

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  
ROBERT F. CAMPBELL  
MICHAEL M. K. SEBREE  
ANTONIA L. MORE  
SARAH ROBERTSON McCUAIG  
MARIA I. LAWLESS  
PHILIP E. DRYSDALE  
KRISTEN THALL PETERS  
MATTHEW P. MATIASEVICH  
PAUL B. SALVATY  
CARLO C. MORMORUNNI

FITZGERALD, ABBOTT & BEARDSLEY

ATTORNEYS AT LAW

1221 BROADWAY, 21<sup>ST</sup> FLOOR  
OAKLAND, CALIFORNIA 94612-1837

TELEPHONE: (510) 451-3300

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

PLEASE REPLY TO:

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

FACSIMILE: (510) 451-1527

June 20, 1995

VIA REGISTERED MAIL  
RETURN RECEIPT REQUESTED

To: Attached Address List

Re: Supplemental Notice To January 13, 1995 Notice:  
Supplemental Notice of Discharge and Supplemental Notice of Intent To File Suit Pursuant To The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9613 (CERCLA § 113) Solid Waste Disposal Act ("RCRA") § 7002(a)(1) And Federal Water Pollution Control ACT ("CWA") § 505(a)(1), and Supplemental Notice Pursuant To The Oil Pollution Act ("OPA"), 33 U.S.C. § 2701.

Location of the Alleged Violation: Port Of Oakland, Oakland, California, including specifically the area proximate to the Ninth Avenue Terminal and the Clinton Basin ("Port Property").

This letter constitutes a Supplemental Notice of Discharge and Intent To Sue ("Supplemental Notice"), to the January 13, 1995, Notice of Discharge and Intent To Sue ("January 13, 1995, Notice"), by the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Port"), to Keep On Trucking Company, Inc. ("KOT"). A true and correct copy of the January 13, 1995, Notice is attached hereto as **Exhibit "A"** and is incorporated herein by this reference. This Supplemental Notice sets forth further facts regarding alleged violations as they relate to C.D. Ericson Company, Inc. and Western Tube & Conduit.

As set forth more specifically below, the Port is informed and believes and thereupon alleges that these persons are responsible in some manner for the violations set forth in the January 13, 1995, Notice and for further violations of CERCLA, RCRA

June 20, 1995

§ 7002(a)(1), CWA § 505(a)(1) and the OPA as the result of the discharge, release and disposal of petroleum at the Port Property. The Port is informed that such violations occurred between 1947 and the date of this Supplemental Notice, and that such violations are presently occurring and will continue to occur.

The person giving this Supplemental Notice, and legal counsel representing the person giving this Supplemental Notice, is

Port of Oakland  
Stanley P. Herbert  
Port Attorney  
Attn. Michele Heffes, Esq.  
Deputy Port Attorney  
530 Water Street, 4th Floor  
Oakland, California 94607  
Telephone: (510) 272-1358

Jonathan W. Redding  
Fitzgerald, Abbott & Beardsley  
1221 Broadway, 21st Floor  
Oakland, California 94612  
Telephone: (510) 451-3300

C. Duane Ericson and C. Duane Ericson Co. Inc. (formerly C.D. Ericson Co. Inc.)

The Port is informed and believes and thereby alleges that C. D. Ericson Co., Inc., predecessor to C. Duane Ericson Co., Inc., under various concession agreements and leases with the Port, occupied the Port Property, including buildings H-107, H-229, H-223, H-234, H-213, H-214, H-227, H-231 (375 8th Ave.), H-203, H-217 and adjacent areas containing underground and above-surface petroleum storage tanks and owned and/or operated such petroleum storage tanks. The Port is informed and believes and thereby alleges that C. Duane Ericson was the sole shareholder of the C. D. Ericson Company and is the sole shareholder of the C. Duane Ericson Company and that C. Duane Ericson is personally liable for the violations alleged herein. The Port is informed and believes and thereby alleges that as a result of the ownership and operation of such tanks, including operation of such tanks by tenants, subtenants and assigns of C. D. Ericson Co., Inc., C. D. Ericson Company discharged and released petroleum to the Port Property. The Port is informed and believes and thereby alleges that such contamination persists at the Port Property and continues to migrate through the soil and groundwater and discharge intermittently into the San Francisco Bay, in violation of CERCLA, RCRA § 7002(a)(1), CWA § 505(a)(1) and the OPA.

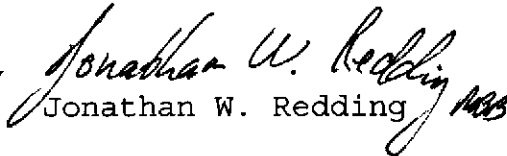
June 20, 1995

C. Duane Ericson, Western Tube & Conduit Corp. (Subsidiary of  
Sumitomo Metals USA Corporation)

The Port is informed and believes and thereby alleges that Western Tube & Conduit Corp. (a subsidiary of Sumitomo Metals USA Corporation), occupied the Port Property, including buildings H-213, H-214, H-215 and certain open areas proximate to such buildings under various concession agreements and/or leases. The Port is informed and believes and thereby alleges that C. Duane Ericson was the sole shareholder of Western Tube and Conduit and that C. Duane Ericson is personally liable for the violations alleged herein. The Port is informed and believes and thereby alleges that in connection with such occupation, Western Tube & Conduit Corp. owned and operated petroleum storage tank(s) at the Port Property. The Port is informed and believes and thereby alleges that as a result of such ownership and/or operation, directly and by its sublessees KOT and others, Western Tube and Conduit Corp. discharged and released petroleum to the Port Property. The Port is informed and believes and thereby alleges that such contamination persists at the Port Property and continues to migrate through the soil and groundwater and discharge intermittently into the San Francisco Bay, in violation of CERCLA, RCRA § 7002(a)(1), CWA § 505(a)(1) and the OPA.

Very truly yours,

FITZGERALD, ABBOTT & BEARDSLEY

By   
Jonathan W. Redding

JWR:mah

## KOT

- H107 bld next to where 1000 gal diesel tank removed 10/99
- BH-2 encountered FP + grab GW  
SpL detected 300 mg/L diesel
- TPH g @ 110 mg/L found in grab GW from BH-2.

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## AGT

- FP in MW4 initially wells MW4-4 installed then MW5 + 6
- TPH g @ 1.1 + 1.3 mg/L found in MW5 + MW6 respectively
- leak in piping from AST considered source of diesel
- Secondary pathway, a canney line detected diesel (unlike the fresh diesel from the AST)

272-1118

\* Jeff Rubin (~~272-1118~~)

Address List

Ms. Janet Reno, Esq.  
United States Attorney General  
Office of the Attorney General  
Main Justice Building  
Tenth & Constitution Ave., N.W.  
Washington, D.C. 20503

Mr. Craig Johns, Esq.  
Crosby, Heafey, Roach & May  
1999 Harrison Street  
P. O. Box 2084  
Oakland, CA 94604-2084

Ms. Carol Browner  
Administrator  
United States Environmental  
Protection Agency  
Washington, D.C. 20460

Mr. Richard Pardovani  
Terminal Manager  
Keep On Trucking Company, Inc.  
370 - 8th Avenue  
Oakland, CA 94606

Ms. Felicia Marcus  
Regional Administrator  
United States Environmental  
Protection Agency  
75 Hawthorne Street  
San Francisco, CA 94105

Mr. C. Duane Ericson  
C. Duane Ericson Company  
146 Crestview Drive  
P.O. Box 2140  
Orinda, California 94563

Mr. James Strock  
Chief Administrative  
Officer of Solid Waste  
California Environmental  
Protection Agency  
555 Capitol Mall, Suite 235  
Sacramento, CA 95814

Mr. Takashi Nakajima  
President, CEO  
Western Tube & Conduit  
2001 E. Dominguez Street  
P. O. Box 2720  
Long Beach, CA 90801-2720

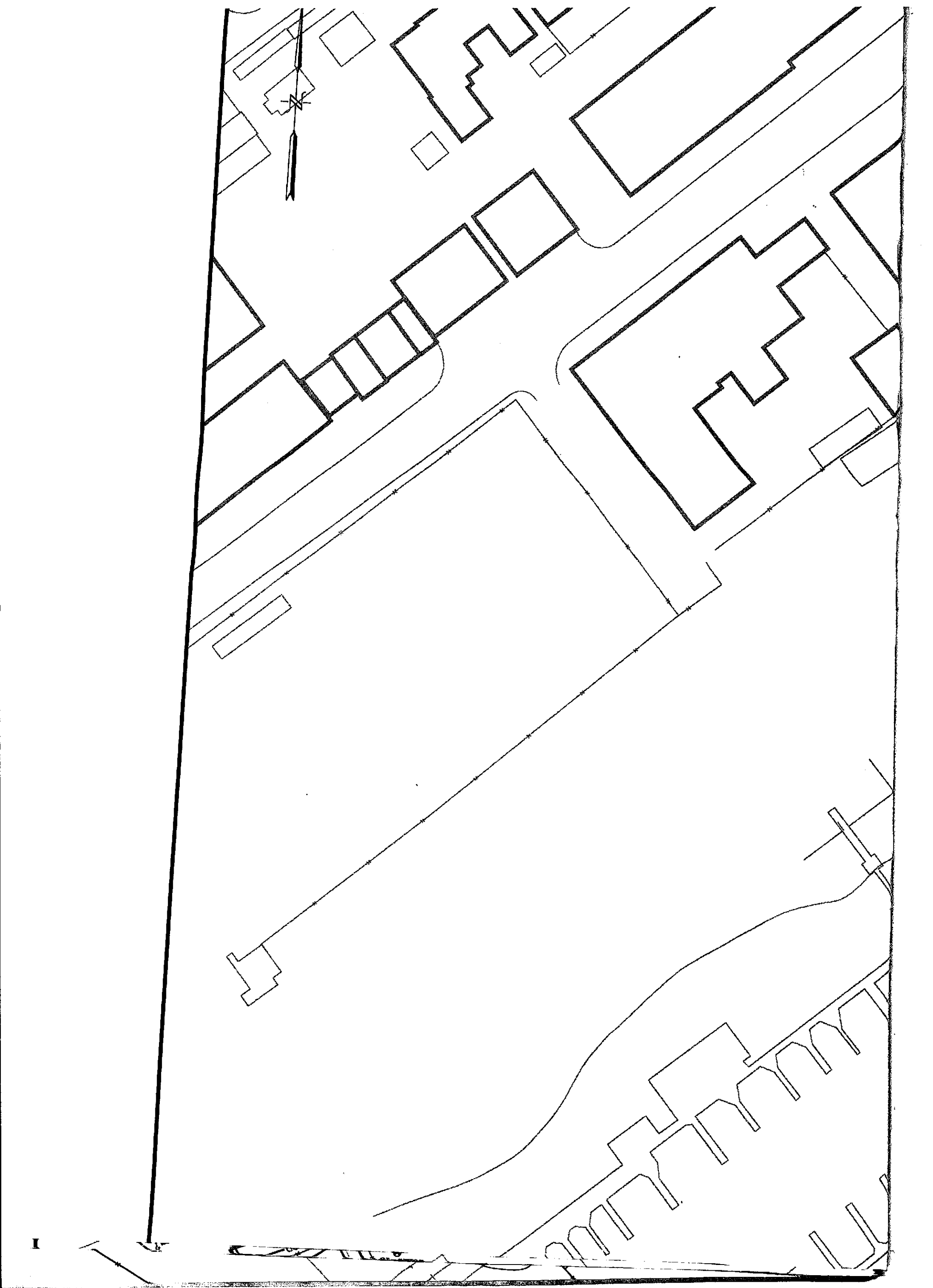
Mr. Barney Chan  
Alameda County Health Care  
Services Agency  
80 Swan Way, Room 200  
Oakland, CA 94621

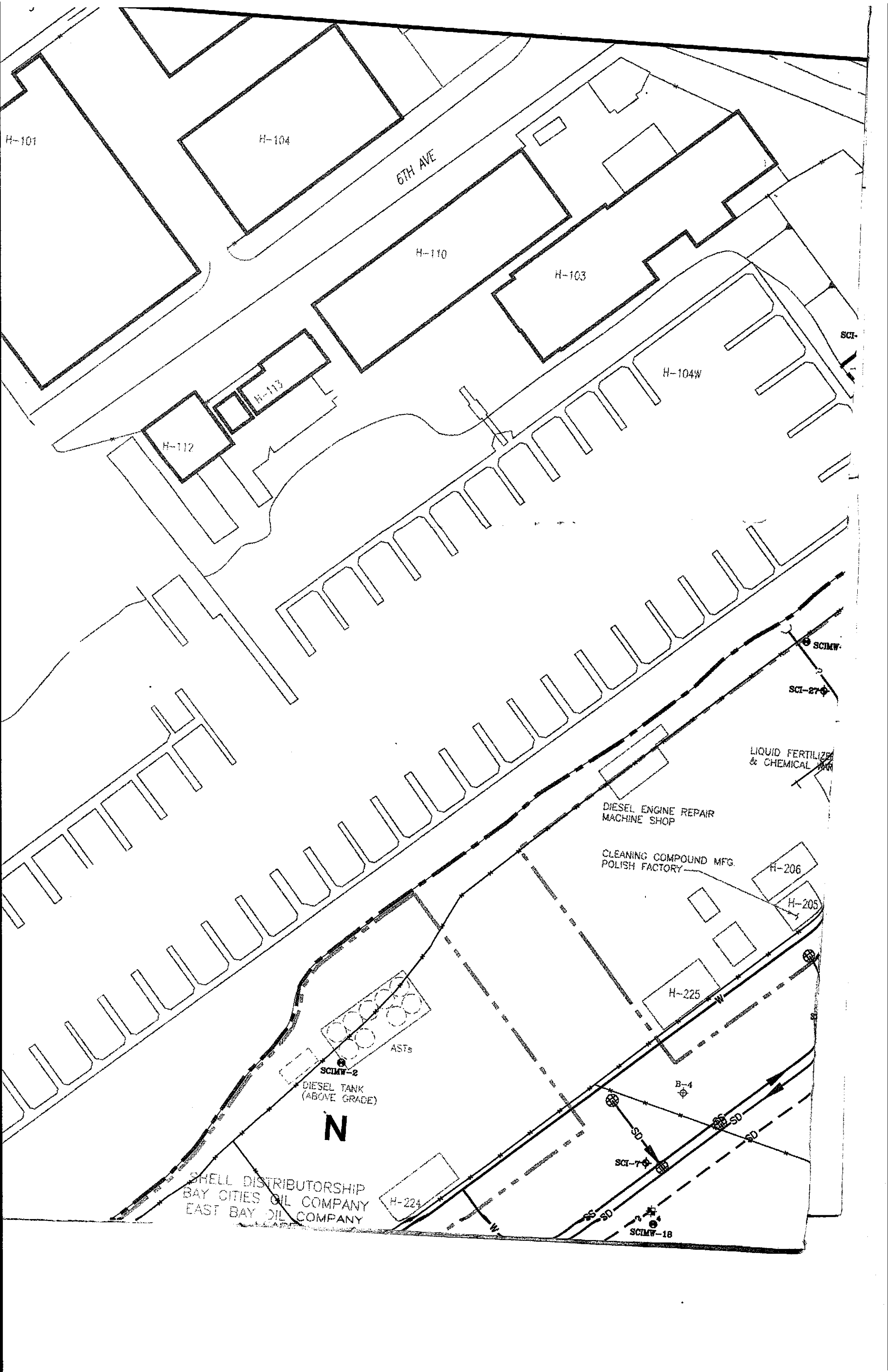
Mr. Walt Pettit  
State Water Resources  
Control Board  
901 "P" Street  
Sacramento, CA 95814

Mr. Steve Ritchie  
Regional Water Quality  
Control Board  
San Francisco Region  
210 Webster, Suite 500  
Oakland, CA 94612

Mr. Sumi, Branch Manager  
Sumitomo Metals U.S.A. Corp.  
3945 Freedom Circle, #680  
Santa Clara, CA 95054

Petty Officer Joseph D. Ramos  
U. S. Coast Guard  
Building 14  
Coast Guard Island  
Alameda, CA 94501





H-101

H-104

6TH AVE

H-110

H-103

H-104W

H-112

H-113

LIQUID FERTILIZER & CHEMICAL

DIESEL ENGINE REPAIR MACHINE SHOP

CLEANING COMPOUND MFG. POLISH FACTORY

H-206

H-205

H-225

H-224

N

SHELL DISTRIBUTORSHIP  
BAY CITIES OIL COMPANY  
EAST BAY OIL COMPANY

DIESEL TANK (ABOVE GRADE)

ASTs

SCIMV-2

B-4

SCI-7

SCIMV-18

SCIMV

SCI-27

SD

SD

SD

SD

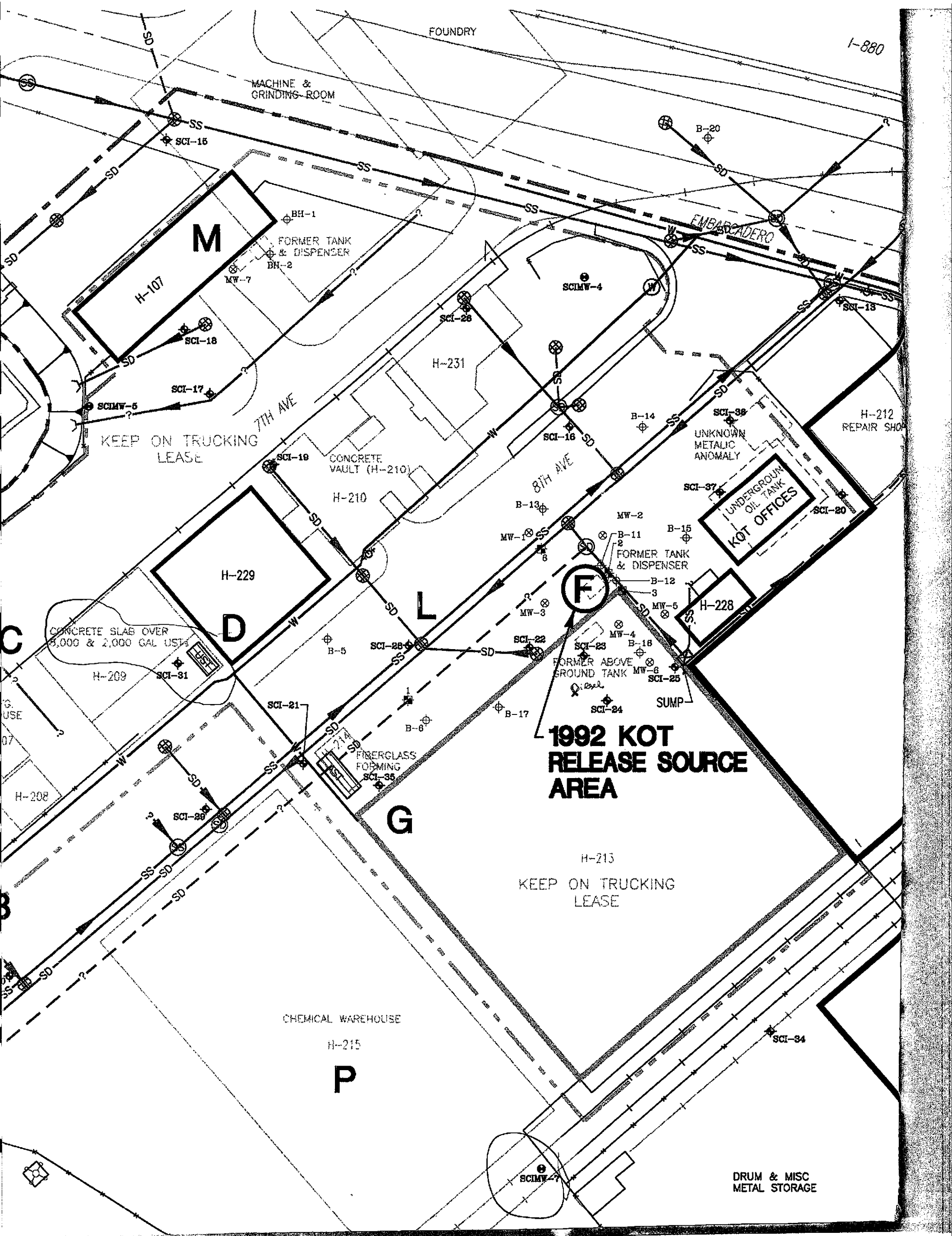
SD

SD

SD

W

W



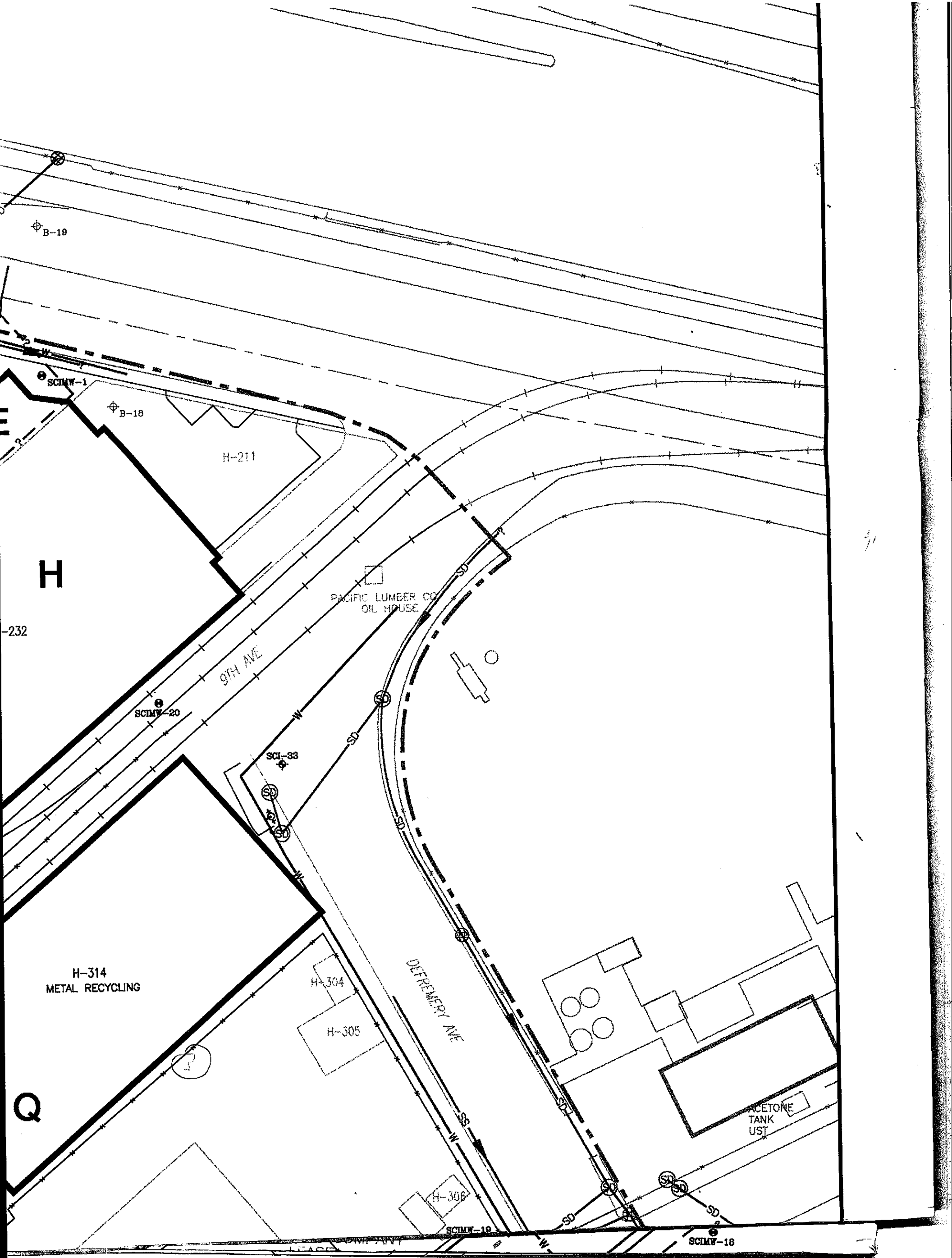
**1992 KOT  
RELEASE SOURCE  
AREA**

H-215  
KEEP ON TRUCKING  
LEASE









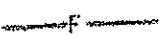



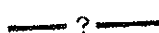







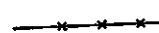
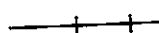



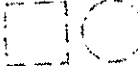


CHEMICAL WAREHOUSE  
H-215

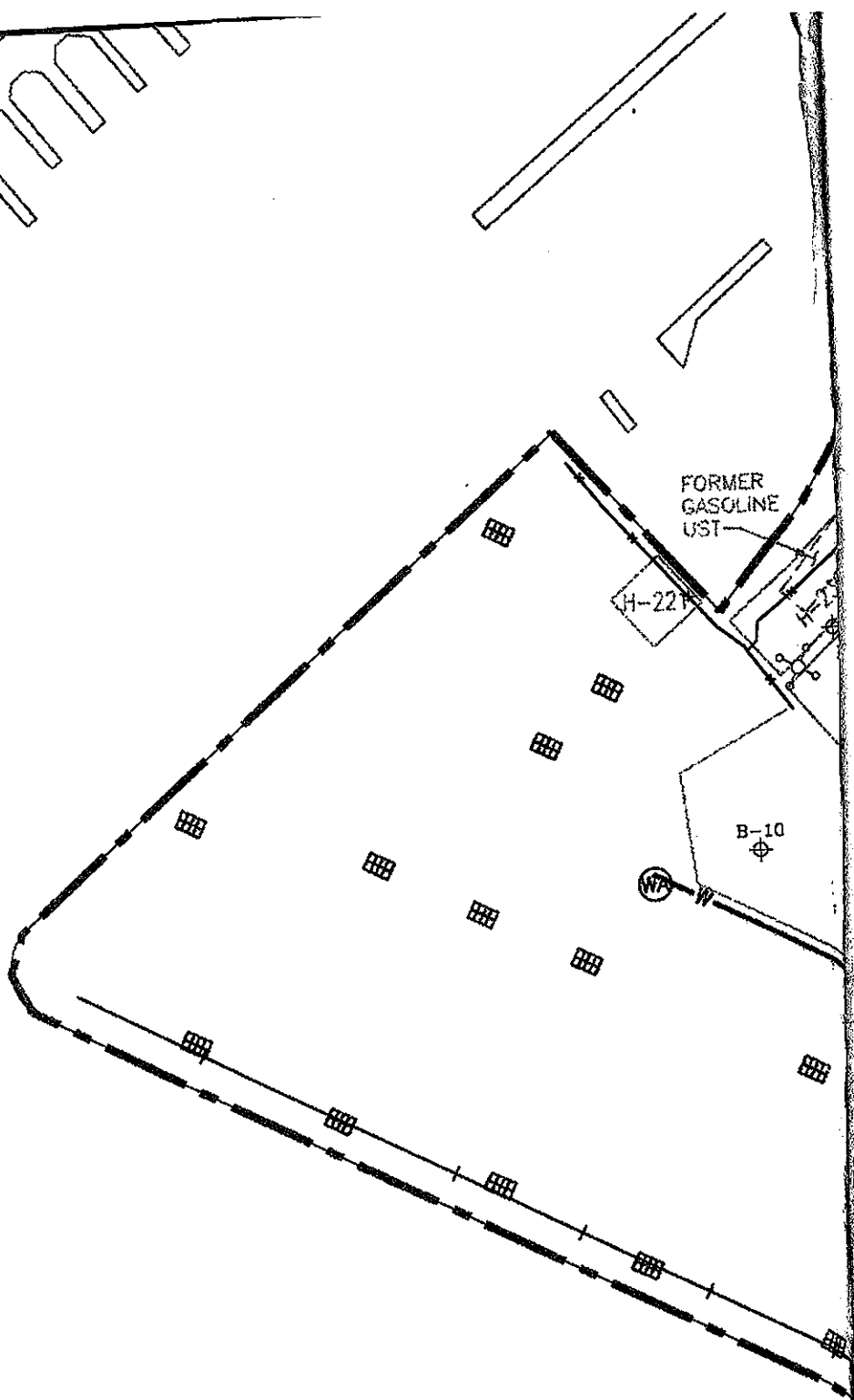
DRUM & MISC  
METAL STORAGE





**LEGEND:**

-  SOIL BORING LOCATION (SCI)
-  SOIL BORING LOCATION (BY OTHERS)
-  MONITORING WELL LOCATION (SCI)
-  MONITORING WELL LOCATION (BY OTHERS)
-  TRENCH LOCATION (BY OTHERS)
-  EXISTING BUILDING
-  DEMOLISHED BUILDING
-  EXISTING BUILDING FOUNDATION
-  FUEL LINE
-  WATER LINE
-  SANITARY SEWER
-  STORM DRAIN
-  UNKNOWN DRAINAGE
-  OUTFALL
-  FLOW DIRECTION
-  DRAIN GRATE
-  CATCH BASIN
-  MANHOLE
-  WHARF ACCESS MANHOLE
-  FIRE HYDRANT
-  FENCE LINE
-  RAILROAD
-  OVERHEAD LIGHT STANDARD
-  APPROXIMATE LEASE BOUNDARY
-  STUDY AREA BOUNDARY
-  FORMER ABOVE OR UNDERGROUND STORAGE TANK
-  EXISTING ABOVE GROUND STORAGE TANK
-  **A** SITE REFERENCE AREA

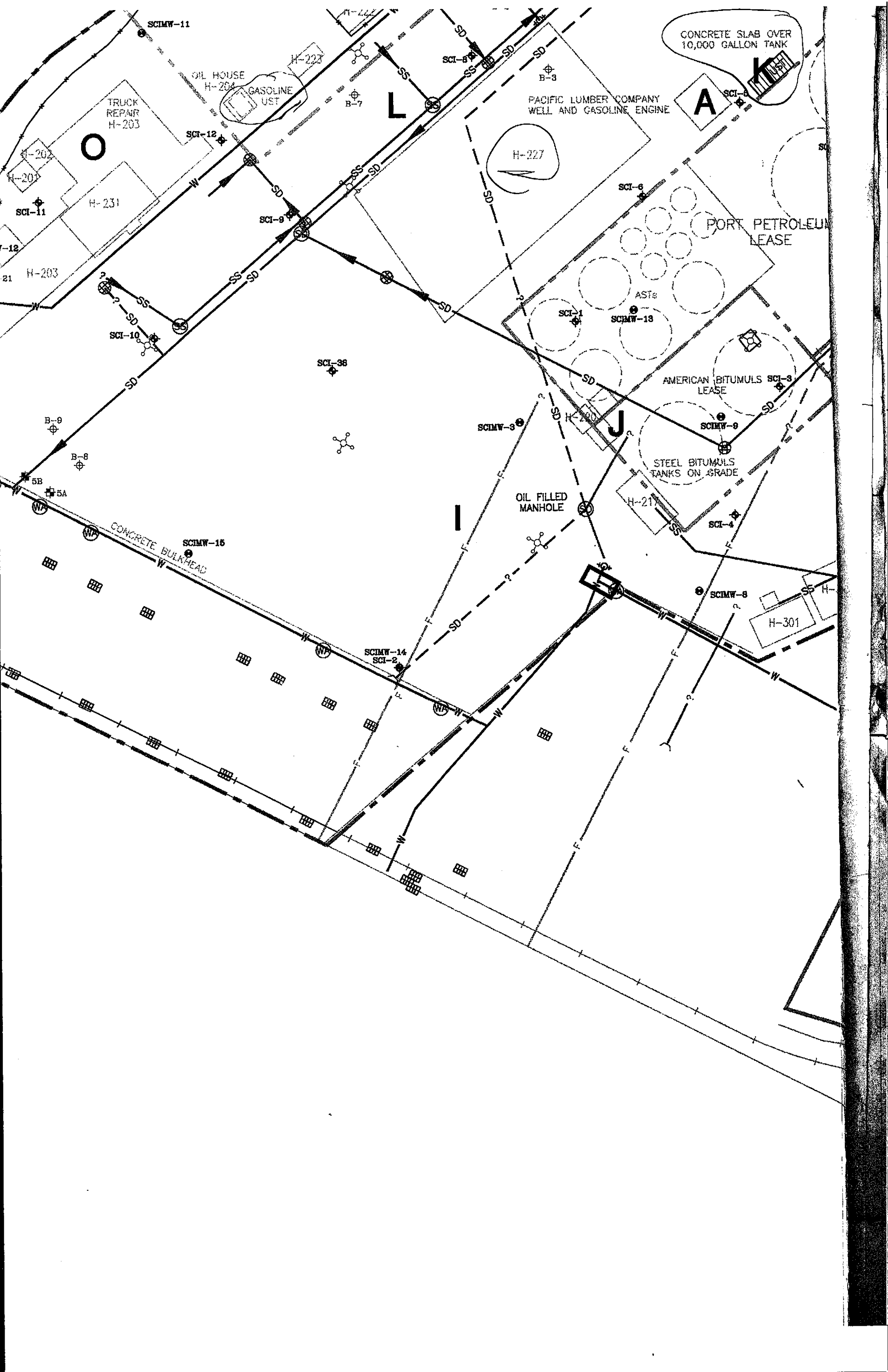


**NOTES:**

1. UTILITY SURVEY WAS PREPARED BY AN WEST 5-22-96

**REFERENCE DRAWINGS**

DRAWN BY



SCIMW-11

OIL HOUSE H-204

GASOLINE UST

TRUCK REPAIR H-203

H-227

PACIFIC LUMBER COMPANY WELL AND GASOLINE ENGINE

CONCRETE SLAB OVER 10,000 GALLON TANK

SCI-11

H-231

SCI-12

SCI-9

SCI-8

SCI-5

H-227

SCI-6

PORT PETROLEUM LEASE

H-203

SCI-10

SCI-36

SCI-1

SCIMW-13

AMERICAN BITUMULS LEASE

SCI-3

B-9

B-8

SCIMW-3

OIL FILLED MANHOLE

STEEL BITUMULS TANKS ON GRADE

SCIMW-9

CONCRETE BULKHEAD

SCIMW-15

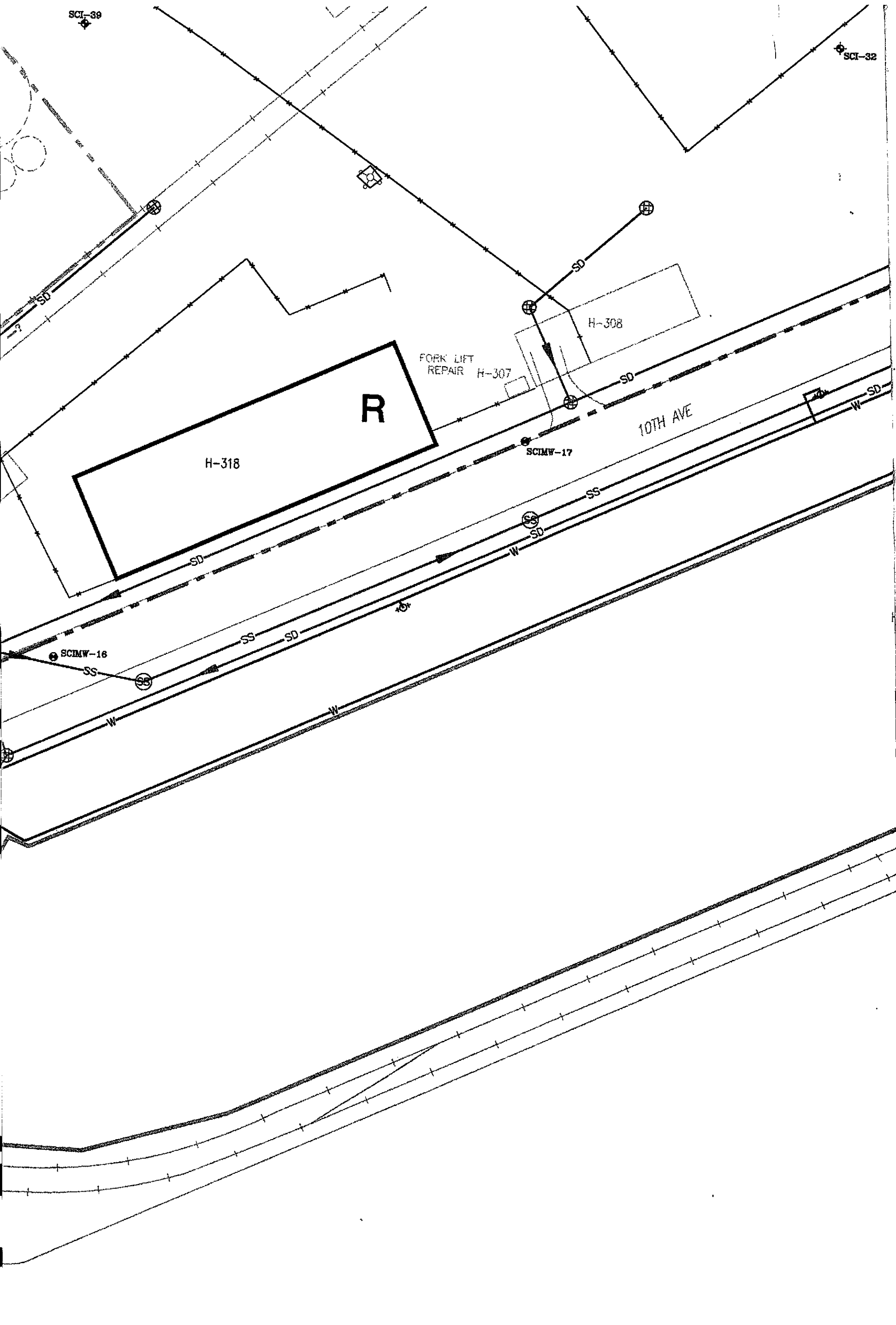
SCIMW-14

SCI-2

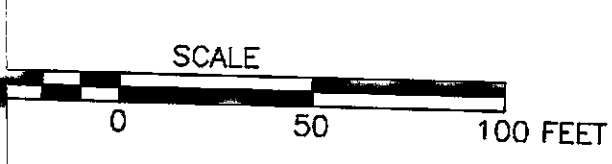
H-217

SCIMW-8

H-301



12/23/96

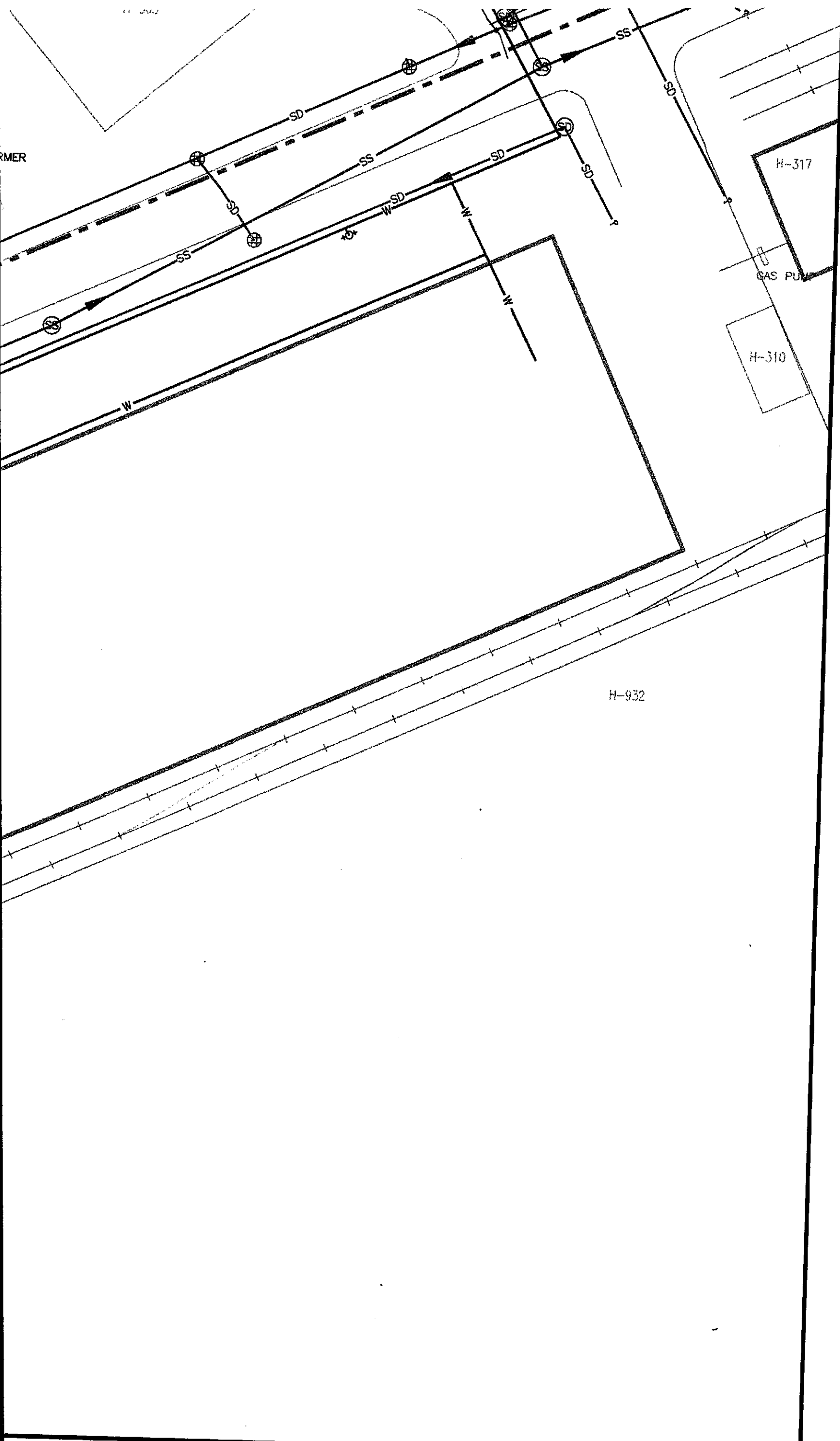


DESIGNED BY	-
DRAWN BY	RDP/DJP
CHECKED BY	JD
APPROVED BY	



**Subsurface Consultants, Inc.**  
Geotechnical & Environmental Engineers

171 10th Ave. S.W. Atlanta, GA 30334



PORT OF OAKLAND  
 530 WATER STREET OAKLAND, CALIFORNIA

SCALE  
 AS SHOWN  
 PROJECT NO.  
 133.005