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FREDERICK BOLD, JR.
(RETIRED)

January 24, 1996

Alameda County Health Care Services Agency
Department of Environmental Health
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

Attention: Thomas Peacock, Acting Chief

RE: Petition for Review of Decision by
Alameda County Health Care Services

Dear Mr. Peacock:

Enclosed please find the Petition by Cypress Street Investments, A California Limited Partnership. Please refer to my letter dated December 15, 1995. At the request of Lori Casias I have filed a separate petition on behalf of Cypress Street Investments, A California Limited Partnership.

If you have any questions, please do not hesitate to contact me.

Yours very truly,



CRAIG L. JUDSON

CLJ:baw
Enclosure as noted.

cc: Client
Lori Casias, SWRCB

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FREDERICK BOLD, JR.
(RETIRED)

January 24, 1996
(sent by fax and mail: 510/227-4319)

Ms. Lori Casias
Analyst
State Water Resources Control Board
Division of Clean Water Programs
Post Office Box 944212
Sacramento, CA 94244-2120

RE: PETITION FOR REVIEW OF DECISION BY
ALAMEDA COUNTY HEALTH CARE SERVICES

Dear Ms. Casias:

Pursuant to your correspondence of December 27, 1995, enclosed please find the Petition submitted by Cypress Street Investments, a California Limited Partnership. On December 15, 1995 we submitted a Petition on behalf of D.C. Metals Inc., California Corporation, Ray Cherry, Vice President of D.C. Metals, Inc., and Cypress Street Investments, a California Limited Partnership. You indicated in your correspondence and our subsequent telephone conversation that you wanted a separate Petition filed by Cypress Street Investments. That Petition is enclosed.

It is our understanding that this Petition will be considered together with the Petition filed December 15, 1995, both of which were in response to the Notice of Requirement to Reimburse from Alameda County Healthcare Services Agency dated November 22, 1995, as well as the pending Petition submitted on August 30, 1995 on behalf of D.C. Metals, Inc., and Ray Cherry in response to the notice of requirement to reimburse dated August 1, 1995.

If you require any further information in order to process the Petition please feel free to contact me.

Yours very truly,



CRAIG L. JUDSON

CLJ:baw

cc: Client

Tom Peacock, County of Alameda
Kevin Graves, San Francisco Bay Regional
Quality Control Board

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF CLEAN WATER PROGRAMS2014 T STREET, SUITE 130
P.O. BOX 944212
SACRAMENTO, CA 94244-2120(916) 227-4325
FACSIMILE (916) 227-4349

DEC 27 1995

CERTIFIED MAIL NO. P 088 543 497

Craig J. Judson
Bold, Polisner, Maddow, Nelson & Judson
Attorneys at Law
500 Ygnacio Valley Road
Walnut Creek, CA 94596-3840

RECEIVED

JAN - 4 1996

BOLD, POLISNER, MADDOW,
NELSON & JUDSON

Dear Mr. Judson:

PETITION, UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT
PROGRAM, SITE NO. 933, 1414 3RD STREET, OAKLAND, ALAMEDA COUNTY,
PETITION FILE NO. P95-156 (CYPRESS STREET INVESTMENTS)

I have received the amendment to the petition submitted on behalf of D.C. Metals, Inc. The intent of the amendment is to include Cypress Street Investments as a petitioner. A separate petition must be submitted for Cypress Street Investments. Even though both petitions will be reviewed together, each responsible party must submit their own petition. Please submit a petition for Cypress Street Investments within 30 days from the date of this letter.

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

Sincerely,

Handwritten signature of Lori Casias in cursive script.

Lori Casias
Local Oversight Programcc: Tom Peacock
County of Alameda
Department of Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577Kevin Graves
San Francisco Bay Regional Water
Quality Control Board
2101 Webster Street, Suite 500
Oakland, CA 94612

**Petition by Cypress Street Investments,
A California Limited Partnership**

of Decision by Alameda County Health Care Services Agency

**Re: Notice of Requirement to Reimburse for costs associated
with Removal of Underground Storage Tank**

1. Petitioner:

Cypress Street Investments,
A California Limited Partnership
1414 Third Street, Oakland, CA 94607
(510) 836-1655

Legal Counsel:

Craig L. Judson, Esq.
Bold, Polisner, Maddow, Nelson & Judson
A Professional Corporation
500 Ygnacio Valley Road, Suite 325
Walnut Creek, CA 94596
(510) 933-7777

2. Action Taken by local agency:

The Alameda County Health Care Services Agency, Department of Environmental Health, State Water Resources Control Board, Division of Clean Water Programs, UST Local Oversight Program has determined that Petitioner is the Responsible Party - Property Owner charged with responsibility to reimburse the State Water Resources Control Board (SWRCB) for oversite costs actually incurred in overseeing the removal and clean-up of an underground storage tank (UST) located under the sidewalk adjacent to the property located at 1414 Third Street, Oakland, California. That agency has also demanded that Petitioner remove that underground storage tank.

3. Date of Action By Local Agency:

November 22, 1995

4. Statement of Reasons Local Agency Action is Inappropriate:

Petitioner is not responsible for removal of the underground storage tank or for payment of the cost to remove the tank because (1) Petitioner did not originally place the tank in

the ground; (2) Petitioner was unaware of the presence of the tank until recently accidentally found by PG&E who was relocating utilities for Cal-Trans; (3) Petitioner has never made use of the underground storage tank; (4) Petitioner is not the owner of the property under which the tank is located - the tank is located under the public sidewalk which is owned and controlled by the City of Oakland; and (5) The local agency has not shown which individuals or entities are responsible for original placement of the tank because the local agency officials do not know which individuals or entities are responsible for original placement of the tank.

5. Manner In Which Petitioner is Aggrieved:

Petitioner is aggrieved because Petitioner will incur substantial costs and time associated with the removal of the underground storage tank (UST) and in reimbursing the local agency up to 150 percent of the total amount of site specific oversight costs actually incurred while overseeing the cleanup of the underground storage tank site, as set forth in the attached Notice of Requirement to Reimburse. The actual costs to be incurred have yet to be determined.

6. Specific Action by the State Board or Local Agency Requested by Petitioner:

Petitioner requests the State Board to order the local agency to rescind its decision requiring Petitioner to reimburse for oversight costs and ordering the removal of the tank at Petitioner's cost.

7. Points and Authorities in Support of Petition:

Petitioner is not responsible for removal of the underground storage tank or for payment of the cost to remove the tank because (1) Petitioner did not originally place the tank in the ground; (2) Petitioner was unaware of the presence of the tank until recently accidentally found by PG&E who was relocating utilities for Cal-Trans; (3) Petitioner has never made use of the underground storage tank; (4) Petitioner is not the owner of the property under which the tank is located. The tank is located under the public sidewalk which is owned and controlled by the City of Oakland; and (5) The local agency has not shown Petitioner which individuals or entities are responsible for original

placement of the tank because the local agency officials do not know which individuals or entities are responsible for original placement of the tank.

It is the stated standard procedure of the local agency to consider the property owner of land under which or land adjacent to underground storage tanks found below sidewalks to be the responsible party.

This determination by the local agency is arbitrary and capricious, violates Petitioner's right to due process, and denies Petitioner its legal property rights without adequate proof having been first made by the local agency of petitioner's responsibility.

The local agency has the burden of proving Petitioner is the responsible party, which burden has not been met by the local agency.

8. Persons Known by Local Agency Having an Interest in the Subject Petition:

It is unknown at this time who the local agency knows to have an interest in the subject petition.

9. Statement of Transmittal of Petition to Responsible Parties.

A copy of this Petition has been sent to the following persons or entities:

Alameda County Health Care Services Agency
Department of Environmental Health
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

City of Oakland
City Clerk
505 Fourteenth Street
Suite 609
Oakland, CA 94612

Regional Water Quality Control Board
San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612

June Nagy (Former owner of Petitioner's property)
2133 Pine Knoll Drive #7
Walnut Creek, CA 94595

The responsible party, besides the City of Oakland, is unknown to Petitioner.

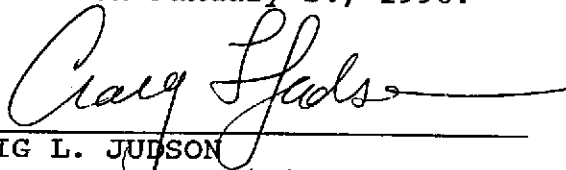
10. Copy of Request to Local Agency for Preparation of the Local Agency Record:

See Attached letter dated August 30, 1995.

11. Request for Hearing

Petitioner requests a hearing for the purpose of presenting additional evidence in support of Petitioner's position. This matter is presently being investigated by Petitioner, and Petitioner will have additional evidence to present upon completion of its independent investigation.

Respectfully Submitted on January 24, 1996.



CRAIG L. JUDSON
Attorney for Petitioner

BOLD, POLISNER, MADDOW, NELSON & JUDSON

A PROFESSIONAL CORPORATION

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FREDERICK BOLD, JR.
(RETIRED)

August 30, 1995

Alameda County Health Care Services Agency
Department of Environmental Health
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

Attention: Thomas Peacock, Acting Chief

RE: Petition for Review of Decision by
Alameda County Health Care Services

Dear Mr. Peacock:

This office represents D.C. Metals, Inc. a corporation conducting business at 1414 Third Street in Oakland. On August 1, 1995, you sent to our client a Notice of Requirement to Reimburse. Our client takes exception to your agency's determination of responsibility because our client did not place the tank in the ground, has never made use of the tank, did not know of its existence until just recently, and is not the owner of the land under which the tank is located or any adjacent property.

Therefore, we have been requested to submit a Petition for Review to the State Board. A copy of the petition is enclosed.

As required for this review, we request that your agency prepare the local agency record for use in this petition. A copy of the local agency record should be sent to this office upon completion.

We would also like to discuss this matter in more detail with you prior to any formal hearing in hope of resolving this matter as economically and as expeditiously as possible.

BOLD, POLISNER, MADDOW, NELSON & JUDSON

Thomas Peacock, Acting Chief
Alameda County Health Care Services Agency
August 30, 1995
Page Two

Thank you very much. If you have any questions or comments,
please feel free to contact me.

Yours very truly,

CRAIG L. JUDSON

CLJ:mcl
Enclosure as noted.
cc: Client
Lori Casias, SWRCB