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Alameda County  
AUG 0 9 2003  
Environmental Health

Attorneys for Petitioner  
ChevronTexaco Corp.

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In Re: ) **SWRCB FILE NO. :**  
)  
)  
) PETITION OF CHEVRONTEXACO  
) CORP. FOR REVIEW OF JULY 7, 2003  
) LETTER FROM ALAMEDA COUNTY  
Alameda County Health Care Services ) HEALTH CARE SERVICES AGENCY  
Agency Record ID: RO0000374 ) DESIGNATING CHEVRONTEXACO  
Letter dated July 7, 2003, issued to ) AND AGNES CALLERI AS  
ChevronTexaco re 15595 Washington ) SECONDARY RESPONSIBLE  
Ave., Santa Lorenzo ) PARTIES  
)  
) (REVIEW PURSUANT TO STATE  
) WATER RESOURCES CONTROL  
\_\_\_\_\_ ) BOARD RESOLUTION NO. 88-23)

Petitioner ChevronTexaco Corp. (hereinafter "ChevronTexaco") submits this Petition for Review of the decision of the Alameda County Health Care Services Agency (hereinafter "the Agency") in its letter dated July 7, 2003 to designate ChevronTexaco and Agnes Calleri as secondary Responsible Parties, a copy of which is attached as Exhibit A. This petition is submitted under the procedures set forth in State Water

Resources Control Board Resolution No. 88-23 and the State Water Resources Control Board Policy Regarding the Underground Storage Tank Pilot Program.

**PETITIONER:**

ChevronTexaco Corp.  
6001 Bollinger Canyon Road  
P.O. Box 6012  
San Ramon, CA 94583-2324

**REVIEW REQUESTED:**

ChevronTexaco requests review of the Agency's determination that ChevronTexaco and Ms. Calleri are secondary responsible parties ("RPs") for the investigation and remediation activities at, and in the vicinity of, 15595 Washington Avenue, San Lorenzo, as set forth in the Agency's letter of July 7, 2003 (Exhibit A).

**DATE ON WHICH THE AGENCY ACTED:**

July 7, 2003 (Exhibit A).

**SUMMARY OF REASONS FOR REVIEW:**

This matter should be familiar to the State Water Resources Control Board ("SWRCB"). A brief history, however, may be helpful:

The subject site was operated as a service station from approximately 1964 through 1983, and from 1986 through the present. From 1974 to 1983, the site was owned by the Calleris family who operated the service station. In 1983, Texaco purchased the property but

did not operate the facility. From 1983 to 1986, Texaco neither stored nor dispensed gasoline at the site. During Texaco's ownership, the underground storage tanks were drained of all products and remained inactive. In 1986, Texaco sold the site to Bertram Kubo. In 1990, Mehdi Mohammadian purchased the site and continues to operate it as a Shell retail service station.

A 1986 environmental site assessment conducted by Texaco to facilitate a property sale revealed a petroleum hydrocarbon release had occurred at the facility at some time in the past. The investigation found that the release occurred near the pump islands and was most reasonably caused by a leak in the product piping or dispensers used during operation of the system. Since the site was not operated as a service station during Texaco's ownership, this release must have occurred prior to 1983.

A 1995 groundwater investigation revealed that a subsequent release of petroleum hydrocarbons had occurred. High concentrations and the distribution of methyl butyl ether (MTBE) in groundwater indicate that the third generation USTs (installed in approximately 1987) were the source of the MTBE detected. Subsequent groundwater monitoring has also found the presence of MTBE.

In 1995, the California Regional Water Quality Control Board for the San Francisco Bay Region designated the Callaris, Texaco, Kubo and Mohammadian as responsible parties for the soil and groundwater contamination at the site. In 1999, following extensive monitoring,

analysis and discussion, the Agency, under the authority of the Underground Storage Tank Pilot Program, de-designated Texaco and the Calleris as responsible parties because the evidence showed that the investigation and cleanup required at the site was not caused by the release of hydrocarbons prior to 1986, but was instead the direct result of the release of MTBE bearing hydrocarbons in the 1990's from the third-generation tanks installed by Kubo and used by Kubo and Mohammadian.

In 1999, Mohammadian petitioned the SWRCB for review of the Agency's decision to de-designate ChevronTexaco and the Calleris. The SWRCB found that the issue presented by the petition was one of first impression, i.e., when should a properly named responsible party be removed from designation as a responsible party. In its November 22, 2002 Order (WQO 2002-0021) ("Order"), the SWRCB remanded the matter to the Agency for a determination

whether the constituents attributable to the release that occurred during or prior to the Calleris' ownership and which persisted at the site while Texaco owned the property, taken in conjunction with the other constituents at the site having similar effects on beneficial uses, are contributing to the current need for corrective action. (Order at 11.)

The SWRCB further held that the Agency could, as an example, remove ChevronTexaco and the Calleris if it found that (1) the site would be closed but for the MTBE from the 1990's release; and (2) the constituents remaining from the pre-1983 release do not have similar effects as MTBE on beneficial uses. (Id.)

Following remand, ChevronTexaco and the Agency have had numerous discussions concerning this matter. ChevronTexaco has sought to provide the Agency with relevant information so that a determination can be made using the standard set by the SWRCB. For instance, ChevronTexaco provided the Agency with a technical evaluation prepared by Cambria Environmental Technology, Inc. (Cambria) which included a discussion of the attenuation of the constituents from the pre-1983 release. This evaluation concluded that the constituents from the pre-1983 release would not have contributed to the need for cleanup of the site in 1986 or now. The Agency, however, refused to meet with ChevronTexaco to discuss the issues, did not comment on the additional information provided in the Cambria report, and issued its July 7, 2003 letter redesignating ChevronTexaco and the Callaris as responsible parties. In discussions with the Agency, ChevronTexaco was advised that the Agency would not make the current assessment as set forth in the SWRCB's Order and instead would rely on the original designation of ChevronTexaco and the Callaris as responsible parties.

As the Agency refuses to evaluate the current situation at the site vis-à-vis the appropriate responsible parties, ChevronTexaco requests the SWRCB to reverse the Agency's decision of July 7, 2003 and de-designate ChevronTexaco and the Callaris as responsible parties based on the evidence, including the aforementioned technical attenuation evaluation and a sensitive receptor survey which will be provided shortly.

**MANNER IN WHICH CHEVRONTEXACO IS AGGREIVED:**

The Agency is designating ChevronTexaco and Agnes Calleri as secondary RP's for the soil and groundwater contamination found at 15595 Washington Ave., San

Lorenzo, despite evidence that contamination resulting from operations prior to 1986 would not have contributed to the current need for corrective action. The hydrocarbon release for which either ChevronTexaco or Agnes Calleri (both former owners of the site) are responsible does not require remediation and the environmental case would be closed were it not for the presence of a more recent MTBE release that will likely require remediation.

**RELIEF REQUESTED:**

ChevronTexaco requests that the State Water Resources Control Board issue an order rescinding the decision in the Agency's letter of July 7, 2003 (Exhibit A) and de-designate ChevronTexaco and the Calleris as RPs because the site at issue would be closed but for the MTBE from the 1990's release and the constituents remaining from the pre-1983 release do not have similar effects as MTBE on beneficial uses.

**POINTS AND AUTHORITIES:**

Cal. Health & Safety Code §§ 25297.1 & 25297.15 and the State Water Resources Control Board Resolution No. 88-23. ChevronTexaco requests leave to submit additional evidentiary material and legal authorities when the additional evidentiary material is available and at such time as this petition is scheduled for hearing and decision.

**STAY OF APPEAL/ABEYANCE REQUESTED:**

ChevronTexaco requests that this petition be held in abeyance for sixty (60) days pending ChevronTexaco's ongoing discussions with the Agency concerning its decision and the preparation of a sensitive receptor's survey for the site.

**LIST OF INTERESTED PERSONS:**

Ariu Levi  
Chief Contract Project Director  
Alameda County Health Care Services Agency  
Environmental Health Services, Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Mehdi Mohammadian  
Cal Gas  
15595 Washington Avenue  
San Lorenzo, CA 94580

Agnes Calleri  
2476 Wimbledon Lane  
San Leandro, CA 94577

Karen Streich  
ChevronTexaco  
6001 Bollinger Canyon Road  
P.O. Box 6012  
San Ramon, CA 94583-2324

Marjorie Kayner  
Bertram Kubo Trust  
20321 Via Espana  
Salinas, CA 93908-1261

Jennifer Jordan  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, CA 95814

Barney Chan  
Hazardous Material Specialist  
Alameda County Health Care Services Agency  
Environmental Health Services, Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

Loretta K. Barsamian  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Jeffrey Widman, Esq.  
Attorney for Mehdi Mohammadian  
101 Race Street  
San Jose, CA 95126

Mary Taylor, Esq.  
Attorney for Agnes Calleri  
100 Pringle Avenue, Suite 630  
Walnut Creek, CA 94596

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

**SERVICE ON ALAMEDA COUNTY HEALTH CARE SERVICES:**

A proof of service of this Petition on all interested parties, including the Agency,  
is attached.

**REQUEST FOR PREPARATION AND COPY OF THE AGENCY'S RECORD**

A copy of ChevronTexaco's request for preparation and copy of the Agency's  
record concerning its July 7, 2003 decision is attached as Exhibit B.




**REQUEST FOR HEARING:**

ChevronTexaco requests a hearing to present additional evidence in support of this petition. ChevronTexaco will present additional evidence, including but not limited to, the Cambria technical attenuation evaluation which the Agency refused to consider prior to the issuance of its July 7, 2003 letter designating ChevronTexaco and Ms. Calleri as secondary RPs and a sensitive receptor survey that is currently being prepared. This survey, along with the information previously provided to the Agency, will provide direct evidence that any hydrocarbons released at the site prior to its sale by ChevronTexaco in 1986 did not present a current or historic health risk requiring cleanup.

Dated: August 6, 2003

GLYNN & FINLEY, LLP

By   
Attorneys for Petitioner  
ChevronTexaco Corp.

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY  
DAVID J. KEARS, Agency Director



RECEIVED  
JUL 14 2003  
BY: *K. Steady*

Certified Mail # 7001 1940 0005 5777 8340  
July 7, 2003

Notice of Responsibility

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

Record ID: R00000374  
Cal Gas  
15595 Washington Ave  
San Lorenzo, CA 94580

SITE

Date First Reported: 08/28/1986  
Substance: Gasoline  
Funding (Federal or State): F  
Multiple RPs?: Y

Ms. Karen Streich  
ChevronTexaco  
P.O. Box 6012  
San Ramon, CA 94583

Responsible Party (RP)#2  
(list of all RPs attached)

Pursuant to sections 25297.1 and 25297.15 of the Health and Safety Code, you are hereby notified that the above site has been placed in the Local Oversight Program and the individual(s) or entity(ies) shown above, or on the attached list, has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site. Section 25297.15 further requires the primary or active Responsible Party to notify all current record owners of fee title before the local agency considers cleanup or site closure proposals or issues a closure letter. For purposes of implementing section 25297.15, this agency has identified Medhi Mohammadian as the primary or active Responsible Party. It is the responsibility of the primary or active Responsible Party to submit a letter to this agency within 20 calendar days of receipt of this notice which identifies all current record owners of fee title. It is also the responsibility of the primary or active Responsible Party to certify to the local agency that the required notifications have been made at the time a cleanup or site closure proposal is made or before the local agency makes a determination that no further action is required. If property ownership changes in the future, you must notify this local agency within 20 calendar days from when you are informed of the change.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 341-5808 or telephone (916) 341-5700.

Pursuant to section 25299.37(c) (7) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact Barney Chan, Hazardous Materials Specialist, at this office at (510) 567-6765 for further information about the site designation process.

*[Signature]*  
Date: 7/13/03  
Ariu Levi, ~~Chief~~  
Contract Project Director

Please Circle One  Add  Delete  Change  
Reason: 20-Name RPs

c: Jenniffer Jordan, SWRCB  
Barney Chan, Hazardous Materials Specialist

ALAMEDA COUNTY - DEPARTMENT OF ENVIRONMENTAL PROTECTION  
HAZARDOUS MATERIALS DIVISION

July 7, 2003

LIST OF RESPONSIBLE PARTIES FOR

SITE	Record ID: RO000374 Cal Gas 15595 Washington Ave San Lorenzo, CA 94580	Date First Reported 08/28/1986 Substance: Gasoline Petroleum (X) Yes Source: F
	Mr. Mehdi Mohammadian Cal Gas 15595 Washington Ave San Lorenzo, CA 94580	Responsible Party #1 Property Owner, UST Owner, Operator
	Mrs. Agnes Calleri 10901 Cliffland Ave Oakland, CA 94605	Responsible Party #2 Past Property Owner, Past UST Owner/Operator
	Ms. Karen Streich ChevronTexaco P.O. Box 6012 San Ramon, CA 94583-2324	Responsible Party #3 Past Property Owner and Past UST Owner
	Ms. Marjorie Kayner Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261	Responsible Party #4 Past Property Owner, Past UST Owner/Operator

GLYNN & FINLEY, LLP  
ONE WALNUT CREEK CENTER  
SUITE 500  
100 PRINGLE AVENUE  
WALNUT CREEK, CALIFORNIA 94596  
TELEPHONE: (925) 210-2800

FACSIMILE: (925) 945-1975

WRITER'S DIRECT DIAL NUMBER

(925) 210-2809  
email: jpodawiltz@glynnfinley.com

August 5, 2003

UST: Current Shell Station at  
15595 Washington Ave, San Lorenzo

VIA FACSIMILE & U.S. MAIL

Mr. Ariu Levi  
Chief Project Director  
Alameda County Environmental Health Services  
Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

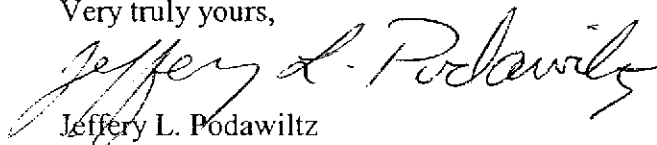
Dear Mr. Levi:

We represent ChevronTexaco Corp. ("ChevronTexaco") in the above-referenced matter.

Pursuant to State Water Resources Control Board Resolution No. 88-23, we request that Alameda County Environmental Health Services (the "Agency") prepare the Agency's record concerning the above referenced site and the Agency's letter dated July 7, 2003 re-designating ChevronTexaco and Agnes Calleri as secondary responsible parties for the investigation and remediation activities at 15595 Washington Avenue, San Lorenzo. This request is made because ChevronTexaco Corp. will soon file a petition for review by the State Water Resources Control Board of the Agency's July 7, 2003 decision.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to call.

Very truly yours,



Jeffery L. Podawiltz

cc: All interested parties (by mail only)

1 Docket No. SWRCB FILE NO.:

2 PROOF OF SERVICE BY MAIL

3 I, Gina M. Bentley, the undersigned, hereby certify and declare under penalty of  
4 perjury that the following statements are true and correct:

5 1. I am over the age of 18 years and am not a party to the within cause.

6 2. My business address is One Walnut Creek Center, 100 Pringle Avenue,  
7 Suite 500, Walnut Creek, CA 94596

8 3. I am familiar with my employer's mail collection and processing practices;  
9 know that said mail is collected and deposited with the United States Postal Service on the same  
10 day it is deposited in interoffice mail; and know that postage thereon is fully prepaid.

11 4. Following said practice, on August 6, 2003 I served a true and correct copy  
12 of the attached document entitled exactly **PETITION OF CHEVRONTEXACO CORP. FOR**  
13 **REVIEW OF JULY 7, 2003 LETTER FROM ALAMEDA COUNTY HEALTH CARE**  
14 **SERVICES AGENCY DESIGNATING CHEVRONTEXACO AND AGNES CALLERI**  
15 **AS SECONDARY RESPONSIBLE PARTIES (REVIEW PURSUANT TO STATE**  
16 **WATER RESOURCES CONTROL BOARD RESOLUTION NO. 88-23)** by placing it in an  
17 addressed, sealed envelope and depositing it in regularly maintained interoffice mail to the  
18 following:

19 *Please see attached Service List*

20 Executed this 6th day of August, 2003 at Walnut Creek, California.

21  
22  
23 \_\_\_\_\_  
Gina M. Bentley  
24  
25  
26  
27  
28

1 **SERVICE LIST IN RE**  
2 **Alameda County Health Care Services**  
3 **Agency Record ID: R00000374**  
4 **Letter dated July 7, 2003, issued to**  
5 **Chevron Texaco re 15595 Washington Ave., San Lorenzo**

6 Mr. Ariu Levi  
7 Chief Project Director  
8 Alameda Co. Environmental Health Services  
9 Environmental Protection  
10 1131 Harbor Bay Parkway, Suite 250  
11 Alameda, CA 94502-6577

Mehdi Mohammadian  
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