hazardous Materials Specialist

C: B. Chan, files \*

- Mr. D. Klettke, Port of Oakland- Environmental Health and Safety Compliance
- Mr. J. Redding, Fitzgerald, Abbot & Beardsley LLP, 1221 Broadway, 21<sup>st</sup> Floor, Oakland CA, 94612
- Mr. L. Griffin, City of Oakland Fire Department, 505 14<sup>th</sup> St., 7<sup>th</sup> Floor, Oakland 94612
- Mr. D. Lee and Mr. S. Hill, RWQCB, 1515 Clay St., Suite 1400, Oakland CA 94612
- Ms. J. Alexander, SCI, 3736 Mt. Diablo Blvd., Suite 200, Lafayette, CA 94549-3659

KOTmonchg



# State Water Resources Control Board

**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

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



**Gray Davis**  
Governor

MAR 22 PM 4:12

MAR 18 1999

Kerry I. Zimmerman  
Fitzgerald, Abbott & Beardsley LLP  
Attorneys at Law  
PO Box 12867  
Oakland, CA 94604-2867

Dear Mr. Zimmerman:

UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, PETITION FILE NUMBERS P98-190 (PORT OF OAKLAND), P98-191 (MARINE TERMINALS), P98-192 (TEXACO), AND P98-193 (VICTOR ADELSON), ALAMEDA COUNTY

This is in response to your recent letters addressed to Barney Chan with Alameda County and myself regarding a settlement that has been reached between the Port of Oakland and various other responsible parties. This settlement involves cleanup projects at sites in Oakland, Alameda County, which are the subjects of four petitions.

Site Number 3335 – 370 8<sup>th</sup> Avenue, Petition File Number P98-190 (Port of Oakland)

REMOVED

This site was not the subject of the above-referenced letters; however, the petition was submitted by the Port of Oakland and we have been holding it in abeyance at the request of the Port. Please notify me if this site was also included in the settlement and should be withdrawn.

Site Number 5067 – 101 10<sup>th</sup> Avenue, Petition File Number P98-191 (Marine Terminals)

REMOVED

Your letters indicate that Encinal Terminals and Victor Adelson should be removed as responsible parties for this site as a result of the settlement. Both of these parties are not currently listed as responsible parties. Marine Terminals (Petitioner) and the Port of Oakland are currently listed as the responsible parties. By copy of this letter, I am requesting a response from Gary A. Angel, attorney for Marine Terminals, regarding withdrawal of the petition. Marine Terminals has been identified as a responsible party because there is evidence that an unauthorized release occurred during their involvement with the site. If the Port of Oakland has assumed responsibility for the cleanup, that would be a civil matter between the Port and Marine Terminals.

Site Number 6895 – 271 8<sup>th</sup> Avenue, Petition File Numbers P98-192 (Texaco) and P98-193 (Victor Adelson)

PO455

Currently, the Port of Oakland, Victor Adelson, and Texaco are listed as jointly responsible for cleanup at this site. According to Barney Chan of the County, there is no evidence which would indicate that an unauthorized release occurred during the time of Texaco's and Mr. Adelson's involvement with the site; therefore, they will be removed from the responsible party list. Consequently, we will close the files on this matter with respect to the subject petitions.

Site Number 6894 – 79 8<sup>th</sup> Avenue

PO455

Your letter requests that Gold Shield be removed from the list of responsible parties. I have been notified by Mr. Chan that the County has removed both Gold Shield and Groeniger and Company from the list of responsible parties for this site.

If you have any questions, please telephone me at (916) 227-4325 (casiasl@cwpswrcb.ca.gov).

Sincerely,



Lori Casias  
Local Oversight Program

cc: See attached list

cc: Barney Chan  
Alameda County  
Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Michele Heffes, Esq.  
Deputy Port Attorney  
Environmental Department  
Port of Oakland  
PO Box 2064  
Oakland, CA 94604-2064

Jonathan W. Redding  
Fitzgerald, Abbott & Beardsley LLP  
Attorneys at Law  
PO Box 12867  
Oakland, CA 94604-2867

Mitchell S. Griffin, Esq.  
Cox, Wootton, Griffin, & Hansen, LLP  
Four Embarcadero Center, Ste. 1450  
San Francisco, CA 94111

Thomas E. Kuhnle  
McCutchen, Doyle, Brown & Enersen  
3150 Porter Drive  
Palo Alto, CA 94304-1212

Craig S. Fox, Esq.  
King, Snell, Mildwurm & Fox  
29650 Liberty Street, Suite 420  
Fremont, CA 94538-2261

Gary A. Angel  
Attorney at Law  
Pacific States Building  
Fourth Floor  
445 Bush Street  
San Francisco, CA 94108



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

September 18, 1998

Ms. Michele Heffes, Esq.  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94607-2064

**Re: Work Plan, Groundwater Monitoring Program, Ninth Avenue Terminal Site,  
Oakland CA**

Dear Ms. Heffes:

I have received and reviewed the August 5, 1998 work plan referenced above as provided by your consultants, Subsurface Consultants, Inc. (SCI). I have discussed its contents with Ms. Meg Mendoza and Ms. Jeriann Alexander and Ms. Diane Mims formerly of Versar, Inc. Based upon our discussions, a September 16, 1998 Memorandum was prepared by SCI which summarized the items discussed and resolved through conversation with the above individuals. Our office concurs with the seven (7) items mentioned in this memorandum.

Our office would also like to comment on the following items:

- Our office disagrees with the "rationale" that the groundwater concentrations in MW-6 are "relatively stabilized". This is why our office recommended more frequent monitoring and agreed with semi-annual instead of annual monitoring.
- The potential closure of LOP site #3335, the KOT underground tank near H-107, will be based upon the recommended acceptable TPH levels within the newly revised SFIA study. I understand that this revised order may be available soon.
- The rationale for quarterly groundwater monitoring was based on either a well being a perimeter well and analyte selection was at times based upon the presence of a specific analyte in grab groundwater samples from borings near the respective monitoring well. An exception is made for the perimeter wells near the bulkhead where migration is impeded and assumed to be significantly less.
- Although the parameters, pH and Eh, were not noted in the plan for some of the monitoring wells, it was acknowledged that these parameters will be tested in the field for all wells and will appear, at minimum, on the groundwater sampling sheets.
- Care should be taken when referring to the terms "relatively low" concentrations. Because there are inland and shoreline wells, what is considered low in one case may not be low in the other.
- For monitoring well SCIMW-31D, it was noted that in the rationale section, "quarterly for the first year" was in error since semi-annual monitoring was proposed.

Ms. M. Heffes- Port of Oakland  
9<sup>th</sup> Ave. Terminal  
September 18, 1998  
Page 2.

I understand that this monitoring plan is to be implemented immediately. **Please submit a copy of this report within 60 days of the completion of this field work.**

Please consider this a formal request for technical reports, pursuant to the Water Code Section 13267 (b) and the Health and Safety Code Sections 25299.37 and 25299.78. The failure to submit the requested document may subject the Port of Oakland to civil liabilities.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

**C: B. Chan, file#**

Mr. D. Klettke, Port of Oakland, P.O. Box 2064, Oakland CA 94607-2064

Mr. J. Alexander, SCI, 3736 Mt. Diablo Blvd., Suite 200, Lafayette, CA 94549

Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221 Broadway, 21<sup>st</sup> Floor, P.O. Box 12867, Oakland CA 94604-2867

Mr. D. Lee, RWQCB, 1515 Clay St., Ste. 1400, Oakland CA 94612

Mr. Robert Chambers, Alameda County District Attorney Office

Mr. L. Griffin, City of Oakland Fire Department, OES, 505 14<sup>th</sup> St., 7<sup>th</sup> Floor, Oakland 94612



# Subsurface Consultants, Inc.

**FAX TRANSMITTAL**

Date:	September 17, 1998
Number of pages (including cover sheet):	4

<b>To:</b> Barney Chan ACHCSA
Phone: 510-567-6765
Fax: 510-337-9335
cc:

<b>From:</b> Meg Mendoza
Sent From: Lafayette
SCI Job #: 433.009
<b>Re:</b> Ninth Avenue Terminal

- REMARKS:**     Urgent     For your review     Reply ASAP     Please comment  
 For your use     Original in mail     As requested

Attached is a final copy of our memorandum.

## MEMORANDUM

Page 2

3. At your request, due to high concentrations of petroleum hydrocarbons previously detected in well MW-6 in the KOT release area, the monitoring frequency for this well will be increased from annually to semi-annually. It is SCI's understanding that if free product is detected the samples will not be submitted for analysis.

4. The plan proposes that heavy metals will be monitored in well SCIMW-2 for one year and if none occur at high concentrations, continued monitoring will check for the presence of lead only. "High" concentrations are those concentrations which exceed levels which are known to be protective of salt water aquatic species.

5. The ACHCSA will consider the H-107 underground tank site (LOP STID # 3335) for closure. To this end, the ACHCSA will prepare a separate letter which addresses the closure issue.

6. Existing LOP sites at the Ninth Avenue Terminal will continue to be investigated by the Port of Oakland through the groundwater monitoring program. To attain future closure of these site, additional investigation may be required by the ACHCSA. These sites include STID # 3335 (KOT underground tank near H-213), STID # 5067 (101 Tenth Avenue, MTC site); STID # 225 (845 Embarcadero, H211); STID # 6894 (79 Eighth Avenue, Card Lock Building H 204); and STID # 6895 (271 Eighth Avenue, H-209).

7. As requested future correspondence will also be sent to Mr. Leroy Griffin of the City of Oakland Fire Department, since the City of Oakland now has jurisdiction under the CUPA program, with regard to existing or former underground tank locations not currently a part of the ACHCSA LOP Program. Suspected tank areas which do not have an LOP number include the MTC fueling facility proposed for construction in 1975 following the removal of the facility at H-317 (the new location, if any, has not been identified to date), the H-227 yard tank (significant impacts have not been encountered in this tank site) and the H-314 Kalman/Lakeside tank (limited investigation has not identified the tank location).

**Subsurface Consultants, Inc.****MEMORANDUM**

To: Mr. Barney Chan  
Alameda County Health Care Services Agency  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, CA 94502

Date: September 16, 1998

Project: 133.009

Number:

From: Meg Mendoza, Jeriann Alexander

Subject: Discussion of Work Plan for the Groundwater Monitoring Program

This memorandum is sent at your request, to reflect your questions pertaining to the Groundwater Monitoring Program for the Ninth Avenue Terminal site and our responses given during our phone conversations on September 11 and 14, 1998. The discussions focused on the details of the plan outlined in SCI's Work Plan, dated August 5, 1998. With the clarifications given, it is SCI's understanding that the scope of the plan is appropriate and is approved by the ACHCSA. As synopsis of the items which required clarification are described below.

1. The work plan includes testing both filtered and unfiltered groundwater samples for SVOC's. As discussed, these tests were proposed to provide adequate data for the future risk evaluation. It is thought that SVOC's adhere to soil particles. Hence, comparing the results of these tests will provide confirmation that the SVOC's are bound and will not be transmitted through groundwater. Upon the review of the data from two consecutive sampling events, it is believed that the unfiltered test <sup>may</sup> will be dropped. OK

2. The plan includes testing some samples for both Total Extractable Hydrocarbons (TEH) as motor oil, and Oil & Grease (O&G). As discussed, the O&G tests were proposed in areas where heavier weight hydrocarbons may exist. Given the other types of analysis being proposed for these areas, it is understood that the TEH scans themselves will provide the toxicity data which is required. Hence, the O&G analysis will be dropped from the program. DK

## MEMORANDUM

Page 2

3. At your request, due to high concentrations of petroleum hydrocarbons previously detected in well MW-6 in the KOT release area, the monitoring frequency for this well will be increased from annually to semi-annually. It is SCI's understanding that if free product is detected the samples will not be submitted for analysis. OK
  
4. The plan proposes that heavy metals will be monitored in well SCIMW-2 for one year and if none occur at high concentrations, continued monitoring will check for the presence of lead only. "High" concentrations are those concentrations which exceed levels which are known to be protective of salt water aquatic species. *(SFA Study results)*.
  
5. The ACHCSA will consider the H-107 underground tank site (LOP STID # 3335) for closure. To this end, the ACHCSA will prepare a separate letter which addresses the closure issue. OK
  
6. Existing LOP sites at the Ninth Avenue Terminal will continue to be investigated by the Port of Oakland through the groundwater monitoring program. To attain future closure of these site, additional investigation may be required by the ACHCSA. These sites include STID # 3335 (KOT underground tank near H-213), STID # 5067 (101 Tenth Avenue, MTC site); STID # 225 (845 Embarcadero, H211); STID # 6894 (79 Eighth Avenue, Card Lock Building H 204); and STID # 6895 (271 Eighth Avenue, H-209).
  
7. As requested future correspondence will also be sent to Mr. Leroy Griffin of the City of Oakland Fire Department, since the City of Oakland now has jurisdiction under the CUPA program, with regard to existing or former underground tank locations not currently a part of the ACHCSA LOP Program. Suspected tank areas which do not have an LOP number include the MTC fueling facility proposed for construction in 1975 following the removal of the facility at H-317 (the new location, if any, has not been identified to date), the H-227 yard tank (significant impacts have not been encountered in this tank site) and the H-314 Kalman/Lakeside tank (limited investigation has not identified the tank location).

**MEMORANDUM**

---

Page 3

SCI understands that the ACHCSA will prepare an approval letter for the groundwater program upon receiving this memorandum. SCI anticipates beginning the Annual Event on Thursday, September 17, 1998.

If you have any questions please call Jeriann Alexander at (925) 299-7960.

MM\_bchan998.doc

cc: Michele Heffes, Esq., Port Attorney  
Dale Klettke, Port Environmental Scientist  
Jonathan Redding, Esq., Fitzgerald, Abbott & Beardsley LLP  
Anne-Marie Collins, Zurich American Insurance Group  
Jamie Tull, JSA Environmental  
Leroy Griffin, City of Oakland Fire Department



APR 10 1998



Pete Wilson  
Governor

Ca/EPA

State Water  
Resources  
Control Board

Division of  
Clean Water  
Programs

Western Tube and Conduit Corporation  
c/o Richard J. Denney, Jr., Esq.  
Denney & Oths LLP  
Attorneys at Law  
130 North Brand Boulevard, 4th Floor  
Glendale, CA 91203

Dear Mr. Denney:

Mailing Address:  
PO Box 944212  
Sacramento, CA  
94244-2120

PETITION, UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT  
PROGRAM, SITE NO. 3335, 370 8TH AVENUE, OAKLAND, ALAMEDA COUNTY

2014 T Street,  
Suite 130  
Sacramento, CA  
95814  
(916) 227-4325  
FAX (916) 227-4349

This letter is intended to clarify statements made in my December 11, 1997 letter regarding the subject petition. In that letter, I indicated that Western Tube and Conduit Corporation was no longer considered responsible for corrective action because, to date, there has been no evidence presented to the County which would indicate an unauthorized release had occurred during the time Western Tube operated the tank(s). However, if additional information becomes available in the future which would document that a release had occurred during the time Western Tube operated the tank(s), Western Tube will be added to the responsible party list.

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

Sincerely,

Lori Casias  
Local Oversight Program

cc: Barney Chan  
Alameda County  
Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Jonathan W. Redding  
Fitzgerald, Abbott & Beardsley LLP  
Attorneys at Law  
PO Box 12867  
Oakland, CA 94604-2867

Michele Heffes  
Environmental Department  
Port of Oakland  
PO Box 2064  
Oakland, CA 94604-2064



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**DENNEY & OTHS LLP**

130 NORTH BRAND BOULEVARD  
FOURTH FLOOR  
GLENDALE, CALIFORNIA 91203  
TELEPHONE (818) 500-9030  
FACSIMILE (818) 500-8079

PROCESSED  
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#3335

March 13, 1998

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

**Re: Port of Oakland v. Keep on Trucking, et al.**  
**Our Client: Western Tube & Conduit Corporation**

Dear Ms. Casias:

This letter responds to Jonathan Redding's letter to you and Dorothy Jones dated March 2, 1998. Mr. Redding's letter seeks to "appeal" the rulings of both the Alameda County Health Care Services Agency ("ACHCSA") and the State Water Resources Control Board ("SWRCB") to remove Western Tube as a responsible party for the 9<sup>th</sup> Avenue Terminal.

At the outset, we note that Mr. Redding's letter is untimely. Under California law, a petitioner must file a petition within 30 days of an agency's decision. 23 CCR § 2050. This deadline is mandatory because the SWRCB "will not accept any petition received after the 30-day period" has expired. SWRCB Resolution No. 88-23.

The SWRCB ruled on December 11, 1997 that Western Tube is not a responsible party for this site since no evidence indicated a release during Western Tube's tenancy. The ACHCSA concurred with the SWRCB's decision on December 16, 1997. However, neither the Port's March 2, 1998 letter nor its February 2, 1998 letter were filed within the statutorily-prescribed 30-day period. The March letter was filed over 75 days after the decisions. The February letter, which our firm never received, was filed over 50 days after the decisions. Because the Port significantly exceeded the 30-day period to file these letters, they are time-barred.

By way of background, the Port has sued Western Tube and various other parties for alleged contamination of the 9<sup>th</sup> Avenue Terminal. At the request of the Port, the lawsuit has

Ms. Lori Casias

March 13, 1998

Page 2

Re: Port of Oakland v. Keep on Trucking, et al.

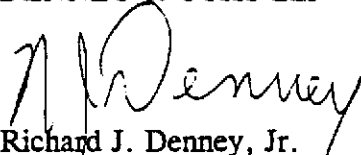
been stayed during efforts to mediate among the parties. The Port was apparently hoping to use the ACHCSA to make the Port's case against Western Tube while the litigation and discovery is stayed. We understand that the Port asked the ACHCSA to name Western Tube as a responsible party, which the ACHCSA did. Under SWRCB Resolution No. 88-23, Western Tube appealed the decision. In preparing its appeal, Western Tube sought to find out on what evidence the ACHCSA was relying. The ACHCSA did not cite any such evidence, and therefore, Western tube was unable to respond to any specific evidence. We so noted in our appeal to the SWRCB; the SWRCB agreed with us and ordered the ACHCSA to remove Western Tube as a "responsible party."

Since the Port's attempt to get Western Tube named as a liable party without having to make the Port's case in litigation did not work, the Port, in its March 2, 1998 letter to the SWRCB states that we "duped" the SWRCB by not making a case against ourselves, since ACHCSA had none. The Port then attempts to correct our oversight (or "duping") by throwing in a number of allegations of its own. We believe that they are wrong and are prepared to so prove. However, as we noted, the Port's appeal is out of time. Furthermore, neither ACHCSA nor the SWRCB should permit itself to be used by the Port as an alternative forum for finding parties liable while the court stays litigation at the request of the Port. The Port will have ample opportunity when the stay is lifted to prove all of its allegations in court, just as we will have an opportunity in court to rebut them.

Thank you for your consideration of this matter.

Very truly yours,

DENNEY & OTHS LLP

  
Richard J. Denney, Jr.

RJD:br

Ms. Lori Casias

March 13, 1998

Page 3

Re: Port of Oakland v. Keep on Trucking, et al.

cc: ✓ Mr. Barney Chan  
Jonathan W. Redding, Esq.  
Mitchell S. Griffin, Esq.  
Carol A. Woo, Esq.  
Gary A. Angel, Esq.  
Frear Stephen Schmid, Esq.

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

February 02, 1998

ATTN: Ms Michelle Heffes

Port Of Oakland  
530 Water St.  
Oakland CA 94607

RE: Project # 2140D - Type A  
at 370 8th Ave in Oakland 94606

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 \$1,000.00, payable to Alameda County, Environmental Health Services.

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 Barney Chan  
at (510) 567-6765.

Sincerely,

Barney Chan, HMS  
Environmental Protection

cc: ~~filed~~

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

December 16, 1997  
StID # 3335

Mr. Dale Klettke  
Port of Oakland  
P.O. Box 2064  
Oakland CA 94604-2064

**Re: Notice of Responsibility for Keep on Trucking, 370 8th Ave.,  
Oakland CA 94606**

Dear Mr. Klettke:

As petitioned and concurred by the State Water Resources Control Board and our office, Western Tube and Conduit has been removed as a responsible party for the petroleum hydrocarbon release attributed to the 1000 gallon underground diesel tank adjacent to Building H-107 at the above referenced location. A Notice of Responsibility letter has been sent to your attention informing you of this action.

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

Sincerely,

Barney M. Chan  
Hazardous Materials Specialist

c: B. Chan, files  
Ms. L. Casias, SWRCB  
Mr. R. Denney, Esq., Denney & Oths, 130 North Brand Blvd., 4th  
Floor, Glendale, CA 91203  
Mr. J. Redding, Esq., Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, Oakland CA 94612-1837

NOR-KOT



**Cal/EPA**

**State Water  
Resources  
Control Board**

**Division of  
Clean Water  
Programs**

Mailing Address:  
PO Box 944212  
Sacramento, CA  
94244-2120

2014 T Street,  
Suite 130  
Sacramento, CA  
95814  
(916) 227-4325  
FAX (916) 227-4349

DEC 1 1 1997



Pete Wilson  
Governor

Western Tube and Conduit Corporation  
c/o Richard J. Denney, Jr., Esq.  
Denney & Oths LLP  
Attorneys at Law  
130 North Brand Boulevard, 4th Floor  
Glendale, CA 91203

Dear Mr. Denney:

**PETITION, UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT  
PROGRAM, SITE NO. 3335, 370 8TH AVENUE, OAKLAND, ALAMEDA COUNTY**

This is in response to the petition submitted on behalf of Western Tube and Conduit Corporation. You are challenging their designation as a responsible party for corrective action at this site.

According to Barney Chan of the County, to date there has been no evidence presented to him which would indicate the unauthorized release occurred during the time Western Tube operated the tank(s); therefore, they are no longer considered responsible for this site. Mr. Chan will notify you of this fact in the near future. Consequently, the petition is now a moot point and I am closing the file on this matter.

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

Sincerely,

Lori Casias  
Local Oversight Program

cc: Barney Chan  
Alameda County  
Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Michele Heffes  
Environmental Department  
Port of Oakland  
PO Box 2064  
Oakland, CA 94604-2064



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**DENNEY & OTHS LLP**

130 NORTH BRAND BOULEVARD  
FOURTH FLOOR  
GLENDALE, CALIFORNIA 91203  
TELEPHONE (818) 500-9030  
FACSIMILE (818) 500-8079

November 20, 1997

Mr. Barney Chan  
Hazardous Materials Specialist  
Alameda County Health Care Services Agency  
Environmental Protection (LOP)  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Re: StID# 3335, Notice of Responsibility

Dear Mr. Chan:

We represent Western Tube and Conduit Corporation ("Western Tube") in matters regarding the Port of Oakland's Ninth Avenue Terminal located in Oakland, California. We received a letter from the Alameda County Health Care Services Agency ("ACHCSA") dated October 23, 1997 naming Western Tube a responsible party for Site ID #3335.

We are filing a Petition with the State Water Resources Control Board ("SWRCB") contesting the ACHCSA's decision. Petition procedures require that a copy of the local agency record, i.e. ACHCSA's file on Western Tube, be submitted to the SWRCB. In addition, we would like a copy of the record. Please prepare the record and deliver copies to the following:

Richard J. Denney, Jr., Esq.  
Eleanor Oths, Esq.  
Denney & Oths LLP  
130 N. Brand Blvd., 4th Floor  
Glendale, CA 91203

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

**EXHIBIT B**

Mr. Barney Chan

November 20, 1997


Page 2

Re: Western Tube & Conduit

Thank you for your help in this matter. Please contact me with any questions you may have regarding this request.

Very truly yours,,

DENNEY & OTHS LLP



Richard J. Denney, Jr.

RJD:br



ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



October 22, 1997  
SLIC # 3335

Mr. Jonathan Redding, Esq.  
Fitzgerald, Abbott & Beardsley, LLP  
1221 Broadway, 21st Floor  
Oakland CA 94612

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

**Re: Supplemental Site Investigation Work Plan for Ninth Ave.  
Terminal Area, Oakland CA 94606**

Dear Mr. Redding:

This letter serves to comment on the recently submitted September 23, 1997 work plan for the above site as prepared by your consultant, Subsurface Consultants, Inc., SCI. It follows our September 23, 1997 meeting at the County offices where the work plan was discussed and clarified. Our office reviewed the results from the six volume, Third Interim Report and used this information when reviewing the work plan.

The work plan calls for four separate actions plus the issuance of a report of the findings of these actions.

The first task is the investigation of the **Oil-Filled Manhole**. The manhole was identified as a collection area for liquid which includes diesel fuel with similar composition to the diesel fuel from the leaking KOT aboveground tank. The KOT tank was, therefore, initially identified as the sole source of this accumulated fuel. Since then, other potential sources; ie existing and former underground tanks, aboveground tanks, surface releases et al, have been identified as sources which could also account for this fuel. Therefore, a study of the this utility would prove beneficial in determining sources, routes of discharges and provide an estimation of the utility's contribution to the sitewide problem.

The second task is further investigation at the Marine Terminal Corporation (MTC) building. Our office has received a copy of a report signed by Mr. Richard Griffin, Deputy Port Attorney, dated May 6, 1975, which describes the release of approximately 200 gallons of gasoline from the UST on this site. An October 24, 1974 letter from MTC to Mr. Paul Sorensen of the Port, requests approval to install one 7,500 gallon gasoline tank and to convert the existing 1,000 gallon tank from gasoline to diesel. It appears that up to two tanks exist or existed at this site. The Third Interim Report gives the results of soil and grab groundwater samples taken from test pit SCITP-33A through SCITP-33E. Motor oil, diesel and gasoline was detected in these samples. Two monitoring wells downgradient of the tank area and two borings within areas of potential contamination are proposed.

Mr. J. Redding  
Ninth Ave. Terminal Area  
SLIC #3335  
October 22, 1997  
Page 2.

This specific work is a reasonable approach to investigate the site. The entire list of analytes requested may not be necessary, however. Only those analytes detected in either soil or groundwater in the SCITP-33 borings need be tested. Two additional borings are proposed adjacent to Building H-309 in surface stained and surface runoff areas. Obviously, this work is not related to underground tank activities but may be useful for further site characterization.

Based on the information presented, a Notice of Responsibility (NOR) for this site (MTC Building H-317) will be sent out in the future. At that time, the site will be transferred to the Local Oversight Program (LOP). For your information, since the County does not have a process to include individual sites under the same identification number, (StID), each site within the "Ninth Avenue Terminal" which identified contamination from an underground tank will be given an individual StID number. You will be copied on all these notification letters.

The third task is to further investigate the **Solvent Area Adjacent to Former Building H-215**. Elevated levels of chlorinated solvents have been detected in soil and groundwater in the general area of boring SCI-55 and monitoring well, SCIMW-7. Assuming the solvent contamination is able to be defined with the three borings proposed, the three wells proposed can be used to verify groundwater concentrations. At this time, the proposed deeper well is not required by our office. Given the type of soils expected and the anticipated depth of the deeper aquifer, there appears to be low risk to the deeper aquifer at this time. Please use professional judgement when analyzing samples for the proposed contaminants eg BTEX may be eliminated when VOCs are run and if soils in borings do not detect an analyte you may forego the analysis in groundwater.

The fourth task is a tidal study which calls for the monitoring of a number of wells, storm drains and man holes close to the Clinton Basin. This information is useful in determining the extent of movement and potential for migration of contaminants in groundwater and through the utilities.

You may proceed with these items as soon as possible. Please contact me at (510) 567-6765 if you have any questions.

Mr. J. Redding  
Ninth Ave. Terminal Area  
SLIC #3335  
October 22, 1997.  
Page 3.

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

c: Ms. M. Heffes Esq, Mr. D. Klettke, Port of Oakland, Env.  
Department, 530 Water St., Oakland CA 94607  
Ms. J. Alexander, Mr. J. Rubin, Subsurface Consultants, Inc.,  
3736 Mt.Diablo Blvd., Suite 200, Lafayette,  
CA 94549  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland  
CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. G. Angel Esq., Law Offices of Gary A. Angel, 235  
Montgomery St., 25th Floor, San Francisco,  
CA 94104  
Mr. S. Hill, RWQCB  
Bob Chambers, Alameda County District Attorney Office  
B. Chan, files  
8-KOT

JAMES C. SOPER, INC.  
PHILIP M. JELLEY, INC.  
GERALD C. SMITH  
LAWRENCE R. SHEPP  
RICHARD T. WHITE  
MICHAEL P. WALSH  
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KERRY I. ZIMMERMAN  
MICHAEL S. WARD  
JEAN C. FUNG  
FATIMA BRUNSON EVANS

FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

1221 BROADWAY, 21ST FLOOR

OAKLAND, CALIFORNIA 94612-1837

TELEPHONE: (510) 451-3300

PLEASE REPLY TO:

P. O. Box 12867

OAKLAND, CALIFORNIA 94604-2867

R. M. FITZGERALD 1858-1934  
CARL H. ABBOTT 1867-1933  
CHARLES A. BEARDSLEY 1882-1963  
FACSIMILE: (510) 451-1527

97 OCT -2 AM 9:02  
DISPOSITION  
ORIGINAL

October 1, 1997

VIA FEDERAL EXPRESS

Barney Chan  
Hazardous Materials Specialist  
Alameda County Health Care Services Agency  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, California 94502

Re: Ninth Avenue Terminal

Dear Mr. Chan:

Enclosed, in follow up to our recent meeting, is a final copy of a work plan referencing the various matters and areas for further investigation which we discussed. Based on our discussion and your concurrence that, at a minimum, the recommended testing by Subsurface Consultants, Inc. ("SCI") be performed, we are scheduling drill rigs and intend to perform and commence studies as soon as possible. Please note, however, that Port tenant Marine Terminals Corporation which occupies much of the land to be tested, has stated that it may not permit access to the property without an order or letter from you indicating that such work must be performed. We urge that you write such letter immediately, and that you direct it to the Port and Marine Terminals Corporation (c/o Gary Angel, Law Offices of Gary A. Angel, 235 Montgomery Street, 25th Floor, San Francisco, CA 94104) or that you include him as a "cc" on the letter to the Port. I

We also understand that you will review in further detail the various analytical testing results and will get back to us should you believe that further testing is required in other areas, especially in connection with the chromium and cyanide contamination found at several locations near the former plating facility of Midland Ross in both soil and groundwater. We look forward to receipt of such letter in the near future and to II

*They need to clarify to/DISC.*

October 1, 1997

completion of the investigations on this site preliminary to developing a corrective action plan.

Please do not hesitate to call, or to call SCI directly, should you have any questions.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By

*Jonathan W. Redding*  
Jonathan W. Redding

JWR:lm

Enclosure

cc: Michele Heffes, Esq.  
Jerriann Alexander (hand delivery)

JAMES C. SOPER, INC.  
PHILIP M. JELLEY, INC.  
GERALD C. SMITH  
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CHARLES A. BEARDSLEY 1882-1963  
FACSIMILE: (510) 451-1527

August 15, 1997

Mr. Barney Chan  
Alameda County Health Care  
Services Agency  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, California 94502

Re: Third Interim Report On The Ninth Avenue  
Terminal Site Characterization

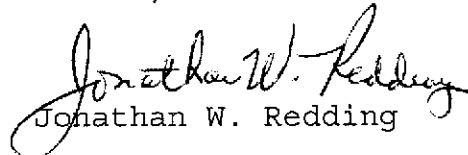
Dear Barney:

Enclosed please find a copy of Subsurface Consultants, Inc. (SCI) Third Interim Report, a six volume set, which represents all of the activities and investigations conducted by SCI at the Ninth Avenue Terminal from February 1997, through June 1997. I have not yet had an opportunity to study the results in detail, or to discuss them with SCI or the Port of Oakland. In addition, I have not had an opportunity to discuss the results with the Port's insurance carriers. Consequently, the report does not include any recommendations at this time. Please advise at your earliest convenience as to the County's requirements for further site testing. Both Jeriann Alexander and I are on vacation for the last two weeks of August and can make ourselves available to discuss this with you in early September.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By

  
Jonathan W. Redding

JWR:cse

cc: Jeriann Alexander, Subsurface Consultants, Inc.  
Michele Heffes, Esq., Deputy Port Attorney

FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

1221 BROADWAY, 21ST FLOOR

OAKLAND, CALIFORNIA 94612

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CARL H. ABBOTT 1867-1933

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JAY M. GOLDMAN  
KERRY I. ZIMMERMAN  
CARLO C. MORMORUNNI  
MICHAEL S. WARD  
JEAN C. FUNG  
FATIMA M. BRUNSON

ENVIRONMENTAL  
PROTECTION

97 JUL -3 PM 3:20

July 2, 1997

VIA FACSIMILE (510) 337-9335  
AND FIRST CLASS MAIL

Mr. Barney Chan  
Alameda County Health Care  
Services Agency  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, California 94502

Re: USTs at the Ninth Avenue Terminal

Dear Mr. Chan:

Pursuant to several verbal requests and your written request of April 25, 1997, to the Port of Oakland, I am enclosing a summary of site history information pertinent to the nine existing and former underground storage tank facilities located at the Ninth Avenue Terminal areas which was prepared by Subsurface Consultants, Inc. ("SCI"). The summary includes, as you have requested, the names and addresses of parties that the Port believes are owners/operators of the USTs.

It is my understanding that the purpose of your inquiry is to identify operators and/or owners, other than the Port of Oakland (which is a defacto owner of the recently discovered tanks), and to notify these parties that they have been placed in the local oversight program ("LOP") as a responsible party ("RP"). I further understand that the inclusion of these operators/owners as RPs, will make each RP also responsible for compliance with UST statutes and regulations. Please clarify your position in this regard by writing to each of the parties at the addresses listed in the enclosure, including each of the RPs requirements to remove tanks and perform investigations in compliance with the Health & Safety Code. I would appreciate receiving a copy of each of the notices.

In addition, I believe it will be useful to issue these letters as soon as possible, because a number of the RPs are currently engaged in litigation with the Port of Oakland regarding the investigation and cleanup expenses associated with releases from each of these tanks. Putting these RPs on official notice of their liability may assist them in obtaining insurance coverage, and will be a requirement, if any of the RPs are eligible for participation in the State of California Underground Storage Tank Cleanup Fund ("Fund").

In particular, Mr. Victor Adelson, who formerly occupied Building H-209, has applied to the Fund and is conditionally ready to perform further site characterization and/or remediation. His performance of further studies and tank removal is apparently conditioned upon receiving initial funding by Texaco (which the Port contends initially installed and owned the tanks). Of course, Texaco's commitment to loan money to Victor Adelson is conditional and requires that he be found eligible for reimbursement from the Fund. In this connection, the Fund has notified Victor Adelson and Texaco that the County must require further work at the site and designate Victor Adelson as the RP (because he is the only known operator of the USTs) before the Fund will accept his application. Accordingly, we request that you direct a letter notifying Mr. Adelson that he is an RP who will be placed in the LOP and that he will be required to conduct further investigation and cleanup at H-209. Your letter to Mr. Adelson should specify the fact that releases have already been demonstrated from the tanks at former Building H-209. Please refer to SCI's last report or call Jeriann Alexander for any evidence you might seek of this fact.

Similarly, although there are a number of Rps associated with the former cannery tanks at former Building H-211, the Port appears to be the only solvent party who has substantial liability for owning and/or operating these tanks. The Port desires to make an application to the Fund at once, for the cannery USTs. Please confer with SCI regarding details of the releases from these tanks, which the Port believes are now buried beneath the KOT office building currently leased to Keep on Trucking Company, Inc.

In conclusion, we ask that you notify all of the above-identified RP's as soon as possible; however, we request that you place a priority on notifying Victor Adelson at H-209 and the Port at



Mr. Barney Chan

Page 3

July 1, 1997

H-211 as soon as possible. Please feel free to contact me or SCI (Jerriann Alexander) if you have further questions or require copies of documents establishing owner/operator status.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By  JWR  
Jonathan W. Redding

JWR:lm

Enclosure

cc: Michele Heffes, Esq.  
Victor Adelson  
Texaco  
Lester Levy, Esq.

ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY  
DAVID J. KEARS, Agency Director

April 25, 1997  
SLIC # 3335

Mr. Jonathan Redding, Esq.  
Fitzgerald, Abbott & Beardsley, LLP  
1221 Broadway, 21st Floor  
Oakland CA 94612

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

**Re: Site Investigation Work Plan for Ninth Ave. Terminal Area,  
Oakland CA 94606**

Dear Mr. Redding:

This letter serves to comment on the recently submitted March 26, 1997 work plan for the above site as prepared by your consultant, Subsurface Consultants, Inc., SCI. It is also a result of our recent, April 21, 1997 meeting at the County offices where you and your consultant clarified a number of the items specified in the work plan. Table A, listing the specific locations, analyses and rationale for the further investigation was also provided for my review.

This letter also addresses the planned work in two questionable areas discussed in our meeting; that within the former Midland-Ross plating facility and that area near the former Britz Chemical Company. I discussed these areas with our in-house toxicologist, Ms. Madhulla Logan and have used her input in my comments and recommendations.

In regards to the former plating facility within building H-232, because it was at one time a permitted TSD facility, jurisdiction for site closure should be clarified through DTSC. Our office is willing to include this facility along with the other areas within the Ninth Avenue Terminal site, however, you should obtain a written statement from DTSC which approves of the County's oversight. Four wells are proposed for this area in addition to sampling two existing wells. Three of the four wells proposed within this area will serve a dual purpose; determining the impact of hexavalent chromium and cyanide to groundwater and secondly determining the extent of petroleum contamination from the KOT (Building H213) area. Our office concurs with the proposed wells, however, to reiterate it would be prudent to have DTSC's approval for County oversight.

In the area of the former Britz Chemical Company, Building H 207, one monitoring well and three test pits are proposed. Our office concurs with this work. In addition, we request that grab groundwater samples be taken from the test pits and filtered through a 0.45u filter prior to analysis for the organic parameters.

Mr. J. Redding  
Ninth Ave. Terminal  
SLIC #3335  
April 25, 1997  
Page 2.

I have the following comments to the other bulleted items in SCI's March 26, 1997 letter:

- \* Bullet item 3 states that since free floating diesel product has been observed in the area of the current aboveground storage tank at KOT, test pits should be excavated to further evaluate the source. This proposal is accepted, however, please insure that all proposed analyses are required. Note that chlorinated pesticides are included in the semi-volatiles 8270 analysis so only one of these methods need be performed. What is your rationale for analyzing for chromium +6 and cyanide?
- \* Bullet item 4 recommends four borings, one test pit and one monitoring well to evaluate the elevated levels of motor oil and lead at the Lakeside Metals Drum and Metal Storage Area. Elevated motor oil and lead have been found in shallow soils and elevated lead in groundwater in this area. This proposal is acceptable. Note that the heavy metals analysis, EPA series 6000/7000 will include both lead and chromium analysis. Again, what is your rationale for chromium +6 and cyanide analyses?
- \* Bullet item 5 recommends eight test pits to evaluate the depressed trackage area where saturated petroleum has been observed. This investigation is warranted. Please observe the same precautions for analysis so that duplicative analysis is not performed. Is it reasonable that cyanide and hexavalent chromium could be detected in these areas? As the limits of specific contaminants are delineated, you may forego their analysis beyond these points.
- \* Bullet item 6 recommends investigation of building H-229, the former fertilizer bagging facility and current hazardous materials storage area for KOT. Four borings and one monitoring well are proposed. Our office has inspected this building and concurs that there is a potential for chemical release, therefore, investigation is warranted. I recommend the borings be located within the building, if possible, rather than outside.
- \* Bullet item 7 recommends investigation in the area of a former gasoline tank within building H-317. No information is available in this area. One test pit is proposed for soil and groundwater analysis. This is acceptable, however, why are the non-petroleum analytes being requested? (Volatile organics, semi-volatiles, chromium +6 and cyanides).

Mr. J. Redding  
Ninth Ave. Terminal  
SLIC #3335  
April 25, 1997  
Page 3.

\* Bullet item 8 recommends installation of a well just within Building H-215 since surface staining was observed outside this building. Besides analyzing for the chemicals formerly stored in the building, please analyze for the contaminants detected in the borings and test pits south of building H215.

\* Bullet item 9 proposes two borings just south of Building H213 to investigate the surface staining observed in these areas. Just soil samples are needed since three monitoring wells are proposed which surround these two borings.

\* Bullet item 10 proposes to advance four test pits to investigate the area along Clinton Basin. A previous test pit detected free petroleum product although TPH has not been detected in nearby monitoring wells. Future site remediation requires knowing the extent of this shoreline petroleum contamination thus this work is warranted.

\* Bullet item 11 proposes to investigate the location of a former underground tank where saturated soils were detected. This area is located near former Building H204. A monitoring well will be installed in this area.

\* Bullet item 12 proposes to investigate the Cannery Line, which has previously detected petroleum fluids and which may serve as a source for contaminant migration. Since this line is part of the underground utilities it may serve directly or indirectly as a conduit for contaminant migration. The general condition and contents of this line may indicate its likelihood to act as a conduit.

All of the above tasks are reasonable. Our office cannot comment on the exact number of samples nor the entire suite of analytes proposed for testing. Your consultant must exercise professional judgement when performing this work by analyzing only samples which give meaningful information and analyzing only for contaminants with a reasonable likelihood of being present. Further, our office has not received a complete report of the most recent field work, therefore, our background information is incomplete.

Our office requests that further investigation be performed beneath the existing KOT office trailer. The work plan proposal says that that USTs may still exist beneath this area. Contamination and piping has also been detected beneath the building. This area requires further investigation.

Mr. J. Redding  
Ninth Ave. Terminal  
SLIC #3335  
April 25, 1997  
Page 4.

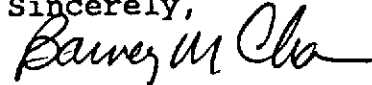
Our office confirms that stated in your April 23, 1997 letter is as soon as conclusive evidence is provided that releases from underground petroleum hydrocarbon occurred, specific sites will be transferred into the LOP program. However, this will not prevent these sites from being investigated in a sitewide approach. Should a RP request to accelerate closure of their underground tank site, they may choose to perform additional investigation beyond what is currently proposed.

The following information was requested during our meeting:

1. Names and addresses of additional responsible parties for all former or existing underground tanks. Please also inform our office if any of these parties would like to independently investigate their release site.
2. Specific details of the chemical analysis performed in the former plating facility within Building H-232. Additionally, please provide the complete investigation report for the recent field work.
3. Please be reminded that the proper closure of all unpermitted underground tanks remains a priority. The individuals named above (#1) must proceed diligently with closure applications.

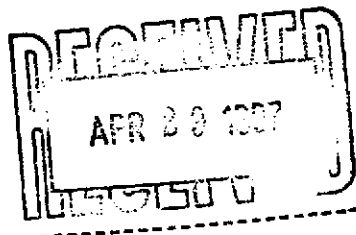
You may contact me at (510) 567-6765 if you have any questions.

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

- c: Mr. Jeff Rubin and Ms. M. Heffes Esq, Port of Oakland, Env. Department, 530 Water St., Oakland CA 94607  
Ms. J. Alexander, Subsurface Consultants, Inc., 3736 Mt. Diablo Blvd., Suite 200, Lafayette, CA 94549  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999 Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
Bob Chambers, Alameda County District Attorney Office  
B. Chan, files  
7-KOT





JAMES S. SOPER, INC.  
 PHILIP M. JELLEY, INC.  
 GERALD C. SMITH  
 LAWRENCE R. SHEPP  
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 MICHAEL S. WARD  
 JEAN C. FUNG  
 FATIMA M. BRUNSON

FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

1221 BROADWAY, 21<sup>ST</sup> FLOOR

OAKLAND, CALIFORNIA 94612-1837

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OAKLAND, CALIFORNIA 94604 2867

R. M. FITZGERALD 1858-1934  
 CARL H. ABBOTT 1867-1933  
 CHARLES A. BEARDSLEY 1882-1963  
 FACSIMILE: (510) 431-1527

April 23, 1997

VIA FACSIMILE

Mr. Barney Chan  
 Hazardous Material Specialist  
 Alameda County Health  
 Care Services Agency  
 1131 Harbor Bay Parkway, 2nd Floor  
 Alameda, CA 94502

Re: Ninth Avenue Terminal Testing

Dear Barney:

This is to confirm our recent conversations regarding Subsurface Consultant Inc.'s (SCI) site investigation update of March 26, 1997. Based upon these discussions, the Port understands that the Alameda County Health Care Services Agency (ACHCSA) requires that the Port continue with investigations to delineate the sources, nature and extent of contamination at the Ninth Avenue Terminal. The Port further understands that recommendations for further investigations proposed by SCI must be performed and that ACHCSA agrees that the required investigations are necessary and appropriate. The Port also understands that ACHCSA may place the various UST facilities on the site into the Local Oversight Program. Finally, the Port understands that you will defer insistence on development of a remedial action plan until these investigations are completed so that a comprehensive cost-effective remediation proposal can be developed.

The Port looks forward to receiving ACHCSA's written confirmation of the above, along with any additional requirements

Mr. Barney Chan  
April 23, 1997  
Page 2

or testing it believes is necessary. Thank you for your courtesy  
and cooperation.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By *Jonathan W. Redding*  
Jonathan W. Redding

JWR:mbb

cc: Michele Heffes, Esq.  
Jerriann Alexander



FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

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CHARLES A. BEARDSLEY 1882-1963

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JAY M. GOLDMAN  
CARLO C. MORMORUNNI  
MICHAEL S. WARD  
JEAN C. FUNG  
FATIMA M. BRUNSON

March 26, 1997

Mr. Barney Chan  
Hazardous Material Specialist  
Alameda County Health  
Care Services Agency  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, CA 94502

Re: Ninth Avenue Terminal Testing

Dear Barney:

Enclosed please find SCI's recommendations for further testing at the Ninth Avenue Terminal. Please advise, at your earliest convenience, whether the proposed plan of testing is acceptable to the County. We hope that you will not impose any additional requirements at this time, since the enclosed appears to be a very reasonable, well-considered plan for further site investigation.

Please call me if you have any questions.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By *Jonathan W. Redding*  
Jonathan W. Redding

JWR:mbb

cc: Michele Heffes, Esq.  
Jeff Rubin  
Jeriann Alexander  
Lester Levy, Esq.

97 MAR 26 PM 3:53  
ENVIRONMENTAL  
PROTECTION

ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION  
DEPOSIT / REFUND ACCOUNT SHEET

printed 04/11/97

SITE INFORMATION

Keep On Trucking Co. Inc.  
370 8th Ave  
Oakland 94606  
Site Contact:  
Site Phone :

StID: 3335 Site#: 2140  
PROJECT#: 2140D  
PROJECT TYPE: \*\*\* A \*\*\*  
INSP: Barney Chan  
ACCT. SHEET PG #: \_\_\_\_\_

PROPERTY OWNER INFORMATION

Owner Contact:  
Owner Phone :

PAYOR INFORMATION

Port Of Oakland  
530 Water St.  
Oakland CA 94607 # 179  
Payor Contact: Mr Jeff Rubin  
Payor Phone :

Date	Action Taken	Time		Hours Spent/ Depstd	Hour Balnce	Money Spent/ Depositd	Money Balance
		In	Out				
_____	Balance from Prev. Page	_____	_____	_____	_____	_____	_____
04/10/97	Rcpt# 777312 Deposit of \$2,000.00 @ \$94/hour	_____	_____	+21.27	_____	+\$2,000.00	_____
7/14/97	Review 7/2/97 letter + <sup>set</sup> 6/97 synopsis	_____	_____	2.7	_____	_____	_____
7/15/97	" + " + <i>sn-1 J Alexander</i>	_____	_____	2.0	_____	_____	_____
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UPON COMPLETION OF PROJECT

PROJ COMPLETED BY : \_\_\_\_\_ ATTACH:  State Forms A, B & C  
 Billing Adjustment\*  
DATE OF COMPLETION : \_\_\_\_\_ DATE SENT TO BILLING: \_\_\_\_\_  
TOTAL COST OF PROJECT: \_\_\_\_\_ REFUND AMOUNT: \_\_\_\_\_ Rev. 5/96

\* Billing adjustment forms needed when site is in our UST program. REPORT: WrkShtD (ongoing Deposit)

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

March 25, 1997

STID 3335

ATTN: Mr Jeff Rubin

Port Of Oakland  
530 Water St.  
Oakland CA 94607

RE: ~~Project # 2140D - Type M~~  
~~at 370 3th Ave in Oakland 94606~~

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 \$2,000.00, payable to Alameda County, Environmental Health Services.

We must receive this deposit so that future regulatory oversight on the subject site can procede in a timely fashion. At the completion of this project, any unused monies will be refunded to you or your designee.

The deposit refund mechanism is authorized in Section 3-140.5 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 ~~include the following on the check to identify~~  
your account: ~~project #,~~  
~~type of project and~~  
~~site address~~ (see RE: line above).

If you have any questions, please contact Barney Chan  
at (510) 567-6765.

Sincerely,

Tom Peacock, Area Manager  
Environmental Protection

c: files/inspector

PORT OF OAKLAND  
ENVIRONMENTAL DIVISION

MAR 27 1997  
RECEIVED  
ENVIRONMENTAL DIVISION

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



January 30, 1997  
StID # 3335

Mr. Richard Padovani  
Keep on Trucking  
370 8th Ave.  
Oakland CA, 94606

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

**Re: Request for Technical Report for Further Site  
Characterization at 370 8th Ave., Oakland CA 94606,  
Keep On Trucking and Adjoining Area**

Dear Mr. Padovani:

As you are aware, our office is working with the Port of Oakland and their consultant in an attempt to thoroughly investigate the diesel fuel release from the Keep On Trucking site and adjoining nearby sites. It is unclear at this time how many sources exist for the petroleum hydrocarbon previously detected in the 1992 fuel release to the Oakland estuary. A number of additional potential sources have been identified by the Port as part of their two preliminary investigations and still another additional investigation is being performed at this current time.

Our office has been made aware of an additional site investigation performed in your behalf by R. Morrison & Associates, Inc. in 1996. A map indicating the location of approximately 28 borings was provided to our office. The location of these borings are in areas where analytical data from them could lead to the determination of other potential responsible parties. In addition, further site characterization would also be accomplished. Therefore, our office requests that you submit for our review a copy of the referenced R. Morrison & Associates report. Please submit the report to our office **within 30 days or by February 28, 1997.**

This is a formal request for technical reports pursuant to the California Water Code and the Health and Safety Code.

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

Sincerely,

Barney M. Chan  
Hazardous Materials Specialist

Mr. Richard Padovani  
Keep on Trucking  
370 8th Ave.  
StID #3335  
January 30, 1997  
Page 2.

c: Ms. M. Heffes, Port of Oakland Legal Dept., 530 Water St.,  
P.O. Box 2064, Oakland CA 94604-2064  
Mr. Jeff Rubin, Port of Oakland, Environmental Department  
P.O. Box 2064, Oakland CA 94604-2064  
Ms. J. Alexander, Subsurface Consultants, Inc., 171 12th St.,  
Suite 201, Oakland CA 94607  
Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, P.O. Box 12867, Oakland  
94604-2867  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
G. Jensen, Alameda County District Attorney Office  
B. Chan, files

repKOT



ENVIRONMENTAL  
PROTECTION

# PORT OF OAKLAND

JAN 22 PM 3:32

Senders' Phone (510) 272-1348  
Senders' Fax (510) 444-2093  
Internet: mheffes@portoakland.com

January 21, 1997

Ms. Barbara J. Cook, P.E.  
Branch Chief  
Northern California Coastal Cleanup Branch  
State of California  
Environmental Protection Agency  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710-2737

**Re: Hazardous Substances Information  
Request for Port Building No. H-215 and Adjacent  
Properties in the Ninth Avenue Terminal Area**

Dear Ms. Cook:

This letter responds to the December 16, 1996, certified mail letter from the Department of Toxic Substances Control (DTSC) to Mark O'Brien, Manager of the Port Environmental Health and Safety Compliance Department.

At the outset, I want to emphasize that the Port was surprised and disappointed by the tone of your letter, especially the threats of civil and criminal penalties,<sup>1/</sup> and the large number of demands that DTSC placed upon the Port. The Port would have hoped that DTSC would have attempted to contact the Port and discuss this matter informally, prior to making such a large request.

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<sup>1/</sup> The DTSC letter indicates that compliance with DTSC's information request is mandatory, pursuant to §§ 25185.6, 25358.1 and 25358.3 of the California Health and Safety Code ("CH&SC") and that failure to respond fully and truthfully within forty-five days of the date of the letter may result in enforcement action by DTSC, subject to the penalties allowed under CH&SC §§ 25189, 25191 and 25367.

Ms. Barbara J. Cook, P.E.

Hazardous Substances Information, Request for Port Building No. H-215 and Adjacent Properties in the Ninth Avenue Terminal Area

Page 2

January 21, 1997

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For example, in this letter, DTSC requested that within forty-five days of the date of the letter, the Port supply DTSC with all information currently known or available relating to the analysis of soils, surface water and groundwater at the subject facility as well as all information relating to any incidents that have resulted in the release of chemicals to the environment. In this letter, DTSC also requested that the Port provide a chemical history report for the site which includes eleven separate areas of inquiry.

As DTSC already knows as a result of receipt of several of the Port's statutory notice letters under RCRA, CWA, OPA and CERCLA, the Port is in the midst of cost-recovery litigation, and defense of a variety of counter-claims against the Port, associated with the need to resolve the multi-million dollar demands for investigation and cleanup initiated by the U.S. Coast Guard and currently under the lead agency jurisdiction of the Alameda County Health Care Services Agency ("Alameda County"). Further, DTSC's mandatory information requests comes in the midst, and interferes with, the Case Management Order which has been issued by the Honorable Claudia Wilkens, whose court has jurisdiction of the case which has been filed and is under her active management at the U.S. District Court, Northern District of California, Case No. C 95-03721-CW.

Given the existence of the numerous other parties who have strong interests in this matter and whose jurisdiction has been clearly established for many years, the Port believes that it is inappropriate for DTSC to assert jurisdiction over the site, especially given the current trend towards maintaining a single lead regulatory agency at these sites and Alameda County's activities at this site since 1992. See e.g., CUPA statute and regulations for consolidating jurisdiction in a single agency.

The Port understands that DTSC has legitimate concerns regarding insurance and the usage of solvents at this site, particularly since DTSC is investigating AMCO for cost recovery purposes at the Cypress Avenue site in downtown Oakland. Indeed,

Ms. Barbara J. Cook, P.E.

Hazardous Substances Information, Request for Port Building No. H-215 and Adjacent Properties in the Ninth Avenue Terminal Area

Page 3

January 21, 1997

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we would like to review all of the DTSC files regarding AMCO, and perhaps other PRPs at the Port of Oakland site, on an informal basis.

Accordingly, the Port is quite willing to share with DTSC in a confidential manner any relevant information which may be applicable to DTSC's own efforts at the Cypress Avenue site. It was in the spirit of cooperation that I spoke with DTSC staff attorney Orchid Kwei, with whom the Port has successfully worked in the past to arrange for informal response to the DTSC information request. We agreed that, at this time, DTSC would accept as responsive to its letter, the latest environmental report concerning the Ninth Avenue terminal which includes the site in question. Accordingly, enclosed please find the Interim Report, Site Characterization, Eighth Avenue Area, Ninth Avenue Terminal, Port of Oakland, California, prepared by Subsurface Consultants, Inc., dated December 23, 1996. Ms. Kwei agreed that she would contact me if DTSC requests further information. However, given that Alameda County and the Port of Oakland have been cooperatively working towards investigation and development of cleanup plans for this site for more than five years, we trust that DTSC will see the wisdom and yield any claims of jurisdiction to the already designated lead agency.

Finally, I am enclosing a letter of January 17, 1997, sent to Monica Gahn, who has been in contact with our outside legal counsel, Fitzgerald, Abbott & Beardsley LLP. We request your assistance in ensuring that the requested information is transmitted to the Port's attorneys as soon as possible. If there is useful information concerning the site, especially insurance information, we will be sure to keep DTSC apprised of our efforts to notify insurance carriers and copy them on correspondence received to and from said carriers. In this connection, based on our outside counsel's extensive coverage experience, DTSC may be the beneficiary of our joint efforts.



Ms. Barbara J. Cook, P.E.

Hazardous Substances Information, Request for Port Building No. H-215 and Adjacent  
Properties in the Ninth Avenue Terminal Area

Page 4

January 21, 1997

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Please call me if you have any questions.

Very truly yours,

DAVID L. ALEXANDER  
Port Attorney

By

  
MICHELE HEFFES  
Deputy Port Attorney

Enclosure:

January 16, 1997,  
correspondence to Monica Gahn

cc w/o encl.: Charles W. Foster  
Port Executive Director  
David L. Alexander  
Port Attorney  
Leo Brien  
Port Director of Maritime  
Frederick Ferrin  
Port Director of Engineering  
Mark O'Brien  
Port Mgr. of Environ. Health & Safety Compliance  
Neil Werner  
Port Environmental Compliance Supervisor  
Jonathan W. Redding  
Fitzgerald, Abbott & Beardsley  
Orchid Kwei  
DTSC Staff Attorney  
Barney Chan  
Alameda County Health Care Services Agency

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

January 14, 1997  
StID #3335

Ms. Michele Heffes  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

**Re: Evaluation of Data Gap Study Work Plan for Eighth Ave.  
Area, Ninth Ave. Terminal, Port of Oakland -December 1996**

Dear Ms. Heffes:

Our office has received and reviewed the above technical report from Subsurface Consultants, Inc. which proposes additional site investigation to fill data gaps which exist at the referenced property. The work plan and the January 8, 1997 meeting with Mr. J. Redding and Ms. J. Alexander address those items mentioned in my January 2, 1997 letter in regards to:

1. Anomalies encountered during the former electromagnetic survey;
2. The inspection and removal of free product in wells and within manholes;
3. The determination of the effectiveness the soil in limiting petroleum hydrocarbon migration; and
4. The initiation of a monitoring schedule for the existing network of monitoring wells.

Upon review of the work plan, our office concurs with the proposed itemized tasks to clarify those areas of unknown or uncertain subsurface conditions. In addition, we request that a monitoring schedule be proposed for the site which provides for long term monitoring consistent with your sitewide remedial approach if you do not intend to monitor all wells on a quarterly fashion.

All underground tanks discovered during your investigation must be properly permitted or closed pursuant to Title 23, California Code of Regulations and Chapter 6.7 of the Health and Safety Code.

Ms. Michele Heffes  
StID #3335  
8th Ave., 9th Ave Terminal Area  
January 14, 1997  
Page 2.

Please initiate your work plan within 30 days of this letter and submit a report of your findings within 45 days of completion of your field work.

Please consider this a request for technical reports, pursuant to the Water Code Section 13267 (b) and the Health and Safety Code Sections 25299.37 and 25299.78. The failure to submit the requested documents may subject the Port to civil liability. Also, the Health and Safety Code, section 25299, states that any owner or operator of an underground tank is liable for civil penalties of not less than \$500 and not more than \$5000 per day, per tank for failure to obtain a permit, or failing to properly close an underground tank.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

c: Mr. Jeff Rubin, Port of Oakland, Environmental Department  
Ms. J. Alexander, Subsurface Consultants, Inc., 3736 Mt.  
Diablo Blvd., Suite 200, Lafayette, CA  
94549  
Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, P.O. Box 12867, Oakland  
94604-2867  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland  
CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
Bob Chambers, Alameda County District Attorney Office  
B. Chan, files

6ssiKOT

FITZGERALD, ABBOTT & BEARDSLEY LLP

R. M. FITZGERALD 1858-1934  
CARL H. ABBOTT 1867-1933  
CHARLES A. BEARDSLEY 1882-1963

JAMES C. SOPER, INC.  
PHILIP M. JELLEY, INC.  
GERALD C. SMITH  
LAWRENCE R. SHEPP  
RICHARD T. WHITE  
MICHAEL P. WALSH  
J. BRITTAIN HABEGGER  
VIRGINIA PALMER  
TIMOTHY H. SMALLSREED  
STEPHEN M. JUDSON  
STEPHEN M. WILLIAMS  
JONATHAN W. REDDING  
BETH E. ASPEDON  
KRISTIN A. PACE  
MICHAEL M. K. SEBREE  
ANTONIA L. MORE  
SARAH ROBERTSON McCUAIG  
PHILIP E. DRYSDALE  
KRISTEN THALL PETERS  
JAY M. GOLDMAN  
CARLO C. MORMORUNNI  
MICHAEL S. WARD  
JEAN C. FUNG  
FATIMA M. BRUNSON

ATTORNEYS AT LAW

1221 BROADWAY, 21ST FLOOR  
OAKLAND, CALIFORNIA 94612-1837

TELEPHONE: (510) 451-3300

PLEASE REPLY TO:

P. O. Box 12867  
OAKLAND, CALIFORNIA 94604-2867

FACSIMILE: (510) 451-1527

January 9, 1997

97 JAN 10 AM 10:09  
PROTECTION

VIA FEDERAL EXPRESS

Mr. Barney Chan  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, California 94502

Re: Ninth Avenue Terminal and Keep on Trucking Company, Inc.  
(KOT) Site

Dear Mr. Chan:

Thank you for meeting with me to discuss the Port's plans for compliance with the County's orders/requirements (contained in letters of December 2, 1996, and January 2, 1997) for further investigations at the above-referenced Site. Pursuant to our negotiations and discussions yesterday, the Port understands that the County accepts the recommendations and proposals contained in the enclosed work plan prepared by Subsurface Consultants Inc. The Port further understands that the County is receptive to the Port's proposal for a multiple phase investigation prior to the development of a Corrective Action Plan for both the Site and the areas in the vicinity of the various USTs/ASTs which are or were located on the Site.

At this time, the Port is not able to commit to a specific time or schedule for the conduct of the next phase of investigations, however, it hopes to proceed as soon as practicable. Please verify your concurrence in this letter and the enclosed work plan at your earliest convenience.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By *Jonathan W. Redding*  
Jonathan W. Redding

JWR:mbb  
cc: Michele Heffes, Esq.

***Fitzgerald, Abbott & Beardsley LLP***

**ATTORNEYS AT LAW**  
1221 BROADWAY, 21ST FLOOR  
P.O. BOX 12867  
OAKLAND, CA 94604-2867  
TELEPHONE (510) 451-3300  
FAX (510) 451-1527

**FACSIMILE TRANSMISSION**

**TO:** Barney Chan **FAX:** 337-9335

**FROM:** Jonathan W. Redding, Esq. **DATE:** January 7, 1997

**CLIENT CODE:** 15301

**PAGES:** (including cover)

If copy is illegible or incomplete,  
please call (510) 451-3300.

**MESSAGES:** This shall also confirm that we are meeting tomorrow at 3:30 p.m. at  
your office.

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO BE PROTECTED BY THE ATTORNEY-CLIENT OR OTHER ATTORNEY PRIVILEGES. IT IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. IF YOU ARE NOT THE ADDRESSEE OR THE PERSON RESPONSIBLE FOR DELIVERING FACSIMILES TO THE ADDRESSEE, THEN YOU HAVE RECEIVED THIS FACSIMILE IN ERROR. IN SUCH CASE, YOU ARE NOT AUTHORIZED TO USE, DISSEMINATE, DISTRIBUTE OR COPY SUCH FACSIMILE BUT ARE REQUESTED TO TELEPHONE THE SENDER AND MAIL THE FACSIMILE TO THE SENDER AT THE ABOVE ADDRESS.

faxed by MBB

JAMES C. SOPER, INC.  
PHILIP M. JELLEY, INC.  
GERALD C. SMITH  
LAWRENCE R. SHEPP  
RICHARD T. WHITE  
MICHAEL P. WALSH  
J. BRITTAIN HABEGGER  
VIRGINIA PALMER  
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STEPHEN M. JUDSON  
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JONATHAN W. REDDING  
BETH E. ASPEDON  
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MICHAEL S. WARD  
JEAN C. FUNG  
FATIMA M. BRUNSON

FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

1221 BROADWAY, 21ST FLOOR

OAKLAND, CALIFORNIA 94612-1837

TELEPHONE: (510) 451-3300

PLEASE REPLY TO:

P. O. Box 12867

OAKLAND, CALIFORNIA 94604-2867

R. M. FITZGERALD 1858-1934  
CARL H. ABBOTT 1867-1933  
CHARLES A. BEARDSLEY 1882-1963  
FACSIMILE: (510) 451-1527

January 7, 1997

VIA FACSIMILE AND U.S. MAIL

Mr. Barney Chan  
1131 Harbor Bay Parkway, 2nd Floor  
Alameda, California 94502

Re: Ninth Avenue Terminal and Keep on Trucking Company, Inc.  
(KOT) Site

Dear Mr. Chan:

This is in response to your letter of December 2, 1996, in which Alameda County Health Care Services Agency (the "County") ordered the Port of Oakland (Port) to provide technical data and recommendations for the implementation of a Corrective Action Plan (CAP) for the Site. This is also in followup to our several telephone conversations since receipt of your December 2, 1996, correspondence. In addition, this letter is in partial response to your letter of January 2, 1997, which was received while this letter was being finalized.

RESPONSE TO LETTER OF DECEMBER 2, 1996

As promised, the Port forwarded to you available data on December 23, 1996, in an Interim Data Report prepared by Subsurface Consultants, Inc. (SCI). We trust that you have found the data of value in determining what course of further actions should be required at the Site; however, we believe it would be appropriate to review and analyze the additional data collected as a result of the hydropunch study commissioned by KOT's consultants, R. Morrison & Associates in November, 1996, which we have not yet received. Although we hope to receive this data soon from KOT pursuant to an Access Agreement between it and the Port, the Port would not be in a position to disclose it to the County, and, therefore we suggest that you obtain this directly from KOT.

Regarding responsible parties, the Port takes exception to the County's contention that "the Port remains the sole responsible

party." KOT has been identified by the U.S. Coast Guard as being the responsible party for the 1992 diesel releases following a detailed investigation by the Coast Guard, which included tracing the diesel to the tank area through red dye inserted in the KOT diesel tank, and, KOT filed required notices under the Oil Pollution Act of 1990 as the responsible party. The fact that KOT claimed financial inability and refused to respond to the incident and the followup investigations required by the County, does not justify your statement.

Based on followup telephone conversations, it appears that the County is not making a factual finding or legal conclusion; rather, the County is stating simply an administrative preference to deal with Port, rather than KOT and the numerous other parties now implicated in the causation of the contamination, because the Port bears liability as the owner and it is more convenient to the County.<sup>1/</sup> If the County would clarify this situation, the Port will continue to cooperate with the County and proceed with the investigations and to develop a cost-effective CAP, while it preserves its rights against its insurance carriers and pursues cost recovery against the parties who caused the pollution. Please provide written clarification of the County's position.

Regarding the County's desire to split the Ninth Avenue Terminal into several sites for the purposes of investigation and/or remediation, we understand the County's desire to seek precise definition to the Site or sites, and to, perhaps, divide the site into several UST/AST cases for ease of administration. However, as we have discussed several times, the Port contends that, until further investigations are performed, reviewed and analyzed, the Ninth Avenue Terminal should not be divided into several sites.

First, a precise division can not be made without further assistance from our experts, whose opinions are protected from disclosure by the work product doctrine (which is particularly

---

<sup>1/</sup> As you may know, a decision by the County (or the RWQCB) to unilaterally name the landowner as solely responsible for contamination, without joining other responsible parties for which there is substantial evidence of culpability, is subject to being appealed and overruled by the SWRCB and/or the courts. See e.g. California Health & Safety Code §25297.1 (d) and (h). See also California State Water Resources Control Board Order No. WQ 85-7, In the Matter of the Petition of Exxon Company U.S.A., et al. August 22, 1985. See also California State Water Resources Control Board Order, In the Matter of the Petition of Borsuk, et al. (citation unavailable.)

relevant given the Port's cost recovery actions against the many parties that have contributed to the contamination).

Second, the Port does not intend to address the environmental conditions at the Site in a piecemeal manner. Doing so would inevitably lead to discussion of solutions and/or requirements by the County which may be inconsistent with one another and/or lead to unnecessary expenditure of funds. For example, a shoreline remedy (such as slurry wall and/or removal of contamination within a certain distance of shore) or site capping and/or closing and/or lining of utility corridors may alleviate the need for complete source removal in other areas of the Site.

Therefore, even though certain polluting events may be separate and distinguishable (as they are for cost recovery purposes), the Port believes that most, if not all, of the petroleum hydrocarbon contamination existing at the Site and within the shoreline areas should be fully evaluated and considered prior to developing a CAP. Given the current data gaps, the Port expects to propose a number of additional phased investigations over the next six to nine months so as to be cost-effective in its investigation and in the development of a CAP.

We hope that the County will understand the wisdom and cost-savings attendant to a phased investigation approach and to the continuation of the characterization efforts prior to proposing remediation. The Port looks forward to discussing with you SCI's recommendations and the Port's next phase and proposed scope of work for further investigation later this week.

PARTIAL RESPONSE TO COUNTY LETTER OF JANUARY 2, 1997

As discussed at the outset of this letter, the Port just received your January 2, letter, and I have not had the opportunity to discuss this letter in detail with either the Port or its consultants. A more detailed response to your letter will follow after the Port has time to review your letter in detail and following our meeting later this week. In this connection, please forward to me all available information regarding "Containment Zone Designation."

Although the Port is not in a position to fully respond to your letter of January 2, 1997, the Port appreciates your apparent agreement that additional investigation will be required prior to the development of a CAP, and its general endorsement of the recommendations reasonably proposed by SCI.

The Port also appreciates your concern over potential delays which it believes may result from the cost recovery process. The Port will continue to cooperate with the County in the best interests of the public, but, due to the litigation and the desire



to preserve all of its cost recovery rights, it may not be able to always respond as quickly as the County might like, and, it may need to insist that certain site specific requests regarding UST's and/or cleanup of releases from UST's and/or AST's be directed at the former operators of the tanks in question. Moreover, although many of the specific requirements contained in your letter were anticipated, some of them were not, and some of them appear to be in excess of the Port's expectations. Notwithstanding the apparent difference of opinion, the Port remains willing to assume the lead role, however, as we discussed, I think it would be appropriate for the County and the Port to meet to see how much common ground exists regarding our clients' respective views of a responsible and reasonable scope of investigation and schedule for same.

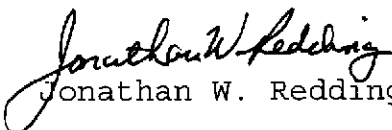
#### CONCLUSION

The Port remains committed to working with you and the County to address the environmental conditions as the site, consistent with: (1) all applicable laws; (2) the public interest; (3) the Port's cost recovery interests; and, (4) the need for a cost-effective remediation scenario. Out of necessity, however, the Port may be required to take positions which are not completely identical to the desires of the County. We trust that you will not personally take offense because of our clients' respective differences of opinion and that you will negotiate with the Port in good faith regarding the method of compliance with the County's outstanding orders and scope of work requirements. Please call me at your earliest convenience to discuss these matters.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By

  
Jonathan W. Redding

JWR:mbb

cc: Michele Heffes, Esq.

ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY  
DAVID J. KEARS, Agency Director

January 2, 1997  
StID #3335

Ms. Michele Heffes  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

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

**Re: Evaluation of Interim Report Site Characterization Eight Ave.  
Area, Ninth Ave. Terminal Port of Oakland 12/23/96**

Dear Ms. Heffes:

In response to my December 2, 1996 letter, our office has received and reviewed the above technical report which summarizes previous work and gives the results of the second phase of site assessment performed by Subsurface Consultant, Inc. (SCI). The most recent work includes the installation of additional monitoring wells and temporary borings in strategic areas. It is clear that additional investigation will be required since the limits of contamination need to be defined for the specific releases identified and a large number of questions still remain unanswered within this site.

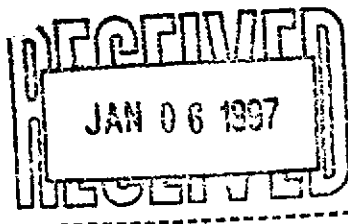
Our office is in receipt of the numerous legal letters of intent to sue in regards to this site. We hope that site investigation, remediation and management can continue in spite of such actions. Until directed otherwise, our office will continue to correspond with the Port for all environmental issues regarding this site. The site includes the areas along 8th, 9th and 10th Ave. with the Embarcadero, Defremery Ave., the Clinton Basin, the Inner Harbor Basin and Brooklyn Basin as boundaries.

In response to the **Recommendations** within the referenced report, our office has the following comments:

Floating product within the manhole located south of the former bulk fuel processing area should not only be periodically checked to measure for free product, but must be removed as accumulated.

We agree that the extent of contamination should be determined in all areas of significant contamination. A comprehensive groundwater monitoring schedule should be adhered to. Please indicate your intended monitoring schedule for the entire network of wells.

Please elaborate on the evaluation of the bulkheads as to their effectiveness in limiting groundwater migration.



Ms. Michele Heffes  
StID #3335  
8th Ave., 9th Ave Terminal Area  
January 2, 1997  
Page 2.

Our office welcomes the opportunity to discuss the findings to date and to agree upon the scope of future investigations. Specific cleanup goals and remedial approaches should also be discussed. It may be necessary to consult with representatives from the Water Board to verify the appropriateness of any proposed Corrective Action Plan (CAP) and to agree upon cleanup levels. Please provide a proposed date for a meeting agreeable with our office and that of the RWQCB.

One remedial approach to consider is whether this area is appropriate for **Containment Zone Designation**. To this end, you are encouraged to examine this site relative to the requirements of this designation.

The results of the electromagnetic survey were not conclusive nor complete. Please address the following:

1. The metallic anomaly detected near the south of Building 229;
2. Clarify the existence and closure of underground tanks beneath the KOT offices and the metallic anomaly north of the office;
3. Clarify the existence of a potential underground tank near Building H-204;
4. Verify the removal or closure of the underground tank @ Building H-230 in Area O; and
5. Verify the existence of a 10K underground tank in Area K, northeast of Building 227.

All unpermitted underground fuel storage tanks must be either permitted or properly closed.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist



# Subsurface Consultants, Inc.

R. William Rudolph, P.E.  
President

December 23, 1996  
SCI 133.005

Mr. Barney Chan  
Alameda County Health Care Services Agency  
Environmental Protection Division  
1131 Harbor Bay Parkway, Suite # 250  
Alameda, California 94502-6577

**Transmittal Letter**  
**Second Interim Report, Site Characterization**  
**Ninth Avenue Terminal Area**  
**Port of Oakland**  
**Oakland, California**

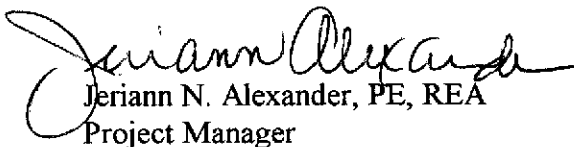
Dear Mr. Chan:

Pursuant to a request by the Port of Oakland and Jonathan Redding, Esq. of Fitzgerald, Abbott & Beardsley, LLP, this letter transmits a copy of the Second Interim Report for the ongoing site characterization study conducted by Subsurface Consultants, Inc. at the Ninth Avenue Terminal. The Port of Oakland will be responding to you under separate cover regarding your letter dated December 2, 1996.

If you have any questions regarding the study or enclosed report, please call.

Yours very truly,

Subsurface Consultants, Inc.

  
Jeriann N. Alexander, PE, REA  
Project Manager

JNA:RWR:clh

Mr. Barney Chan  
Alameda County Health Care Services Agency  
December 23, 1996  
SCI 133.005  
Page 2

Subsurface Consultants, Inc.

cc: Mr. Jonathan Redding  
Fitzgerald, Abbott, & Beardsley

Ms. Michele Heffes  
Deputy Port Attorney

Mr. Jeff Rubin  
Port Environmental Health and Safety Compliance Department

Mr. Rich Hiatt  
Regional Water Quality Control Board

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



December 2, 1996  
StID #3335

Ms. Michele Heffes  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

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

**Re: Request for Technical Reports for 370 8th St., Oakland CA  
94606, Keep On Trucking**

Dear Ms. Heffes:

In our last correspondence with you, our office approved the Subsurface Consultants, Inc. (SCI) August 14, 1996 Work Plan for Further Site Characterization for the above site. An earlier site investigation identified a number of sites near Keep On Trucking which may have environmental concerns. Therefore, the work plan called for additional research, free product removal within a manhole near the southern bulkhead, the installation of fourteen (14) monitoring wells and the advancement of additional borings in areas of suspected environmental concern. This information was agreed to be necessary prior to developing and implementing a Corrective Action Plan (CAP) for the entire area. To date, our office has not been informed if all or part of the approved work has been performed.

Our office requests an update on all additional subsurface investigation which has occurred at and around the above referenced site. At this time, our office is referring to the entire 8th, 9th and 10th Ave. areas as "Keep On Trucking". More appropriately, this site should be separated into several sites for the purposes of investigation or a no further action letter. I understand that the Port is investigating other potential responsible parties, however, until further information is provided, the Port remains the sole responsible party.

Along with this report, the Port should be ready to provide specific recommendations for their CAP. Such a CAP may include limited removal of contamination, the closure of any identified underground tanks, free product removal, baseline Tier 1 risk assessment and/or other remedial actions.

Please provide all technical reports including a written update of site investigation to our office within 30 days or by January 3, 1997. This is a formal request for technical reports pursuant to the California Health and Safety Code and the Water Code.

Ms. Michele Heffes  
StID #3335  
370 8th Ave., Keep on Trucking  
December 2, 1996  
Page 2.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

c: Mr. Jeff Rubin, Port of Oakland, Environmental Department  
Ms. J. Alexander, Subsurface Consultants, Inc., 3736 Mt.  
Diablo Blvd., Suite 200, Lafayette, CA  
94549  
Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, P.O. Box 12867, Oakland  
94604-2867  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland  
CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
Bob Chambers, Alameda County District Attorney Office  
B. Chan, files

4ssiKOT

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

August 30, 1996.  
StID # 3335

Ms. Michele Heffes  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

**Re: Work Plan Addendum for Further Site Characterization at  
370 8th Ave., Oakland CA 94606, Keep On Trucking.**

Dear Ms. Heffes:

Our office has received and reviewed the August 14, 1996 Work Plan Addendum for Further Site Characterization at the Ninth Avenue Terminal as prepared by Subsurface Consultants, Inc., (SCI). This work plan follows the August 2, 1996 meeting with Ms. Jeriann Alexander of Subsurface Consultants, Inc. and Mr. Johnathan Redding of Fitzgerald, Abbott & Beardsley. We have also received and completed cursory review of the two volumes of data in SCI's Interim Site Characterization report.

Based on the review of the August 14, 1996 SCI work plan addendum, review of the Interim Site Characterization report and the contents of the August 2, 1996 meeting our office approves the work plan addendum. The addendum includes:

1. Additional research;
2. Free product removal within the manhole near the southern bulkhead;
3. Installation of fourteen (14) monitoring wells in strategic locations; and
4. Advancement of additional borings in suspected areas of concern. Please keep in mind, additional requirements may result after closer scrutiny of the extensive report.

In addition, during the August 2nd meeting, due to the identification of potential underground tanks, I have notified our inspection staff regarding this information. Future contact with another Hazardous Materials Specialist from our office will occur. Therefore, the verification of tanks and their proper permitting or closure should be pursued by the Port or the tank owner/operator.



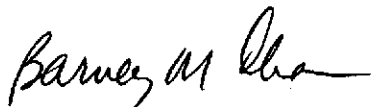
Ms. Michele Heffes  
StID # 3335  
370 8th Ave., Keep on Trucking  
August 30, 1996  
Page 2.

Our office agrees that prior to developing and implementing a Corrective Action Plan for this site, this additional site investigation is warranted.

Please inform our office of all field activities at this site with 72 working hours prior notice.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

c: Mr. Jeff Rubin, Port of Oakland, Environmental Department  
Ms. J. Alexander, Subsurface Consultants, Inc., 3736 Mt.  
Diablo Blvd., Suite 200, Lafayette, CA  
94549  
Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, P.O. Box 12867, Oakland  
94604-2867  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland  
CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
G. Jensen, Alameda County District Attorney Office  
G. Coleman, files

3ssiKOT

8/13 e 2c

**CROSBY, HEAFEY, ROACH & MAY**

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 763-2000

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MAILING ADDRESS:

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OAKLAND, CALIFORNIA 94604-2084

Direct Dial: (510) 466-6803

ONE MARKET PLAZA  
SPEAR STREET TOWER, SUITE 1800  
SAN FRANCISCO, CALIFORNIA 94105-1000  
(415) 543-8700  
FAX (415) 391-8259

700 SOUTH FLOWER STREET, SUITE 2200  
LOS ANGELES, CALIFORNIA 90017  
(213) 896-8000  
FAX (213) 896-8080

20106

8/13/96 Pa

August 2, 1996

Barney Chan

Via Facsimile & U.S. Mail

Ms. Juliet Blake  
Alameda County Health Care Services  
1131 Harbor Bay Parkway #250  
Alameda, CA 94502-6577

Re: Port of Oakland v. Keep on Trucking Company, Inc., et al.  
Your File No. 3335  
Property Location: 370 - 8th Avenue, Oakland, CA 94606  
Our File No. 18123.00020

3335

Dear Ms. Blake:

Pursuant to instructions from Barney Chan, I am writing to request an appointment to review your agency's files relating to the alleged contamination at 370 - 8th Avenue, Oakland, CA 94606, your file no. 3335. I will be out of the office until Monday, August 12, 1996; but will be available to come to your office any time during the week of August 12, 1996, with the exception of the morning of August 13, 1996. I would appreciate it if you would please let me know a convenient time for our review.

Thank you for your assistance.

Very truly yours,

*Philip L. Tudor*

Philip L. Tudor

PLT:ysr

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

August 2, 1996  
StID # 3335

Ms. Michele Heffes  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

**Re: Request for Work Plan for Further Site Characterization at  
370 8th Ave., Oakland CA 94606, Keep On Trucking.**

Dear Ms. Heffes:

Our office met with Ms. Jeriann Alexander of Subsurface Consultants, Inc. and Mr. Johnathan Redding of Fitzgerald, Abbott & Beardsley today at the County's offices. At our meeting, draft results from recent subsurface investigations at the above site were shown which provided information regarding the potential sources and pathways of the petroleum contamination being found at this site. Additional non-petroleum contamination was also detected in these subsurface investigations.

Based on the information presented in this meeting, our office agrees that prior to developing and implementing a Corrective Action Plan for this site, additional site investigation is warranted. We agree that this investigation should continue the previously proposed actions ie completing a detailed utility survey, screening those areas where additional underground tanks exist or may have existed, perform additional soil and groundwater sampling in potential source areas, install additional monitoring wells where appropriate and continue quarterly groundwater monitoring. Our office also concurs with the other items discussed in the meeting ie the installation of perimeter monitoring wells and additional investigation of the property just south of this site. Additionally, the County requests that all free product at this site be removed to the greatest extent possible.

I understand that the previously requested reports are near completion and are expected to be submitted to our office shortly.

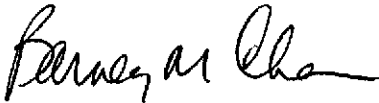
Ms. Michele Heffes  
StID # 3335  
370 8th Ave., Keep on Trucking  
August 2, 1996  
Page 2.

Please submit the requested reports and a work plan for all additional site investigation **within 30 days or by September 3, 1996**. You are reminded that this is a formal request for technical reports pursuant to the Water Code Section 13267 (b) and Chapter 6.7, Section 25299.37 of the Health and Safety Code. The failure to submit the requested reports may subject the Port to civil liability.

Please inform our office of all field activities at this site **with 72 working hours prior notice**.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

c: Mr. Jeff Rubin, Port of Oakland, Environmental Department  
Ms. J. Alexander, Subsurface Consultants, Inc., 171 12th St.,  
Suite 201, Oakland CA 94607  
Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, P.O. Box 12867, Oakland  
94604-2867  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland  
CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
G. Jensen, Alameda County District Attorney Office  
G. Coleman, ~~File~~

.2ssiKOT

JAMES C. SOPER, INC.  
PHILIP M. JELLEY, INC.  
GERALD C. SMITH  
LAWRENCE R. SHEPP  
RICHARD T. WHITE  
MICHAEL P. WALSH  
J. BRITTAIN HABEGGER  
VIRGINIA PALMER  
TIMOTHY H. SMALLSREED  
STEPHEN M. JUDSON  
STEPHEN M. WILLIAMS  
JONATHAN W. REDDING  
BETH E. ASPEDON  
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ANTONIA L. MORE  
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PHILIP E. DRYSDALE  
KRISTEN THALL PETERS  
MATTHEW P. MATIASEVICH  
PAUL B. SALVATY  
CARLO C. MORMORUNNI  
MICHAEL S. WARD  
JEAN C. FUNG

FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

1221 BROADWAY, 21ST FLOOR  
OAKLAND, CALIFORNIA 94612-1837

TELEPHONE: (510) 451-3300

PLEASE REPLY TO:

P. O. Box 12867  
OAKLAND, CALIFORNIA 94604-2867

R. M. FITZGERALD 1858-1934  
CARL H. ABBOTT 1867-1933  
CHARLES A. BEARDSLEY 1882-1963  
FACSIMILE: (510) 451-1527

June 5, 1996

# 3335

Mr. Barney Chan  
Hazardous Materials Specialist  
Alameda County Health Care  
Services Agency  
1131 Harbor Bay Parkway, Second Floor  
Alameda, California 94507

Re: Ninth Avenue Marine Terminal  
(Including the Keep On Trucking Company, Inc. Site)

Dear Mr. Chan:

This letter is in follow-up to our several telephone conversations over the past couple of months concerning the progress of required investigations at the former UST sites, which are currently in the local oversight program (LOP), as well as your letter of May 23, 1996, to Deputy Port Attorney Michele Heffes concerning the Ninth Avenue Marine Terminal site.

Pursuant to your several verbal inquiries and directives to complete follow-up investigations, and, in response to your May 23, 1996, letter, please find enclosed the June 4, 1996, Work Plan for Further Site Characterization prepared by Subsurface Consultants, Inc., which complies with the County's requirements.

X  
Regarding your recent "request" for additional investigative reports and maps, we are not aware at this time as to what reports the County may have previously received or the extent to which its files may be incomplete. We will do a survey of the Port's files and create a comprehensive list of available reports so that you may check them against your files. We will then promptly forward any missing reports, if any, to you.

Regarding additional monitoring wells, I believe such wells may have been recently installed in the areas specified in the work

6/3/96 (15301)

X

Reports : 1) What SCI has done - Borings ; maps  
Utility maps, free product removal

92:1 HD 9--MAY 96  
NO FOLLOW UP  
7/15/96



May 23, 1996  
StID # 3335

MAY 28 REC'D  
**R E C E I V E D**

Ms. Michele Heffes  
Port of Oakland Legal Department  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

*Rec'd \$1800 check  
6/14/96*

Re: Request for Work Plan for Further Site Characterization at  
370 8th Ave., Oakland CA 94606, Keep On Trucking.

Dear Ms. Heffes:

Our office has recently met with Ms. Jeriann Alexander of Subsurface Consultants, Inc. on May 15, 1996. At our meeting additional information was shown which illustrated the complexity of the above site in regards to determining the exact sources of the petroleum contamination being found at this site. It was clear that the initial belief that only two sources of diesel contamination, the aboveground tank at Building H-213 and the underground tank at Building H-107, is not an accurate description of this site. Many inconsistencies can and have been pointed out which cannot be explained solely by the above two sources.

Ms. Alexander's May 14, 1996 letter to Mr. Jonathan Redding as well as conversation with Ms. Alexander pointed out a number of these inconsistencies. Some of these are:

1. Where the aboveground and underground diesel tanks had formerly been, both gasoline and diesel contamination has been detected.
2. Free product and dissolved product contaminant plumes have been observed upgradient of the two identified source areas. Either preferential pathways and/or other sources exist. Significant subsurface utilities have been identified at the site which gives credence to the likelihood of preferential pathways.
3. The actual release point to the estuary during the 1992 diesel release has been reported to be from two areas not solely from the storm drain parallel to Eight Ave. A storm drain with a direct outlet to Clinton Basin reportedly was a discharge point for diesel fuel.
4. A number of underground and aboveground tanks were identified through historic maps of this site. The closure of the underground tanks has not been documented.

Ms. Michele Heffes  
StID # 3335  
370 8th Ave., Keep on Trucking  
May 23, 1996  
Page 2.

5. Recently, free product of an oily nature was found in a manhole near the estuary. Considerable amounts of oily water was removed without diminishing the apparent volume of liquid. The source of this liquid is currently unknown.

6. During our meeting, a large map with overlays was presented which indicated that a number of businesses have occupied this site. Potential additional contaminants as well as additional RPs were discussed based on past business usage.

Based on the information presented in this meeting, our office agrees that prior to developing and implementing a Corrective Action Plan for this site, additional site investigation is warranted. We further agree that this investigation should include, at a minimum, a detailed utility survey, screening in those areas where additional underground tanks exist or may have existed, a soil and groundwater sampling plan, additional monitoring wells were appropriate and continued quarterly groundwater monitoring.

Additionally, you are requested to submit all previous investigative reports (Phase I or Phase II) which has not yet been submitted to our office. We are aware that additional monitoring wells have been installed at the site. Please include a map containing similar information as was presented in the May 15th meeting.

Please inform our office of all field activities at this site with 72 working hours prior notice.

Please submit a work plan for the above referenced additional site investigation within 30 days or by June 24, 1996. Note that this is a formal request for technical reports pursuant to the Water Code Section 13267 (b) and Chapter 6.7, Section 25299.37 of the Health and Safety Code. The failure to submit the requested reports may subject the Port to civil liability.

CHECK

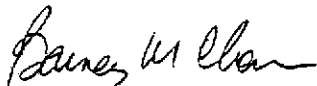
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You are also requested to submit a check for \$1800.00 payable to Alameda County Environmental Health to cover the oversight costs related to this SLIC (Spills, Leaks, Investigation and Cleanup) site. As it is not appropriate to attribute the entire petroleum release at this site to the underground diesel tank, it is no longer possible to oversee this site totally under the LOP (Local Oversight Program). Therefore, the fee requested will be used to provide services related to non-UST related investigation and cleanup oversight.

Ms. Michele Heffes  
StID # 3335  
370 8th Ave., Keep on Trucking  
May 23, 1996  
Page 3.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

c: ~~Mr. Jeff Rubin~~, Port of Oakland, Environmental Department  
Ms. J. Alexander, Subsurface Consultants, Inc., 171 12th St.,  
Suite 201, Oakland CA 94607  
Mr. J. Redding, Fitzgerald, Abbott & Beardsley LLP, 1221  
Broadway, 21st Floor, P.O. Box 12867, Oakland  
94604-2867  
Mr. Richard Padovani, Keep on Trucking, 370 8th Ave., Oakland  
CA, 94606  
Mr. Micheal Delehunt, Crosby, Heafy, Roach & May, 1999  
Harrison St., Oakland CA 94612  
Mr. S. Arigala, RWQCB  
G. Jensen, Alameda County District Attorney Office  
G. Coleman, files

ssiKOT



*Fitzgerald, Abbott & Beardsley LLP*

ATTORNEYS AT LAW

1221 BROADWAY, 21ST FLOOR

P.O. BOX 12867

OAKLAND, CA 94604-2867

TELEPHONE (510) 451-3300

FAX (510) 451-1527

## FACSIMILE TRANSMISSION

TO: Barney Chan FAX: 337-9335

FROM: Jonathan W. Redding, Esq. DATE: May 14, 1996

CLIENT CODE: 15301

PAGES: (including cover)

If copy is illegible or incomplete,  
please call (510) 451-3300.

**MESSAGES:** Attached please find correspondence from Jonathan Redding to Barney Chan regarding the Ninth Avenue Terminal Site, and correspondence from Jeriann Alexander of Subsurface Consultants, Inc. regarding Interim Report Regarding Further Site Characterization. Copies with full exhibits will be hand delivered tomorrow by Jeriann Alexander.

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO BE PROTECTED BY THE ATTORNEY-CLIENT OR OTHER ATTORNEY PRIVILEGES. IT IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. IF YOU ARE NOT THE ADDRESSEE OR THE PERSON RESPONSIBLE FOR DELIVERING FACSIMILES TO THE ADDRESSEE, THEN YOU HAVE RECEIVED THIS FACSIMILE IN ERROR. IN SUCH CASE, YOU ARE NOT AUTHORIZED TO USE, DISSEMINATE, DISTRIBUTE OR COPY SUCH FACSIMILE BUT ARE REQUESTED TO TELEPHONE THE SENDER AND MAIL THE FACSIMILE TO THE SENDER AT THE ABOVE ADDRESS.

faxed by MBB

FITZGERALD, ABBOTT & BEARDSLEY LLP

ATTORNEYS AT LAW

1221 BROADWAY, 21<sup>ST</sup> FLOOR

OAKLAND, CALIFORNIA 94612-1837

TELEPHONE: (510) 451-3300

PLEASE REPLY TO:

P. O. Box 12867

OAKLAND, CALIFORNIA 94604-2867

R. M. FITZGERALD 1858-1934  
CARL H. ABBOTT 1867-1933  
CHARLES A. BEARDSLEY 1882-1963

FACSIMILE: (510) 451-1527

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PHILIP M. JELLEY, INC.  
GERALD C. SMITH  
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STEPHEN M. JUDSON  
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JONATHAN W. REDDING  
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SARAH ROBERTSON McCUAIG  
PHILIP E. DRYSDALE  
KRISTEN THALL PETERS  
MATTHEW P. MATIASEVICH  
PAUL B. SALVATY  
CARLO C. MORMORUNNI  
MICHAEL S. WARD  
JEAN C. FUNG

May 14, 1996

VIA HAND DELIVERY

Mr. Barney Chan  
Hazardous Materials Specialist  
Alameda County Health Care  
Services Agency  
1131 Harbor Bay Parkway, Second Floor  
Alameda, California 94507

Re: Ninth Avenue Terminal Site (Keep On Trucking  
Company, Inc.)

Dear Barney:

Pursuant to the Alameda County Health Care Services Agency's (ACHCSA) previous correspondence directed to the Port of Oakland (the Port), please be advised that I am representing the Port in connection with your requests, requirements and/or Orders which direct the Port to prepare and present workplans for further site characterization and Corrective Action Plans under Title 23, Division 3, Chapter 16, Section 2725.

As we discussed in recent telephone conversations, the Port believes that it is premature to commence the remediation of this site (other than the approved interim remediation of skimming free product) until the following information is obtained: (1) a better understanding of the site's history, and (2) a more thorough understanding of how contamination may be preferentially flowing to the Inner Harbor and/or Clinton Basin from the storm drains, floor drains, sewer drains and other underground utility corridors or sources within and adjacent to Eighth Avenue.

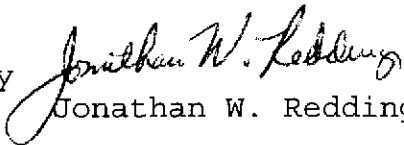
The Port's concerns regarding these potential preferential flow corridors and other potential sources and relevant preliminary conclusions regarding the need for further and broader site

characterization is discussed in the enclosed letter (with recent groundwater monitoring reports) from Subsurface Consultants, Inc.

Please advise me as soon as possible regarding what further action may be required or ordered by ACHCSA so that I may advise my client regarding ACHCSA requirements.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY LLP

By   
Jonathan W. Redding

JWR:iwm

cc: Subsurface Consultants, Inc.  
Michele Heffes, Esq.  
Jeff Rubin  
Jean C. Fung, Esq.

R. William Rudolph, Jr., PE  
Thomas E. Cundey, PE  
Jeriann N. Alexander, PE

May 14, 1996  
SCI 133.005

Mr. Jonathan Redding  
Fitzgerald, Abbott & Beardsley  
1221 Broadway, 21st Floor  
Oakland, California 94612-1837

**Interim Report Regarding Further Site Characterization  
Keep-On-Trucking Diesel Release and  
Ninth Avenue Terminal Area  
Port of Oakland  
Oakland, California**

Dear Mr. Redding:

This letter presents Subsurface Consultants, Inc. (SCI) interim report regarding the historic development and uses of the Ninth Avenue terminal area and our identification of potential on-site contamination sources. Our services to date have included 1) conducting a detailed site reconnaissance, 2) reviewing available agency records pertaining to the site, and 3) reviewing historic aerial photographs. Pursuant to your request, our findings and conclusions are summarized herein. Also enclosed are the quarterly groundwater monitoring reports for the previous Keep-On-Trucking Company, Inc. (KOT) tank sites at Building H-107 and former Building H-213.

The terminal area has been developed since the early 1900's. Since this time numerous industrial and commercial businesses have been on-site. Environmental studies of the area have been limited to investigating a 1992 release of diesel fuel into the adjacent Oakland Inner Harbor Estuary and Clinton Basin. The source of the diesel was identified as a leak in a below ground product pipeline leading from an above ground storage tank (AST) containing diesel. The tank was situated within the former Building H-213, which was then occupied by KOT. The diesel fuel apparently entered one or more storm drains near the AST and flowed via the storm drain system to the basin and estuary. Floating diesel has been observed in wells located in the vicinity of the AST, however, the free product plume is currently situated in the area upgradient of the release point and along a storm drain line. This finding suggests that the floating product associated with the diesel

**■ Subsurface Consultants, Inc.**

171 12th Street • Suite 201 • Oakland, California 94607 • Telephone 510-268-0461 • FAX 510-268-0137

Mr. Jonathan Redding  
Fitzgerald, Abbott & Beardsley  
May 14, 1996  
SCI 133.005  
Page 2

release(s) from KOT at H-213 has already migrated in unsuspected directions, and that it may be distributed to other areas of the Ninth Avenue Terminal through preferential flow along utility corridors and/or abandoned storm drain systems. The extent of hydrocarbon impacts to soil and groundwater have not been fully defined.

Numerous active subsurface utilities exist in the leak area, and extend throughout the terminal. Abandoned utility lines associated with the historical use of the terminal also exist. Subsurface utilities and associated bedding materials may act as potential conduits for contaminant migration to the estuary and basin. Studies to date have not thoroughly investigated the utility lines as potential migration pathways.

In addition to the documented pipeline leak discussed above, several other potential petroleum hydrocarbon sources, which may impact the terminal area, have been identified through our research. These potential sources are summarized below:

- Oil Tanks - West of Building H-232
- 10,000 gallon UST - North of Building H-227
- Suspected UST near former well, circa 1911 - North of Building H-227
- Two UST's - Near former Building H-209/H-229
- Diesel AST - Southwest of Building H-232
- Suspected 1970's surface release of oil at the location of the former American Bitumins and Port Petroleum facilities
- Storm drain and sanitary sewer lines and laterals that extend adjacent to former businesses with suspected petroleum hydrocarbon use
- Storm drain lines that discharge into Clinton Basin

During our site reconnaissance, up to 17 inches of oil was found in a manhole which PORT maps indicate may be connected to a concrete storm drain which extends along Eighth Avenue, and parallel to the former KOT Building H-213. In the vicinity of H-213 this line has been blocked with bricks. Dillard Environmental Services, a certified hazardous materials handler, removed about 750 gallons of oil/water on May 13, 1996. During removal the level of liquid within the manhole remained essentially unchanged. The source of the material is currently unknown.

SCI has also been retained to continue the groundwater monitoring program for two KOT tank areas currently being regulated by the Alameda County Health Care Services Agency (ACHCSA) Local Oversight Program. One well at Building H-107 and six wells at the former H-213 have been monitored by others since 1994 and 1993, respectively. The data from the February 1996 event (see attached reports) indicates that conditions at Building H-213 have not changed significantly since monitoring began in 1993. At H-107, diesel concentrations in February 1996 are approximately 20 times higher (6100 ug/l) than the average of the three previous events (300

Mr. Jonathan Redding  
Fitzgerald, Abbott & Beardsley  
May 14, 1996  
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Page 3

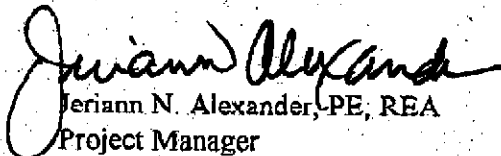
ug/l). Although the reason for this increase is not readily apparent, it is possible that the H-213 release(s) have now migrated into this area via utility corridors and/or abandoned storm drain systems.

Based on the foregoing, it is our opinion that further characterization of the Ninth Avenue terminal area is necessary to evaluate impacts from petroleum hydrocarbon releases. The characterization study should be performed in phases. The first phase should include at a minimum a detailed utility survey, subsurface screening in the areas of other potential underground storage tanks, a soil and groundwater sampling program, additional well installation to evaluate gradient, and on-going groundwater monitoring.

If you have any questions, please call.

Yours very truly,

Subsurface Consultants, Inc.

  
Jeriann N. Alexander, PE, REA  
Project Manager  
Civil Engineer 40469 (exp. 3/31/99)

JNA:RWR:sld

3 copies: Mr. Jonathan Redding  
Fitzgerald, Abbott, & Beardsley

ALAMEDA COUNTY  
HEALTH CARE SERVICES  
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

March 9, 1995  
StID #3335

Ms. Susa Gates  
Port of Oakland  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

DEPARTMENT OF ENVIRONMENTAL HEALTH  
ALAMEDA COUNTY-ENV. HEALTH DEPT.  
ENVIRONMENTAL PROTECTION DIV.  
1131 HARBOR BAY PKWY., #250  
ALAMEDA CA 94502-6577  
(510)567-6700

**Re: Comment on February 21, 1995 Work Plan for Limited Subsurface Investigation at 370 8th St., Oakland CA 94606**

Dear Ms. Gates:

Our office has completed its review of the above referenced work plan for limited subsurface investigation at the Keep On Trucking site. This work plan was in response to the petroleum fuel release detected upon the removal of the 1000 gallon fuel tank on October 12, 1994.

This work plan calls for the installation of two borings and one monitoring well in the downgradient direction relative to the former tank. In general, this approach is acceptable however our office has the following additional requirements:

1. From the two proposed borings, our office requests that at least one soil sample (from the capillary fringe) and a groundwater sample be taken for analysis. Chemical analysis should be for the following analytes: TPHg, TPHd and BTEX.
2. This well along with all wells onsite should be surveyed to mean sea level. Please contact me at least 48 working hours prior to field activities.

It is hoped that the other field activities for the investigation of the above ground diesel fuel release may also be scheduled concurrently with this field work. You may contact me at (510) 567-6765 if you have any questions.

Sincerely,

Barney M. Chan  
Hazardous Materials Specialist

cc: J. Vargas, Clayton Env. Consultants, 1252 Quarry Lane,  
Pleasanton CA 94566  
R. Padovani, KOT, 370 8th Ave., Oakland CA 94606  
G. Coleman, files 2wpapKOT

10/12/95  
Mtg w/ S. Gates, George Mead  
@Clayton.

- will have skimmer on May 4  
+ MW-6 w/ it next week
- 

Next steps: a survey approach  
to determine extent of GW  
contamination including FP.  
w/ hydroponics et al.

Should hear from SG on 2nd  
as to when a WP will be ready  
• looking at NAZ + RBCA.  
• I emphasize no FP + no  
migration to estuary.



ALAMEDA COUNTY  
HEALTH CARE SERVICES  
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

March 13, 1995  
SLIC # 3335

Ms. Susa Gates  
Port of Oakland  
530 Water St.  
P.O. Box 2064  
Oakland CA 94604-2064

DEPARTMENT OF ENVIRONMENTAL HEALTH  
ALAMEDA COUNTY-ENV. HEALTH DEPT.  
ENVIRONMENTAL PROTECTION DIV.  
1131 HARBOR BAY PKWY., #250  
ALAMEDA CA 94502-6577  
(510)567-6700

**Re: Comment on Revised Work Plan for Limited Subsurface  
Investigation and Free Product Recovery at Keep On  
Trucking, 370-8th Ave., Oakland CA 94606**

Dear Ms. Gates:

Our office has completed our review of the above referenced work plan which modifies and replaces the original December 22, 1994 version. The modifications were discussed with myself and Mr. Dariush Dastmachi of Clayton Environmental Consultants. In essence, the locations of the two additional monitoring wells proposed were moved to better determine the extent of soil and groundwater contamination in the area of monitoring well MW-4. In addition, a free product skimmer is proposed to be installed in monitoring well MW-4.


This work plan is acceptable and this field work should be implemented as soon as possible with following additions/modifications:

1. Please contact me at least 48 hours prior to the field work so I may arrange to be present if possible.
2. Please survey the wells at this site relative to mean sea level.
3. Based on the relative high levels of benzene being detected in MW-4, please add the parameter, TPHg, to the analysis of the soil and groundwater samples.
4. The installation of a free product skimmer should be considered a temporary remedial action. A Corrective Action Plan, CAP, per Title 23, Division 3, Chapter 16, Section 2725 should also be in your immediate plans. Please update your attempts to complete a CAP in your future quarterly monitoring reports. As mentioned in my prior letter, perhaps the investigation on the underground diesel tank can be scheduled along with this field work.

Ms. Susa Gates  
SLIC # 3335  
KOT, 370-8th Ave.  
March 13, 1995  
Page 2.

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

Sincerely,



Barney M. Chan  
Hazardous Materials Specialist

cc: R. Padovani, Terminal Mgr., Keep On Trucking, 370-8th Ave.,  
Oakland CA 94606  
D. Dastmalchi, Clayton Environmental Consultants, 1252 Quarry  
Lane, P.O. Box 9019, Pleasanton, CA 94566  
G. Coleman, files

wpsl-370

ALAMEDA COUNTY  
HEALTH CARE SERVICES  
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR  
DEPARTMENT OF ENVIRONMENTAL HEALTH

December 30, 1994  
StID # 3335

Mr. Neil Werner  
Port of Oakland  
P.O. Box 2064  
Oakland CA 94604-2064

ALAMEDA COUNTY  
ENVIRONMENTAL PROTECTION DIVISION  
1131 HARBOR BAY PKWY., #250  
ALAMEDA CA 94502-6577 CC4530

**Re: Subsurface Investigation at 370 8th Ave., Keep On Trucking,  
Oakland CA 94606**

Dear Mr. Werner:

Our office has received and reviewed the December 7, 1994 report by ERM-West Inc., which details the removal of the 1000 gallon underground diesel tank on October 12, 1994. In regards to your consultant's recommendation and conclusions, our office has the following comments/concerns:

1. We are aware that the soils generated from the excavtion were removed for disposal. Please provide copies of the disposal receipts for this soil.
2. Our office has no objection to including the area of this tank removal along with the current investigation of the above ground tank fuel release. Please include a map of the entire site in your future reports.
3. Please review the accuracy of Figure 1 in this report. There appears to be errors in either compass direction and/or the street designations.
4. The report requests that levels of hydrocarbon in the north and east sidewalls be allowed to remain in place. This is acceptable based on some type of risk assessment assessing the levels which are being left in place.
5. Please provide a work plan for the delineation of the soil and groundwater contamination at this site **within 45 days or by February 15, 1995**. This work plan should include installation of at least one permanent monitoring well. You may contact me at (510) 567-6765 if you have any questions.

Sincerely,

Barney M. Chan, Hazardous Materials Specialist

cc: J. Prall, ERM West Inc., 1777 Botelho Dr., Suite 260, Walnut  
Creek, CA 94596  
E. Howell, files 1wp-KOT



ALSO  
HAZMAT

# PORT OF OAKLAND

December 14, 1994

Mr. Barney Chan  
Hazardous Materials Division  
Department of Environmental Health  
Alameda County Health Services Agency  
1131 Harbor Bay Parkway  
Alameda, CA 94502-6577

KOT

**SUBJECT: UST Tank Removal, 370 8th Avenue, Oakland, CA**

Dear Mr. Chan:

Enclosed, you will find a copy of the report of the UST Tank Removal, 370 8th Avenue, (Keep on Trucking), Oakland, California. The report includes a description of all the activities related to this project.

As you are aware, the Port inadvertently has backfilled the excavation without removing all the effected soil. We propose to prepare a work plan which will better delineate the extent of the impacted soils and groundwater. Because this site is in close proximity to the KOT spill subsurface investigation, we would like to combine the projects an look at the overall site conditions. Our consultant on the KOT spill investigation is preparing a work plan to address both investigations.

Please call me at (510)-272-1184 if you have any comments or questions.

Sincerely,

Jon Amdur  
Environmental Scientist

cc w/o report:  
Neil Werner (Environmental Department)

enclosure\

white -env.health  
 yellow -facility  
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

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

Hazardous Materials Inspection Form

II, III

Site ID # 3335 Site Name KEEP ON TRACKING Today's Date 10/12/94

II.A BUSINESS PLANS (Title 19)

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

Site Address 370 8TH AVENUE

City OAKLAND Zip 94606 Phone \_\_\_\_\_

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

Inspection Categories:

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

II.B ACUTELY HAZ. MATLS

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

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

III. UNDERGROUND TANKS (Title 23)

- General
- \_\_\_ 1. Permit Application 25284 (H&S)
  - \_\_\_ 2. Pipeline Leak Detection 25292 (H&S)
  - \_\_\_ 3. Records Maintenance 2712
  - \_\_\_ 4. Release Report 2651
  - \_\_\_ 5. Closure Plans 2670

- Monitoring for Existing Tanks
- \_\_\_ 6. Method
    - 1) Monthly Test
    - 2) Daily Vadose  
Semi-annual groundwater  
One time soils
    - 3) Daily Vadose  
One time soils  
Annual tank test
    - 4) Monthly Groundwater  
One time soils
    - 5) Daily Inventory  
Annual tank testing  
Cont pipe leak det  
Vadose/groundwater mon.
    - 6) Daily Inventory  
Annual tank testing  
Cont pipe leak det
    - 7) Weekly Tank Gauge  
Annual tank testing
    - 8) Annual Tank Testing  
Daily Inventory
    - 9) Other \_\_\_\_\_

- \_\_\_ 7. Precs Tank Test 2643  
Date: \_\_\_\_\_
- \_\_\_ 8. Inventory Rec. 2644
- \_\_\_ 9. Soil Testing . 2646
- \_\_\_ 10. Ground Water. 2647

- New Tanks
- \_\_\_ 11. Monitor Plan 2632
  - \_\_\_ 12. Access. Secure 2634
  - \_\_\_ 13. Plans Submit 2711  
Date: \_\_\_\_\_
  - \_\_\_ 14. As Built 2635  
Date: \_\_\_\_\_

Rev 6/88

Comments: 10:35 AM  
ON SITE TO OBSERVE/WITNESS  
REMOVAL OF A 2000 GALLON GASOLINE TANK.  
FIRST VISIT TO SITE RESEARCHED, TO 2:00.  
TANK TO BE REMOVED BY ENVIRONMENTAL  
INVESTIGATION & ACTION. SOIL SAMPLING TO  
BE CONDUCTED BY ERM WEST.  
2:10 TANK INSERTED 12'  
UCL 0  
O<sub>2</sub> 3%  
~500 GALS OF LIQUID PUMPED FROM TANK TO TANKER.  
H<sub>2</sub>O PRESENT IN BOTTOM OF TANK PIT.  
APPROX 6" OF LIQUID W/ SHEEN.  
PHOTOS TAKEN TO DOCUMENT EVENT.  
NO OBVIOUS THROUGH GOING HOLES OBSERVED.  
TANK INSERT COVERED W/ A TAR LIKE MATERIAL.  
SOIL SAMPLES TAKEN INTO AMBER GLASS CONTAINERS W/ SCREEN TOP  
EAST AND WEST ENDS SAMPLED. 20 LITERS TOTAL FROM PIT.  
PID READINGS HIGHEST 47 PPM. STOCKPILE 168 PPM.  
ODOR FROM TANK PIT.

Contact: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_

Inspector: ROBERT WESTON  
 Signature: [Signature]

II, III



**John Stewart**  
Electrical/Mechanical  
Inspector  
(510) 272-1585  
FAX (510) 451-8907

*John Amador*

P.O. Box 2064  
773 3rd Street  
Oakland, California  
94607

ON-SITE  
10-12-94  
370 8TH AVE



*Paul Malden*

**Jim Horne**  
Director of Operations

Corporate Offices:  
1171 Railroad Street  
Corona, California 91720 USA

Phone: 909 / 273-1144  
Fax: 909 / 273-1433

**ERM-West, Inc.**

**Anthony Saponara**  
Senior Associate

1777 Botelho Drive  
Suite 260  
Walnut Creek, CA 94596  
(510) 946-0455  
(510) 946-9968 (Fax)



A Member of the Environmental  
Resources Management Group

ALAMEDA COUNTY  
HEALTH CARE SERVICES  
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH

September 6, 1994  
ID # 3335

Mr. Jon Amdur  
Port of Oakland  
530 Water Street  
Oakland CA 94607

Alameda County  
Health Care Services Agency  
Dept. Of Environmental Health  
1131 Harbor Bay Pkwy 2nd Flr.  
Alameda Ca 94502-6577

**Re: Request for Work Plan for Further Subsurface Investigation  
for 375 8th Ave., Oakland CA 94606, Keep On Trucking.**

Dear Mr. Amdur:

As you are aware, I have recently taken over the oversight of this site from Mr. Paul Smith. During our recent conversation, there appeared to be some mix-up in the recent quarterly monitoring reports submitted. Please be aware, our office has received duplicate reports for the April 1994 monitoring event in cover letters dated July 18, 1994 and August 29, 1994. The only difference being that Table 3 in the report dated July 18, 1994 includes sampling analytical data for the 6/2/94 monitoring event. All other items in the reports are identical. This event indicates that monitoring well MW-4 was not sampled for any parameters. I assume this is due to the presence of free product in this well.

I spoke today with Mr. Douglas Sheets of Uribe and Associates and commented on our offices concern in regards to the free product being found in MW-4. It is appropriate at this time to request a supplemental work plan which addresses this situation. Please submit such a work plan **within 45 days or by October 21, 1994** which will:

1. Determine the limits of the highly dissolved and floating petroleum hydrocarbon being found in MW4.
2. Describe what actions will be performed to determine the most appropriate remedial approach. This may include the performance of a pump test, additional excavation etc.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Barney M. Chan".

Barney M. Chan  
Hazardous Materials Specialist

cc: Mr. D. Sheets, Uribe & Associates, 2930 Lakeshore Ave., Suite  
200, Oakland CA 94610.

files

wpad375



**ENVIRONMENTAL  
INVESTIGATION & ACTION, INC.**



**FAX COVER SHEET**

DATE: 9/12/94

ATTN: Barney Chan

COMPANY: Alameda County Env. Health

FAX #: (510) 337-9335

RE: Part of Oakland Project 370 8th Avenue

DOCUMENTS: Refund Receipt

PAGES: 1 cover

COMMENTS: Info you request to get approval on permits.

FROM: Theresa St. John  
**Environmental Investigation and Action, Inc.**  
**22390 Thunderbird Place**  
**Hayward, CA 94545**  
**(510) 264-9081**  
**(510) 264-9083 fax**



**ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION**  
**Acknowledgement of Refund Recipient for Site Account**  
 DEPOSITOR FILLS OUT PER SITE  
 -- REQUIRED --

The depositor will use this form to acknowledge that the property owner or his or her designee will receive any refund due at the completion of all deposit/refund projects at the site listed below.

SITE NUMBER/ADDRESS:

REFUND RECIPIENT-PROPERTY OWNER

Site Number Part of Oakland  
370 8th Avenue.  
 Company Name  
370 8th Avenue  
 Street Address  
Oakland, CA 94606  
 City Zip Code

Part of Oakland  
 Owner's Name  
P.O. Box 2064  
 Owner's Address  
Oakland CA, 94604-2064  
 Owner's City State Zip

I have read the description of the project Deposit/Refund Procedure, and have had an opportunity to ask questions about it. I understand that regardless of who deposits money into the site account, any deposit money remaining at the completion of all projects being conducted at this site will be refunded solely to the property owner or his or her designee.

Bob Mercede 5/9/94  
 Signature of Depositor Date

Bob Mercede  
 Depositor Name

Environmental Investigation & Action Inc.  
 Company Name

22390 Thunderbird Pl.  
 Street Address

Hayward 94545  
 City Zip



# **KEEP ON TRUCKING Co., Inc.**

July 13, 1994

Alameda County  
Department of Environmental Health  
Hazardous Materials Division  
1131 Harbor Bay Parkway #250  
Alameda CA 94502

Dear Sir or Madam,

Please find enclosed a check from Keep on Trucking Company, Inc. for \$1,000.00. This check represents an additional deposit your agency requested in a letter to the Port of Oakland - Environmental Compliance Division (copy attached). This regards project # 2140B - R at 370 8th Avenue, Oakland 944606.

Sincerely,

Michael D'Oliveira  
Vice President, Finance and Administration

cc: Richard Padovani

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



HEALTH CARE DEPT.

NO: 11

MAY 18 1994  
RECEIVED

RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

May 18, 1994

ATTN: Mr Jon Amdur

Port Envirnmntl Compliance  
530 Water St  
Oakland CA 94607

RE: Project # 2140B - R  
at 370 8th Ave in Oakland 94606

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 \$1,000.00, payable to Alameda County.

Please write your project number and site address on your check.

We must receive this deposit before we perform any further work on this project. At the completion of this project, any unused monies will be refunded to you or your designee.

If you have any questions, please contact Barney Chan at (510) 271-4320.

Sincerely,

Handwritten signature of Edgar B. Howell III in cursive.

Edgar B Howell III, Chief  
Hazardous Materials Division

c: files/inspector

REC'D JUN 10 1994

ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION  
DEPOSIT / REFUND ACCOUNT SHEET

SITE INFORMATION

*PORT OF OAKLAND*  
Keep On Trucking Co. Inc.  
370 - 8th Ave.  
Oakland 94606  
Site Contact:  
Site Phone :

StID: 3335 Site#: 2140  
PROJECT#: 2140B  
PROJECT TYPE: R  
INSP: ~~Britt Johnson~~ *B.C.*  
ACCT. SHEET PG #: \_\_\_\_\_

PROPERTY OWNER INFORMATION

Owner Contact:  
Owner Phone :

CONTRACTOR INFORMATION

Riedel Environmental Svcs.  
4138 Lakeside Dr.  
Richmond CA 94802 # 74  
Contr. Contact:  
Contr. Phone : 510/222-7810

Date	Action Taken	Time		Hours Spent/Depstd	Hour Balnce	Money Spent/Depositd	Money Balance
		In	Out				
	Balance from Prev. Page	.....	.....	.....	.....	.....	.....
	Rcpt# U668991						
04/20/93	Deposit of \$483.00 @ \$75/hour			+6.44			483.00
4/20/93	<i>APPROVAL PLANS CONSULTANT</i>	11:15	12:30	1.25		93.75	389.25
4/27/93	<i>TANK REMOVAL *</i>	10:45	1:00pm	2.25		168.75	220.50
5-7-93	<i>2 billing</i>						
12/21/93	<i>transfer to Barney</i>				0.3	22.50	198.00
3/21/94	<i>file review (BE)</i>			0.5		37.50	160.50
4-8-94	<i>2 billing</i>						
5/13/94	<i>file review</i>			0.5		37.50	123.00
5/16/94	<i>file review</i>			2.0		150	-27.00
<i>ET</i>							

UPON COMPLETION OF PROJECT

PROJ COMPLETED BY : \_\_\_\_\_ ATTACH:  State Forms A, B & C  
 Billing Adjustment\*  
DATE OF COMPLETION : \_\_\_\_\_ DATE SENT TO BILLING: \_\_\_\_\_  
TOTAL COST OF PROJECT: \_\_\_\_\_ REFUND AMOUNT: \_\_\_\_\_ Rev. 1/93

\* Billing adjustment forms needed when site is in our UST program.

ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION  
DEPOSIT / REFUND ACCOUNT SHEET

3375

SITE INFORMATION

Keep On Trucking Co. Inc.  
370 - 8th Ave.  
Oakland 94606  
Site Contact:  
Site Phone :

StID:	Site#: 2140
PROJECT#:	2140A
PROJECT TYPE:	M
INSP:	PAUL SMITH
ACCT. SHEET PG #:	1

PROPERTY OWNER INFORMATION

Owner Contact:  
Owner Phone :

CONTRACTOR INFORMATION

Keep On Trucking Co. Inc.  
607 West B Street  
Wilmington CA 90744 #714  
Contr. Contact:  
Contr. Phone :

Date	Action Taken	Time		Hours Spent/Depstd	Hour Balnce	Money Spent/Depositd	Money Balance
		In	Out				
	Balance from Prev. Page	.....	.....	.....		.....	
	Rcpt# U668940						
03/02/93	Deposit of \$2,000.90 @ \$75/hour			+26.67			2000.-
11/14/92	tel con Roy Balcom <sup>Port</sup> Jon Amador	2:00	2:30	0.5		37.50	1962.50
11/20/92	letter to Jon Amador	9:00	10:30	1.5		106.50	1856.-
11/23/92	command 1 send letter - J. Amador	8:30	9:00	0.5		37.50	1818.50
11/30/92	tel con Jon Amador re: adjoining sites	1:30	2:00	0.5		37.50	1781.-
12/11/92	site visit Alon white/Jon Amador	1:30	3:30	2.0		142.-	1639.-
12/14/92	tel con Jon Amador	9:30	10:00	0.5		35.50	1603.50
12/23/92	tel con Neil Werner	11:00	11:15	0.25		17.75	1585.75
12/31/92	letter Neil Werner	9:30	11:00	1.5		106.50	1479.25
1/4/93	letter Neil Werner			0.5		37.50	1441.75
1/29/93	review workplan write letter(s)			1.0		75.00	1366.75
2/10/93	tel con Jon Amador prepared Chronology			1.5		112.50	1254.25
1/20/93	tel con N. Werner, G. Jensen & letter <sup>to port</sup>			2.0		150	1104.25

UPON COMPLETION OF PROJECT

5-7-93 2 billing  
PROJ COMPLETED BY :

ATTACH:  State Forms A, B & C  
 Billing Adjustment\*

DATE OF COMPLETION : \_\_\_\_\_ DATE SENT TO BILLING: \_\_\_\_\_

TOTAL COST OF PROJECT: \_\_\_\_\_ REFUND AMOUNT: \_\_\_\_\_ Rev. 1/93

\* Billing adjustment forms needed when site is in our UST program.

**ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION  
DEPOSIT / REFUND ACCOUNT SHEET**

**SITE INFORMATION**

Keep On Trucking Co. Inc.  
370 - 8th Ave.  
Oakland 94606  
Site Contact:  
Site Phone :

StID:	Site#: 2140
PROJECT#:	2140A
PROJECT TYPE:	M
INSP:	PAUL SMITH
ACCT. SHEET PG #:	2

**PROPERTY OWNER INFORMATION**

Owner Contact:  
Owner Phone :

**CONTRACTOR INFORMATION**

Keep On Trucking Co. Inc.  
607 West B Street  
Wilmington CA 90744 #714  
Contr. Contact:  
Contr. Phone :

Date	Action Taken	Time In	Time Out	Hours Spent/Depstd	Hour Balnce	Money Spent/Depositd	Money Balance
	Balance from Prev. Page	.....	.....	.....		.....	1104.25
03/02/93	Rcpt# U668940 Deposit of \$2,000.90 @ \$75/hour			+26.67			
1/22/93	review letter ROT				1.0	75.-	1029.25
2/17/93	review workplan 1 letter				2.5	187.50	841.75
2/18/93	revision to ROT letter				0.5	37.50	804.25
2/19/93	met w/ Ed Kilda write re: ROT				0.25	18.75	785.50
2/23/93	meet w/ N. Warner/Ed Kilda	1:00	3:00		2:00	150.-	635.50
2/25/93	tel con Ed Kilda, Jon Amund				0.5	37.50	598.-
2/26/93	tel con Neil W., Ed Kilda				0.5	37.50	560.50
3/1/93	met Ken Hofford. sit visit <del>site</del>				0.5	37.50	523.-
3/2/93	signed up timesheet received <sup>dep/ret</sup>	5:15	5:30		0.25	18.75	504.25
3/31/93	TURN OVER FROM PAUL REVIEW FILE	10:00	11:00	1		75.0	429.25
4/5/93	REVIEW 3/31/93 REPORT	1:30	2:30	1		75	354.25
4/29/93	SITE VISIT REPORT	3:45	4:30	.75		56.25	298.00
5-7-93	2 billing						

UPON COMPLETION OF PROJECT

PROJ COMPLETED BY : \_\_\_\_\_ ATTACH:  State Forms A, B & C  
 Billing Adjustment\*  
 DATE OF COMPLETION : \_\_\_\_\_ DATE SENT TO BILLING: \_\_\_\_\_  
 TOTAL COST OF PROJECT: \_\_\_\_\_ REFUND AMOUNT: \_\_\_\_\_ Rev. 1/93

\* Billing adjustment forms needed when site is in our UST program.



white -env.health  
 yellow -facility  
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

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

Hazardous Materials Inspection Form

II, III

Site ID # 3135 Site Name PORT OF OAKLAND Today's Date 4/27/93

Site Address 370 8TH AVE  
 City OAKLAND Zip 94606 Phone \_\_\_\_\_

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

Inspection Categories:  
 I. Haz. Mat/Waste GENERATOR/TRANSPORTER  
 II. Business Plans, Acute Hazardous Materials  
 III. Underground Tanks  
REMOVAL

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

Comments:  
REMOVAL OF 500 GALLON  
UST - STEEL

AREA IS CONTAMINATED WITH  
DIESEL FROM PIPELINE OF  
AN ABOVEGROUND TANK

NO SOIL SAMPLES COURTESY  
DUE TO CONTAMINATION

JOHN AMOUR OF PORT OF OAKLAND  
PRESENT

INSP LANDED ORO

O<sub>2</sub> < 10% LEL 3%P  
(1.8%)

NO VISUAL HOLES

II.A BUSINESS PLANS (Title 19)

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

II.B ACUTELY HAZ. MAT'L S

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

III. UNDERGROUND TANKS (Title 23)

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

Rev 6/88

Contact: Don Watts  
 Title: OPERATIONS MGR  
 Signature: DWatts

Inspector: BRITT JOHNSON  
 Signature: Bj

II, III



4/27/93

ENVIRONMENTAL CONSULTING SERVICES



Andrew J. Meyer  
Environmental Technician

**URIBE & ASSOCIATES**  
2930 LAKESHORE AVENUE  
SUITE TWO HUNDRED  
OAKLAND, CALIFORNIA 94610  
510-832-2233  
FAX 510-832-2237

"IMAGINEERING A CLEANER WORLD"



CONTRACTOR LICENSE NO. 483436

(510) 222-7810  
FAX: (510) 234-0635  
1-800-334-0004

**DON WATTS**  
OPERATIONS MANAGER

**RIEDEL ENVIRONMENTAL  
SERVICES, INC.**

4138 LAKESIDE DRIVE  
RICHMOND, CA 94806



# PORT OF OAKLAND

April 26, 1993

Mr. Britt Johnson  
Hazardous Materials Division  
Department of Environmental Health  
Alameda County Health Services Agency  
80 Swan Way, Room 200  
Oakland, CA 94621

**SUBJECT:** Report of the Investigation of the Diesel Spill at *Keep on Trucking*, 370 8th Avenue, Oakland, CA 94606

Dear Mr. Johnson:

Enclosed, you will find a copy of the Investigation of the Diesel Spill at *Keep on Trucking*, 370 8th Avenue, Oakland, California. This report was produced by Uribe and Associates, the Port of Oakland's consultant for this project.

The workplan for the site investigation at KOT, submitted by the Port on 22 January 1993, is extensive with a number of activities that will vary in the amount of time they will take to complete. In order to move the project forward and to supply information to the various agencies in a timely manner, we propose to submit short reports on each aspect of the workplan as they are completed. This report is the second of the series of short reports on the various aspects of the site investigations. The first of these reports titled Report of the source area primary pathway investigation at *Keep on Trucking*, 370 8th Avenue, Oakland, CA 94606, was sent to Mr Paul Smith of your office on 31 March 1993.

In addition, you will find an Addendum to the Source Investigation Summary and Workplan to Delineate Soils and Groundwater Contamination, 370 8th Avenue, Oakland, California, submitted by the Port on 22 January 1993. **This addendum addresses the installation of a drain trench and recovery well sump to facilitate the removal of floating product in the vicinity of the former above ground tank.** If you have any questions regarding this report or any activities associated with this project, please contact me at (510) 272-1184.

Sincerely,

Jon Amdur  
Environmental Scientist

cc/w report:

Mr. Ray Balcom, SFRWQCB, 2101 Webster Street, 5th Floor, Oakland, CA 94612  
Mr. Rich Hiatt, SFRWQCB, 2101 Webster Street, 5th Floor, Oakland, CA 94612  
Ensign John Park, MER Division, Building 14, Marine Safety Office, San Francisco  
Bay, Coast Guard Island, Alameda, CA 94501  
Mr. Richard Padovani, Terminal Manager, Keep on Trucking' Co., Inc., 370 8th Avenue,  
Oakland, CA 94606

cc/wo report:

Mr. Gil Jensen, Alameda County District Attorneys Office of Consumer and  
Environmental Affairs, 7677 Oakport Dr., Suite 400, Oakland, CA 94621  
Mr. Dale Wong, CA Department of Fish and Game, Office of Oil Spill Prevention and  
Response, P.O. Box 944209, Sacramento, CA 94244  
Captain J.M. MacDonald, U.S. Coast Guard, Marine Safety Office, Building 14,  
Coast Guard Island, Alameda, CA 94591-5100  
Mr. Michael E. Delehunt, Crosby Heafy, Roach and May, 1999 Harrison Street, Oakland, CA  
94612  
Ms. Michele Heffes (Legal Department)  
Mr. Andrew Clark-Clough, Uribe and Associates, 2930 Lakeshore Ave. Suite 200,  
Oakland, CA 94610  
  
Mr. Neil Werner (Environmental Department)  
Mr. Dave Adams (Marine Terminals)



# PORT OF OAKLAND

April 20, 1993

Mr. Britt Johnson  
Hazardous Materials Division  
Department of Environmental Health  
Alameda County Health Services Agency  
80 Swan Way, Room 200  
Oakland, CA 94621

SUBJECT: Second update on the site investigation associated with the diesel spill from *Keep on Trucking*, 370 8th Avenue, Oakland, CA 94606

Dear Mr. Johnson:

In order to keep all interested parties informed about the progress of the site investigation related to the Keep on Trucking (KOT) diesel spill, the Port will prepare periodical updates of the Port's activities at the site. Enclosed, you will find a copy of the second update on the progress of the site investigation at KOT.

The workplan for the site investigation at KOT is extensive with a number of activities that will vary in the amount of time they will take to complete. In order to move the project forward and to supply information to the various agencies in a timely manner, we propose to submit short reports on each aspect of the workplan as they are completed. The first of these short reports, titled Report of the Source Area Primary Pathway Investigation at Keep on Trucking, was transmitted to Paul Smith of your office on 31 March 1993. The second short report titled, Investigation of the Diesel Spill at Keep on Trucking, 370 8th Avenue, Oakland, will be transmitted to you by next week.

Phase one of the project, the cleanup of the spill in the estuary and storm drains, and the identification and closure of the source, is complete. The report on phase one, Source Investigation Summary and Workplan to Delineate Soils and Groundwater Contamination, dated 20 January 1993 has been transmitted to all agencies.

We are now in phase two, the site soils and groundwater investigation. Although there is localized diesel contamination in the soils and groundwater, we have prevented any further discharge of fuel to the storm drain system or the estuary.

I would appreciate it if you would call me at (510)-272-1184 with your questions or comments, rather than contacting our consultant, Uribe and Associates, directly. Thank you for your cooperation on this project.

Sincerely,

Jon Amdur  
Environmental Scientist

cc: Michele Heffes, (Legal Department)  
Neil Werner, (Environmental Department)  
David Adams, (Marine Terminals Department)  
Mr. Andrew Clark-Clough, Uribe and Associates, 2930 Lakeshore Ave,  
Suite 200, Oakland, CA 94610

Mr. Ray Balcom, SFRWQCB, 2101 Webster Street, 5th Floor, Oakland, CA 94612  
Mr. Rich Hiatt, SFRWQCB, 2101 Webster Street, 5th Floor, Oakland, CA 94612  
Mr. Richard Padovani, Terminal Manager, Keep on Trucking Co., Inc., 370 8th Avenue,  
Oakland, CA 94606  
Mr. Michael E. Delehunt, Crosby, Heafy, Roach and May, 1999 Harrison Street,  
Oakland, CA 94606  
Mr. Dale Wong, CA Department of Fish and Game, Office of Oil Spill Prevention and  
Response, P.O. Box 944209, Sacramento, CA 94244  
Captain J.M. MacDonald, U.S. Coast Guard, Marine Safety Office, Building 14,  
Coast Guard Island, Alameda, CA 94591-5100  
Ensign John Park, MER Division, Building 14, Marine Safety Office, San Francisco  
Bay, Coast Guard Island, Alameda, CA 94501  
Mr. Gil Jensen, Alameda County District Attorneys Office of Consumer and  
Environmental Affairs, 7677 Oakport Dr., Suite 400, Oakland, CA 94621

enclosure\



# PORT OF OAKLAND

March 4, 1993

Mr. Paul Smith  
Hazardous Materials Division  
Department of Environmental Health  
Alameda County Health Care Services Agency  
80 Swan Way, Room 200  
Oakland, CA 94621

**SUBJECT: RESPONSE TO YOUR LETTER OF FEBRUARY 18, 1993, CONCERNING THE WORKPLAN ADDRESSING DIESEL CONTAMINATION ASSOCIATED WITH THE KEEP ON TRUCKING COMPANY, INC ("KOT") FACILITY AT 370 8th AVENUE, OAKLAND, CA 94606**

Dear Mr. Smith:

This letter responds to your letter to me dated February 18, 1993, concerning the Port of Oakland's ("Port's") workplan for further investigation of diesel contamination at the KOT site.

Your letter indicates that the Port's Workplan is approved with the inclusion of six items which you describe in your letter. The purpose of this letter is to document the proposed revisions to the Port's Workplan for your review and approval. Item numbers below refer to the items in your letter.

***Item 1: Discuss the storage, characterization and disposition of the future stockpiled material created during over excavation and from borings etc.***

All soils and other solid waste (e.g., absorbent pads, etc.) generated from borings, excavations appropriately labelled and other investigation activities will be temporarily stored on the KOT site pending final soil disposal at an appropriate landfill. Soils will be stored either in appropriately labelled metal containers or 55-gallon drums, or on visqueen and covered by visqueen. Other solids will be stored in appropriately labelled drums, metal containers, or plastic bags. All liquids generated from the investigation will be temporarily stored in storage tanks on site until, like the solids, they can be properly characterized for disposal.

The wastes at the site will be analyzed for TPH-D (EPA Method 8015-modified) and BTEX (EPA Method 8020). Excavated soil constituting a hazardous waste will be sent to a Class I facility, and excavated soil constituting a non-hazardous waste will be sent to either a Class II or Class III facility depending on the constituents in the non-hazardous waste and on disposal facility requirements. Liquid waste will be sent either to a petroleum recycler, or depending on its constituents, a discharge request may be made to the Regional Water Quality Control Board, San Francisco Bay Region (RWOCB).

***Item 2: In characterizing the site and in determining whether additional borings/over excavation are needed you are required to analyze samples for the presence of benzene, toluene, ethylbenzene and xylene (BTEX). If levels of benzene are encountered in soil above detection levels further elaboration of the lateral and vertical [extent of] contamination beyond the specified 100 ppm TRPHD will then be required.***

First, some clarification is needed regarding the types of analytical results described in the workplan. The Port has relied primarily on two types of laboratory analyses to date in this investigation: Total Recoverable Petroleum Hydrocarbons (TRPH) and Total Petroleum Hydrocarbons measured as Diesel (TPH-D). TRPH was used in the early stages of the investigation when the type of contamination was as yet unconfirmed. The TRPH test is relatively imprecise and measures the concentrations of several types of hydrocarbons and may even record naturally occurring organic matter as hydrocarbons.

You mention in your letter that analytical results showing levels of "Total Recoverable Petroleum Hydrocarbons as diesel (TRPHd) as high as 640 ppm" were recorded. The 640 ppm figure that you mention is a TRPH value, not a TPH-D value, and as such it does not necessarily indicate diesel concentration. In fact, in the borehole where the 640 ppm level was detected (B6), both TPH-D and BTEX concentrations were non-detectable in the soil. This and other results indicate that the TRPH levels obtained in this investigation are not reliable in identifying soils that may have been impacted by the diesel release. The TRPH test may be recording concentrations of naturally occurring substances found in marine sands and clays. Samples from seven of the twelve borings have been analyzed for BTEX and all results have been non-detects. In addition, two groundwater samples have been analyzed for BTEX and there were no detectable concentrations. The Port has requested that our consultant, Uribe & Associates (U&A), summarize the existing BTEX results for the KOT site. The Port will transmit the summary to you under separate cover. Due to the low concentrations of BTEX in diesel and the non-detectable BTEX results to date, the Port proposes to not analyze for BTEX except as provided for immediately below.

As we have agreed verbally, the Port will continue to analyze for BTEX in the soil and groundwater in the immediate vicinity of the leaking fuel line and underground storage tank ("UST") located at the KOT Facility.

***Item 3: Please also provide copies of the manifests, bill of ladings to recyclers/landfills and other disposal locations to this office with your next report of findings/results.***

The Port has copies of all manifests and bills of lading associated with the project and will include these documents in future report submittals to you. In addition, as we have agreed verbally, the Port will include the site health and safety plan with future report submittals to you.

***Item 4: Based upon the aforementioned levels of contamination encountered a groundwater investigation is warranted. You will be required to install monitoring wells in order to determine whether groundwater has been impacted. Once the above work is completed a workplan detailing construction and locations of wells is required.***

The Port will collect and analyze groundwater samples for TPH-D and BTEX concentrations. As we have agreed verbally, the data will then be used to determine the need and placement of groundwater monitoring wells. Where groundwater has been encountered in the investigation thus far, it has been analyzed for TPH-D concentrations and/or BTEX. All results have been non-detects.

*Item 5: Please complete an unauthorized release report . . . within 10 days of the receipt of this letter.*

On February 19th, 1993, prior to receiving your letter of the 18th, the Port submitted an unauthorized release report to the County for the UST discovered at the KOT site.

*Item 6: Finally, this project . . . will need to have a deposit/refund account established. A letter from the attorneys for Keep on Trucking' states that . . . Keep on Trucking Co., Inc. would submit the necessary fees to Alameda County. To date no fees have been received . . . In order to cover previous and future anticipated costs of the regulatory oversight of this project Keep on Trucking' Co., Inc., is requested to remit a check for \$2,000 made payable to County of Alameda.*

We received a copy of a letter dated February 25, 1993, from Mr. Michael E. Delehunt of Crosby, Heafey, Roach & May which indicates transmittal of the subject \$2,000 fee.

As a final note, in your letter you mention "another underground tank thought to be a former gasoline tank was discovered south of Clinton Basin." As we have agreed verbally, this tank and the other tanks at the KOT facility whose presence was indicated by a ground penetrating radar (GPR) survey will be investigated as projects separate from the diesel investigation. Except for the UST recently discovered by the excavation, all other tanks in the project area appear to be unrelated to the diesel release.

If you have any questions regarding this letter, please contact me at (510) 272-1184. I look forward to your response to this letter.

Sincerely,



Jon Amdur, Port of Oakland  
Assistant Environmental Specialist

JA

cc: Mr. Richard Padovani, Terminal Manager, Keep on Trucking' Co., Inc., 370 8th Avenue,  
Oakland, CA 94606  
Mr. Michael E. Delehunt, Crosby Heafey, Roach and May, 1999 Harrison Street, Oakland, CA  
94612  
Mr. Ray Balcom, SFRWQCB, 2101 Webster Street, 5th Floor, Oakland, CA 94612  
Mr. Rich Hiatt, SFRWQCB, 2101 Webster Street, 5th Floor, Oakland, CA 94612  
Mr. Dale Wong, CA Department of Fish and Game, Office of Oil Spill Prevention and  
Response, P.O.Box 944209, Sacramento, CA 94244  
Captain J.M. MacDonald, U.S. Coast Guard, Marine Safety Office, Building 14,  
Coast Guard Island, Alameda, CA 94591-5100  
Mr. Gil Jensen, Alameda County District Attorneys Office of Consumer and Environmental  
Affairs, 7677 Oakport Dr., Suite 400, Oakland, CA 94621



**CROSBY, HEAFEY, ROACH & MAY**

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 763-2000

(415) 986-3400

FAX (510) 273-8832

700 SOUTH FLOWER STREET, SUITE 2200  
LOS ANGELES, CALIFORNIA 90017  
(213) 896-8000  
FAX (213) 896-8080

333 BUSH STREET, SUITE 2580  
SAN FRANCISCO, CALIFORNIA 94104-2899  
(415) 543-8700  
FAX (415) 391-8269

February 25, 1993

Mr. Paul M. Smith  
Senior Hazardous Materials Specialist  
Alameda County Health Care Services Agency  
80 Swan Way, Room 200  
Alameda, CA 94621

Re: Diesel Contamination at Keep On Trucking Co., Inc.  
("KOT") Facility at 370 Eighth Avenue, Oakland,  
California (the "Site") 94601

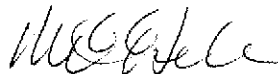
Dear Mr. Smith:

This letter is a follow-up to my earlier one dated February 12, 1993.  
Please accept my apologies for mistakenly referring to you as "Paul Andrews."

Enclosed is a check in the amount of \$2,000.00 as requested in your  
February 18, 1993 letter to Jon Amdur at the Port of Oakland. This amount was  
requested for oversight fees pursuant to Alameda County Ordinance Code 3-  
141.6.

If you have any questions, please feel free to contact me.

Very truly yours,



Michael E. Delehunt

MED:bs  
Enclosure

cc: Michelle Heffes, Esq.  
Port of Oakland



February 18, 1993

Mr. Jon Amdur  
Assistant Port Environmental Specialist  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

**Re: Workplan to address the diesel contamination associated with Keep on Trucking Inc., 370 8th Avenue, Oakland, CA 94606**

Dear Mr. Amdur:

Alameda County has received and reviewed the Source Investigation Summary and Workplan to Delineate Soil Contamination, dated January 20, 1993, prepared by Uribe & Associates addressing contamination at the above location.

The report outlines the discovery of a leak associated with the above ground diesel tank system. A subsurface investigation performed along a stormwater drainage pipe leading into Oakland Estuary found contamination as Total Recoverable Petroleum Hydrocarbons as diesel (TRPHd) as high as 640 ppm. Soil excavation also occurred in two areas on the perimeter of Clinton Basin.

Excavation which occurred subsequent to the submittal of the above report indicated the presence of an underground storage tank located at the Keep On Trucking site. Additionally, another underground tank thought to be a former gasoline tank was discovered south of Clinton Basin.

The workplan prepared by Uribe & Associates proposes to:

- 1) Investigate primary and secondary conveyances which may have transported pollution away from the source. This phase will be performed by excavation and the installation of borings and cone penetrometers to determine the lateral and vertical extent of the pollution.
- 2) Investigate upgradient soil conditions (from the stormwater conveyance system) to determine whether significant contamination occurred.
- 3) Clean and perform tests on primary, secondary and any other lines to determine which may have conveyed pollutant away from the point where the leakage initially occurred and to excavate contaminated soils.

Mr. Jon Amdur  
February 18, 1993  
page 2 of 3

The workplan as proposed is hereby approved with the following inclusions:

- 1) Discuss the storage, characterization and disposition of the future stockpiled material created during over excavation and from borings etc.
- 2) In characterizing the site and in determining whether additional borings/ over excavation are needed you are required to analyze samples for the presence of benzene, toluene, ethylbenzene and xylene (BTEX). If levels of benzene are encountered in soil above detection levels further elaboration of the lateral and vertical <sup>extent of</sup> contamination beyond the specified 100 ppm TRPHD will then be required.
- 3) Please also provide copies of the manifests, bill of lading to recyclers/ landfills and other disposal locations to this office with your next report of findings/results.
- 4) Based upon the aforementioned levels of contamination encountered a groundwater investigation is warranted. You will be required to install monitoring wells in order to determine whether groundwater has been impacted. Once the above work is completed a workplan detailing construction and locations of wells is required.
- 5) Please complete an unauthorized release report (enclosed) within 10 days of the receipt of this letter.
- 6) Finally, this project is not currently on our files and so will need to have a deposit/refund account established. A letter from the attorneys for Keep on Trucking states that "as a demonstration of good faith" that Keep on Trucking Co., Inc. would submit the necessary fees to Alameda County. To date no fees have been received. The deposit/refund mechanism is authorized by Alameda County Ordinance Code 3-141.6 which allows fees to be levied for the regulatory oversight of site mitigation projects. Due to the complexity of this case your account is currently -\$1043.75 in arrears.

In order to cover previous and future anticipated costs of the regulatory oversight of this project Keep On Trucking Co., Inc is requested to remit a check for \$2000.00 made payable to County of Alameda. This amount will be billed upon at a rate of \$75.00 per hour. Any unused portion of these funds will be refunded to you at the end of this project.

Mr. Amdur  
September 18, 1993  
page 3 of 3

Should you have any questions regarding this letter please  
contact me at (510) 271-4320.

Sincerely,

*Paul M. Smith*

Paul M. Smith  
Senior Hazardous Materials Specialist

c:

Mr. Richard Padovani, Terminal Manager, Keep On Trucking  
Co., Inc., 370 8th Ave., Oakland, CA 94606  
Michael E. Delehunt, Crosby Heafy, Roach and May, 1999  
Harrison St., Oakland, CA, 94612  
Mr. Ray Balcom, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Mr. Rich Hiett, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Mr. Dale Long, CA Dept. of Fish and Game, Office of Oil  
Spill Prevention and Response, P.O. Box 944209,  
Sacramento, CA 94244  
Captain J.M. MacDonald, U.S. Coast Guard, Marine Safety  
Office, Building 14, Coast Guard Island, Alameda, CA  
94591-5100  
Ensign John Park, MER Div., Building 14, Marine Safety  
Office, San Francisco Bay, Coast Guard Island, Alameda,  
CA 94501  
Mr. Gil Jensen, Alameda County District Attorneys Office of  
Consumer and Environmental Affairs, 7677 Oakport Dr.,  
Suite 400, Oakland, CA 94621

**CROSBY, HEAFEY, ROACH & MAY**

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

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333 BUSH STREET, SUITE 2580  
SAN FRANCISCO, CALIFORNIA 94104-2899  
(415) 543-8700  
FAX (415) 391-8289

February 12, 1993

Mr. Paul ~~Andrews~~ *Smith*  
Senior Hazardous Materials Specialist  
Alameda County Health Care Services Agency  
80 Swan Way, Room 200  
Alameda, CA 94621

Re: Diesel Contamination at Keep On Trucking Co., Inc.  
("KOT") Facility at 370 Eighth Avenue, Oakland,  
California (the "Site")

Dear Mr. Andrews:

This letter is being sent on behalf of our client, Keep On Trucking Co., Inc. ("KOT"), in response to your letter dated February 2, 1993.

As you know via receipt of copies of correspondence this office has sent to Ms. Michelle Heffes, Deputy Attorney for the Port of Oakland, our client is currently incapable of responding financially to the County's request concerning further characterization and work at the Site. KOT has opened its books to the Port to allow verification of these representations.

We have been in contact with the Port and have conveyed our desire to cooperate to the extent KOT is financially capable. However, due to the precarious financial situation of KOT, and the fact that the Port has already engaged Uribe & Associates to prepare a workplan to delineate soil and groundwater contamination at the Site, we believe the Port is in the best position to respond to the County's requests.

By letter dated February 8, 1993, Ms. Heffes indicated that the Port will respond to the County's request. In fact, it is my understanding that the Port has already submitted a workplan to your office.

CROSBY, HEAFEY, ROACH & MAY  
PROFESSIONAL CORPORATION

Mr. Paul Andrews  
February 12, 1993  
Page 2

Nevertheless, as a good faith indication of KOT's desire to assist and cooperate with the characterization and cleanup of the diesel material, KOT will pay the \$1,125.00 oversight costs as requested in your February 2, 1993 letter.

I would appreciate receiving copies of all correspondence your office sends to the Port concerning the Site characterization and eventual cleanup efforts. If you have any questions, please feel free to contact me.

Very truly yours,



Michael E. Delehunt

MED:csjj

cc: Michelle Heffes, Esq., Port of Oakland  
Ray Balcom, SFRWQCB  
Dale Long, CDF&G  
Ensign John Park, U.S.C.G.  
Gil Jensen, Esq., AlaCo District Attorney's Office  
Neil Werner, Port of Oakland



# PORT OF OAKLAND

Sender's Tel. No. (510) 272-1348  
Sender's Fax. No. (510) 444-2093

February 8, 1993

Michael E. Delehunt, Esq.  
Crosby, Heafey, Roach & May  
1999 Harrison Street  
Oakland, CA 94612

**Re: Contamination at the Keep On Trucking Company, Inc.  
("KOT") Facility At 370 8th Avenue, Oakland,  
California**

---

Dear Mr. Delehunt:

This letter responds to your February 5, 1993, letter to me. In the future, please use the fax number identified at the top of this letter, not the fax number at the bottom of this letter.

As I indicated in our telephone conversation today, I am still puzzled by the second paragraph of your February 5, 1993, letter wherein you wanted to "set the record straight concerning the Notice of Designation received by the U.S. Coast Guard."

First, I presume you intended to refer to the Notice of Designation issued by the U.S. Coast Guard not "received by" the U.S. Coast Guard.

Second, in your February 5, 1993, letter, you state that contrary to the statement contained in my January 29, letter, to you, KOT has not denied the designation by the U.S. Coast Guard regarding the diesel fuel discharge.

The immediately preceding statement is in direct conflict with statements contained in the one page of the January 18, 1993, letter which you sent as an attachment to your February

Michael E. Delehunt, Esq.  
Contamination at the Keep On Trucking Company, Inc. ("KOT")  
Facility At 370 8th Avenue, Oakland, California  
Page 2  
February 8, 1993

5, 1993, letter to me.<sup>1</sup> The January 18, letter from Crosby, Heafey, Roach & May to Lieutenant Loren Thomas of the U.S. Coast Guard provides in part:

"...it is our opinion that the Notice of Designation erroneously identifies KOT as the discharger of approximately 2,000 gallons of diesel oil into the Oakland Inner Harbor. As such, KOT respectfully denies the designation in the Notice of Designation dated January 8, 1993."  
(emphasis added)

The above-cited language unequivocally denies the designation yet your February 5, 1993, letter to me indicates to the contrary. The January 18, 1993, letter goes on to concede that a "small, unknown quantity of diesel oil was released from the Facility into the City of Oakland storm drain". This concession does not undo the denial.

By letter dated February 2, 1993, to KOT, the Alameda County Health Care Services Agency, Department of Environmental Health ("County") required KOT to submit a workplan to the County within 45 days of the receipt of said letter. Your February 5, 1993, letter to me indicates that KOT believes it is not financially capable at this time to undertake the next phase of site characterization and implementation of a remedial action plan. Thus, the Port assumes that KOT voluntarily has chosen not to comply with the County's requirements.

The Port does not agree with the statements in your February 5, 1993, letter, that KOT is not financially capable of undertaking the required activities. The Port intends to seek from KOT all past and any future costs incurred by the Port concerning this matter.

By letter dated February 2, 1993, (copy attached) the County informed the Port that it will pursue the investigation and remediation with KOT; however, until the required documentation from KOT is received, the Port will continue to be listed as a responsible party. So long as KOT refuses to comply with its legal obligations, the Port intends to submit the workplan within the 45 day time frame. The Port does not propose voluntarily to submit the workplan, but would do so

---

<sup>1</sup> of which I only received page 1 and hereby request a complete copy



Michael E. Delehunt, Esq.  
Contamination at the Keep On Trucking Company, Inc. ("KOT")  
Facility At 370 8th Avenue, Oakland, California  
Page 3  
February 8, 1993

only because KOT has chosen not to comply with its legal obligations. Accordingly, the Port continues to request that KOT prepare and submit the workplan and undertake all necessary investigative and remedial activity.

The Port acknowledges KOT's willingness to pay \$1,125.00 to the County for oversight costs which you indicate represents a demonstration of good faith and a desire to cooperate with the Port.

To further demonstrate KOT's good faith and a desire to cooperate with the Port, I request the following documents, records or drawings concerning the above-ground tank, pump system and associated piping at the KOT facility including, without limitation:

1. all documents or records of inventory reconciliation for the above-ground tank for the last 24 months.
2. all documents, records or drawings of installation, testing, monitoring and repair of the above-ground tank, pump system and associated piping.
3. all documents, records or drawings regarding the design and manufacturing of the above-ground tank, pump system and associated piping.

If you have any comments, do not hesitate to contact me at your convenience.

Very truly yours,

STANLEY P. HÉBERT  
Port Attorney

By   
MICHELE HEFFES  
Deputy Port Attorney

cc: Paul Smith, Alameda County Health  
Care Services Agency  
Ray Balcom, Regional Water Quality  
Control Board  
Dale Long, California Department of  
Fish and Game  
Gil Jensen, Alameda County District

Michael E. Delehunt, Esq.  
Contamination at the Keep On Trucking Company, Inc. ("KOT")  
Facility At 370 8th Avenue, Oakland, California  
Page 4  
February 8, 1993

Attorney's Office  
Ensign John Park, U.S. Coast Guard,  
MER Div. Marine Safety Office,  
San Francisco Bay, Coast Guard Island  
J. M. MacDonald, Captain U.S. Coast  
Guard, Captain of the Port  
Dan Hess, Case Officer, U.S. Coast  
Guard, National Pollution Fund  
Center  
Lt. Loren Thomas, U.S. Coast Guard

**CROSBY, HEAFEY, ROACH & MAY**

PROFESSIONAL CORPORATION

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333 BUSH STREET, SUITE 2580  
SAN FRANCISCO, CALIFORNIA 94104-2899  
(415) 543-8700  
FAX (415) 391-8269

February 5, 1993

Michelle Heffes  
Deputy Port Attorney  
P.O. Box 2064  
Port of Oakland  
Oakland, CA 94604-2064

**VIA FACSIMILE  
AND REGULAR MAIL**

**Re: Diesel Contamination at Keep On Trucking Co., Inc.  
("KOT") Facility at 370 Eighth Avenue, Oakland,  
California (the "Site")**

Dear Ms. Heffes:

This letter will confirm receipt of yours dated January 29, 1993, summarizing your understanding of our meeting with Port of Oakland ("Port") representatives on January 27, 1993. This letter also addresses the letter received from Mr. Paul Smith of the Alameda County Health Care Services Agency dated February 2, 1993 (the "County Letter"), a copy of which I understand you have seen.

I should first like to set the record straight concerning the Notice of Designation received by the U.S. Coast Guard regarding the diesel fuel discharge. Contrary to the statement contained in your January 29 letter, KOT has not denied the designation. In fact, as we pointed out in our meeting on January 27, KOT has affirmatively responded to the Coast Guard's designation and is proceeding in compliance with 33 U.S.C. Section 2714(b). A draft copy of the advertisement, which has been approved by Lt. Thomas at the Coast Guard, is enclosed for your information.

During our meeting of January 27, 1993, KOT informed the Port representatives that KOT is not financially capable at this time to undertake the next phase of site characterization and implementation of a remedial action plan. It is my understanding that Port representatives have reviewed various financial and insurance information provided by KOT representatives relative to KOT's current financial standing. This information substantiates the claims made by KOT representatives at our January 27 meeting that KOT cannot assume

CROSBY, HEAFEY, ROACH & MAY  
PROFESSIONAL CORPORATION

Michelle Heffes  
February 5, 1993  
Page 2

responsibility for further investigation and remedial action plan implementation. It is my further understanding that Port representatives are in the process of arranging a formal audit of KOT's financial records, all of which is being facilitated by the cooperation of KOT.

As we discussed on the phone this morning, our primary interest at this point is in affirmatively responding to the County Letter of February 2, 1993 directing submission of a workplan for the Site within 45 days thereof. Inasmuch as KOT is not financially capable to responding to the County Letter as directed, we respectfully suggest that the Port is in a much better position to do so. As the Port has already engaged a qualified environmental consultant to prepare the initial investigative report for the Site, and has far more experience in responding to the regulating agencies in matters similar to this, it makes imminent sense that the Port continue to take the lead in this matter.

We acknowledge the statement in your January 29 letter that "[t]he fact that the Port has expended funds or may expend funds in the future to address the diesel discharge does not in any way limit the Port's ability to seek complete indemnification . . . from KOT and any other responsible person or agencies for all costs, damages and losses incurred by the Port."

By continuing to take the lead in this matter, the Port's rights against KOT will not be prejudiced. On the other hand, without the Port's active involvement, any progress in addressing the requirements of the regulating agencies will be severely compromised. As a demonstration of good faith and our desire to cooperate with the Port, KOT will agree to advance the \$1,125.00 requested in the County Letter for oversight costs.

CROSBY, HEAFEY, ROACH & MAY  
PROFESSIONAL CORPORATION

Michelle Heffes  
February 5, 1993  
Page 3

After you have had a chance to discuss the contents of this letter with your colleagues at the Port, please contact me or Craig Johns to discuss further how we might affirmatively respond to the County Letter. As promised during our January 27 meeting, I have also enclosed copies of all correspondence we have had with the U.S. Coast Guard on behalf of KOT with regard to this matter.

Very truly yours,



Michael E. Delehunt

MED:csjj  
Enclosures

cc: Paul Smith, AlaCo Health Care Services Agency  
Ray Balcom, RWQCB  
Dale Long, CDFG  
Gil Jensen, AlaCo District Attorney's Office  
Ensign John Park, U.S. Coast Guard  
J.M. MacDonald, U.S. Coast Guard  
Lt. Loren Thomas, U.S. Coast Guard

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 page B-9

# Oakland diesel fuel cleanup will cost \$750,000

Tribune 3/18/93

By Ben Evangelista  
 STAFF WRITER

OAKLAND — A leak that caused about 20,000 gallons of diesel fuel to spill into storm drains and into the Oakland Estuary since 1991 will cost about \$750,000 to clean up, Port of Oakland officials said Tuesday.

The port commission Tuesday voted 4 to 0, with three commissioners absent, to approve a contract with Riedel Environmental Services to clean up fuel traced to a small hole in an underground pipe at a nearby trucking company.

The source had eluded state and local authorities since Nov. 25, 1991, when a spill was found in the estuary near the Seabreeze Marina.

At the time, the fuel was thought to have come from a ship or from the city's storm drains, said port

spokesman Robert Middleton.

But on Oct. 21, 1992, another spill of about 500 gallons of diesel fuel was reported.

Five days later, another 1,500 gallons was spilled into the water in the same general area.

Port environmental scientist Jon Amdur traced the source back to storm drains in the Ninth Avenue area, but a sometimes around-the-clock search did not pinpoint the problem until a television scan of the drains found that fuel was leaked each time a port tenant, Keep on Trucking at 375 Eighth Ave., pumped fuel.

A "tiny pinhole" in a four-foot underground pipe leading from a fuel storage tank was enough to leak about 100 gallons of diesel each day.

The port will try to recoup part of the costs from the trucking company, Middleton said.

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## Automaker recalls trucks, police cars

ASSOCIATED PRESS

DETROIT — General Motors Corp. recalled 1.8 million 1988-93 full-size trucks to fix a problem that could result

or to carry heavy loads off road.  
 Dealers will install a longer vent hose to reroute the vented fluid.  
 GM said it learned about the problem from field reports of about 400 fires that involved an undetermined

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

February 2, 1993

Mr. Neil Werner  
Port Environmental Compliance Supervisor  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

**Re: Diesel Contamination Associated with Keep on Trucking  
Co., Inc, 370 8th Avenue, Oakland, CA 94606**

Dear Neil:

Attached you will find a copy of the correspondence sent to Keep on Trucking Co., Inc. We will be pursuing the investigation and remediation of the above incident with them as the responsible party. However until the required documentation from them is received you will also continue to be listed as a responsible party.

I will keep you informed regarding this matter

Sincerely,

A handwritten signature in cursive script that reads "Paul M. Smith".

**Paul M. Smith**  
Senior Hazardous Materials Specialist

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

February 2, 1993

Mr. Richard Padovani  
Terminal Manager  
Keep On Trucking Co., Inc  
370 8th Avenue  
Oakland, CA 94606

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

**Re: Contamination associated with a large volume diesel release which entered a storm drain to Oakland estuary from a leaking above ground storage diesel tank located at Keep On Trucking, 370 8th Ave., Oakland, CA 94606**

Dear Mr. Padovani:

As you are aware, on or about October 12, 1992 U.S. Coast Guard, Port of Oakland and Alameda County Hazardous Materials became aware of a discharge of a significant amount of petroleum hydrocarbon into Oakland estuary. The material was found to be entering a storm drain flowing into the Ninth Avenue Terminal area. At that time the source of the material was unknown. An investigation was undertaken to determine its source. It was estimated that throughout the course of the following months literally thousands of gallons of diesel fuel leaked into the storm drain which led to the bay. However contractors hired by the Port of Oakland removed much of the diesel contaminated stormwater from the storm drain prior to release into the bay.

Results of an investigation were presented in a report prepared for the Port of Oakland by Uribe and Associates, dated January 20, 1993, which indicates that an above ground diesel storage tank located at Keep On Trucking Co., Inc at the above address is the source of this contamination. A boring performed to the northwest of the tank at Keep On Trucking indicated the presence of Total Recoverable Petroleum Hydrocarbons at 640 ppm at four feet below ground surface.

Based upon the results of this report and also of conclusion cited in a Notice of Designation letter, dated January 8, 1993, from the U.S. Coast Guard you are required to investigate the nature extent of the contamination associated with the diesel release from the above ground tank or piping. **You are required to submit a workplan to this office within 45 days of the receipt of this letter.**

The investigative report prepared for the Port of Oakland outlines proposed measures for future investigative work at the site. With the inclusion of a few modifications this workplan would be acceptable as a second phase attempt at defining the



Mr. Padovani  
February 2, 1993  
page 2 of 3

problems on and off-site. Please specify your intentions with regard to the implementation of the existing workplan or provide a new one to this Agency within the specified time schedule.

The workplan must address the following items:

- 1) Definition of the lateral and vertical extent of soil contamination.
- 2) A groundwater investigation to determine whether impacts to groundwater have occurred and if so and to define the lateral extent of this contamination.
- 3) Delineation of contamination which may have occurred to the storm drain area, up and down gradient of the source, and to investigate soil contamination in areas adjacent to the storm drain.
- 4) Disposition of contaminated stockpiled soil and groundwater associated with previous and future investigative or remedial measures at the site.
- 5) Delineation of diesel contamination conveyed by conduits such as sewers, electrical conduit and previously abandoned piping which might have carried pollutant away from the site.

Finally, this project is not currently on our files regarding an deposit/refund account. The deposit/refund mechanism is authorized by Alameda County Ordinance Code 3-141.6 which allows fees to be levied for the regulatory oversight of site mitigation projects. Your are requested to remit a check for \$1,125.00 made payable to the County of Alameda. This amount will be billed at the a rate of \$75.00 per hour. Any unused portion of these funds will be refunded to you at the end of this project.

Should you have any questions regarding this letter please contact me at (510) 271-4320.

Sincerely,

Paul M. Smith  
Senior Hazardous Materials Specialist

Mr. Padovani  
February 2, 1993  
page 3 of 3

cc:

Mr. Ray Balcom, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Mr. Rich Hiett, SFRWQCB  
Mr. Dale Long, CA Dept. of Fish and Game, Office of Oil Spill  
Prevention and Response, P. O. Box 944209,  
Sacramento, CA 94244  
Ensign John Park, MER Division, Building 14, Marine Safety  
Office, San Francisco Bay, Coast Guard Island,  
Alameda, CA 94501  
Mr. Gilbert A. Jensen, Alameda County District Attorneys  
Office



# PORT OF OAKLAND

Sender's Tel. No. (510) 272-1348  
Sender's Fax. No. (510) 444-2093

January 29, 1993

**RECEIVED**  
FEB 02 1993

Mr. Michael E. Delehunt, Esq.  
Crosby, Heafey, Roach & May  
1999 Harrison Street  
Oakland, California 94612

DISTRICT ATTORNEY  
ALAMEDA COUNTY  
CEPD

**Re: Diesel Discharge From the Keep On Trucking Company, Inc.  
("KOT") Facility at 370 8th Avenue, Oakland, California**

Dear Mr. Delehunt:

This letter serves as a follow up to the January 27, 1993, meeting attended by Port of Oakland ("Port") staff, KOT representatives and you and Mr. Craig S.J. Johns of Crosby Heafey Roach & May representing KOT.

The Port has expended considerable sums (approximately \$440,000 including Port personnel costs) to identify, investigate, abate and remediate the diesel oil discharge from the KOT facility into the Oakland Estuary. The Port's efforts in dealing with this matter have been documented in the report entitled, "Source Investigation Summary and Workplan to Delineate Soil and Groundwater Contamination" dated January 20, 1993, and prepared by Uribe and Associates (the "Report") which has been provided to Richard Padovani of KOT.

As you know, KOT has been designated by the United States Coast Guard as the source of the subject discharged diesel pursuant to the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. §2714. In addition, testing to date, most significantly, the dye test of the KOT fuel system conducted on December 29 and 30, 1992, indicates KOT's diesel fuel was entering the stormdrain and thus was the cause of the discharge. Moreover, in recognizing the source of the discharge, on December 30, 1992, KOT took its aboveground tank out of service by shutting the valve to the pump. Since December 30, 1992, the diesel discharge has dropped drastically. The discharge occurring after December 30, 1992, can be explained by the residual fuel in the soils. Based on these facts, I was surprised to learn that KOT has denied its designation as the source of the subject discharge.

As I stated at the meeting, and reiterate in this letter, the Port requests that KOT immediately proceed with and finance all necessary future investigation, abatement or remediation associated

Mr. Michael E. Delmont, Esq.

Diesel Discharge From the Keep On Trucking Company, Inc. ("KOT")  
Facility at 370 8th Avenue, Oakland, California

Page 2

January 29, 1993

with the diesel discharge. The Port proposes that, assuming all necessary approvals from regulatory agencies have been secured, that KOT implement the Workplan to Delineate Soil and Groundwater Contamination as documented in the Report. Please respond as soon as possible whether KOT will assume responsibility for such investigation.

As we also agreed, please send copies to my attention of all correspondence between KOT (or representatives of KOT) and regulatory agencies concerning the subject diesel discharge.

The fact that the Port has expended funds or may expend funds in the future to address the diesel discharge does not in any way limit the Port's ability to seek complete indemnification (through the claims procedure established by the OPA, insurance or other legal means) from KOT and any other responsible person or agencies for all costs, damages and losses incurred by the Port.

Please direct any written communication to the Port concerning this matter to my attention. In addition, please direct all verbal communications to the Port concerning this matter to my attention unless I so otherwise arrange.

Very truly yours,

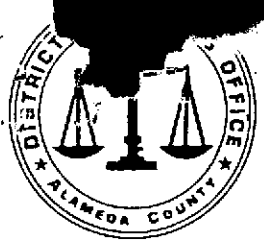
STANLEY P. HÉBERT  
Port Attorney

By



MICHELE HEFFES  
Deputy Port Attorney

cc: Ray Balcom, Regional Water Quality Control Board,  
San Francisco Bay Region ("SFRWQCB")  
Rich Hiett, SFRWQCB  
Dale Long, California Department of Fish and Game  
Gil Jensen, Alameda County District Attorney's Office  
Ensign John Park, MER Div., Marine Safety Office,  
San Francisco Bay, Coast Guard Island  
J. M. MacDonald, Captain, U.S. Coast Guard, Captain of the Port  
Dan Hess, Case Officer, U.S. Coast Guard, National Pollution  
Fund Center  
Lt. Loren Thomas, U. S. Coast Guard



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

January 29, 1993

Charles R. Roberts  
Director  
Port of Oakland  
530 Water Street, 6th Floor  
Oakland, CA 94607

Re: **People of California v Port of Oakland et al, in re:**

- 1. Reporting and investigation of Diesel Spill 9th Ave Terminal & Embarcadero*
- 2. Illegal public exposure and risk management and discharge of stormwater run-off from the deposit of dredge spoil fill material at Pardee Drive and Swan Way*
- 3. Failure as property owner-responsible party to enforce site assessment and remediation agreements with Mobil Oil Corp. at Birth 24 Maersk Terminal Site*

Dear Mr. Roberts:

This office has received isolated requests from numerous state and local environmental agencies to review the above listed incidents for enforcement of the civil and criminal laws of the State of California.

A preliminary review of the issues involved in all three cases, has disclosed significant problems with the way your agency's technical, environmental and public works staffs are responding to your mandate to protect the environment and comply with state and federal laws.

As the next step in our evaluation process, we have scheduled a meeting in the **Office of the District Attorney, 7677 Oakport Street, Suite 400, Oakland CA, at 10:00 am February 16, 1993** to fully discuss these matters. If you wish to take advantage of this meeting, please arrange for yourself or your legal representative to attend.

Very truly yours,

JOHN J. MEEHAN  
District Attorney

By:  
Gilbert A. Jensen  
Senior Deputy District Attorney

JJM:GAJ:gj

Port of Oakland  
January 29, 1993  
Page 2

cc:

Steven R. Ritchie, Executive Officer, San Francisco Bay Regional  
Water Quality Control Board

Edgar B. Howell, Alameda County Department of Environmental Health,  
Hazardous Materials Division

Oakland Police Department, Environmental Crimes Unit

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

February 2, 1993

Mr. Neil Werner  
Port Environmental Compliance Supervisor  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

**Re: Diesel Contamination Associated with Keep on Trucking  
Co., Inc, 370 8th Avenue, Oakland, CA 94606**

Dear Neil:

Attached you will find a copy of the correspondence sent to Keep on Trucking Co., Inc. We will be pursuing the investigation and remediation of the above incident with them as the responsible party. However until the required documentation from them is received you will also continue to be listed as a responsible party.

I will keep you informed regarding this matter

Sincerely,

A handwritten signature in cursive script that reads "Paul M. Smith".

Paul M. Smith  
Senior Hazardous Materials Specialist

U.S. Department  
of Transportation  
**United States  
Coast Guard**



Commanding Officer  
U.S. Coast Guard  
Marine Safety Office  
San Francisco Bay

Bldg. 14  
Coast Guard Island  
Alameda, CA 94501-5100  
Phone: (510) 437-3073

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08 JAN 93

Owner: Paul Bokanower  
Address: KEEP ON TRUCKING INC.  
370 8TH AVE. OAKLAND, CA.  
94606

Subject: NOTICE OF DESIGNATION

Re: FPN 113004  
DISCHARGE OF DIESEL OIL INTO OAKLAND  
INNER HARBOR, A NAVIGABLE WATERWAY  
OF THE UNITED STATES ON 21 OCT 92.

NOTICE TO: KEEP ON TRUCKING INC.

In the matter of the above referenced incident resulting in a discharge of approximately 2,000 gallons of diesel oil into the Oakland Inner harbor, you are hereby notified that the Keep On Trucking Inc. is designated as the source pursuant to the Oil Pollution Act of 1990, 33 USC 2714. You have been identified as the owner of this designated source. You are liable for removal costs and damages as specified in 33 USC 2702. You must advertise the procedures by which persons who have claims for removal costs and damages may submit their claims to you, as specified in 33 USC 2714.

You may deny this designation within five (5) days of receipt of this Notice of Designation. Such denial must be in writing, must identify this Notice of Designation, must give the reasons for the denial and provide a copy of all supporting documents, and must be submitted to the Marine Environmental Response Branch at the above address. The denial is deemed received on the date it is actually received by this office.

If you do not deny this designation you must advertise this designation and the procedures by which claims may be presented. The advertisement must begin within 15 days of the date of this Notice of Designation and must continue for no less than 30 days. Enclosures (1) & (2) outline the required scope and content of this advertisement.

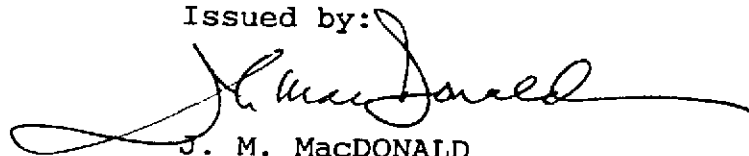


5891/UCN 457-92  
08 JAN 93

You are directed to inform us of the method, geographical scope, and frequency of publication, as appropriate, for your advertising. Send us copies of the advertisements as soon as they are available. Advise us in writing that you have begun advertising and send us samples of the advertising copy within 20 days of receipt of this letter, otherwise we will assume that you did not comply with these requirements. If you do not comply with these requirements the Marine Safety Office San Francisco Bay will advertise for claims. If we advertise, you will be charged for our costs as well as for the costs of any administration, adjudication and payment of claims.

Please contact the case manager located with the Coast Guard National Pollution Fund Center in Arlington, Va. at (703) 235-4765 if you have any questions. The FAX number is (703) 235-4837.

Issued by:



J. M. MacDONALD  
Captain, U.S. Coast Guard  
Captain of the Port

Encl (1): Scope of Advertisement  
(2): Content of Advertisement

Copy: National Pollution Fund Center

SCOPE OF ADVERTISEMENT

Incident

Scope

A: (All incidents except those meeting criteria in subparagraph B)

The scope of advertisement is to include:

1. Paid advertisements in a newspaper or newspapers having general circulation in the affected area(s); and
2. Notices posted in marinas, marine supply stores, bait and tackle shops or other appropriate business establishments/public facilities; and
3. News releases to newspapers, radio stations, television stations and cable services in the affected area(s).

X B: (Incidents with local significance and both the quantity and identity of potential claimants are easily determined)

The scope of advertisement is to include:

1. Direct notification of all potential claimants;

or

2. Paid advertisements in newspapers or newspapers having general circulation in the affected area(s);

or

3. Other means approved by the National Pollution Funds Case Manager, under the circumstances.

### Content of Advertisement

Each advertisement/notification is to contain the following information or to indicate where this information may be contained:

1. Location, date and time of incident.
2. Geographical area affected, as determined by the Federal On-Scene-Coordinator (FOCS) or the Commander, National Pollution Funds Center (NPFC).
3. Quantity of oil involved.
4. Name or other description of the source designated by the FOCS or Commander, NPFC.
5. Name of the responsible party and guarantor of the source.
6. Name, address, telephone number, office hours, and work days of the person or persons to whom claims are to be presented and from whom claim information can be obtained.
7. The procedures by which a claim may be presented.



# KEEP ON TRUCKING Co., INC.

370 8th Ave  
Oakland, 94606

December 15, 1992

Mr. Britt Johnion  
Alameda County, Dept of  
Environmental Health  
80 Swan Way, #200  
Oakland, Ca, 94621


Re: Test Report - Product Line Test

Dear Britt,

In accordance with our conversation of October 13, 1992, we had our fuel line tested by Testing and Technology. This test was performed on October 20, 1992, and found no leaks in our system. Enclosed for your review and files is a copy of their report.

If you have any question or comments, please phone me at 510-893-6011.

Sincerely,

  
Richard Padovani  
Terminal Manager

cc: Ray Balcom  
California Regional Water Quality  
Control Board  
2101 Webster Street, Suite 500  
Oakland, Ca 94612

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

November 23, 1992

Mr. Jon Amdur  
Assistant Port Environmental Specialist  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

**Re: Ongoing diesel spill entering storm drain at 9th Avenue  
Terminal at Embarcadero, Oakland, CA 94606**

Dear Jon:

The following letter is a follow up to our telephone conversation or November 17, 1992. Brit Johnson of Alameda County Environmental Health, Hazardous Materials Division had the opportunity to visit the above location on November 13, 1992 and was concerned with possible subsurface contamination at or adjacent to it which is causing continuous pollution to be discharged into the Oakland estuary.

To date, this office has received no data which definitively indicate the nature of the discharge, however, field observations indicate that it is likely a petroleum hydrocarbon material possibly diesel fuel.

You are required to submit a work plan, within 14 days of the receipt of this letter, outlining proposed measures to investigate the nature and extent of this perennial discharge to surface water.

The work plan should include locations for borings or similar subsurface investigation techniques which would allow the soil and groundwater to be sampled. Please specify the locations and depths of the subsurface borings, procedures utilized to collect both soil and groundwater samples, the analytes sought and the analytical lab utilized to perform the analyses. The work plan should also contain a site safety plan for the contractor performing the work.

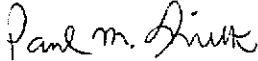
Finally, this project is not currently on our files and so will need to have a deposit/refund account established. The deposit/refund mechanism is authorized by Alameda County Ordinance Code 3-141.6 which allows fees to be levied for the regulatory oversight of site mitigation projects. You are requested to remit a check for \$710.00 made payable to County of Alameda. This amount will be billed upon at a rate of \$71.00 per hour. Any unused portion of these funds will be refunded to you

Mr. Amdur  
November 23, 1992  
page 2 of 2

at the end of this project.

Should you have any questions regarding this letter please  
contact me at (510) 271-4320.

Sincerely,



**Paul M. Smith**  
Senior Hazardous Materials Specialist

cc:

- Mr. Ray Balcom, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612
- Mr. Rich Hiett, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612
- Mr. Dale Long, CA Dept. of Fish and Game, Office of Oil  
Spill Prevention and Response, P.O. Box 944209,  
Sacramento, CA 94244
- Ensign John Park, MER Div., Building 14, Marine Safety  
Office, San Francisco Bay, Coast Guard Island, Alameda,  
CA 94501
- Mr. Gil Jensen, Alameda County District Attorneys Office of  
Consumer and Environmental Affairs, 7677 Oakport Dr.,  
Suite 400, Oakland, CA 94621

white -env.health  
 yellow -facility  
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

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

Hazardous Materials Inspection Form

II, III

Site ID # 3335 Site Name KEEP ON TRUCKING Today's Date 11/13/92

Site Address 370 - 8th Ave  
 City Oakland Zip 94606 Phone 893-6011

II.A BUSINESS PLANS (Title 19)

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

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

Inspection Categories:

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

II.B ACUTELY HAZ. MAT'L'S

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

Richard Padovanik

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

Comments: PERMISSION TO INSPECT

III. UNDERGROUND TANKS (Title 23)

- General
- 1. Permit Application 25284 (H&S)
  - 2. Pipeline Leak Detection 25292 (H&S)
  - 3. Records Maintenance 2712
  - 4. Release Report 2651
  - 5. Closure Plans 2670

- Monitoring for Existing Tanks
- 6. Method
    - 1) Monthly Test
    - 2) Daily Vadose
    - Semi-annual groundwater
    - One time soils
    - 3) Daily Vadose
    - One time soils
    - Annual tank test
    - 4) Monthly Gndwater
    - One time soils
    - 5) Daily Inventory
    - Annual tank testing
    - Cont pipe leak det
    - Vadose/gndwater mon.
    - 6) Daily Inventory
    - Annual tank testing
    - Cont pipe leak det
    - 7) Weekly Tank Gauge
    - Annual tank testing
    - 8) Annual Tank Testing
    - Daily Inventory
    - 9) Other

- 7. Precs Tank Test Date: 2643
- 8. Inventory Rec. 2644
- 9. Soil Testing . 2646
- 10. Ground Water. 2647

- New Tanks
- 11. Monitor Plan 2632
  - 12. Access. Secure 2634
  - 13. Plans Submit Date: 2711
  - 14. As Built Date: 2635

Due to release into bay at (SEABREEZE) - 6TH AVE - RECOMMEND TESTING OF UNDERGROUND GRAVITY FEED PIPELINE FROM ABOVE GROUND TANK TO DISPENSER. SUBMIT TEST RESULTS TO ALAMEDA COUNTY.

SPILL FIRST DISCOVERED ON 10/21/92 PORT OF OAKLAND JOHN AMBER OVERSERRING CONTRACTING FOR CLEANUP.

THIS IS THE SITE OF A FORMER BULK FUEL STORAGE FACILITY.

Rev 6/88

Contact: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: R Padovanik

Inspector: BETH JOHNSON

Signature: [Signature]

II, III

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

January 21, 1992

Mr. Neil Werner  
Port Environmental Compliance Supervisor  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

**Re: Diesel spill into storm drain at 9th Avenue  
Terminal & Embarcadero St., Oakland, CA 94606**

Dear Neil:

This is a follow up letter to our telephone conversation this afternoon in which you informed me that the above noted contamination is definitively linked to Keep on Trucking Co., Inc. located at 370 8th Ave, Oakland, CA 94606. Also discussed was your request from my Department that required technical reports, unauthorized leak reports and deposit/refund monies to be provided by Keep On Trucking rather than the Port of Oakland.

In the absence of written documentation from you confirming the above concerns outlined in November 23, 1992 and January 4, 1993 letters from this office, at this time, we have no choice but to continue to name you as the responsible party.

Please provide the documentation discussed above to this office as soon as possible including the technical report by your consultant pertaining to the subsurface contamination, the dye test which was performed, the Coast Guard notification of responsibility to Keep on Trucking and any other pertinent support documentation.

Please be aware that Section 25507, Chapter 6.95 of the CA Health and Safety Code states that the handler or any employee, authorized representative, agent, or designee of a handler shall, upon discovery, immediately report any release or threatened release of a hazardous material to the administering agency and to the State Office of Emergency Services.



Neil Werner  
page 2 of 2  
January 21, 1993

Should you have any questions regarding this letter please  
contact me at (510) 271-4320.

Sincerely,

*Paul M. Smith*

~~Paul M. Smith~~  
Senior Hazardous Materials Specialist

cc:

Richard Padovani, Terminal Manager, Keep On Trucking Co.,  
Inc, 370 8th Ave., Oakland, CA 94606  
Jon Amdur, Port of Oakland, 530 Water St., Oakland, CA 94607  
Ray Balcom, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Rich Hiett, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Dale Long, CA Dept. of Fish and Game, Office of Oil  
Spill Prevention and Response, P.O. Box 944209,  
Sacramento, CA 94244  
Ensign John Park, MER Div., Building 14, Marine Safety  
Office, San Francisco Bay, Coast Guard Island, Alameda,  
CA 94501  
Gil Jensen, Alameda County District Attorneys Office of  
Consumer and Environmental Protection Division, 7677  
Oakport Dr., Suite 400, Oakland, CA 94621

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Division  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(510) 271-4320

January 4, 1992

Mr. Neil Werner  
Port Environmental Compliance Supervisor  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

**Re: Ongoing diesel spill entering storm drain at 9th Avenue  
Terminal at Embarcadero, Oakland, CA 94606**

Dear Neil:

This is a follow up to the November 23, 1992 letter, the December 11, 1992 meeting with Jon Amdur and to the subsequent telephone conversations with both Jon and yourself regarding the above site.

As you are aware sometime in mid November, in association with rainfall, the presence of petroleum hydrocarbon contamination was noted to be entering the Oakland Estuary in the location of a storm drain terminating at the dock area at 9th Ave and Embarcadero. The Port of Oakland contracted with spill cleanup contractors and environmental consultants to deal with the recurrent spill and to attempt to determine the source of the contamination. Additionally, a subsurface investigation was performed in back of the Keep On Trucking Co., Inc. property.

On December 11, 1992 I met with Jon Amdur of the Port of Oakland and Alan White of Uribe & Associates at the site. At that time they apprised me of the situation and of the measures which were being taken to remove the free diesel product estimated to be 15,000 to 20,000 gallons of relatively fresh diesel. We each attempted to determine possible sources. A records check of County HazMat files came up with a couple of possible leads which I conveyed to Jon.

Since that time this Division has not received any written reports from the Port regarding the previous, current and proposed future work at the site. Please be informed that this is a formal request for technical reports mandated under Section 13267b of the California Water Code. You are required to submit all applicable reports and other pertinent information regarding measures taken to investigate, mitigate and to remediate this rather difficult contamination problem. Please submit this information by January 14, 1993.

Mr. Werner  
January 4, 1993  
page 2 of 2

Finally, in the November 23, 1992 correspondence to the Port of Oakland a request was made for regulatory oversight fees of \$710.00 to cover expenses incurred by departmental staff for the oversight of this project. I have attempted to resolve any issues with your department regarding the need to submit an invoice to accommodate payment. It is not the usual practice to submit billing invoices for the deposit/refund mechanism however if it is necessary in order to accommodate your billing needs a billing invoice can be devised by this office.

Should you have any questions regarding this letter please contact me at (510) 271-4320.

Sincerely,

*Paul M. Hiett*

~~Paul M. Hiett~~

Senior Hazardous Materials Specialist

cc:

Jon Amdur, Port of Oakland, 530 Water St., Oakland, CA 94607  
Ray Balcom, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Rich Hiett, SFRWQCB, 2101 Webster St., 5th Floor,  
Oakland, CA 94612  
Dale Long, CA Dept. of Fish and Game, Office of Oil  
Spill Prevention and Response, P.O. Box 944209,  
Sacramento, CA 94244  
Ensign John Park, MER Div., Building 14, Marine Safety  
Office, San Francisco Bay, Coast Guard Island, Alameda,  
CA 94501  
Gil Jensen, Alameda County District Attorneys Office of  
Consumer and Environmental Affairs, 7677 Oakport Dr.,  
Suite 400, Oakland, CA 94621

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

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

white -env.health yellow -facility pink -files

Hazardous Materials Division Inspection Form

Site ID# 3335 Site Name Keep on Trucking Today's Date 2/22/91 Site Address 370 8th Ave EPA ID# City Oak Zip 94606 Phone 893-6011

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

Inspection Categories:

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

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

I.A GENERATOR (Title 22)

Table with 3 columns: Category (Manifest, Misc., Prevention, Cont'n. gency, Containers, Tanks), Item Number, and Item Description/Code.

Comments:

Trucking Company: (1) Have 2 above ground diesel tanks combined capacity 3500 gals. (2) Have acetylene & oxygen cylinders for welding (3) Perform some truck maintenance. In service area are 2 above ground fresh oil tanks ~ 150 + 100 gal + an 55 gal hydraulic oil (b) 1 - 55 gal drum of solvent + 32 + (c) 7 drums of waste oil (55 gal) + ~ 10 [gal] buckets w/ waste oil + ~ 8 55 drums of lubricants & possibly antifreeze + waste anti-freeze (4) In warehouse 1 are the above ground diesel tanks & the oxygen & acetylene cylinders ~ 8 O2 + 4 Acetylene.

I.B TRANSPORTER (Title 22)

Table with 3 columns: Category (Manifest, Cont'n's), Item Number, and Item Description/Code.

Contact: Richard Padovani Title: Terminal Mgr Signature: [Signature] Inspector: [Signature] Signature: [Signature]

white -env.health  
yellow -facility  
k -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

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

Hazardous Materials Division Inspection Form

P2

Site ID# \_\_\_\_\_ Site Name Keep on Trucking Today's Date 2/29/91  
 Site Address 370 8th Ave EPA ID# \_\_\_\_\_  
 City Oak Zip 94606 Phone 893-6011

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

Inspection Categories:

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

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

LA GENERATOR (Title 22)

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

Comments:

(1) Hump plan + receipt given  
 please return within 30 days  
 Re recommendations  
 (1) Label all drums containing haz waste for contents, accumulation date & generator name  
 Dispose/recycle all haz waste w/in 90 days  
 (2) keep containers closed at all times  
 except when adding to or withdrawing from  
 (3) complete & return Hump w/in 30 days  
 (4) keep receipts of all <sup>1102</sup>haz waste pickup on file  
 for 3 yrs.  
 1- UGT ~~not~~ not being used.

LB TRANSPORTER (Title 22)

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

Rev 6/88

Contact: Richard Padovani  
 Title: Temp Mgr  
 Signature: RK Padovani

Inspector: B Chan  
 Signature: \_\_\_\_\_

# PORT of OAKLAND

## Interoffice Memo



TO: Bill Vandenburg  
FROM: David Adams  
DATE: April 6, 1988  
SUBJECT: Underground Tanks at Keep On Trucking Co.

One of our tenants, Keep On Trucking Co., has received a bill from Alameda County's Environmental Health Office for two underground tanks located on the property they lease from the Port. Two issues are involved with the tanks, billing and the environmental issues involved with the existence of the tanks. Marine Terminals Department can take care of the billing issue. Before we can do that, I need you to resolve the environmental issues.

Bob Cathey, the Wharfinger responsible for that area, has done some research with the tenant, the County, and Michele Heffes of your staff. The Port filed registration forms for tanks at buildings H213 and H107. Bob and Michele surveyed the area and could find no evidence of an underground tank at H213, but did find two above ground tanks in H213. The tenant believes that the tank was removed "several years ago" when the above ground tanks were installed. The tank at H107 still appears to be in place, but is not used.

Bob contacted Mr. A. Levi at the County to get the H213 tank removed from the records. Mr. Levi requested written confirmation on letterhead stationery that H213 tank had been removed and the date of its removal. Unfortunately, Bob could find no record of its removal or any corporate knowledge of it. In fact there was an unofficial indication that the tank may have simply been covered over. As a result of this question, we have not written Mr. Levi.

Mr. Levi also indicated that the tank at H107 would have to be removed if it is to remain unused. The tenant has no need for the H107 tank and its condition is unknown. If the underground tank at H213 still exists and Mr. Levi is correct, then both tanks must be removed.

Bill Vandenburg/Dav<sup>er</sup> Adams  
April 6, 1988  
Page 2

I see no need for the tanks to remain, but feel you are best qualified to address the issues involved. Should any billing result from your final assessment of the problem, it should be to the Port. Bob Cathey will be your contact with Marine Terminals Department.

*David*  
David Adams

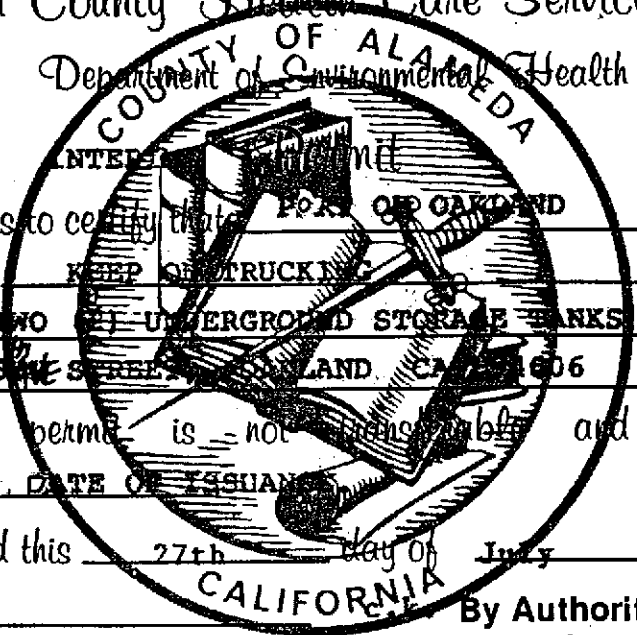
DA/clw

cc: John Verheul  
Bob Cathey

Attachments

# Alameda County Health Care Services Agency

Department of Environmental Health



This is to certify that PORT OF OAKLAND 7  
doing business as KEEP ON TRUCKING, is permitted  
to operate 4 TWO (2) UNDERGROUND STORAGE TANKS  
at 370 - 8th STREET, OAKLAND, CALIF. 94606

This permit is NOT transferable and is good until  
6 MONTHS FROM DATE OF ISSUANCE

Issued this 27th day of July, 1989.

Ed Howell

By Authority of

County Health Officer

~~Signature~~ HAZMAT SPECIALIST

400-WA-2-3/87