

Law Offices of
A. Nick Shamiyeh
2221 Olympic Boulevard, Suite 100
Walnut Creek, California 94595-0308
Telephone: (510) 935-9401
Facsimile: (510) 935-9407

A. Nick Shamiyeh

Sami I. Shamiyeh

November 18, 1997

SENT TO FAX #415/621-3999

Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, California 94107

RE: HAUSAUER/OWENS MOTOR PARTNERS

Dear Mr. Conner:

Pursuant to your faxed letter of November 17, 1997, on behalf of my clients, we hereby accept your clients' offer for dismissal of all claims without prejudice. Would you kindly prepare the documentation and forward it to the undersigned for review and signature.

With respect to the installation of an additional monitoring well, the proposed location is on private property. The property owner has refused to allow Dr. Rogers to install it on his property. Mr. Chan is aware of this fact and efforts are being continued to resolve this issue.

In view of the above, at this time, and in the interest of harmony, there is no further need for me to comment any further on your self-serving conclusions which are not supportive of any of the facts or evidence obtained to date which are contained in your letter. We reserve our right to respond to it at the appropriate time.

Very truly yours,

A. NICK SHAMIYEH

ANS:klr

cc: William Nagle (by fax #415/579-0623)
Barney Chan (by fax #337-9335)
William C. Owens

ARTESIAN ENVIRONMENTAL

General Engineering Contracting License 622461: A, B, C-57, Haz., Asb.

Street Address: 229 Tewksbury Avenue Point Richmond, CA 94801

Mailing Address: P.O. Box 3649, San Rafael, CA 94912

Telephone (510) 307-9943 • Facsimile (510) 232-2823 • e-mail: augerpro@aol.com

Phase I Environmental Assessments • Limited Access Drilling • Asbestos and Lead Inspections
Remediations Tank Removals • Potentially Responsible Party Studies • Subsurface Investigations • EIRs

FACSIMILE TRANSMISSION**TO: Barney Chan****FAX: 510-337-9335****DATE: October 24, 1997****JOB #:197-002-01****FROM: Tom Fortner****TOTAL SHEETS: 1****MESSAGE:**

Dear Barney:

Proposed drilling activities have once again been postponed for Mr. Ruben Hausauer's site at 3927 East 14th Street, Oakland, California. Oakland Public Works is processing the encroachment permit required to install the groundwater monitoring well located in a public right of way. The Public Works Department anticipates that they will issue the permit by October 31, 1997. Once the permit has been issued, Artesian Environmental will inform you of the new drilling date (likely the first week of November). Thank you for your patience regarding the delays with this project.

Sincerely,
Artesian Environmental



Thomas Fortner

cc: Susan Rader, Law Offices of Tommy A. Conner

NOTES: If you did not receive the complete transmission, please call. This fax is privileged and confidential. If you are not an intended recipient, you are notified that any disclosure, dissemination or duplication of this fax is not authorized, and no waiver of any privilege or confidentiality is intended by your receipt of this transmission.

9/4/97

Pls look at RBCA, I have the following comments.

Thanks BC
I totally agree with you
M.L.

Madhulla:

I looked at Tier 2 RBCA for 3927 E. 14th St site, StID # 4610 and I had the following questions/ concerns. Please look at this RBCA since I'd like to know if all my concerns are valid.

This site has an apparent commingled plume with the site across 40th Ave., 1234 40th Ave. The fuel release from the former 500 gallon fuel tank (reportedly used for waste oil, however, TPHg, TPHd and BTEX have also been detected beneath the tank), is the source of the release to this site. Since the location of the former tank lies just outside the warehouse building and no shallow soil contamination was found, the two exposure pathways examined were volatilization of subsurface soils to indoor air commercial and volatilization of groundwater to indoor air commercial.

The Tier 1 RBCA uses as a conservative estimate for soil concentrations, an average of the four sidewall and floor sample taken after the tank removal, see Table 2, Summary of Soil Analytical Results. This seems like a reasonable conservative estimate.

For groundwater concentration, they use the most recent concentrations for MW1 (5/28/97), the well adjacent to the former tank pit. This seems OK, since the average concentration for the past three monitoring events is not that much different from this result. see Table 2. Groundwater Analytical Results.

On page 9, the Tier1 tables with soil and groundwater RBSLs are given and compared vs representative soil and groundwater results. **How did they arrive at these RBSLs and what risk value for benzene is used?**

Since the representative gw concentration exceeded the RBSL concentration a RBCA Tier 2 was done. An area-weighted average for groundwater was done. I don't see how this was done. You basically have ND benzene in MW3 within the building and elevated benzene in MW1. **Is this an acceptable method to calculate an area-weighted average concentration? Do we need to see the details of how this was done with only two data points?**

The following site specific data was used in their RBCA, dtw=8', enclosed space volume/infiltration area= 1143cm and aerial fraction of cracks in foundation=286. Besides the dtw value, **are the other two values reasonable? I'd like to see a copy of the GSI printout, wouldn't you?**

The utilities were determined to be a potential route of preferential exposure, seem like they need to verify if this is the case. They mistakenly thought this could be resolved by sampling the ~~stern~~ sewer or storm drain.

saitry

Risk Assess Concerns:

- 1) Need copies of the analytical results for NW 1, SW 1, EW 1, WW 1 & Tank Pit 10'.
- 2) Need to justify not including residential - indoor air exposure as a pathway.
- 3) Used average of GW cone to determine onsite & offsite GW exposure to indoor & outdoor air per m.
- 4) Provide copy of GSI printout



Cal/EPA

**State Water
Resources
Control Board**

Division of
Clean Water
Programs

Mailing Address:
P.O. Box 944212
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-0747
FAX (916) 227-4530

World Wide Web
<http://www.swrcb.ca.gov/~cwphome/fundhome.htm>

August 27, 1997

Ruben Hausauer
6017 14th St E
Oakland, CA 94621



Pete Wilson
Governor

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 8829,
SITE ADDRESS: 3927 14TH ST E, OAKLAND, CA 94601**

I have reviewed your August 14, 1997 request, submitted on your behalf by the Law Offices of Tommy A. Conner, for pre-approval of corrective action costs.

The total cost pre-approved as eligible for reimbursement for installation of one off-site well as approved by Mr. Barney Chan, Alameda County Environmental Health Services (County), is **\$5,292**; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

***All future costs for corrective action must be approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.***

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Field work preparation	\$1,700	Site safety plan reduced to \$750.
Groundwater sampling point installation	1,390	Truck charges are not pre-approved but will be reimbursed at \$.35/mile.
Groundwater sampling point development	426	Truck charges are not pre-approved but will be reimbursed at \$.35/mile.
Groundwater sampling	336	Truck charges are not pre-approved but will be reimbursed at \$.35/mile.
Laboratory analyses	300	\$75/sample (includes markup)
Report preparation	1,140	
TOTAL PRE-APPROVED	\$5,292	

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid, and the work products must be acceptable to the County and the Regional Water Quality Control Board
- The drum disposal costs in Artesian's August 13, 1997 proposal appear high. If the soils or water require disposal at a Class II or III landfill, please request pre-approval from the Fund prior to this work being performed. The proposals you submit must include a detailed breakdown of the disposal and transportation costs.



- Although I have referred to the Artesian Environmental Consultants proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*

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

Please call if you have any questions; I can be reached at (916) 227-0747.

Sincerely,



Linda Sanborn, Associate Governmental Program Analyst
Underground Storage Tank Cleanup Fund Program

Enclosure

cc: Mr. Barney Chan ✓
Alameda County Environmental Health
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Ms. Susan Y. Rader
Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, CA 94107



ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARNS, Agency Director



August 14, 1997
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

Re: Subsurface Investigation at 3927 E. 14th St. and 1234 40th Ave., Oakland CA 94601, New Genico & Motor Partners Sites

Dear Mr. Hausauer:

This letter serves to comment and clarify our office's requirements for the above sites. It seems there were questions raised by Mr. Tommy Conner in regards to my August 4, 1997 letter.

Thank you for the notification of upcoming monitoring well installation and Risk Assessment submittal. We look forward to witnessing this field work and reviewing the report. As pointed out in Mr. Conner's August 12, 1997 letter, it appears that Motor Partner's has failed to add the chemical MTBE in their monitoring well analysis. By way of copy of this letter, Mr. Owens is requested to add this analyte in all future groundwater monitoring events. Our office also agrees that future groundwater elevation information should use common survey data. We ask that you make the referenced Kier & Wright survey data available to Mr. Gary Rogers.

Lastly, as clarification of the last paragraph in my August 4 letter, Mr. Owens is to provide a work plan for offsite well installation and a date for the provision of his Human Health Risk Assessment by September 5, 1997.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

c: Mr. Bill Owens, 2221 Olympic Blvd., Walnut Creek, CA 94595
Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010

Mr. R. Hausauer
StID # 4610
3927 E. 14th St.
August 14, 1997
Page 2.

Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100,
Walnut Creek, CA 94595-0308
Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive,
Suite C, San Jose, CA 95131
Mr. T. Fortner, Artesian Environmental, 229 Tewksbury Ave.,
Point Richmond, CA 94801
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536
B. Chan, files
4-3927

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER
Billing Number: 8087-01
Date: August 14, 1997
Cover page plus 8 page(s)

RO468

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: See attached

CONFIDENTIALITY NOTICE

The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange for the return of the original documents to us.

LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel: 415-621-3939
Fax: 415-621-3999
tconner@ix.netcom.com

August 14, 1997

Ms. Linda Sanborn
Division of Clean Water Programs
Underground Storage Tank Cleanup Fund Program
2014 "T" Street
Sacramento, California 95814

Via Facsimile and U.S. Mail

Re: Claimant: Ruben Hausauer
3927 East 14th Street
Oakland, CA
Claim No: 008829
Pre-Approval Request

Dear Ms. Sanborn:

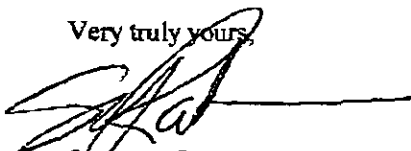
Enclosed for your review is Ruben Hausauer's pre-approval request for groundwater sampling point installation. Per our June 5, 1997 letter to Steve Marquez (UST Cleanup Fund Program) and Barney Chan's (Alameda County Health Care Services Agency) August 4, 1997 letter to Mr. Hausauer, this request replaces Mr. Hausauer's April 23, 1997 pre-approval request for groundwater point installation and remediation. For purposes of this pre-approval request, however, please note that the required installation workplan is included in Mr. Hausauer's April 23, 1997 pre-approval request.

Because Mr. Chan's August 4, 1997 letter instructs Mr. Hausauer that the installation and related field work be completed by September 5, 1997, we ask that you please give this pre-approval request your prompt attention. In view of the anticipated delay in mail due to the UPS strike, we would also appreciate receiving your response via fax at (415) 621-3999.

Please call if you have any questions.

Thank you.

Very truly yours,



Susan Y. Rader
Legal Assistant

:syr

Enclosures

LAW OFFICES OF
TOMMY A. CONNER

Ms. Linda Sanborn
August 13, 1997
Page 2

Via facsimile

cc: Barney M. Chan (w/encl)
Hazardous Materials Specialist
Alameda County Health Care Services Agency

Mr. Jim Jacobs (w/o encl)
Artesian Environmental

Mr. Ruben Hausauer (w/encl)

CALIFORNIA UNDERGROUND STORAGE TANK CLEANUP FUND
COST PRE-APPROVAL REQUEST

(Complete form, enclose required items, sign, date & return)

TO: LINDA SANBORN Fax: (916) 227-4530
UST Cleanup Fund, 2014 T Street, Sacramento, CA 95814

I. CLAIM INFORMATION

A. CLAIM NO. 8829 B. CLAIMANT RUBEN HAUSAUER

C. CLAIM STATUS (complete appropriate section)

- i) *LOC ISSUED FOR \$20,000.00 *initial LOC amount
- ii) ON PRIORITY LIST? YES NO IF YES, PRIORITY CLASS A B C D
- iii) NOT YET APPLIED TO THE FUND, EXPECTED APPLICATION DATE: _____

D. CONTACT PERSON: Tommy A. Conner, Esq. PHONE: (415) 621-3939
ADDRESS: Law Offices of Tommy Conner FAX: (415) 621-3999
444 De Haro Street, Suite 121
San Francisco, CA 94107

II. TYPE OF REQUEST (check appropriate boxes)

PRE-APPROVAL \$ 5,742.00 AMOUNT REQUESTED

3-BID REVIEW _____ PREFERRED BID (if applicable)

THE FOLLOWING DOCUMENTS ARE REQUIRED FOR THE SPECIFIED REQUEST. ALL DOCUMENTS REQUESTED MUST BE SUBMITTED OR THE REQUEST(S) WILL BE RETURNED UNPROCESSED.

A. REQUEST FOR PRE-APPROVAL OF PROPOSED COSTS - The following items are required before review and determination will be made by Fund staff. prepared by Artesian Environmental

1. X A complete signed copy of the proposed Investigation Workplan or Corrective Action Plan (CAP) (as defined and required by Article 11, Chapter 16, California Underground Storage Tank Regulations). Corrective Action Plans must include the required feasibility study and chosen cost effective alternative.

NOTE: Required workplan included in April 23, 1997 pre-approval request.
2. X A signed copy of the oversight agency approval letter for the workplan/CAP. Alameda County Health Care Services Agency letter to Ruben Hausauer dated August 4, 1997.
3. N/A A complete copy of the Request For Bids, including all attachments. A list of all firms requested to bid must be included.

4. N/A Complete copies of all bids and other correspondence submitted in response to the Request For bids.


5. X A time schedule, if not part of bid documents, anticipated for project initiation and duration.

6. X A detailed project budget, which includes breakdowns of staff/task/hour with associated estimated totals.

B. THREE-BID REVIEW/EVALUATION/DETERMINATION - Fund staff will assist any claimant requesting an evaluation of bids upon request. The following information must be submitted - 1, 2, 3 AND 4 as described in Item A above.

III. CERTIFICATION

I certify under penalty of perjury that all information submitted with this request is complete and accurate and in accordance with all applicable laws and regulations.


Signature TOMMY A. CONNER, ESQ.
Authorized Representative for
RUBEN HAUSAUER

August 14, 1997
Date USTF 03/01/97 REV

HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



August 4, 1997
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

Re: Subsurface Investigation at 3927 E. 14th St.,
Oakland CA 94601, New Genico site

Dear Mr. Hausauer:

Our office has received and reviewed the information requested in my May 12, 1997 letter. Upon consideration, I accept the proposal to install the offsite one inch well in lieu of a conventional diameter well. Please perform this field work within 30 days or by September 5, 1997 or provide an acceptable schedule for this well installation. Our office also requests that the other requirements mentioned in my prior letter be addressed ie

1. Please add to the original proposed tests the following additional indicators of intrinsic bioremediation: dissolved oxygen, oxygen-reduction potential, sulfate, nitrate and iron +2.
2. Please prepare a Tier 1 or Tier 2 Human Health Risk Assessment (HHRA) for this site as previously discussed in the offices of Mr. Nagle. Should a Tier 2 risk assessment be considered, you may want to analyze for total organic carbon (TOC), % moisture and soil bulk density. Please include the date by which your HHRA will be submitted.
3. Please contact our office at least 72 working hours prior the field work so I may arrange to be present some time during the activities.

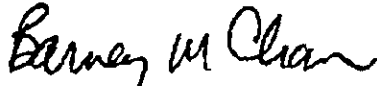
By way of copy, Mr. Bill Owens should also provide an appropriate work plan for the similar activities on the neighboring site, 1234 40th Ave. Recall, at during the meeting at Mr. Nagle's office, it was agreed that each site would perform additional site investigation and a site specific HHRA. Mr. Owens, please submit a work plan and a schedule for the Tier 1 or 2 HHRA within 30 days or by September 5, 1997.

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

Mr. Rueben Hausauer
3927 E. 14th St.
StID # 4610
August 4, 1997
Page 2.

RECEIVED
AUG 7 1996

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

- c: Mr. Bill Owens, 2221 Olympic Blvd., Walnut Creek, CA 94595
- ~~Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010~~
- Mr. William Nagle, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
- Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010
- Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
- Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100, Walnut Creek, CA 94595-0308
- Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
- Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
- Mr. T. Fortner, Artesian Environmental, 229 Tewksbury Ave., Point Richmond, CA 94801
- Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536
- B. Chan, files
- 3-3927

August 13, 1997

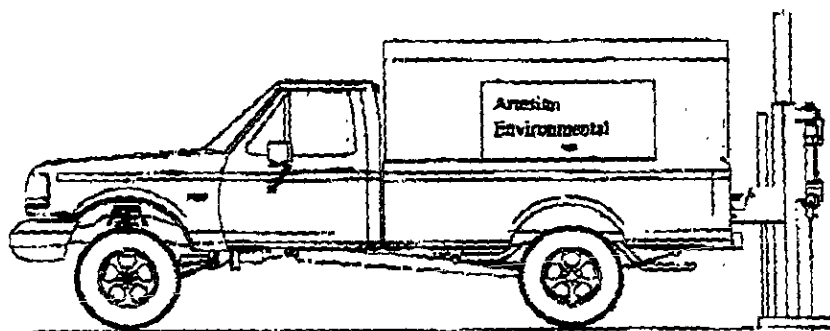
To: Tommy A. Conner, Esq.
Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, CA 94107

Re: Hausauer Property
3927 East 14th Street
Oakland, California
Proposal 97-08-012-197; updated

Dear Mr. Conner:

Artesian Environmental Consultants (Artesian) is pleased to present a bid to install one groundwater sampling point at the above referenced site. A workplan dated April 8, 1997 and an addendum to the workplan dated May 22, 1997 has been prepared by Artesian for the proposed work.

EQUIPMENT: Artesian has in-house portable and a truck-mounted Geoprobe 5400 rig and other direct penetration technology (DPT) equipment. Direct push drilling methods do not generate soil cuttings which require disposal. Maximum depth range for the Geoprobe 5400 rig is 50 or 60 feet. The equipment is limited access and portable equipment is also available. Angle drilling can be performed up to 30 degrees from vertical using the Geoprobe 5400 rig or to any angle by hand held methods. As a licensed driller, Artesian also uses Mobile Minute Man limited access drilling rigs and Mobile B-57 and B-61 hollow stem auger drilling rigs.



GEOPROBE 5400 DIRECT PENETRATION TECHNOLOGY (DPT) RIG

BACKGROUND

Artesian, incorporated in California in 1990, specializes in environmental support services and is licensed by the state as a general engineering contracting firm certified for hazardous waste removal, well drilling and asbestos abatement (# 624461: A, B, C-57, Haz., and Asb). The firm performs technical and operational services for attorneys, Fortune 500 firms as well as leading environmental consulting firms. The company offers environmental consulting, limited-access, environmental, and geotechnical drilling services; third-party independent soil and water sampling; tank removal; and soil and groundwater contracting services. All field employees have the required 29 CFR 1910.120 forty hour safety training and supervisory course work as well as medical monitoring and refresher classes as required by OSHA.

ARTESIAN ENVIRONMENTAL

229 Tewksbury Avenue • Point Richmond, California 94801 • (510) 307-9943 • FAX (510) 232-2823

INSURANCE

Artesian has a general and professional liability/errors coverage for \$2,000,000. Artesian has \$1,000,000 workers compensation coverage and vehicle coverage. If requested, Artesian can send an original certificate to the client or name the client as additionally insured.

CONFIDENTIALITY AGREEMENT

All work is completely confidential.

ESTIMATE

Artesian has prepared the following bid as an estimate of costs. This bid is valid for 90 days.

ITEM	UNITS	RATE	TOTAL
Field Work Preparation			
Workplan/site safety plan preparation	12	* \$75 per hour	\$900
Permitting/project management	6	* \$75 per hour	\$450
Permitting encroachment permits	1	* \$500 estimated	\$500
	sub total	\$1,850	
Groundwater Sampling Point Installation			
DPT Drilling Equip	2	* \$115 per hour	\$230
Mob/Demob, Travel	2	* \$105 per hour	\$210
PID	1	* \$50 per day	\$50
Geologist	4	* \$75 per hour	\$300
Well Materials	1	* \$125 per well	\$125
Support Truck	1	* \$100 per day	\$100
Steam Cleaner	1	* \$50 per day	\$50
Generator/pump	1	* \$50 per day	\$50
Licensed Surveyor	1	* \$375 per event	\$375
	sub total	\$1,490	
Groundwater Sampling Point Development			
Field Technician	4	* \$59 per hour	\$236
DOT drums/supplies	2	* \$45/ea.	\$90
Truck	1	* \$100 per day	\$100
Development Equip	1	* \$100 per day	\$100
	sub total	\$526	
Groundwater Sampling			
Field Technician	4	* \$59 per hour	\$236
Truck	1	* \$100 per day	\$100
Sampling Equip	1	* \$100 per day	\$100
	sub total	\$436	
Laboratory Analyses (10 day turn around time)			
TPH-g/BTEX/MTBE	2	* \$75 per sample	\$150
TPH-d/TPH-mo	2	* \$75 per sample	\$150
	sub total	\$300	

ARTESIAN ENVIRONMENTAL

229 Tewksbury Avenue • Point Richmond, California 94801 • (510) 307-9943 • FAX (510) 232-2823

Report Preparation

Geologist	10	* \$75 per hour	\$750
Graphics	5	* \$40 per hour	\$200
C.H.G. Review	2	* \$95 per hour	\$190
	sub total	\$1,140	
		TOTAL	\$5,742

DISPOSAL


Disposal is not included in this proposal. If the soils or groundwater are clean, then there is no charge for disposal. If the soils or water require disposal at a Class II or Class III landfill, then Artesian charges \$300/drum or container for profiling, transportation and disposal.

FEE

Artesian will perform the above scope of work on a time and materials basis. The client is only billed for actual costs. Additional services or supplies can be obtained as a change order to this contract. By authorizing Artesian to proceed, the client is agreeing to pay for the work performed. Payment is due within 60 days of receiving the invoice.

AUTHORIZATION TO PROCEED

The total estimated cost for the scope of work defined is \$5,742 based on a time and materials basis. To authorize the work, please have the client sign this agreement. Please call me at (510) 307-9943; ext. 222 if you have any questions.


 James A. Jacobs, C.H.G.
 Chief Hydrogeologist
 Date: 8/13/97

 Client:
 Representing:
 Date:

LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel: 415-621-3939
Fax: 415-621-3999
t_conner@ix.netcom.com

August 12, 1997

Barney Chan
Alameda County Health
Care Services
1131 Harbor Bay Parkway, Suite 250
Alameda, California 95402

Via Facsimile and U.S. Mail

Re: Subsurface Investigation at 3927 E. 14th Street, Oakland, California 94601

Dear Mr. Chan:

Thank you for your letter dated August 4, 1997 letter. Mr. Hausauer's responses follow:

- Artesian Environmental will install the offsite one inch well on September 5, 1997. Please confirm the suitability of the offsite well location indicated on the enclosed Map "A". By copy of this letter to Jim Jacobs and Tom Fortner, we ask that Artesian contact you at (510) 567-6765 at least 72 working hours before field work begins so that you may arrange to be present.
- By copy of this letter to Bill Theyskens, we ask that ATC add to its quarterly monitoring tests these additional indicators of intrinsic bioremediation: dissolved oxygen, oxygen-reduction potential, sulfate, nitrate and iron +2.
- ATC has completed a draft Tier 2 Human Health Risk Assessment. The final report will be submitted to your offices by Friday, August 22, 1997.
- In our last meeting before Mr. Nagle you suggested that Motor Partners was responsible for installing a monitoring well at approximately the location denoted on the enclosed Map "B", and that both Hausauer and Motor Partners were ordered to test for MtBE -- along with TPHg/BTEX, TPHd, and TPHmo -- and otherwise to cooperate on joint monitoring. We note that Motor Partners' 2nd Quarter 1997 monitoring report does not appear to report concentrations of MtBE. Please clarify your prior orders, and also the last paragraph of your August 4 letter relating to Motor Partners. Additionally, by copy of this letter to Motor Partners' consultant, Dr. Gary Rogers, we ask that Dr. Rogers employ the Kier & Wright survey data previously provided in order to ensure consistent and uniform reports from the parties.

If my understanding of any of the items outlined in your August 4, 1997 letter is incorrect, please notify me immediately.

Thank you.

Very truly yours,



Tommy A. Conner

:syr

Enclosures

cc (w/encls): A. Nick Shamiyeh, Esq., 2221 Olympic Blvd, #100, Walnut Creek, CA 94595-0308
Mr. William Theyskens, ATC Environmental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
Mr. James Jacobs, Artesian Environmental, 229 Tewksbury Ave., Point Richmond, CA 94801
Mr. Thomas Fortner, Artesian Environmental, 229 Tewksbury Ave., Point Richmond, CA 94801
Dr. Gary Rogers, 2657 Bailey Ct., Fremont, CA 94536

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

August 4, 1997
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

**Re: Subsurface Investigation at 3927 E. 14th St.,
Oakland CA 94601, New Genico Site**

Dear Mr. Hausauer:

Our office has received and reviewed the information requested in my May 12, 1997 letter. Upon consideration, I accept the proposal to install the offsite one inch well in lieu of a conventional diameter well. Please perform this field work **within 30 days or by September 5, 1997 or provide an acceptable schedule for this well installation.** Our office also requests that the other requirements mentioned in my prior letter be addressed ie

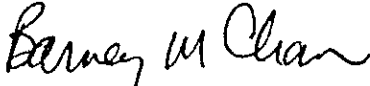
1. Please add to the original proposed tests the following additional indicators of intrinsic bioremediation: dissolved oxygen, oxygen-reduction potential, sulfate, nitrate and iron +2.
2. Please prepare a Tier 1 or Tier 2 Human Health Risk Assessment (HHRA) for this site as previously discussed in the offices of Mr. Nagle. Should a Tier 2 risk assessment be considered, you may want to analyze for total organic carbon (TOC), % moisture and soil bulk density. Please include the date by which your HHRA will be submitted.
3. Please contact our office at least **72 working hours prior** the field work so I may arrange to be present some time during the activities.

By way of copy, Mr. Bill Owens should also provide an appropriate work plan for the similar activities on the neighboring site, 1234 40th Ave. Recall, ~~at~~ during the meeting at Mr. Nagle's office, it was agreed that each site would perform additional site investigation and a site specific HHRA. Mr. Owens, please submit a work plan and a schedule for the Tier 1 or 2 HHRA **within 30 days or by September 5, 1997.**

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

Mr. Rueben Hausauer
3927 E. 14th St.
StID # 4610
August 4, 1997
Page 2.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

c: Mr. Bill Owens, 2221 Olympic Blvd., Walnut Creek, CA 94595
Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San
Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204,
Burlingame, CA 94010
Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100,
Walnut Creek, CA 94595-0308
Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive,
Suite C, San Jose, CA 95131
Mr. T. Fortner, Artesian Environmental, 229 Tewksbury Ave.,
Point Richmond, CA 94801
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536
B. Chan, files
3-3927



Ca/EPA

State Water Resources Control Board

Division of Clean Water Programs

Mailing Address: P.O. Box 944212 Sacramento, CA 94244-2120

2014 T Street, Suite 130 Sacramento, CA 95814 (916) 227-0747 FAX (916) 227-4530

World Wide Web http://www.swrcb.ca.gov/~cwphome/fundhome.htm

June 19, 1997

RD465

Ruben Hausauer 6017 14th St E Oakland, CA 94621



Pete Wilson Governor

PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 8829, SITE ADDRESS: 3927 14TH ST E, OAKLAND, CA 94601

I have reviewed your June 5, 1997 request, submitted on your behalf by the Law Offices of Tommy A. Conner, for pre-approval of corrective action costs. As stated in our June 4, 1997 letter to you, future pre-approval requests must be submitted on the enclosed form and signed by either you or your authorized representative or they will be returned to you for completion.

The total cost pre-approved as eligible for reimbursement for completion of a well survey, conduit study, Tier 2 RBCA evaluation, and report (as directed by Mr. Barney Chan, Alameda County Health Care Services Agency) is \$7,136; see the table below for a breakdown of costs. However, the June 4, 1997 ATC Associates, Inc. proposal did not provide a breakdown of the charges by task/hours/rate, which is required by the Fund. When submitting your reimbursement request to the Fund, please ensure that your consultant provides the necessary breakdown of the invoices for this work.

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

All future costs for corrective action must be approved in writing by Fund staff. Future costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations.

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Task 1 - Well Survey	\$ 968	
Task 2 - Conduit Study	968	
Task 3 - ASTM Tier 2 RBCA Evaluation	2,610	This replaces the pre-approved amount for a Tier 1 Risk Assessment in the June 4, 1997 pre-approval letter.
Task 4 - Report Preparation	2,590	"
TOTAL PRE-APPROVED	\$ 7,136	

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources and ensure their proper allocation and efficient use for the benefit of present and future generations.

- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the ATC Associates, Inc. proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*

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

Please call if you have any questions; I can be reached at (916) 227-0747.

Sincerely,



Linda Sanborn, Associate Governmental Program Analyst
Underground Storage Tank Cleanup Fund Program

Enclosure

cc: Mr. Barney Chan ✓
Alameda County EHD
1131 Harbor Bay Pkway, Suite 250
Alameda, CA 94502-6577

Ms. Susan Y. Rader
Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, CA 94107

LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

June 5, 1997

Mr. Steve Marquez
Division of Clean Water Programs
Underground Storage Tank Cleanup Fund Program
2014 "T" Street
Sacramento, California 95814

Via Facsimile

**Re: Claimant: Ruben Hausauer
3927 East 14th Street
Oakland, CA
Claim No: 008829
Pre-Approval Request**

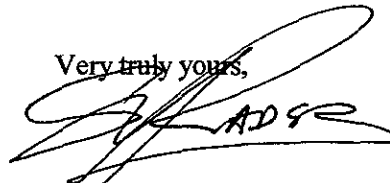
Dear Mr. Marquez:

Attached for your review is Ruben Hausauer's pre-approval request for a well survey, conduit study and an ASTM Tier 2 RBCA evaluation at the above-named site. In a recent discussion with Bill Theyskens of ATC Associates Inc., Barney Chan of the Alameda County Health Care Services Agency indicated that the scope of work in this proposal is appropriate at this time, and not that remedial work of the type set forth in Artesian Environmental's proposal which we previously submitted for pre-approval. By copy of this letter to Mr. Chan, we ask that he give you any confirmation you may require in this regard. Because we understand that the results of this proposed well survey, conduit study and ASTM Tier 2 RBCA evaluation will result in modifications to Artesian's proposal, we ask that your consideration of the Artesian proposal be held in abeyance until after ATC's proposed work has been granted pre-approval and completed.

If we can answer any questions you may have please do not hesitate to call.

Thank you.

Very truly yours,



Susan Y. Rader
Legal Assistant

'syr

Enclosures

LAW OFFICES OF
TOMMY A. CONNER

Mr. Steve Marquez
June 5
Page 2

cc: Barney M. Chan (w/encl)
Hazardous Materials Specialist
Alameda County Health Care Services Agency

Mr. Bill Theyskens (w/o encl)
ATC Associates Inc.

Mr. Tom Fortner (w/o encl)
Artesian Environmental

Mr. Ruben Hausauer (w/encl)

CALIFORNIA UNDERGROUND STORAGE TANK CLEANUP FUND
COST PRE-APPROVAL REQUEST

(Complete form, enclose required items, sign, date & return)

TO: Steve Marquez Fax: (916) 227-4530
UST Cleanup Fund, 2014 T Street, Sacramento, CA 95814

I. CLAIM INFORMATION

A. CLAIM NO. 008829 B. CLAIMANT RUBEN HAUSAUER

C. CLAIM STATUS (complete appropriate section)

- i) *LOC ISSUED FOR \$20,000.00 *initial amount
ii) ON PRIORITY LIST? YES NO IF YES, PRIORITY CLASS A B C D
iii) NOT YET APPLIED TO THE FUND, EXPECTED APPLICATION DATE: _____

D. CONTACT PERSON: Tommy A. Conner, Esq. PHONE: (415) 621-3939
ADDRESS: Law Offices of Tommy Conner FAX: (415) 621-3999
444 De Haro St., Suite 121
San Francisco, CA 94107

II. TYPE OF REQUEST (check appropriate boxes)

- PRE-APPROVAL \$7,136.00 AMOUNT REQUESTED
 3-BID REVIEW _____ PREFERRED BID (if applicable)

THE FOLLOWING DOCUMENTS ARE REQUIRED FOR THE SPECIFIED REQUEST. ALL DOCUMENTS REQUESTED MUST BE SUBMITTED OR THE REQUEST(S) WILL BE RETURNED UNPROCESSED.

- A. **REQUEST FOR PRE-APPROVAL OF PROPOSED COSTS** - The following items are required before review and determination will be made by Fund staff.
- A complete signed copy of the proposed Investigation Workplan of Corrective Action Plan (CAP) (as defined and required by Article 11, Chapter 16, California Underground Storage Tank Regulations). Corrective Action Plans must include the required feasibility study and chosen cost effective alternative. *provided by ATC Associates*
 - A signed copy of the oversight agency approval letter for the Workplan/CAP. *see 6/5/96 transmittal letter*
 - A complete copy of the Request For Bids, including all attachments. A list of all firms requested to bid must be included.
 - Complete copies of all bids and other correspondence submitted in response to the Request For bids.
 - A time schedule, if not part of bid documents, anticipated for project initiation and duration.
 - A detailed project budget, which includes breakdowns of staff/task/hour with associated estimated totals.
- B. **THREE-BID REVIEW/EVALUATION/DETERMINATION** - Fund staff will assist any claimant requesting an evaluation of bids upon request. The following information must be submitted - 1, 2, 3 AND 4 as described in Item A above.

III. CERTIFICATION

I certify under penalty of perjury that all information submitted with this request is complete and accurate and in accordance with all applicable laws and regulations.

Ruben Hausauer
Signature

June 5, 1997
Date

VATC ASSOCIATES INC.

ENVIRONMENTAL, GEOTECHNICAL AND MATERIALS PROFESSIONALS

2380 Qum: Drive, Suite C
San Jose, CA 95131
(408) 474-1280
Fax (408) 434-6662

4 June 1997
S97-0309

Mr. Tommy A. Conner, Esq.
Law Offices of Tommy A. Conner
444 De Haro Street Suite 121
San Francisco, California 94107

SUBJECT: PROPOSAL FOR A WELL SURVEY, CONDUIT STUDY AND AN ASTM TIER 2 RBCA EVALUATION FOR 3927 EAST 14TH STREET IN OAKLAND, CALIFORNIA

Dear Tommy,

ATC Associates Inc. (ATC) has prepared this proposal to present the scope of work and estimated budget for a well survey, conduit study and an American Society of Testing and Materials (ASTM) standard Risked Based Corrective Action (RBCA) Tier 2 evaluation for 3927 East 14th Street in Oakland, California (site).

BACKGROUND

An on-site release of petroleum hydrocarbons related to a former UST historically occurred on-site. In a recent discussion with Mr. Barney Chan of the Alameda County Health Care Services Agency (ACHCSA), Mr. Chan indicated that the currently proposed scope of work is appropriate.

OBJECTIVE

The objective of the proposed scope of work is to evaluate the potential impact of contamination from the historic petroleum release at the site.

SCOPE OF WORK

The scope of work within the approach includes the following:

Task 1. Well Survey

ATC will perform a well survey to assess the location of groundwater production well(s) in the site vicinity. The well location information will be requested from the appropriate agency. The radius of search will correspond with that typically used to satisfy the responsible agency for such studies.

Task 2. Conduit Study

ATC will review readily available maps and plans, and will attempt to locate any additional information that may be available with respect to subsurface utilities that could potentially serve as conduits for accelerated migration of petroleum hydrocarbon impacted groundwater, or for migration of vapors emanating from petroleum hydrocarbon impacted soils and/or groundwater. In the event utilities are judged to potentially accelerate the migration of petroleum-impacted groundwater or vapors, the appropriate companies/agencies will be contacted to ascertain whether they are aware of any conditions suggesting that petroleum impacted groundwater or petroleum vapors are present within their underground utilities or associated trenches. These companies/agencies will also be asked whether they routinely monitor their utilities/trenches for the presence of petroleum hydrocarbons. In the event they do, we will attempt to determine if any such monitoring has occurred proximate to the impacted portions of the site, or in 40th Avenue, proximate to the impacted portions of the site. In the event such monitoring has occurred, we will attempt to document the results of that monitoring.

Task 3. ASTM Tier 2 RBCA Evaluation

Based on a cursory review of the analytical data for the site, it was determined that the concentrations of BTEX reported in the soil and groundwater at the site would be above ASTM Tier 1 RBCA Risk Based Screening Levels (RBCLs). Therefore, an ASTM Tier 2 RBCA Evaluation will be conducted for the site using the Tier 2 RBCA tool kit published by Groundwater Services, Inc. The ASTM RBCA, integrates Environmental Protection Agency (EPA) risk assessment practices with traditional site investigation and remedial action selection in order to determine cost-effective measures for protection of human health and the environment. Under the Tier 2 approach, Site-Specific Target Levels (SSTLs) for soil and groundwater cleanup goals are determined on the basis of site-specific information and/or points of exposure. The program utilizes site-specific data such as depth to groundwater, soil type, soil porosity, thickness of capillary fringe, and other data to calculate SSTLs for the site. The calculated SSTLs using site specific data will be compared to existing soil and

should run } foc (TOC)
 } To monitor to get volumetric content in vadose zone
 } soil bulk density.

groundwater analytical data for the site. If site constituent concentrations exceed SSTL values, subsequent actions may involve: remediation to site-specific Tier 2 cleanup goals; further evaluation per Tier 3 of the RBCA process, or; interim response measures targeted at principal risk sources.

Task 4. Report Preparation

A report will be prepared to present well survey information, the results of the conduit study, a brief summary of the subsurface investigations and interim remedial activities conducted to date at the site, and the results of the ASTM Tier 2 RBCA Evaluation.

This report may also be used as a vehicle to request case closure for the site; if judged appropriate by both ATC and the Law Offices of Tommy Conner, following the completion of these activities. A request for case closure would be made if the information in this report is judged to demonstrate that the site would be considered a low risk groundwater case as described in the California Regional Water Quality Control Board, San Francisco Bay Region (RWQCB) memorandum dated 5 January 1996. This memorandum was prepared in response to the Lawrence Livermore National Laboratory (LLNL) report regarding petroleum releases from underground storage tanks.

SCHEDULE

We are prepared to commence work immediately upon receipt of written authorization to proceed. We anticipate that a draft report would be faxed to the Law Offices of Tommy Conner for review and comment four weeks following receipt of written authorization to proceed. We anticipate incorporation of comments and issuance of a final report would be completed no more than one week from our receipt of such comments.

BUDGET

All work presented in this proposal will be conducted on a time and materials basis according to the Fee Schedule in effect at the time the work is performed (1997) and attached General Provisions. The estimated budget for the described scope of work follows:

ACTIVITY	ESTIMATED BUDGET
Well Survey	\$ 968
Conduit Study	\$ 968
ASTM Tier 2 RBCA Evaluation	\$2,610
Report Preparation	\$2,590
ESTIMATED COST OF WORK	\$7,136

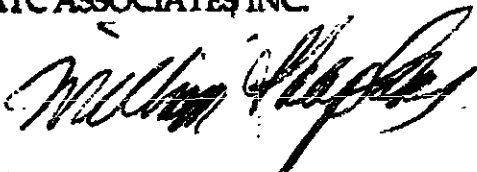
GENERAL PROVISIONSGeneral

1. The scope of services is restricted to that which is outlined in this proposal.
2. The proposed budget represents an estimate of fees and costs for the described work. ATC Associates Inc. shall not exceed this budget in the absence of an approved change order from Ruben Hausauer. In the event of an emergency, or where a quick response would save time and costs, ATC Associates Inc. may proceed with the work, the costs of which will exceed the budget, upon receipt of a verbal approval by Gary Rodebush or Tommy A. Conner.
3. Should unanticipated conditions be encountered during this work, and should such conditions potentially impact the budget and/or schedule, the client will be notified as soon as practical prior to any changes being made.
4. Changes in the conditions that impact the scope of work may modify the estimated budget and/or schedule presented in this proposal.

Acceptance of this proposal can be indicated by signing and returning this proposal. Upon final execution, a copy of this proposal will be returned to you for your records.

We appreciate the opportunity to work with you on this environmental project and look forward to working with you in the future. If you have any questions regarding this proposal please call either of the undersigned at your convenience.

Very truly yours,
ATC ASSOCIATES INC.



WILLIAM G. THEYSKENS, CEG 1486, CHG 245
Director, Environmental and Geological Services

cc: Ruben Hausauer

TERMS AND CONDITIONS

PAYMENT - Client, will pay ATC Associates for services and expenses in accordance with the Contract Documents. Unless otherwise expressly agreed, prices quoted are based upon ATC's working one eight hour shift per day and overtime work will be billed at the quoted overtime rate or if none is quoted, at ATC's standard overtime rate for the area for the service type performed. Unless otherwise provided, sales or other taxes are not included in the prices for services and will be added to payments due ATC. ATC Associates will submit progress invoices to Client monthly together with any reasonable supporting documentation requested by Client and a final invoice upon completion of its services. Each invoice, on presentation, is due and payable by Client. Invoices are past due after 30 days. Past due amounts are subject to a charge on the outstanding balance of the lesser of one and one-half percent per month or part thereof (18 percent per annum) or the maximum permissible by law. Client agrees to pay ATC's attorney's fees, interest, and all other costs incurred in collecting past due amounts. Unless otherwise agreed, the Services shall include, and ATC Associates shall be paid in full at the contract rates for, any additional services performed at Client's request in excess of those stated in this Agreement. The Client's obligation to pay for the Services is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon the Client's successful completion of a project. The Client shall remain obligated to pay ATC for the services even though the test results or report produced by ATC may contain conclusions unfavorable to the Client's interests.

STANDARD OF CARE, WARRANTY DISCLAIMER AND LIABILITY LIMITS - ATC Associates represents that it will perform Services, as defined and limited by the scope of services in this agreement, for Client using that degree of care and skill ordinarily exercised by persons performing similar services under similar conditions in the same locality as the site(s). ATC's liability for services, if any, shall be limited to remedies for breach of contract in favor of only those persons with whom ATC has a direct contractual obligation to perform services.

ATC ASSOCIATES IS NOT LIABLE, FOR ALLEGED DEFECTS IN SERVICES PERFORMED, TO THIRD PARTIES OR ANYONE WITH WHOM IT DOES NOT HAVE A DIRECT CONTRACTUAL RELATIONSHIP. ATC ASSOCIATES IS NOT LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES. ATC SHALL NOT BE LIABLE FOR DEFECTS OR DEFICIENCIES IN TANKS, PIPING OR OTHER GOODS OR IN THEIR INSTALLATION. ATC IS NOT LIABLE FOR DEFECTS IN INFORMATION PROVIDED BY SECONDARY SOURCES (e.g. government agencies, environmental data bases, etc.). ATC ASSOCIATES' LIABILITY SHALL NOT UNDER ANY CIRCUMSTANCES EXCEED THE LIMITS OF IT'S INSURANCE COVERAGE WHICH SHALL NOT BE LESS THAN \$2,000,000.00.

The client acknowledges that ATC Associates has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substances or conditions at the site, and ATC Associates' compensation hereunder is not commensurate with the potential risk of injury or loss that may be caused by exposure to, contamination by, or the presence of such substances or conditions.

ATC Associates is solely responsible for the performance of this Agreement, and no parent, subsidiary or affiliated company, or any of its directors, officers, employees, or agents shall have any legal responsibility hereunder, whether in contract or tort, including negligence.

LIMITATIONS OF METHOD RELIABILITY - The Client recognizes and agrees that all testing and remediation methods have reliability limitations, that no method nor number of sampling locations can guarantee that a hazard will be discovered if contamination or other evidence of the hazard is not encountered within the performance of the Services as authorized and that conclusions must of necessity be extrapolated from discrete, non-continuous data points.

The Client further acknowledges and agrees that reliability of testing or remediation varies according to the sampling frequency and other service variables selected by the Client and that factors other than reliability, including cost, have been considered in the Client's selection of services. Certain methods (e.g. soil gas analysis, non-testing audits, limited-sampling asbestos surveys, XRF lead testing, asbestos encapsulation) although having inherent reliability limitations, are nevertheless selected for certain applications because of the relative level of reliability achieved at minimal cost. Client agrees that he has knowledgeably accepted these limitations and the risks attendant thereon and that ATC shall be considered to be at fault (but not necessarily liable) only to the extent that the services selected by the Client are not performed with reasonable competence in accordance with the scope of services.

DOCUMENTS - Unless rights are otherwise expressly reserved (as in the case of copyrighted documents, forms or software) all documents, including reports, drawings, plans, designs and specifications prepared by ATC Associates or its subcontractors shall, upon receipt of final payment for services hereunder, become the property of Client, subject however to ATC Associates' reservation of its rights as creator to any proprietary information employed in producing the documents or supporting data, including the basic form of the documents, which among other things ATC may freely use and retain copies of for its records. Client agrees that these documents are not intended or represented by ATC to be suitable for use by or relied upon by anyone but the Client or for uses beyond the scope of the specific uses or purposes set forth in, or contemplated by, the Contract Documents without ATC Associates' written permission, adaptation, verification or certification; and that ATC's fees do not reflect the expanded scope of risk presented by unintended or third party use of or reliance on the documents. Any such use will be at the Client's or third party's sole risk.

SUBPOENAS - The client is responsible after notification, for payment of time charges and expenses resulting from the required response by ATC Associates to subpoenas issued by any party, involving any legal or administrative proceeding in which ATC Associates Inc. is not named as a party, in connection with work performed under this contract. Charges are based on fee schedules in effect at the time the subpoena is served.

CLAIMS - In the event that it is necessary to enforce this agreement or any of its terms, the prevailing party shall recover its reasonable attorneys fees and costs.

ASSIGNMENT - Neither the Client nor ATC Associates may delegate, assign, subwrite or transfer its benefits, rights, duties or interest in this agreement without the written consent of the other party.

PROPOSAL ACCEPTANCE AND AGREEMENT

This Agreement is made by acceptance below of the Contract Documents including Proposal No. S97-0309 this 4th day of June, 1997 and between Ruben Hausauer ("Client") of 6017 E. 14th Street, Oakland, California, 94601 and ATC Associates Inc. of 2380 Qume Drive, Suite C, San Jose, California, 95131. Client and ATC Associates AGREE as follows:

- 1. **CONTRACT DOCUMENTS** - "Contract Documents" means this document, the **TERMS AND CONDITIONS**, and any proposals, fee schedules and other documents listed below under **PROFESSIONAL SERVICES**.
- 2. **PROFESSIONAL SERVICES** - ATC Associates will provide professional services ("Services") for the Client, as indicated in Proposal No. S97-0309 dated the 4th day of June, 1997 and other documents as referenced therein, which are incorporated by reference herein.
- 3. **DESIGNATED REPRESENTATIVES** - The parties designate the following named individuals as their authorized representatives to provide approvals, directives, and permissions, including changes, and to receive notices or other communications under this agreement at the following addresses:

ATC ASSOCIATES INC.

LAW OFFICES OF TOMMY A. CONNER:

Name:

Name:

Address:

Address:

Phone:

Phone:

YOUR SIGNATURE INDICATES ACCEPTANCE OF THE PROPOSAL REFERENCED ABOVE, THE CONTRACT DOCUMENTS AND THE TERMS AND CONDITIONS UNLESS EXPRESSLY MODIFIED IN WRITING. *

ACCEPTED BY:

ATC ASSOCIATES INC.

RUBEN HAUSAUER

By:
(Officer authorized to execute contracts)

By:

Title:

Title:

Date:

Date:

This contract must be signed by a principal of the company or officer of the corporation authorized to execute contracts on behalf of client.

SUBJECT TO:

- (1) the Terms and Conditions set forth in ATC Environmental Inc.'s August 1, 1996 Proposal to Conduct A Soil and Groundwater Investigation at 3927 East 14th Street in Oakland, California [Revision 5]; and
- (2) Ruben Hausauer's cancellation on written notice.



Cal/EPA

**State Water
Resources
Control Board**

Division of
Clean Water
Programs

Mailing Address:
P.O. Box 944212
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-0747
FAX (916) 227-4530

World Wide Web
<http://www.swrcb.ca.gov/~cwphome/fundhome.htm>

June 4, 1997

Ruben Hausauer
6017 14th St E
Oakland, CA 94621



Pete Wilson
Governor

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 8829,
SITE ADDRESS: 3927 14TH ST E, OAKLAND, CA 94601**

I have reviewed your May 23, 1997 request, submitted on your behalf by the Law Offices of Tommy A. Conner, for pre-approval of corrective action costs. I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form to use in the future for requesting pre-approval of corrective actions costs. Please note that this form needs to be signed by you or your authorized representative. According to our files, your current attorney is not listed as an authorized representative for your claim to the Fund. A new form is enclosed for you to make any necessary changes.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the Artesian Environmental workplan approved by the Alameda County Environmental Health Services (County) in their May 12, 1997 letter, is \$ 10,076; see the table below for a breakdown of costs.

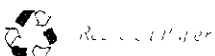
At this time, the Fund is not approving costs related to excavation of soil. As directed in the May 12, 1997 Alameda County letter, you are to have your consultant prepare a Tier I Risk-Based Corrective Action (RBCA) assessment for your site. This is part of the above pre-approved amount. Once the RBCA is completed, it will then be determined by Alameda County whether excavation of the soils are necessary. If excavation is directed by Alameda County, then you may submit costs for pre-approval from the Fund.

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

*All future costs for corrective action must be approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.*

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Field work preparation	\$1,550	Workplan cannot be pre-approved because it is already completed however, the cost seems reasonable for reimbursement Modeling is not pre-approved--what is it for?
Groundwater sampling point installation	1,590	



Our mission is to preserve and enhance the health of California's water resources, to ensure their proper allocation and efficient use for the benefit of present and future generations.

Task	Amount Pre-Approved	Comments
Groundwater sampling point development	436	
Groundwater sampling and site remediation	840	Excavation costs deducted.
Laboratory analyses	2,060	Soil disposal profile charges deducted.
Report preparation	1,800	
Tier 1 Risk Assessment	1,800	
TOTAL PRE-APPROVED	\$ 10,076	

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- It is my opinion that it is unnecessary to obtain three bids for this scope of work; the Fund's three bid requirement is waived for this scope of work.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Artesian Environmental proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*

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

Please call if you have any questions. I can be reached at (916) 227-0747

Sincerely,



Linda Sanborn, Associate Governmental Program Analyst
 Underground Storage Tank Cleanup Fund Program
 Enclosure



cc: Mr. Barney Chan ✓
Alameda County EHD
1131 Harbor Bay Pkway, Suite 250
Alameda, CA 94502-6577

Ms. Susan Y. Rader
Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, CA 94107





Cal/EPA

**State Water
Resources
Control Board**

Division of
Clean Water
Programs

Mailing Address:
P.O. Box 944212
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-0747
FAX (916) 227-4530

World Wide Web
<http://www.swrcb.ca.gov/~cwphome/fundhome.htm>

June 4, 1997

Ruben Hausauer
6017 14th St E
Oakland, CA 94621



Pete Wilson
Governor

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 8829,
SITE ADDRESS: 3927 14TH ST E, OAKLAND, CA 94601**

I have reviewed your May 29, 1997 request for pre-approval of corrective action costs. I will place these documents in your file for future reference.

With the following provisions, the total cost pre-approved as eligible for reimbursement for disposal of soil and water at your site is **\$1,625**; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

*All future costs for corrective action must be approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.*

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Coordination of soil and groundwater disposition	475	
Additional characterization	425	
Soil and groundwater transport and disposal	725	
TOTAL PRE-APPROVED	\$1,625	

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid.
- The work products must be acceptable to the County and the Regional Water Quality Control Board
- It is my opinion that it is unnecessary to obtain three bids for this scope of work. the Fund's three bid requirement is waived for this scope of work
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources and ensure their proper allocation and efficient use for the benefit of present and future generations.

- Although I have referred to the ATC Associates proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*

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

Please call if you have any questions; I can be reached at (916) 227-0747.

Sincerely,



Linda Sanborn, Associate Governmental Program Analyst
Underground Storage Tank Cleanup Fund Program

cc: Mr. Barney Chan ✓
Alameda County EHD
1131 Harbor Bay Pkway, Suite 250
Alameda, CA 94502-6577

Ms. Susan Y. Rader
Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, CA 94107



**LAW OFFICES OF
TOMMY A. CONNER**

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

R0468
C

May 29, 1997

Mr. Steve Marquez
Division of Clean Water Programs
Underground Storage Tank Cleanup Fund Program
2014 "T" Street
Sacramento, California 95814

Via Facsimile

**Re: Claimant: Ruben Hausauer
3927 East 14th Street
Oakland, CA
Claim No: 008829
Pre-Approval Request**

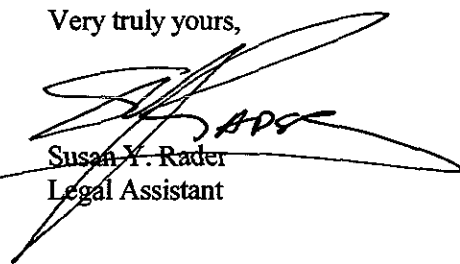
Dear Mr. Marquez:

Enclosed for your review is Ruben Hausauer's pre-approval request for the disposal of soil and water stored at the above-named site. Because Mr. Hausauer's tenant is anxious to have the drums containing the soil and water removed from the site as soon as possible, we ask that you please give this pre-approval request your first available consideration.

Please do not hesitate to call if you require anything further, or if we may answer any questions you may have.

Thank you.

Very truly yours,


Susan Y. Rader
Legal Assistant

:syr/Enclosures

cc: Barney M. Chan (w/encl)
Hazardous Materials Specialist
Alameda County Health Care Services Agency

Mr Bill Theyskens (w/o encl)
ATC Associates Inc.

Mr. Ruben Hausauer (w/encl)

CALIFORNIA UNDERGROUND STORAGE TANK CLEANUP FUND
COST PRE-APPROVAL REQUEST

(Complete form, enclose required items, sign, date & return)

TO: Steve Marquez Fax: (916) 227-4530
UST Cleanup Fund, 2014 T Street, Sacramento, CA 95814

I. CLAIM INFORMATION

A. CLAIM NO. 008829 B. CLAIMANT RUBEN HAUSAUER

C. CLAIM STATUS (complete appropriate section)

- i) *LOC ISSUED FOR \$ 20,000.00 *initial amount
ii) ON PRIORITY LIST? YES NO IF YES, PRIORITY CLASS A B C D
iii) NOT YET APPLIED TO THE FUND, EXPECTED APPLICATION DATE: _____

D. CONTACT PERSON: Tommy A. Conner, Esq. PHONE: (415) 621-3939
ADDRESS: Law Offices of Tommy Conner FAX: (415) 621-3999
444 De Haro Street, Suite 121
San Francisco, CA 94107

II. TYPE OF REQUEST (check appropriate boxes)

- PRE-APPROVAL \$ 1,625.00 AMOUNT REQUESTED
 3-BID REVIEW _____ PREFERRED BID (if applicable)

THE FOLLOWING DOCUMENTS ARE REQUIRED FOR THE SPECIFIED REQUEST. ALL DOCUMENTS REQUESTED MUST BE SUBMITTED OR THE REQUEST(S) WILL BE RETURNED UNPROCESSED.

- A. REQUEST FOR PRE-APPROVAL OF PROPOSED COSTS - The following items are required before review and determination will be made by Fund staff.
1. X A complete signed copy of the proposed investigation Workplan or Corrective Action Plan (CAP) (as defined and required by Article 11, Chapter 16, California Underground Storage Tank Regulations). Corrective Action Plans must include the required feasibility study and chosen cost effective alternative. *Provided by ATC Associates Inc.*
2. X A signed copy of the oversight agency approval letter for the Workplan/CAP. 12/13/96 letter from B. Chan (Alameda County Health Care Services Agency)
3. N/A complete copy of the Request For Bids, including all attachments. A list of all firms requested to bid must be included.
4. N/A Complete copies of all bids and other correspondence submitted in response to the Request For bids.
5. X A time schedule, if not part of bid documents, anticipated for project initiation and duration.
6. X A detailed project budget, which includes breakdowns of staff/task/hour with associated estimated totals.

- B. THREE-BID REVIEW/EVALUATION/DETERMINATION - Fund staff will assist any claimant requesting an evaluation of bids upon request. The following information must be submitted - 1, 2, 3 AND 4 as described in Item A above.

III. CERTIFICATION

I certify under penalty of perjury that all information submitted with this request is complete and accurate and in accordance with all applicable laws and regulations.

Ruben Hausauer
Signature

May 29, 1997
Date

VATC ASSOCIATES INC.

ENVIRONMENTAL, GEOTECHNICAL AND MATERIALS PROFESSIONALS

2380 Qume Drive, Suite C
San Jose, CA 95131
(408) 474-0280
Fax (408) 474-6662

29 May 1997
S97-0297

Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, California 94107

Attention: Mr. Tommy A. Conner, Esq.

**SUBJECT: PROPOSAL FOR DISPOSAL OF SOIL AND WATER STORED AT 3927 EAST
14TH STREET IN OAKLAND, CALIFORNIA**

Dear Tommy,

ATC Associates Inc. is pleased to present this proposal to effect the disposal of soil and water presently stored at 3927 East 14th Street in Oakland, California (site). It is our understanding that there are currently 3 drums of soil and 4 drums of water on-site from past corrective action and monitoring activities related to a historic release from a former on-site petroleum hydrocarbon-containing underground storage tank (UST).

OBJECTIVE

The objective of the proposed scope of work is to effect disposal of the drums of soil and groundwater.

SCOPE OF WORK

- Task 1. Coordination of Soil and Groundwater Disposition*
- Task 2. Additional Characterization*
- Task 3. Soil and Groundwater Transport and Disposal*

WORK DESCRIPTION

- Task 1. Coordination of Soil and Groundwater Disposition*

ATC has provided readily available laboratory analytical data, site use history, material source information, and the requested site map to Mr. Tom Narey of North American Dirt Solutions

(NADS). NADS will contract with ATC for the sampling, analysis, and transport and disposal of the subject materials. ATC will sign the Profile Form required to certify that the waste is non-hazardous.

Task 2. Additional Characterization

Additional analyses are required for the disposition of the soil cuttings according to NADS. ATC will collect one sample from each of the three drums. The soil samples will be composited by the laboratory. Analyses requested include EPA Method 8240 for volatile organic compounds and analysis for STLC-lead. Samples will be run on a standard 5 to 7 working day turnaround.

Task 3. Soil and Groundwater Transport and Disposition

The quote provided by NADS is for disposition of a reported 3 drums of soil and 4 drums of water. Analyses historically performed on these soil and water samples have been provided to NADS. Analyses performed for the water are total petroleum hydrocarbons (TPH) as gasoline (TPHg) in general accordance with EPA Method No. 8015 (modified), benzene, toluene, ethylbenzene, total xylenes (BTEX) and Methyl tert butyl ether (MtBE) in general accordance with the EPA Method No. 8020, TPH as diesel (TPHd) and TPH as motor oil (TPHmo) in general accordance with EPA Method No. 8015 (modified).

Analyses performed for soil samples characteristic of that stored in the drums are total petroleum hydrocarbons (TPH) as gasoline (TPHg) in general accordance with EPA Method No. 8015 (modified), benzene, toluene, ethylbenzene, total xylenes (BTEX) in general accordance with the EPA Method No. 8020, TPH as diesel (TPHd) and TPH as oil and grease, CAM 17 metals, and reactivity, corrosivity and ignitability (RCI).

Water and soil will be transported to a recycle, and to a Class I or Class II landfill or a thermal remediation facility, respectively. The quoted prices are based on the assumption that these analyses, as well any additional analytical data provided by ATC, will be acceptable to the proposed facilities. If additional analytical is required, you will be notified immediately. Costs of any additional analyses, if required, are not included within this proposal. This proposal would also require a Change Order in the event the materials are a Cal-Haz or RCRA waste.

SCHEDULE

We are prepared to commence work immediately upon receipt of written authorization to proceed. It is anticipated that following receipt of written authorization to proceed, the sampling will be initiated immediately and it is anticipated that the materials will be removed from the site within two weeks.

BUDGET

The work will be conducted on a time and materials basis according to our 1997 Fee Schedule. The budget for the scope of work described above is presented below. Costs will not exceed the budget for time and materials without prior approval of the client.

<i>Task 1.</i>	<i>Coordination of Soil and Groundwater Disposition</i>	<i>\$ 475</i>
<i>Task 2.</i>	<i>Additional Characterization</i>	<i>\$ 425</i>
<i>Task 3.</i>	<i>Soil and Groundwater Transport and Disposition</i>	<i>\$ 725</i>
Total Estimated Budget		\$1,625

GENERAL PROVISIONS*Client Furnished Services*

1. Access to the site will be available to personnel of ATC Associates Inc. and its subcontractors as necessary to accomplish provisions set forth in this proposal.

Basis for Estimated Cost and Schedule

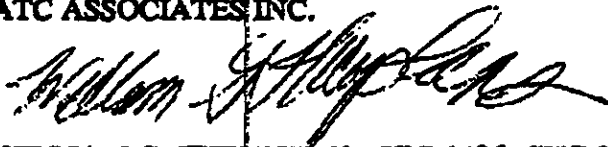
1. The historical analyses will be sufficient for acceptance of these materials by the proposed facilities.
2. The subject materials are not considered a Cal-Haz or RCRA waste.
3. The time frame for disposition will allow for required analyses to be performed with a "standard turnaround".

General

1. California Code of Regulations, Title 22, Division 4.5, Chapter 11, Identification and listing of hazardous waste will be used to assess what is hazardous waste.
2. The scope of work is restricted to that which is outlined in this proposal.
3. Changes in the conditions encountered and/or modification by regulatory agency personnel may impact the scope of work and/or modify the estimated budget and schedule. Any such impact will be discussed with the client and agreed upon before changes in scope, budget, and/or schedule are made.

ATC Associates Inc. appreciates the opportunity to propose on this project and looks forward to working with you in the future. If you have any questions regarding this proposal or the unit costs presented, please feel free to contact the undersigned at your convenience at 408-474-0280.

Very truly yours,
ATC ASSOCIATES INC.

A handwritten signature in black ink, appearing to read "William G. Theyskens". The signature is written in a cursive style with a large, sweeping flourish at the end.

WILLIAM G. THEYSKENS, CEG 1486, CHG 245
Branch Manager/Senior Project Geologist

TERMS AND CONDITIONS

PAYMENT - Client will pay ATC Associates for services and expenses in accordance with the Contract Documents. Unless otherwise expressly agreed, prices quoted are based upon ATC's working one eight hour shift per day and overtime work will be billed at the quoted overtime rate or if none is quoted, at ATC's standard overtime rate for the area for the service type performed. Unless otherwise provided, sales or other taxes are not included in the prices for services and will be added to payments due ATC. ATC Associates will submit progress invoices to Client monthly together with any reasonable supporting documentation requested by Client and a final invoice upon completion of its services. Each invoice, on presentation, is due and payable by Client. Invoices are past due after 30 days. Past due amounts are subject to a charge on the outstanding balance of the lesser of one and one-half percent per month or part thereof (18 percent per annum) or the maximum permissible by law. Client agrees to pay ATC's attorney's fees, interest, and all other costs incurred in collecting past due amounts. Unless otherwise agreed, the Services shall include, and ATC Associates shall be paid in full at the contract rates for, any additional services performed at Client's request in excess of those stated in this Agreement. The Client's obligation to pay for the Services is in no way dependent upon the Client's ability to obtain financing, payment from third parties, approval of governmental or regulatory agencies, or upon the Client's successful completion of a project. The Client shall remain obligated to pay ATC for the services even though the test results or report produced by ATC may contain conclusions unfavorable to the Client's interests.

STANDARD OF CARE, WARRANTY DISCLAIMER AND LIABILITY LIMITS - ATC Associates represents that it will perform Services, as defined and limited by the scope of services in this agreement, for Client using that degree of care and skill ordinarily exercised by persons performing similar services under similar conditions in the same locality as the site(s). ATC's liability for services, if any, shall be limited to remedies for breach of contract in favor of only those persons with whom ATC has a direct contractual obligation to perform services.

ATC ASSOCIATES IS NOT LIABLE, FOR ALLEGED DEFECTS IN SERVICES PERFORMED, TO THIRD PARTIES OR ANYONE WITH WHOM IT DOES NOT HAVE A DIRECT CONTRACTUAL RELATIONSHIP. ATC ASSOCIATES IS NOT LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES. ATC SHALL NOT BE LIABLE FOR DEFECTS OR DEFICIENCIES IN TANKS, PIPING OR OTHER GOODS OR IN THEIR INSTALLATION. ATC IS NOT LIABLE FOR DEFECTS IN INFORMATION PROVIDED BY SECONDARY SOURCES (e.g. government agencies, environmental data bases, etc.). ATC ASSOCIATES' LIABILITY SHALL NOT UNDER ANY CIRCUMSTANCES EXCEED THE LIMITS OF IT'S INSURANCE COVERAGE WHICH SHALL NOT BE LESS THAN \$2,000,000.00.

The client acknowledges that ATC Associates has neither created nor contributed to the creation or existence of any hazardous, radioactive, toxic, irritant, pollutant, or otherwise dangerous substances or conditions at the site, and ATC Associates' compensation hereunder is not commensurate with the potential risk of injury or loss that may be caused by exposure to, contamination by, or the presence of such substances or conditions.

ATC Associates is solely responsible for the performance of this Agreement, and no parent, subsidiary or affiliated company, or any of its directors, officers, employees, or agents shall have any legal responsibility hereunder, whether in contract or tort, including negligence.

LIMITATIONS OF METHOD RELIABILITY - The Client recognizes and agrees that all testing and remediation methods have reliability limitations, that no method nor number of sampling locations can guarantee that a hazard will be discovered if contamination or other evidence of the hazard is not encountered within the performance of the Services as authorized and that conclusions must of necessity be extrapolated from discrete, non-continuous data points.

The Client further acknowledges and agrees that reliability of testing or remediation varies according to the sampling frequency and other service variables selected by the Client and that factors other than reliability, including cost, have been considered in the Client's selection of services. Certain methods (e.g. soil gas analysis, non-testing audits, limited-sampling asbestos surveys, XRF lead testing, asbestos encapsulation) although having inherent reliability limitations, are nevertheless selected for certain applications because of the relative level of reliability achieved at minimal cost. Client agrees that he has knowledgeable accepted these limitations and the risks attendant thereon and that ATC shall be considered to be at fault (but not necessarily liable) only to the extent that the services selected by the Client are not performed with reasonable competence in accordance with the scope of services.

DOCUMENTS - Unless rights are otherwise expressly reserved (as in the case of copyrighted documents, forms or software) all documents, including reports, drawings, plans, designs and specifications prepared by ATC Associates or its subcontractors shall, upon receipt of final payment for services hereunder, become the property of Client, subject however to ATC Associates' reservation of its rights as creator to any proprietary information employed in producing the documents or supporting data, including the basic form of the documents, which among other things ATC may freely use and retain copies of for its records. Client agrees: that these documents are not intended or represented by ATC to be suitable for use by or relied upon by anyone but the Client or for uses beyond the scope of the specific uses or purposes set forth in, or contemplated by, the Contract Documents without ATC Associates' written permission, adaptation, verification or certification; and that ATC's fees do not reflect the expanded scope of risk presented by unintended or third party use of or reliance on the documents. Any such use will be at the Client's or third party's sole risk.

SUBPOENAS - The client is responsible after notification, for payment of time charges and expenses resulting from the required response by ATC Associates to subpoenas issued by any party, involving any legal or administrative proceeding in which ATC Associates Inc. is not named as a party, in connection with work performed under this contract. Charges are based on fee schedules in effect at the time the subpoena is served.

CLAIMS - In the event that it is necessary to enforce this agreement or any of its terms, the prevailing party shall recover its reasonable attorneys fees and costs.

ASSIGNMENT - Neither the Client nor ATC Associates may delegate, assign, subwrite or transfer its benefits, rights, duties or interest in this agreement without the written consent of the other party.

PROPOSAL ACCEPTANCE AND AGREEMENT

This Agreement is made by acceptance below of the Contract Documents including Proposal No. S97-0297 this 28th day of May, 1997 and between Ruben Hausauer ("Client") of 6017 E. 14th Street, Oakland, California, 94601 and ATC Associates Inc. of 2380 Qume Drive, Suite C, San Jose, California, 95131. Client and ATC Associates AGREE as follows:

1. **CONTRACT DOCUMENTS** - "Contract Documents" means this document, the **TERMS AND CONDITIONS**, and any proposals, fee schedules and other documents listed below under **PROFESSIONAL SERVICES**.
2. **PROFESSIONAL SERVICES** - ATC Associates will provide professional services ("Services") for the Client as indicated in Proposal No. S97-0297 dated the 28th day of May, 1997 and other documents as referenced therein, which are incorporated by reference herein.
3. **DESIGNATED REPRESENTATIVES** - The parties designate the following named individuals as their authorized representatives to provide approvals, directives, and permissions, including changes, and to receive notices or other communications under this agreement at the following addresses:

ATC ASSOCIATES INC.

LAW OFFICES OF TOMMY A. CONNER:

Name:

Name:

Address:

Address:

Phone:

Phone:

YOUR SIGNATURE INDICATES ACCEPTANCE OF THE PROPOSAL REFERENCED ABOVE, THE CONTRACT DOCUMENTS AND THE TERMS AND CONDITIONS UNLESS EXPRESSLY MODIFIED IN WRITING. *

ACCEPTED BY:

ATC ASSOCIATES INC.

RUBEN HAUSAUER

By:
(Officer authorized to execute contracts)

By:

Title:

Title:

Date:

Date:

This contract must be signed by a principal of the company or officer of the corporation authorized to execute contracts on behalf of client.

***SUBJECT TO:**

- (1) the Terms and Conditions set forth in ATC Environmental Inc.'s August 1, 1996 Proposal to Conduct A Soil and Groundwater Investigation at 3927 East 14th Street in Oakland, California [Revision 5]; and
- (2) Ruben Hausauer's cancellation on written notice.

COST BREAKDOWN FOR USTCF FOR PROPOSAL 597-0297, 3927 E. 14TH STREET, OAKLAND, CA.									
ACTIVITY	ACTIVITY	ACTIVITY	STAFF LEVEL	NUMBER OF HOURS	RATE	SUBTOTAL EXPENSES	SUBCONTRACTOR	SUBCONTRACTOR incl. 15% markup	
1	Coordinate Soil Sampling & Disposition of Soil and Water	Labor	Sr. Proj	2	120	240		0	
		Labor	Staff	4	60	240		0	
2	Additional Characterization	Labor	Tech.	3	45	135		0	
	Analytical	Compositing 3 into 1					9	10.35	
	Analytical	EPA Method 8240					125	143.75	
	Analytical	STLC Lead					56	78.2	
3	Lead and Transport	Water - 4 drums						0	
		Soil - 3 drums					180	207	
							135	155.25	
	Disposal	Water - 4 drums						0	
		Soil - 3 drums					180	207	
							135	155.25	
								0	
								0	
	TOTALS			9		615	56	432	958.8
									TOTAL COST 1827.6
	f:\project6\1137\dfs\costbrkdn.xls								

ALAMEDA COUNTY
HEALTH CARE SERVICE



AGENCY
DAVID J. KEARS, Agency Director

December 13, 1996
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

**Re: Status of Subsurface Investigation at 3927 E. 14th St.,
Oakland CA 94601, New Genico Site**

Dear Mr. Hausauer:

During the October 1, 1996 scoping meeting at the offices of Mr. William Nagle, a number of actions were discussed and proposed for the continued subsurface investigation at the New Genico site and Owens site located at 1234 40th Ave.

The results of the ATC Environmental investigation and the SEMCO tank removal were discussed. These results indicated that tank at the New Genico site was a source of petroleum contamination and that fuel (presumably gasoline) had been dispensed from this tank at one time. Both oil and fuel contaminants were detected in soil samples beneath the former waste oil tank. Free product removed from the tank was analyzed and again both heavy (oil range) hydrocarbons and lighter (gasoline range) hydrocarbons were detected.

Based on these results, Mr. Kelleher concluded, with general agreement, that:

1. Two petroleum releases had occurred and that the responsibility for site work would be divided down the middle of 40th Ave.
2. Additional monitoring wells would be required, the exact number was to be determined after an additional monitoring event occurred. The monitoring of wells at both sites should be done concurrently to get a better picture of groundwater gradient in this area.

Mr. Tommy Conner proposed that the soils within and beneath the former waste oil tank pit be removed as they posed a source of continual groundwater contamination. Also, a baseline risk assessment (Tier 1) consistent with the ASTM Risk Based Corrective Action (RBCA) should be done for both sites. A vapor extraction test would also be done on both sites.

The Pre-Trial Order No. 5 from the offices of Mr. William Nagle specified that by October 22, 1996 you would prepare and submit a work plan to all parties. Also, Mr. Kelleher was to have prepared and submitted the Scoping Session minutes by the same

Mr. Ruben Hausauer
StID # 4610
3927 E. 14th St.
December 13, 1996
Page 2.

date. A status conference was also scheduled for January 15, 1997.

Our office has received the fourth quarter 1996 monitoring report for 1234 40th Ave. from Mr. Gary Rogers. I was informed by Mr. Rogers that concurrent groundwater monitoring on the New Genico site did not occur. Has quarterly monitoring at the New Genico site occurred since the recent well installations? What is the status of the previously mentioned work plan and baseline risk assessment?

Please provide a written update on your site's status in regards to the above items within 30 days or by January 14, 1996.

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

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

c: Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010
Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100, Walnut Creek, CA 94595-0308
Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536

3927stat

RECEIVED

DEC 17 1996

LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

PO468
CL

May 23, 1997

Mr. Steve Marquez
Division of Clean Water Programs
Underground Storage Tank Cleanup Fund Program
2014 "T" Street
Sacramento, California 95814

Via Facsimile

Re: Claimant: Ruben Hausauer
3927 East 14th Street
Oakland, CA
Claim No: 008829
Pre-Approval Request

Dear Mr. Marquez:

Per our May 2, 1997 telephone conference during which you asked that Hausauer obtain local oversight agency input re the above-named pre-approval request, we attach copies of the following:

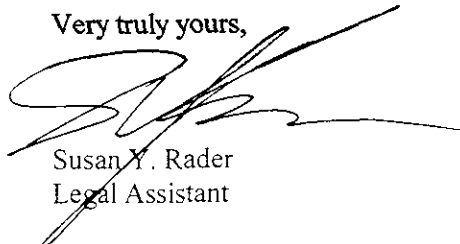
1. Barney Chan's (Alameda County Health Care Services Agency) May 15, 1997 letter to Ruben Hausauer re Artesian Environmental's April 8, 1997 Groundwater Sampling Point Installation and Remediation Workplan; and
2. Artesian Environmental's May 23, 1997 revised workplan and bid (responding to and incorporating those applicable comments and additions in Chan's May 15, 1997 letter).

Because the Alameda County Health Care Services Agency in its January 3, 1997 letter instructs Hausauer that the required work occur as soon as the wet season is over, we once again ask that you please give this matter your first available consideration.

Please do not hesitate to call if you require anything further, or if we may answer any questions you may have.

Thank you.

Very truly yours,



Susan Y. Rader
Legal Assistant

:syr/Attachments

Mr. Steve Marquez

May 23, 1997

Page 2

cc: Barney M. Chan (w/o attachments)
Hazardous Materials Specialist
Alameda County Health Care Services Agency

Mr. Tom Fortner (w/o attachments)
Artesian Environmental

Mr. Ruben Hausauer (w/attachments)

ARTESIAN ENVIRONMENTAL
May 23, 1997

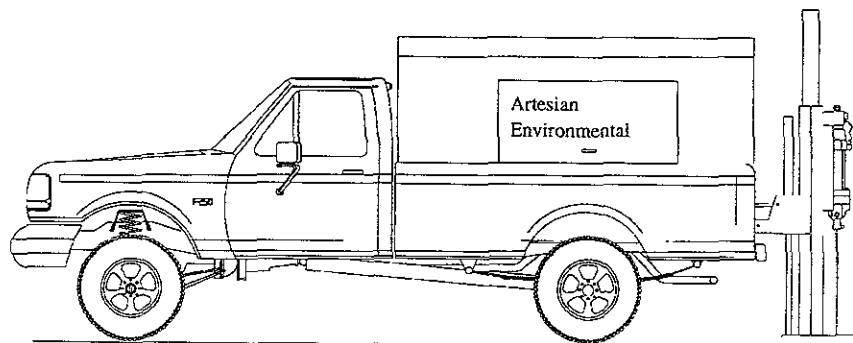
To: Tommy A. Conner, Esq.
Law Offices of Tommy A. Conner
444 De Haro Street, Suite 121
San Francisco, CA 94107

Re: Hausauer/3927 East 14th Street
Oakland, California
Proposal 97-04-002-197A

Dear Mr. Conner:

Artesian Environmental Consultants (Artesian) is pleased to present a bid to install one groundwater sampling point and site remediation at the above referenced site. A workplan dated April 8, 1997 and an addendum to the workplan dated May 22, 1997 has been prepared by Artesian for the proposed work.

EQUIPMENT: Artesian has in-house portable and a truck-mounted Geoprobe 5400 rig and other direct penetration technology (DPT) equipment. Direct push drilling methods do not generate soil cuttings which require disposal. Maximum depth range for the Geoprobe 5400 rig is 50 or 60 feet. The equipment is limited access and portable equipment is also available. Angle drilling can be performed up to 30 degrees from vertical using the Geoprobe 5400 rig or to any angle by hand held methods. As a licensed driller, Artesian also uses Mobile Minute Man limited access drilling rigs and Mobile B-57 and B-61 hollow stem auger drilling rigs.



GEOPROBE 5400 DIRECT PENETRATION TECHNOLOGY (DPT) RIG

BACKGROUND

Artesian, incorporated in California in 1990, specializes in environmental support services and is licensed by the state as a general engineering contracting firm certified for hazardous waste removal, well drilling and asbestos abatement (# 624461 - A, B, C-57, Haz., and Asb). The firm performs technical and operational services for attorneys, Fortune 500 firms as well as leading environmental consulting firms. The company offers environmental consulting, limited-access, environmental, and geotechnical drilling services, third-party independent soil and water sampling, tank removal, and soil and groundwater contracting services. All field employees have the required 29 CFR 1910.120 forty hour safety training and supervisory course work as well as medical monitoring and refresher classes as required by OSHA.

INSURANCE

Artesian has a general and professional liability/errors coverage for \$2,000,000. Artesian has \$1,000,000 workers compensation coverage and vehicle coverage. If requested, Artesian can send an original certificate to the client or name the client as additionally insured.

CONFIDENTIALITY AGREEMENT

All work is completely confidential.

ESTIMATE

Artesian has prepared the following bid as an estimate of costs. This bid is valid for 90 days.

ITEM	UNITS	RATE	TOTAL
Field Work Preparation			
Workplan/site safety plan preparation	9	* \$75 per hour	\$675
Permitting/project management	12	* \$75 per hour	\$900
Permits	1	* \$500 estimated	\$500
Waste Profile	2	* \$75 per hour	\$150
Modeling	3	* \$75 per hour	\$225
		sub total	\$2,450
Groundwater Sampling Point Installation			
DPT Drilling Equip	2	* \$115 per hour	\$230
Mob/Demob, Travel	2	* \$105 per hour	\$210
PID	1	* \$50 per day	\$50
Geologist	4	* \$75 per hour	\$300
Well Materials	1	* \$125 per well	\$125
Support Truck	1	* \$100 per day	\$100
Steam Cleaner	1	* \$50 per day	\$50
Generator/pump	1	* \$50 per day	\$50
Licensed Surveyor	1	* \$475 per event	\$475
		sub total	\$1,590
Groundwater Sampling Point Development			
Field Technician	4	* \$59 per hour	\$236
Truck	1	* \$100 per day	\$100
Development Equip	1	* \$100 per day	\$100
		sub total	\$436
Groundwater Sampling and Site Remediation			
Field Technician	10	* \$59 per hour	\$590
Truck	1	* \$100 per day	\$100
Sampling Equip	1	* \$100 per day	\$100
PID	1	\$50 per day	\$50
Shoring	1	* \$500 per event	\$500
Backhoe and operator	1	* \$750 per day	\$750
Geologist	10	* \$75 per hour	\$750
Laborer	10	* \$35 per hour	\$350
Imported Backfill	50	* \$16 per ton	\$800
Vac Truck/Water disp	500	* \$1.35 per gallon	\$675
Sidewalk Repair	1	* \$600 per event	\$600

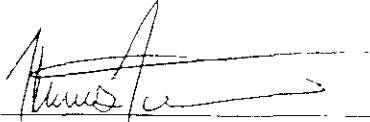
ORC	200	* \$14 per pound	\$2,800
		sub total	\$8,065
Laboratory Analyses (10 day turn around time)			
TPH-g/BTEX/MTBE	7	* \$75 per sample	\$525
TPH-d/TPH-mo	7	* \$75 per sample	\$525
Bio-assay	2	* \$300 per sample	\$600
Disolved Oxygen	1	* \$20 per sample	\$20
Ox-Redox Potential	1	* \$35 per sample	\$35
Sulfate	2	* \$35 per sample	\$70
Nitrate	2	* \$35 per sample	\$70
Iron +2 (soil)	1	* \$50 per sample	\$50
Iron +2 (water)	1	* \$165 per sample	\$165
Soil Disposal Profile			
TPH-g/BTEX	1	* \$60 per sample	\$60
TPH-d/TPH-mo	1	* \$75 per sample	\$75
TRPH	1	* \$75 per sample	\$75
Volatile Organics	1	* \$175 per sample	\$175
Semi Volatile Organics	1	* \$210 per sample	\$210
LUFT Metals	1	* \$95 per sample	\$95
		sub total	\$2,750
Report Preparation			
Geologist	17	* \$75 per hour	\$1,275
Graphics	6	* \$40 per hour	\$240
C.H.G. Review	3	* \$95 per hour	\$285
		sub total	\$1,800
Tier 1 Human Health Risk Assessment			
Geologist	24	* \$75 per hour	\$1,800
		sub total	\$1,800
		TOTAL	\$18,891

FEE

Artesian will perform the above scope of work on a time and materials basis. The client is only billed for actual costs. Additional services or supplies can be obtained as a change order to this contract. By authorizing Artesian to proceed, the client is agreeing to pay for the work performed. Payment is due within 60 days of receiving the invoice.

AUTHORIZATION TO PROCEED

The total estimated cost for the scope of work defined is \$18,891 based on a time and materials basis. To authorize the work, please have the client sign this agreement. Please call me at (510) 307-9943 if you have any questions.


 Thomas Fortner
 Project Geologist
 Date 5/23/97

 Client
 Representing
 Date

LAW OFFICES OF
TOMMY A. CONNER

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
97 APR 24 PM 3:35

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

April 23, 1997

Mr. Steve Marquez
Division of Clean Water Programs
Underground Storage Tank Cleanup Fund Program
2014 "T" Street
Sacramento, California 95814

Via Federal Express

Re: **Claimant: Ruben Hausauer**
3927 East 14th Street
Oakland, CA
Claim No: 008829
Pre-Approval Request

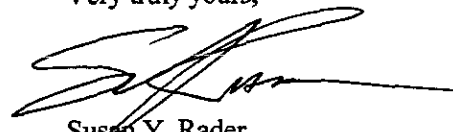
Dear Mr. Marquez:

Enclosed for your review is Ruben Hausauer's pre-approval request for groundwater sampling point installation and remediation at the above-referenced site. Because the Alameda County Health Care Services Agency in its January 3, 1997 letter instructs Mr. Hausauer that the required work occur as soon as the wet season is over, we ask that you please give this pre-approval request your first available consideration.

Please do not hesitate to call if you require anything further, or if we may answer any questions you may have.

Thank you.

Very truly yours,



Susan Y. Rader
Legal Assistant

:syr/Enclosures

cc: ~~Barney M. Chan~~ (w/encl)
Hazardous Materials Specialist
Alameda County Health Care Services Agency

Mr. Tom Fortner (w/o encl)
Artesian Environmental

Mr. Ruben Hausauer (w/encl)

✓ 2.3927

CALIFORNIA UNDERGROUND STORAGE TANK CLEANUP FUND
COST PRE-APPROVAL REQUEST
(Complete form, enclose required items, sign, date & return)

#4610

TO: Steve Marquez Fax: (916) 227-4530
UST Cleanup Fund, 2014 T Street, Sacramento, CA 95814

I. CLAIM INFORMATION

A. CLAIM NO. 008829 B. CLAIMANT RUBEN HAUSAUER

C. CLAIM STATUS (complete appropriate section)

- i) * LOC ISSUED FOR \$20,000.00 *initial amount
ii) ON PRIORITY LIST? YES NO IF YES, PRIORITY CLASS A B C D
iii) NOT YET APPLIED TO THE FUND, EXPECTED APPLICATION DATE: _____

D. CONTACT PERSON: Tommy A. Conner, Esq. PHONE: (415) 621-3939
ADDRESS: Law Offices of Tommy Conner FAX: (415) 621-3999
444 De Haro St., Suite 121
San Francisco, CA 94107

II. TYPE OF REQUEST (check appropriate boxes)

- PRE-APPROVAL \$ 16,361.00 AMOUNT REQUESTED
 3-BID REVIEW _____ PREFERRED BID (if applicable)

THE FOLLOWING DOCUMENTS ARE REQUIRED FOR THE SPECIFIED REQUEST. ALL DOCUMENTS REQUESTED MUST BE SUBMITTED OR THE REQUEST(S) WILL BE RETURNED UNPROCESSED.

A. REQUEST FOR PRE-APPROVAL OF PROPOSED COSTS - The following items are required before review and determination will be made by Fund staff.

1. X A complete ~~signed~~ copy of the proposed Investigation Workplan or Corrective Action Plan (CAP)/(as mental defined and required by Article 11, Chapter 16, California Underground Storage Tank Regulations). Corrective Action Plans must include the required feasibility study and chosen cost effective alternative. provided by Artesian Environ-
2. X A signed copy of the oversight agency approval letter for the Workplan/CAP. Alameda County Health Care Services Agency January 3, 1997 letter to R. Hausauer.
- 3N/A complete copy of the Request For Bids, including all attachments. A list of all firms requested to bid must be included.
- 4N/A Complete copies of all bids and other correspondence submitted in response to the Request For bids.
5. X A time schedule, if not part of bid documents, anticipated for project initiation and duration.
6. X A detailed project budget, which includes breakdowns of staff/task/hour with associated estimated totals.

B. THREE-BID REVIEW/EVALUATION/DETERMINATION - Fund staff will assist any claimant requesting an evaluation of bids upon request. The following information must be submitted - 1, 2, 3 AND 4 as described in Item A above.

III. CERTIFICATION

I certify under penalty of perjury that all information submitted with this request is complete and accurate and in accordance with all applicable laws and regulations.

Ruben Hausauer
Signature

April 23, 1997
Date

USTC 028 CST 10/96 REV

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



January 3, 1997
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

**Re: Subsurface Investigation at 3927 E. 14th St.,
Oakland CA 94601, New Genico Site**

Dear Mr. Hausauer:

Our office has spoken with Mr. Bill Theyskens of ATC Environmental Inc. and has received a verbal update of the status of the investigation at the above referenced site. I have also received a copy of the October 1, 1996 "scoping session" notes drafted by Mr. Brian Kelleher, court consultant.

This letter serves to comment on the session notes and to provide guidance as to subsequent requirements. It also incorporates the comments of Mr. Theyskens from the mentioned conversation.

I understand that because of an administrative problem, ATC Environmental was not able to monitor the wells on this site when the wells on the Owens site (1234 40th Ave.) were monitored on 11/21/96. Hopefully, this problem has been resolved and concurrent groundwater monitoring can be done during the next monitoring event in February 1997. Please coordinate with Mr. Gary Rogers, Mr. Owens consultant. TPH as motor oil should be added to the groundwater analytes mentioned in the session notes; TPHg/BTEX, MTBE and TPHD. Note that quarterly groundwater monitoring should continue at your site until a change in monitoring frequency has been approved by this office or the RWQCB.

Because of the missed quarterly monitoring event, please wait until after your next monitoring event to provide the exact location of the additional required monitoring well on your site, however, the proposal to install this well may be included in your work plan to overexcavate the former tank pit. Our office agrees with Mr. Theyskens that overexcavation to approximately 12' below ground surface (bgs) is sufficient, rather than to 18'bgs as mentioned in the scoping session notes. Although, not in the scoping session notes, our office agreed during the meeting that the removal of groundwater from the overexcavated pit would be beneficial in removing dissolved petroleum contamination. Please incorporate this option in your work plan. This work plan should be provided as soon as possible, to allow for this work to occur as soon as the wet season is over.

Mr. Ruben Hausauer
StID # 4610
3927 E. 14th St.
January 3, 1997
Page 2.

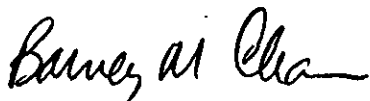
Although mentioned in the scoping session, a vapor extraction test (VET) will not be necessary for your site. Rogers Environmental has recently completed their VET and concludes that this technique is not applicable at the Owens site. It can be assumed that it is also not applicable at your site.

Lastly, each site was to have prepared a Tier 1 risk assessment consistent with the ASTM RBCA document. It would be more appropriate to prepare this assessment after the overexcavation and additional groundwater sampling has occurred. More reasonable soil and groundwater data will be available at that time.

Assuming no human health risk exists from either a the Tier 1 or higher Tier risk assessment, our office agrees that passive natural bioremediation is appropriate and groundwater monitoring should then be used to verify this remedial approach.

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

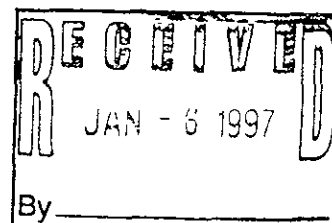
Sincerely,



Barney M. Chan
Hazardous Materials Specialist

c: Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010
Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100, Walnut Creek, CA 94595-0308
Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536

3927updt



SITE SEARCH/FILE REVIEW

TO: *Barney Chan*

DATE OF FILE SEARCH: *March 13, 1997 9:00 am*

SITE

STID NO.

<i>3927 - E. 14th St. Oak. 94601</i>	<i>4610</i>	<i>Lop</i>
<i>New Mexico</i>		

YOUR COOPERATION IS REALLY APPRECIATED, THANK YOU

Felicia Brown
FILE REVIEW CLERK

72 by Jo Belinas of Kenney & Assoc.

#4610

**Kelleher & Associates
Environmental Management**

**1065 East Hillsdale Blvd
Suite 230-IPT
Foster City, CA 94404
Tel: (415) 573-0256
Tel: (408) 253-8365
Fax: (408) 253-3613**

February 3, 1997

William Nagle, Esq.
Special Master/Mediator
345 Lorton Avenue, Suite 204
Burlingame, CA 94010

ENVIRONMENTAL
PROTECTION
97 FEB -4 PM 3: 38

Case: Hausauer vs. Robertson et al.
Subject: 3927 East 14th Street, Oakland, CA LUFT site
Re: Final scoping session minutes; agency correspondence; project status

Dear Special Master Nagle:

Attached herewith please find the following materials in connection with the above-referenced case and LUFT site:

- Final scoping session minutes dated February 3, 1997 - includes input from all the parties that provided comments on the draft minutes circulated on December 4, 1996.
- ATC Environmental Inc. (ATC) report of soil and groundwater investigation dated September 19, 1996 - previous circulated as a draft at the September 17, 1996 scoping session.
- Alameda County Health Care Services (ACHCS) correspondence dated December 13, 1996 providing comments on the scoping session and requesting a written site status report by January 14, 1996.
- Alameda County Health Care Services (ACHCS) correspondence dated January 3, 1997 providing comments on the draft scoping session minutes and indicating that they had received a verbal status report from ATC.

Project Status

I have asked ATC to finalize the Phase 3 workplan incorporating the input from ACHCS's December 13, 1996 letter (restrict over-excavation depth to 12 feet, purge groundwater from the pit, no SVE pilot test). ATC is still in the process of soliciting subcontractor bids for the excavation/disposal work. Since Gary Rodgers/ACHCS have deemed that SVE is not feasible, I am recommending that ATC include in the Phase 3 workplan, a proposal for both tier 1 and tier 2 risk assessments, and budget accordingly.

I expect that Tommy Conner will have the information needed to submit a pre-approval request to the USTCF by early March 1997, including the Phase III workplan, the ACHCS approval letter, and an itemized budget supported by subcontractor bids. I expect that the Phase III work will be conducted this spring (April-June timeframe). In the meantime, it is my understanding that ATC will begin a quarterly monitoring program, as soon as they are authorized by the Hausauer party.

Special Master William Nagle
February 3, 1997

As soon as I receive them, I will circulate the ATC phase 3 workplan and Gary Rodgers' latest report for the Owens' site.

Please feel free to call me at (408) 253-8365 if you have any questions or need additional information.

Sincerely,



Brian T. Kelleher
Project Coordinator

cc Address List with all enclosures

Special Master William Nagle
February 3, 1997

Case: Hausauer vs Robertson et al.
Project: 3927 East 14th Street, Oakland, CA LUFT site
Address List

William Nagle, Esq.
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Nagle, Krug & Winters
345 Lorton Avenue
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Burlingame, CA 94010

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San Francisco, CA 94107

James Mayol, Esq.
Mayol & Barringer
P.O. Box 3049
Modesto, CA 94107

A. Nick Shamiyeh, Esq.
Attorney at Law
2221 Olympic Blvd., Suite 100
Walnut Creek, CA 94595-0308

Gary Rogers, PhD
2657 Bailey Ct.
Fremont, CA 94536

William Theyskens
ATC Environmental
2380 Qume Drive, Suite C
San Jose, CA 95131

Barney Chan
Alameda County Dept of
Environmental Health
1131 Harbor Bay Pkwy. Room 200
Alademda, CA 94502

Kelleher & Associates
Environmental Management

1065 E. Hillsdale Blvd
Suite 230-IPT
Foster City, CA 94404
Phone: (415) 573-0625
Phone: (408) 253-8365
Fax: (408) 253-3613

February 3, 1997

Mr. William L. Nagle Esq.
Nagle, Krug & Winters
Special Master to the California Superior Court
345 Lorton Avenue, Suite 202
Burlingame, CA 94010

Case: Hausauer vs. Robertson et al.
Project: 3927 East 14th Street, Oakland, CA LUFT site
Re: Scoping Session Minutes

Dear Special Master Nagle:

This letter comprises minutes for the scoping session held in connection with the above-referenced LUFT site on September 17, 1996 at the Law Offices of Tommy Conner on 444 De Haro Street, Suite 121, San Francisco, CA. I have prepared them subject to the review of all parties including Barney Chan of the Alameda County Water District (ACWD). These minutes are intended to be incorporated in the site's formal corrective action plan to be prepared by the Phase 3 contractor, ATC Environmental Inc., San Jose, CA.

ATTENDEES FOR THE SEPTEMBER 17, 1996 SCOPING SESSION

Individual	Firm	Representing
Barney Chan	ACWD	lead oversight agency
William Nagle	Nagle, Krug & Winters	Superior Court Case Special Master
Brian Kelleher	Kelleher & Associates	court consultant
Rubin Hausauer	Property owner	self
Tommy Conner, Esq.	Law Offices of Tommy Conner	Hausauer party
James Mayol?	Mayol & Barrington	Robertson party
Nick Shamiyeh, Esq.	Attorney at Law	Owens party
William Theyskens	ATC Environmental	Phase 2 '3 contractor for Hausauer party
Gary Rogers	Gary Rogers, PhD	Phase 2 contractor for Owens party

OBJECTIVES

The scoping session had the following objectives:

- A. Review/assess the results of the ATC site investigations conducted in conjunction with the removal of a 550-gallon underground storage tank in August 1996 at the Hausauer property, 3927 East 14th Street, Oakland.
- B. Assess the above investigation findings in light of site investigation findings previously reported for the Motor Partners LUFT site located directly across the street at 1234 40th Avenue, with the specific goal of establishing whether there had been fuel leaks at both sites or just at one -- in other words decide whether there is one plume emanating from the Motor Partners site, or a commingled plume resulting from releases at both sites.
- C. Identify additional site characterization and feasibility study requirements for both LUFT sites in view of all previous investigation findings.
- D. Establish soil and groundwater cleanup goals for both LUFT sites
- E. Screen alternative remedial techniques for both LUFT sites.
- F. Select conceptual site cleanup plans for both LUFT sites.
- G. Devise an appropriate course of action for implementing plans at both LUFT sites.

MEETING SUMMARY

A. Review Recent and Prior Site Work

1. Objectives - The ATC site investigations program largely satisfied its principal objectives (1) it further defined the nature and extent of soil and groundwater contamination within the site boundaries, (2) it further defined the stratigraphy of the various geologic materials present beneath the site, (3) it answered the question of whether or not there had been a subsurface release of gasoline, diesel fuel, and motor oil constituents from the 550-gallon tank removed from the site.
2. Procedures - The ATC work scope included: (1) workplan/health and safety plan preparation; (2) permitting; (3) utility locating work; (4) the drilling of three soil borings to 16.5 feet from grade including geologic logging and the collection of discrete soil samples and grab groundwater samples from each (5) the construction and development of two 2-inch monitoring wells in two of the borings; (6) the oversight of tank removal activities including the collection of a sample of the tank contents and five soil samples from the excavation sidewalls and bottom; (7) well-head survey; (8) sounding, purging, and sampling of the three site wells (one existing - two new) (9) certified analyses of ten soil and four grab groundwater samples by On Site Environmental Labs (mobile lab), and three purged groundwater samples by Chromalab for Total Petroleum Hydrocarbons as gasoline (TPH-g), TPH-diesel, TPH-motor oil, and benzene, toluene, ethylbenzene, and xylenes (BTEX); (10) fingerprinting analyses of the product sample by Friedman & Bruya (11) report
3. Key Findings and Conclusions
 - a. The 550-gallon tank had not been closed in place as previously reported and contained approximately 8-inches of a viscous oily liquid that, based on test results, appeared to be "indicative of highly evaporated gasoline or naphtha and diesel or home heating oil, as well as motor oil or other lubricating oil "

- b. There were visual and olfactory indications of petroleum contamination of the natives soils immediately underlying and surrounding the tank that were verified by the certified analyses of excavation sidewall and bottom samples including elevated concentrations of motor oil, diesel, and gasoline constituents.
- c. The cumulative results of all subsurface investigations conducted to date strongly suggest that there have been subsurface releases from the USTs on both properties, resulting in commingled plumes of fuel-contaminated groundwater.
- d. The cumulative results of all subsurface investigations conducted to date suggests that the nature and extent of vadose zone soils contamination ostensibly associated with the former source areas on both properties has been adequately defined within the bounds of physical constraints.
- e. The cumulative results of all subsurface investigations conducted to date suggests that the nature and extent of the commingled plume ostensibly associated with the former source areas on both properties has been satisfactorily defined to the north and east, but not to the south and west.
- f. With respect to regulatory administration and oversight of site remediation work, it is expedient and appropriate to draw the line of responsibility for the two LUFT sites, down the center line of 40th Avenue.
- g. With respect to development and implementation of remediation plans, it is expedient and appropriate for all involved parties to fully cooperate among themselves.

B. Additional Site Characterization Work or Feasibility Study Requirements

1. The ACWD representative determined that at least two additional off-site downgradient wells are need to define the extent of the commingled plume: one on the north side of 40th Avenue; and the other on the south side. The need for any additional wells would be assessed from the associated groundwater monitoring data.
2. The ACWD representative determined that the Motor Partners parties should proceed with the vapor extraction performance test as set forth in the revised workplan dated December 19, 1995. This testing should focus on the two extraction well casings installed in the former tank excavations using existing monitoring wells on both sites for influence monitoring.
3. The ACWD representative requested the conduct of appropriate studies to establish site-specific risk-based corrective action levels for soils and groundwater.

C. Soil and Groundwater Cleanup Goals

The following tentative cleanup goals were discussed as appropriate for this site:

1. All parties agreed that California Department of Toxic Substances Control (DTSC) maximum contaminant levels (MCLs) would not be used to establish cleanup standards for any active remediation programs. Rather, the goal of any active remediation programs would be the cost effective cleanup of the source areas and the mitigation of any potential public health impacts.
2. All parties agreed that once source area cleanup and risk mitigation work was conducted to the satisfaction of the oversight agency, any further remediation of contaminated soils and groundwater would employ the passive remediation approach now advocated by the state WRCB for low-risk soil and groundwater cases

D. Screening Alternative Remedial Actions and Tentative Selection of Corrective Action Program

The following alternative was identified as the only practical approach for remediating the source area on the Hausauer property (former 550-gallon UST). The identical approach has already been fully implemented at the Motor Partners site, except that the vapor extraction performance test has yet to be conducted at the extraction well heads. No other source area remediation alternatives were advanced as applicable to either site.

After pre-profiling the soils for disposal, re-excavate the tank pit and direct-load and off-haul the contaminated soils (estimated 40 to 50 tons based on 1.75 tons/in-place yard). Similarly, over-excavate the tank pit to 12 feet from grade, as feasible, and laterally to the extent possible within the constraints imposed by the building, the City street, and utility service lines (estimated at 125 tons based on 1.75 tons/in-place yard). After purging the excavation of standing water, back fill with drain rock to four feet from grade installing a 4-inch extraction well casing in the process (the standpipe is no longer required pursuant to Alameda County correspondence dated 12/13/96; the drainrock may still be needed to bridge the groundwater). Complete the backfilling using properly compacted, clean fine-grained fill. After site restoration work is complete, conduct a vapor extraction performance test at the extraction well head to determine if additional source area remediation/risk mitigation is feasible by VES (the SVE pilot test is no longer required pursuant to Alameda County correspondence dated 12/13/96).

E. Plans for Completing Site Investigations and Developing a Final Corrective Action Plan

1. Hausauer/ATC will commence routine quarterly monitoring of the three Hausauer wells (TPH-gasoline/BTEX-MBTE, TPH-diesel, and TPH-motor oil) and will prepare a Phase III corrective action workplan covering the following elements: (1) installation of one additional offsite well located approximately 100 to 200 feet down-the-road, southwest of existing well MW-2; (2) risk-based modeling to establish site specific groundwater and soil cleanup levels; (3) Remedial excavation as outlined above; (4) VES pilot test, if needed; (5) reporting. These scoping session minutes will be appended to the workplan to serve in lieu of a formal corrective action plan.
2. In conjunction with the workplan prep, ATC will prepare a detailed cost estimate covering all the associated tasks, securing subcontractor bids as appropriate. Tommy Conner Law Offices will submit the workplan, cost estimate, and the County's approval letter to the USTCF for pre-approval.
3. Motor Partners/Gary Rogers, will conduct VES pilot tests in accordance with its approved workplan as soon as possible and will prepare a workplan amendment covering the following items: (1) installation of one additional offsite well south of existing well MW-1; (2) risk-based modeling to establish site specific groundwater and soil cleanup levels.
4. The work will be conducted as soon as possible, subject to securing all necessary approvals from the oversight agency and USTCF, logistics, water table elevation and weather.

Sincerely,



Brian T. Kelleher, Project Coordinator

3927 East 14th Street, Oakland, CA LUFT site - Scoping Session Minutes.
February 3, 1997

Case: Hausauer vs Robertson et al.
Project: 3927 East 14th Street, Oakland, CA LUFT site
Address List

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Alameda County Dept of
Environmental Health
1131 Harbor Bay Pkwy. Room 200
Alademda, CA 94502

William Theyskens
ATC Environmental
2380 Qume Drive, Suite C
San Jose. CA 95131

#4610

WILLIAM L. NAGLE
SPECIAL MASTER/MEDIATOR
345 Lorton Ave., Suite 204
Burlingame, CA 94010
(415) 579-1422
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FAX TRANSMITTAL FORM

TO: Tommy A. Conner, Esq.(415) 621-3999
James D. Mayol, Esq.(209) 544-9875
A. Nick Shamiyeh, Esq.(510) 935-9407
Brian Kelleher(408) 253-3613
Barney Chan(510) 337-9335

RE: Hausauer v. Robertson
Our File No. 1514

FROM: Jane W. Tarbell

DATE: January 10, 1997

NUMBER OF PAGES (including this page): 2

COMMENTS:

Dear Counsel:

Attached is a copy of Pre-Trial Order No. 6, which has been sent to the Court for signature and filing. Upon return receipt of the endorsed-filed copy of the Order from the Court, we will serve all counsel by mail.

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

1 William L. Nagle, Esq. \ SBN 59788
2 SPECIAL MASTER
3 345 Lorton Avenue, Suite 204
4 Burlingame, CA
5 (415) 579-0500
6 FAX (415) 579-0623

7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11
12 RUBEN HAUSAUER, CATHERINE
13 HAUSAUER, and RUBE & DAN'S
14 AUTO BODY SHOP, INC.,

15 Plaintiffs,

16 vs.

17 JACK D. ROBERTSON, LOIS
18 ROBERTSON, E. MARVIN JORDAN,
19 THELMA JORDAN, WILLIAM OWENS,
20 OWENS MOTOR PARTNERS, MOTOR
21 PARTNERS, INC.,

22 Defendants.

CASE NO. C 94-01318 SI

PRE-TRIAL ORDER NO. 6

23 -----/

24 The Court having appointed William L. Nagle as Special Master in this matter and
25 good cause appearing therefor,

26 IT IS HEREBY ORDERED that the Status Conference with counsel and consultants
27 scheduled on January 15, 1997, with the Special Master has been continued to Monday, June 2,
28 1997, at 9:30 a.m. at the offices of the Special Master, 345 Lorton Avenue, Suite 204,
29 Burlingame, CA.

30 APPROVED AND RECOMMENDED:

31
32
33 DATED. January 10, 1997

34 
35 William L. Nagle, Special Master
36

IT IS SO ORDERED:

DATED: _____

JUDGE OF THE DISTRICT COURT

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Ruben Hausauer v. Jack D. Robertson
 United States District Court Action No. C 94-01318 SI
 PRE-TRIAL ORDER NO. 6

1 William L. Nagle, Esq. \ SBN 159788 CONFIDENTIAL
2 SPECIAL MASTER PROTECTION
3 345 Lorton Avenue, Suite 204 97 JAN 22 AM 8: 59
4 Burlingame, CA
5 (415) 579-0500
6 FAX (415) 579-0623

ORIGINAL
FILED

JAN 15 1996

RICHARD W. WIEKIN
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFOR

7 IN THE UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA

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12 RUBEN HAUSAUER, CATHERINE
13 HAUSAUER, and RUBE & DAN'S
14 AUTO BODY SHOP, INC.,

CASE NO. C 94-01318 SI

PRE-TRIAL ORDER NO. 6

15 Plaintiffs,

16 vs.

17 JACK D. ROBERTSON, LOIS
18 ROBERTSON, E. MARVIN JORDAN,
19 THELMA JORDAN, WILLIAM OWENS,
20 OWENS MOTOR PARTNERS, MOTOR
21 PARTNERS, INC.,

22 Defendants.

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30 APPROVED AND RECOMMENDED:

31
32
33 DATED: January 10, 1997

34 
35 William L. Nagle, Special Master
36

IT IS SO ORDERED:

DATED: JAN 14 1997

SUSAN ILLSTON
JUDGE OF THE DISTRICT COURT

Ruben Hausauer v. Jack D. Robertson
United States District Court Action No. C 94-01318 SI
PRE-TRIAL ORDER NO. 6

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1514
1 William L. Nagle, Esq. SBN 59788
2 Special Master/Mediator
3 345 Lorton Avenue, Suite #204
4 Burlingame, CA 94010
5 (415) 579-1422
6 (415) 579-0623 (Fax)

7 SPECIAL MASTER

8
9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

12 RUBEN HAUSAUER, et al.,
13
14 Plaintiffs,

CASE NO. C 94-01318 SI

15 v.

DECLARATION OF SERVICE BY MAIL

16 JACK D. ROBERTSON, et al.,
17
18 Defendants,

19 _____/
20 AND RELATED CROSS-ACTIONS
21 _____/

22 I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite
23 #204, Burlingame, California. I am employed in the County of San Mateo where this
24 mailing occurs. I am over the age of eighteen years and not a party to the within cause. I
25 served PRE-TRIAL ORDER NO. 6 (Endorsed-Filed January 15, 1997) on the following
26 person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed
27 envelope with postage thereon fully prepaid, in a United States post office mailbox at
28 Burlingame, California, addressed as follows: Please see attached list.

30 I, Christine L. Britton, declare under penalty of perjury under the laws of the State of
31 California that the foregoing is true and correct. Executed on January 20, 1997 at
32 Burlingame, California.

33
34 _____
35
36

RUBEN HAUSAUER v. JACK D. ROBERTSON

UNITED STATES DISTRICT COURT- NORTHERN DISTRICT

CASE NO. C 94-01318 SI

Tommy A. Conner, Esq.
LAW OFFICES OF TOMMY A. CONNER
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San Francisco, CA 94107
621-3939
FAX 621-3999
RUBEN & CATHERINE HAUSAUER
RUBE & DAN'S AUTO BODY SHOP, INC.

James D. Mayol, Esq.
MAYOL & BARRINGER
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Modesto, CA 95353
(209) 544-9555
FAX (209) 544-9875
JACK & LOIS ROBERTSON
E. MARVIN & THELMA JORDAN

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ATTORNEY AT LAW
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Walnut Creek, CA 94595-0308
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WILLIAM C. OWENS
MOTOR PARTNERS

Brian Kelleher
KELLEHER & ASSOCIATES
P.O. Box 850
Cupertino, CA 95014
(408) 253-8365
FAX (408) 253-3613
COURT CONSULTANT

Barney Chan

ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Parkway, Room 200

Alameda, CA 94502

(510) 567-6700

(510) 567-6765 (Direct Dial)

FAX (510) 337-9335

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER
Billing Number: 8060-02
Date: January 8, 1997
Cover page plus 3 page(s)

R0468

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: See Attached

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LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

January 7, 1996

By Facsimile

William L. Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

Re: Hausauer/3927 East 14th Street

Dear Mr. Nagle:

In his January 3, 1997 letter (a copy of which is attached for your convenience) Mr. Chan requests Mr. Hausauer to modify the scope of work called for in the scoping session minutes, suggests that such work commence after the rainy season and states that the parties' preparation of Tier 1 risk assessments would be more appropriate after Mr. Hausauer completes his interim remedial work. The risk assessments will assist the parties in formulating final remedial action plans, and lay the foundation for settlement discussions.

A Status Conference is currently scheduled for January 15, 1997. Given the above, we request a six month extension to allow Mr. Hausauer time to perform interim remediation consistent with Mr. Chan's comments, and for the parties to prepare risk assessments as specified. Following completion of such work, and distribution of all relevant reports to all parties, a conference with you will assist the parties in determining whether a global settlement is possible and, if not, a procedure for resolving the pending issues.

Please call if you have any questions.

Sincerely yours,



Tommy A. Conner

cc: All counsel
Barney M. Chan

ALAMEDA COUNTY
HEALTH CARE SERVICESAGENCY
DAVID J. KEARS, Agency DirectorJanuary 3, 1997
STID # 4610Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION (LOP)
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 587-6700
FAX (510) 337-9335**Re: Subsurface Investigation at 3927 E. 14th St.,
Oakland CA 94601, New Genico Site**

Dear Mr. Hausauer:

Our office has spoken with Mr. Bill Theyskens of ATC Environmental Inc. and has received a verbal update of the status of the investigation at the above referenced site. I have also received a copy of the October 1, 1996 "scoping session" notes drafted by Mr. Brian Kelleher, court consultant.

This letter serves to comment on the session notes and to provide guidance as to subsequent requirements. It also incorporates the comments of Mr. Theyskens from the mentioned conversation.

I understand that because of an administrative problem, ATC Environmental was not able to monitor the wells on this site when the wells on the Owens site (1234 40th Ave.) were monitored on 11/21/96. Hopefully, this problem has been resolved and concurrent groundwater monitoring can be done during the next monitoring event in February 1997. Please coordinate with Mr. Gary Rogers, Mr. Owens consultant. TPH as motor oil should be added to the groundwater analytes mentioned in the session notes; TPHg/BTEX, MTBE and TPHD. Note that quarterly groundwater monitoring should continue at your site until a change in monitoring frequency has been approved by this office or the RWQCB.

Because of the missed quarterly monitoring event, please wait until after your next monitoring event to provide the exact location of the additional required monitoring well on your site, however, the proposal to install this well may be included in your work plan to overexcavate the former tank pit. Our office agrees with Mr. Theyskens that overexcavation to approximately 12' bgs is sufficient, rather than to 18' bgs as mentioned in the scoping session notes. Although, not in the scoping session notes, our office agreed during the meeting that the removal of groundwater from the overexcavated pit would be beneficial in removing dissolved petroleum contamination. Please incorporate this option in your work plan. This work plan should be provided as soon as possible, to allow for this work to occur as soon as the wet season is over.

Mr. Ruben Hausauer
StID # 4610
3927 E. 14th St.
January 3, 1997
Page 2.

Although mentioned in the scoping session, a vapor extraction test (VET) will not be necessary for your site. Rogers Environmental has recently completed their VET and concludes that this technique is not applicable at the Owens site. It can be assumed that it is also not applicable at your site.

Lastly, each site was to have prepared a Tier 1 risk assessment consistent with the ASTM RBCA document. It would be more appropriate to prepare this assessment after the overexcavation and additional groundwater sampling has occurred. More reasonable soil and groundwater data will be available at that time.

Assuming no human health risk exists from either a the Tier 1 or higher Tier risk assessment, our office agrees that passive natural bioremediation is appropriate and groundwater monitoring should then be used to verify this remedial approach.

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

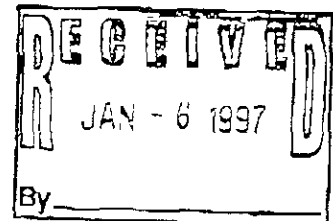
Sincerely,



Barney M. Chan
Hazardous Materials Specialist

c: Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010
Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100, Walnut Creek, CA 94595-0308
Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536

3927updt



ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



January 3, 1997
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

**Re: Subsurface Investigation at 3927 E. 14th St.,
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Mr. Ruben Hausauer
StID # 4610
3927 E. 14th St.
January 3, 1997
Page 2.

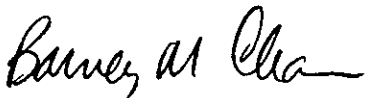
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You may contact me at (510) 567-6765 if you have any questions.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

c: Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010
Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100, Walnut Creek, CA 94595-0308
Mr. Brian Kelleher, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536

3927updt

ATC ENVIRONMENTAL INC.

2380 Qume Drive, Suite C
San Jose, CA 95131
Tel. 408/474-0280
Fax 408/434-8862

TELECOPY MESSAGE

To: Barney Chan

Date: 2 January 1997

Job/Proposal No.: 61137.0001

Fax No.: 510 337-9335

No. of Pages: 5 (incl. this page)

From: Bill Theyskens *BT*

Hard copy to follow: No

Project/Subject: 3927 E. 14th Street, Oakland

If you have trouble receiving this information, or you did not receive the specified number of pages shown above, please call (408)-474-0280.

Barney -

Here is the draft "scoping session" letter we discussed this past Tuesday. I tried to reach Brian Kelleher again to no avail. Tommy gave me a "go" re: faxing it to you. I imagine your not receiving it was an oversight.

BT

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address above. Thank you.

**Kelleher & Associates
Environmental Management**

**1065 E. Hillsdale Blvd
Suite 238-IPT
Foster City, CA 94404
Phone: (415) 573-0625
Phone: (408) 253-3365
Fax: (408) 253-3613**

December 4, 1996

**Mr. William L. Nagle Esq.
Nagle, Krug & Winters
Special Master to the California Superior Court
345 Lorton Avenue, Suite 202
Burlingame, CA 94010**

DRAFT

**Case: Hausauer vs. Robertson et al.
Project: 3927 East 14th Street, Oakland, CA LUFT site
Re: Scoping Session Minutes.**

Environmental Health - Local oversight Program
Mr. Wm. Nagle at 345 Lorton Ave, Suite 202 Burlingame CA 94010

Dear Special Master Nagle:

Oct 11, 1996

This letter comprises draft minutes of the scoping session held in connection with the above-referenced LUFT site on September 17, 1996 at the Law Offices of Tommy Conner on 444 De Haro Street, Suite 121, San Francisco, CA. I have prepared them subject to the review of all parties including Barney Chan of the Alameda County Water District (ACWD). These minutes are intended to be incorporated in the site's formal corrective action plan to be prepared by the Phase III contractor, ATC Environmental Inc., San Jose, CA.

ATTENDEES FOR THE SEPTEMBER 17, 1996 SCOPING SESSION

Individual	Firm	Representing
Barney Chan	ACWD- ACEH-LOP	lead oversight agency
William Nagle	Nagle, Krug & Winters	Superior Court Case Special Master
Brian Kelleher	Kelleher & Associates	court consultant
Rubin Hausauer	Property owner	self
Tommy Conner, Esq.	Law Offices of Tommy Conner	Hausauer party
?	Mayol & Barrington	Robertson party
Nick Shamiyah, Esq.	Attorney at Law	Owens party
William Theyskens	ATC Environmental	Phase II/III contractor for Hausauer party
Gary Rogers	Gary Rogers, PhD	Phase II contractor for Owens party

3927 East 14th Street, Oakland, CA LUFT site - Scoping Session Minutes,
December 4, 1996

DRAFT

OBJECTIVES

The scoping session had the following objectives:

- A. Review/assess the results of the ATC site investigations conducted in conjunction with the removal of a 550-gallon underground storage tank in August 1996 at the Hausper property, 3927 East 14th Street, Oakland.
- B. Assess the above investigation findings in light of site investigation findings previously reported for the Motor Partners LUFT site located directly across the street at 1234 40th Avenue, with the specific goal of establishing whether there had been fuel leaks at both sites or just at one -- in other words decide whether there is one plume emanating from the Motor Partners site, or a commingled plume resulting from releases at both sites.
- C. Identify additional site characterization and feasibility study requirements for both LUFT sites in view of all previous investigation findings.
- D. Establish soil and groundwater cleanup goals for both LUFT sites
- E. Screen alternative remedial techniques for both LUFT sites.
- F. Select conceptual site cleanup plans for both LUFT sites.
- G. Devise an appropriate course of action for implementing plans at both LUFT sites.

MEETING SUMMARY

A. Review Recent and Prior Site Work

1. **Objectives** - The ATC site investigations program largely satisfied its principal objectives (1) it further defined the nature and extent of soil and groundwater contamination within the site boundaries, (2) it further defined the stratigraphy of the various geologic materials present beneath the site, (3) it answered the question of whether or not there had been a subsurface release of gasoline, diesel fuel, and motor oil constituents from the 550-gallon tank removed from the site.
2. **Procedures** - The ATC work scope included: (1) workplan/health and safety plan preparation; (2) permitting; (3) utility locating work; (4) the drilling of three soil borings to 16.5 feet from grade including geologic logging and the collection of discrete soil samples and grab groundwater samples from each (5) the construction and development of two 2-inch monitoring wells in two of the borings; (6) the oversight of tank removal activities including the collection of a sample of the tank contents and five soil samples from the excavation sidewalls and bottom; (7) well-head survey; (8) sounding, purging, and sampling of the three site wells (one existing - two new) (9) certified analyses of ten soil and four grab groundwater samples by On Site Environmental Labs (mobile lab), and three purged groundwater samples by Chromalab for Total Petroleum Hydrocarbons as gasoline (TPH-g), TPH-diesel, TPH-motor oil, and benzene, toluene, ethylbenzene, and xylenes (BTEX); (10) fingerprinting analyses of the product sample by Friedman & Bruya (11) report.
3. **Key Findings and Conclusions:**
 - a. The 550-gallon tank had not been closed in place as previously reported and contained approximately 8-inches of a viscous oily liquid that, based on test results, appeared to be "indicative of highly evaporated gasoline or naphtha and diesel or home heating oil, as well as motor oil or other lubricating oil."

3927 East 14th Street, Oakland, CA LUFT site - Sooping Session Minutes,
December 4, 1996

DRAFT

- b. There were visual and olfactory indications of petroleum contamination of the native soils immediately underlying and surrounding the tank that were verified by the certified analyses of excavation sidewall and bottom samples including elevated concentrations of motor oil, diesel, and gasoline constituents.
- c. The cumulative results of all subsurface investigations conducted to date strongly suggest that there have been subsurface releases from the USTs on both properties, resulting in commingled plumes of fuel-contaminated groundwater.
- d. The cumulative results of all subsurface investigations conducted to date suggests that the nature and extent of vadose zone soils contamination ostensibly associated with the former source areas on both properties has been adequately defined within the bounds of physical constraints.
- e. The cumulative results of all subsurface investigations conducted to date suggests that the nature and extent of the commingled plume ostensibly associated with the former source areas on both properties has been satisfactorily defined to the north and east, but not to the south and west.
- f. With respect to regulatory administration and oversight of site remediation work, it is expedient and appropriate to draw the line of responsibility for the two LUFT sites, down the center line of 40th Avenue.
- g. With respect to development and implementation of remediation plans, it is expedient and appropriate for all involved parties to fully cooperate among themselves.

ACEH

B. Additional Site Characterization Work or Feasibility Study Requirements

1. The ACWD representative determined that at least two additional off-site downgradient wells are need to define the extent of the commingled plume: one on the north side of 40th Avenue, and the other on the south side. The need for any additional wells would be assessed from the associated groundwater monitoring data.
2. The ACWD representative determined that the Motor Partners parties should proceed with the vapor extraction performance test as set forth in the revised workplan dated December 19, 1995. This testing should focus on the two extraction well casings installed in the former tank excavations using existing monitoring wells on both sites for influence monitoring.
3. The ACWD representative requested the conduct of appropriate studies to establish site-specific risk-based corrective action levels for soils and groundwater.

C. Soil and Groundwater Cleanup Goals

The following tentative cleanup goals were discussed as appropriate for this site:

1. All parties agreed that California Department of Toxic Substances Control (DTSC) maximum contaminant levels (MCLs) would not be used to establish cleanup standards for any active remediation programs. Rather, the goal of any active remediation programs would be the cost effective cleanup of the source areas and the mitigation of any potential public health impacts.
2. All parties agreed that once source area cleanup and risk mitigation work was conducted to the satisfaction of the oversight agency, any further remediation of contaminated soils and groundwater would employ the passive remediation approach now advocated by the state WRCE for low-risk soil and groundwater cases.

3927 East 14th Street, Oakland, CA LUFT site - Scoping Session Minutes.
December 4, 1996

D. Screening Alternative Remedial Actions and Tentative Selection of Corrective Action Program

The following alternative was identified as the only practical approach for remediating the source area on the Hausauer property (former 550-gallon UST). The identical approach has already been fully implemented at the Motor Partners site, except that the vapor extraction performance test has yet to be conducted at the extraction well heads. No other source area remediation alternatives were advanced as applicable to either site.

After pre-profiling the soils for disposal, ^{too deep} re-excavate the tank pit and direct load and off-haul the contaminated soils (estimated 40 to 50 tons based on 1.75 tons/in-place yard). Similarly, over-excavate the tank pit to 18 feet from grade, and laterally to the extent possible within the constraints imposed by the building, the City street, and utility service lines (estimated 125 to 160 tons based on 1.75 tons/in-place yard). Back fill with drain rock to four feet from grade installing a 4-inch extraction well casing in the process. Complete the backfilling using properly compacted, clean fine-grained fill. After site restoration work is complete, conduct a vapor extraction performance test at the extraction well head to determine if additional source area remediation/risk mitigation is feasible by VES. not necessary

E. Plans for Completing Site Investigations and Developing a Final Corrective Action Plan

1. Hausauer/ATC will commence routine quarterly monitoring of the three Hausauer wells (TPH-g/BTEX-MBTE and TPH-d) ^{+ TPH-mo} and will prepare a Phase III corrective action workplan covering the following elements: (1) installation of one additional offsite well located approximately 100 to 200 feet down-the-road, southwest of existing well MW-2; (2) risk-based modeling to establish site specific groundwater and soil cleanup levels; (3) Remedial excavation as outlined above; (4) VES pilot test; (5) reporting. These scoping session minutes will be appended to the workplan to serve in lieu of a formal corrective action plan.
2. In conjunction with the workplan prep, ATC will prepare a detailed cost estimate covering all the associated tasks. Tommy Conner Law Offices will submit the workplan, cost estimate, and the County's approval letter to the USTCF for pre-approval.
3. Motor Partners/Gary Rogers, will conduct VES pilot tests in accordance with its approved workplan as soon as possible and will prepare a workplan amendment covering the following items: (1) installation of one additional offsite well south of existing well MW-1; (2) risk-based modeling to establish site specific groundwater and soil cleanup levels.
4. The work will be conducted as soon as possible, subject to securing all necessary approvals from the oversight agency and USTCF, logistics, water table elevation and weather.

Sincerely,

Brian T. Kelleher
Project Coordinator

DRAFT

4610
ATC ENVIRONMENTAL INC. ENVIRONMENTAL PROTECTION

96 DEC 26 PM 2: 06

23 December 1996
61137.0001

Alameda County Health
Environmental Health Services
Environmental Protection (LOP)
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502

Attention: Mr. Barney Chan

SUBJECT: STATUS OF WORK AT THE NEW GENICO SITE , 3927 EAST 14TH STREET, OAKLAND, CALIFORNIA

Dear Mr. Chan,

This letter has been written on behalf of our client, Mr. Ruben Hausauer, to apprise you of the status of the work at the New Genico site located at 3927 East 14th Street in Oakland, California (site), as requested in your 13 December 1996 letter to Mr. Hausauer.

The last quarterly groundwater monitoring round was not performed as previously scheduled. Certain outstanding administrative matters had not been resolved in sufficient time to allow ATC to perform the sampling. It is assumed that these matters will be reconciled shortly, and that we will perform the quarterly sampling as soon as we are authorized to do so. As quarterly monitoring was not performed concurrent with monitoring at the Motor Partners site as planned, ATC would appreciate receiving input from the ACHCS regarding their preferences with respect to the revised schedule for quarterly monitoring. The next quarterly round could be performed concurrent with the next round at the Motor Partners site on or around 21 February 1997, or a round could be performed as soon as ATC can schedule it following receipt of written authorization to do so from our client.

ATC is currently finalizing a proposal for the preparation of the Work Plan and detailed cost estimate for the scope of work described in the draft scoping session letter from Kelleher & Associates to Mr. William Nagle, Esq., of Nagle, Krug & Winters, Special Master to the California Superior Court, dated 4 December 1996.

This draft scoping session minutes letter was received by ATC on 12 December 1996. It was our understanding that this letter was originally scheduled to be received by involved parties by 22 October 1996, as confirmed in your letter.

The proposal to prepare the Work Plan and detailed cost estimate was initiated immediately upon receipt of the draft scoping session minutes letter. This proposal could not be finalized by ATC until our receipt of the draft scoping session minutes letter in order to allow us to ascertain the actual scope of work that was to be included in the Work Plan and detailed cost estimate.

We would expect that additional time would be made available to prepare the Work Plan and detailed cost estimate (beyond the 15 January next meeting date), should it be required. In support of a request for relaxation of this schedule, it is the opinion of ATC that actual implementation of the Work Plan, with the possible exception of the monitoring well installation, should be delayed until the end of the rainy season. Accordingly, there would potentially be ample time for preparation of the Work Plan and cost estimate, even following finalization of the scoping session minutes letter.

Finally, ATC would like assurance that the scope of work presented in the draft version of the scoping session minutes letter will be the scope that is ultimately agreed to by all concerned parties, prior to undertaking the preparation of the detailed Work Plan and cost estimate. Any changes to the scope could result in significant changes to the Work Plan and related portions of the cost estimate.

It continues to be a pleasure working with you on this project. If you have any questions, or require additional updates, please do not hesitate to call.

Sincerely,

ATC Environmental Inc.



WILLIAM G. THEYSKENS, CEG 1486, CHG 245
Senior Project Geologist/Branch Manager

cc: Mr. Tommy Conner, Law Offices of Tommy Conner

4616

ATC ENVIRONMENTAL INC.

2380 Qume Drive, Suite C
San Jose, CA 95131
Tel. 408/474-0280
Fax 408/434-8662

TELECOPY MESSAGE

To: Barney Chan

Date: 23 December 1996

Job/Proposal No.: 61137.0001

Fax No.: 510 337-9335

No. of Pages: 3 (incl. this page)

From: Bill Theyskens *BT*

Hard copy to follow: Yes

Project/Subject: 3927 E. 14th Street, Oakland

If you have trouble receiving this information, or you did not receive the specified number of pages shown above, please call (408)-474-0280.

Barney -

This letter responds to your 13 December 1996 letter to Ruben Hausauer. Please feel free to call me with any questions/comments. Have a great holiday! Thanks.

BT

This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address above. Thank you.

ATC ENVIRONMENTAL INC.

23 December 1996
61137.0001

Alameda County Health
Environmental Health Services
Environmental Protection (LOP)
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502

Attention: Mr. Barney Chan

**SUBJECT: STATUS OF WORK AT THE NEW GENICO SITE , 3927 EAST 14TH
STREET, OAKLAND, CALIFORNIA**

Dear Mr. Chan,

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The last quarterly groundwater monitoring round was not performed as previously scheduled. Certain outstanding administrative matters had not been resolved in sufficient time to allow ATC to perform the sampling. It is assumed that these matters will be reconciled shortly, and that we will perform the quarterly sampling as soon as we are authorized to do so. As quarterly monitoring was not performed concurrent with monitoring at the Motor Partners site as planned, ATC would appreciate receiving input from the ACHCS regarding their preferences with respect to the revised schedule for quarterly monitoring. The next quarterly round could be performed concurrent with the next round at the Motor Partners site on or around 21 February 1997, or a round could be performed as soon as ATC can schedule it following receipt of written authorization to do so from our client.

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Solutions For Environmental Concerns



61137.0001

2

ATC Environmental Inc.

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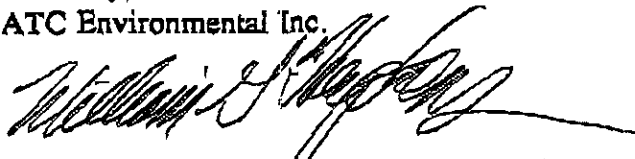
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*what
about
Tier 1 RA*

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Sincerely,
ATC Environmental Inc.



WILLIAM G. THEYSKENS, CEG 1486, CHG 245
Senior Project Geologist/Branch Manager

cc: Mr. Tommy Conner, Law Offices of Tommy Conner

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



December 13, 1996
StID # 4610

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

**Re: Status of Subsurface Investigation at 3927 E. 14th St.,
Oakland CA 94601, New Genico Site**

Dear Mr. Hausauer:

During the October 1, 1996 scoping meeting at the offices of Mr. William Nagle, a number of actions were discussed and proposed for the continued subsurface investigation at the New Genico site and Owens site located at 1234 40th Ave.

The results of the ATC Environmental investigation and the SEMCO tank removal were discussed. These results indicated that tank at the New Genico site was a source of petroleum contamination and that fuel (presumably gasoline) had been dispensed from this tank at one time. Both oil and fuel contaminants were detected in soil samples beneath the former waste oil tank. Free product removed from the tank was analyzed and again both heavy (oil range) hydrocarbons and lighter (gasoline range) hydrocarbons were detected.

Based on these results, Mr. Kelleher concluded, with general agreement, that:

1. Two petroleum releases had occurred and that the responsibility for site work would be divided down the middle of 40th Ave.
2. Additional monitoring wells would be required, the exact number was to be determined after an additional monitoring event occurred. The monitoring of wells at both sites should be done concurrently to get a better picture of groundwater gradient in this area.

Mr. Tommy Conner proposed that the soils within and beneath the former waste oil tank pit be removed as they posed a source of continual groundwater contamination. Also, a baseline risk assessment (Tier 1) consistent with the ASTM Risk Based Corrective Action (RBCA) should be done for both sites. A vapor extraction test would also be done on both sites.

The Pre-Trial Order No. 5 from the offices of Mr. William Nagle specified that by October 22, 1996 you would prepare and submit a work plan to all parties. Also, Mr. Kelleher was to have prepared and submitted the Scoping Session minutes by the same

Mr. Ruben Hausauer
StID #4610
3927 E. 14th St.
December 13, 1996
Page 2.

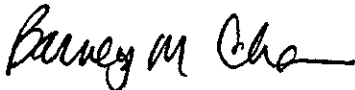
date. A status conference was also scheduled for January 15, 1997.

Our office has received the fourth quarter 1996 monitoring report for 1234 40th Ave. from Mr. Gary Rogers. I was informed by Mr. Rogers that concurrent groundwater monitoring on the New Genico site did not occur. Has quarterly monitoring at the New Genico site occurred since the recent well installations? What is the status of the previously mentioned work plan and baseline risk assessment?

Please provide a written update on your site's status in regards to the above items within 30 days or by January 14, 1996.

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

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

c: Mr. Tommy Conner, Esq., 444 De Haro St., Suite 121, San Francisco, CA 94107
Mr. William Nagle, Esq., 345 Lorton Ave., Suite 204, Burlingame, CA 94010
Mr. James Mayol, Esq., P.O. Box 3049, Modesto CA 95353
Mr. A. Nick Shamiyeh, Esq., 2221 Olympic Blvd. #100, Walnut Creek, CA 94595-0308
~~Mr. Brian Kelleher~~, P.O. Box 850, Cupertino CA 95014
Mr. William Theyskens, ATC Enviromental Inc., 2380 Qume Drive, Suite C, San Jose, CA 95131
Mr. Gary Rogers, 2657 Bailey Ct., Fremont CA 94536

3927stat

1 William L. Nagle, Esq. \ SBN 59788
2 SPECIAL MASTER
3 345 Lorton Avenue, Suite 204
4 Burlingame, CA
5 (415) 579-1422
6 FAX (415) 579-0623

DATE FILED
OCT 11 1996
FBI - SAN FRANCISCO

ORIGINAL
FILED
OCT - 8 1996

RICHARD W. WIEKING
CLERK, U.S. DIST. COURT
NORTHERN DISTRICT OF CALIFORNIA

7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11
12 RUBEN HAUSAUER, CATHERINE
13 HAUSAUER, and RUBE & DAN'S
14 AUTO BODY SHOP, INC.,

CASE NO. C 94-01318 SI

PRE-TRIAL ORDER NO. 5

15 Plaintiffs,

16 vs.

17 JACK D. ROBERTSON, LOIS
18 ROBERTSON, E. MARVIN JORDAN,
19 THELMA JORDAN, WILLIAM OWENS,
20 OWENS MOTOR PARTNERS, MOTOR
21 PARTNERS, INC.,

22 Defendants.

23 -----/
24 The Court having appointed William L. Nagle as Special Master in this matter and
25 good cause appearing therefor,

26 **IT IS HEREBY ORDERED:**

- 27
- 28 1. By October 22,, 1996, Hausauer shall prepare and submit a workplan to all
29 parties.
 - 30 2. By October 22, 1996, Court Consultant Brian Kelleher shall prepare and submit
31 Scoping Session minutes to all counsel and the Special Master.
 - 32 3. The Special Master shall hold a Status Conference on January 15, 1997, at
33 11:00 a.m with counsel and consultants at the offices of the Special Master, 345 Lorton Avenue,
34 Suite 204, Burlingame, CA.
- 35
36

ENVIRONMENTAL
PROTECTION

96 OCT 16 PM 12:10

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APPROVED AND RECOMMENDED:

William L. Nagle

DATED: October 3, 1996

William L. Nagle, Special Master

IT IS SO ORDERED:

DATED: OCT 3 1996

Susan M.

JUDGE OF THE SUPERIOR COURT

1514
1 William L. Nagle, Esq. SBN 59788
2 Special Master/Mediator
3 345 Lorton Avenue, Suite #204
4 Burlingame, CA 94010
5 (415) 579-1422
6 (415) 579-0623 (Fax)

7 SPECIAL MASTER

8
9 IN THE UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12
13 RUBEN HAUSAUER, et al.,

CASE NO. C 94-01318 SI

14
15 Plaintiffs,

16 v.

17 DECLARATION OF SERVICE BY MAIL

18 JACK D. ROBERTSON, et al.,

19 Defendants,
20
21 _____/

22 AND RELATED CROSS-ACTIONS
23 _____/

24
25 I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite
26 #204, Burlingame, California. I am employed in the County of San Mateo where this
27 mailing occurs. I am over the age of eighteen years and not a party to the within cause. I
28 served PRE-TRIAL ORDER NO. 5 (Endorsed-Filed October 8, 1996) on the following
29 person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed
30 envelope with postage thereon fully prepaid, in a United States post office mailbox at
31 Burlingame, California, addressed as follows: Please see attached list.

32
33 I, Christine L. Britton, declare under penalty of perjury under the laws of the State of
34 California that the foregoing is true and correct Executed on October 10, 1996 at
35 Burlingame, California.
36

Christine L. Britton

RUBEN HAUSAUER v. JACK D. ROBERTSON

UNITED STATES DISTRICT COURT- NORTHERN DISTRICT

CASE NO. C 94-01318 SI

Tommy A. Conner, Esq.
LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, CA 94107
621-3939
FAX 621-3999
RUBEN & CATHERINE HAUSAUER
RUBE & DAN'S AUTO BODY SHOP, INC.

James D. Mayol, Esq.
MAYOL & BARRINGER
P.O. Box 3049
Modesto, CA 95353
(209) 544-9555
FAX (209) 544-9875
JACK & LOIS ROBERTSON
E. MARVIN & THELMA JORDAN

A. Nick Shamiyeh, Esq.
ATTORNEY AT LAW
2221 Olympic Blvd., #100
Walnut Creek, CA 94595-0308
(510) 935-9401
FAX (510) 935-9407
WILLIAM C. OWENS
MOTOR PARTNERS

Brian Kelleher
KELLEHER & ASSOCIATES
P.O. Box 850
Cupertino, CA 95014
(408) 253-8365
FAX (408) 253-3613
COURT CONSULTANT

Barney Chan

ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Parkway, Room 200

Alameda, CA 94502

(510) 567-6700

(510) 567-6765 (Direct Dial)

FAX (510) 337-9335

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER
Billing Number: 8060-02
Date: September 16, 1996
Cover page plus 1 page(s)

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: See Attached

CONFIDENTIALITY NOTICE

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LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

September 16, 1996

By Facsimile

William L. Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

Barney Chan
Alameda County Health
Care Services
1131 Harbor Bay Parkway
Alameda, CA 95402

James D. Mayol, Esq.
Mayol & Barringer
P. O. Box 3049
Modesto, CA 95353

Brian Kelleher
Kelleher & Associates
P. O. Box 850
Cupertino, CA 95014

A. Nick Shamiyeh
2221 Olympic Blvd., Suite 100
Walnut Creek, CA 94594

Gary Rogers
2657 Bailey Court
Fremont, CA 94536

Re: Hausauer/3927 East 14th Street

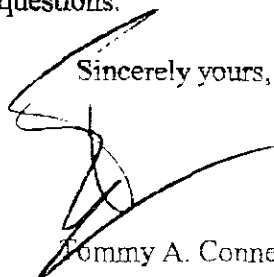
Gentlemen:

This confirms that the scoping session relating to the above property, previously scheduled for 9:30 a.m. tomorrow at this office, has been rescheduled to October 1, 1996 at 11:00 a.m. in the offices of

William L. Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

Please call if you have any questions.

Sincerely yours,



Tommy A. Conner

20468
ck

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER
Billing Number: 8060-02
Date: September 13, 1996
Cover page plus 1 page(s)

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: See attached.

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LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

September 13, 1996

By Facsimile

William L. Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

Barney Chan
Alameda County Health
Care Services
1131 Harbor Bay Parkway
Alameda, CA 95402

James D. Mayol, Esq.
Mayol & Barringer
P. O. Box 3049
Modesto, CA 95353

Brian Kelleher
Kelleher & Associates
P. O. Box 850
Cupertino, CA 95014

A. Nick Shamiyeh
2221 Olympic Blvd., Suite 100
Walnut Creek, CA 94594

Gary Rogers
2657 Bailey Court
Fremont, CA 94536

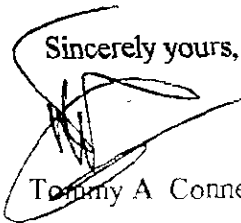
Re: *Hausauer/3927 East 14th Street*

Gentlemen:

We have not received a report on the recent assessment work from ATC Environmental Inc. We are informed that a draft report will be forwarded to us for review today. If so, and if there are no glaring errors, we will forward the data to each of you today by facsimile. Given the narrow window for review, we may nonetheless opt to continue the scoping session for one week depending on all parties' schedules. Unless we hear otherwise, we will keep the current session on calendar for next Tuesday at 9:30 a.m. at this office.

Please call me if you have any questions.

Sincerely yours,



Tommy A. Conner

ORIGINAL
FILE

AUG 14 1996

RICHARD ...
CLERK, U
NORTHERN DISTRICT OF CALIFORNIA

1 1514
2 William L. Nagle, Esq./ Bar #59788
3 SPECIAL MASTER
4 345 Lorton Avenue, Suite 204
5 Burlingame, CA 94010
6 (415) 579-1422
7 FAX (415) 579-0623

8 IN THE UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 RUBEN HAUSAUER, CATHERINE
12 HAUSAUER, and RUBE & DAN'S
13 AUTO BODY SHOP, INC.,

CASE NO. C 94-01318 SI

14 Plaintiffs,

PRE-TRIAL ORDER NO. 4

15 vs.

16 JACK D. ROBERTSON, LOIS
17 ROBERTSON, E. MARVIN JORDAN,
18 THELMA JORDAN, WILLIAM OWENS,
19 OWENS MOTOR PARTNERS, MOTOR
20 PARTNERS, INC.,

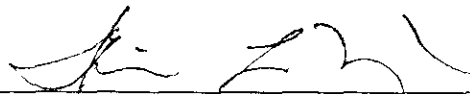
21 Defendants.

22 The Court having appointed William L. Nagle as Special
23 Master in this matter and good cause appearing therefor,

24 IT IS HEREBY ORDERED that the Scoping Session for counsel
25 and consultants scheduled on Wednesday, August 14, 1996, shall
26 be continued to Tuesday, September 17, 1996. at 9:30 a.m. at the
27 LAW OFFICES OF TOMMY A. CONNER, 444 De Haro Street, Suite 121, San
28 Francisco, California. Mr. Barney Chan of the Alameda County
29 Environmental Health Department shall attend.

30 APPROVED AND RECOMMENDED:

31 DATE: August 9, 1996


32 William L. Nagle, Special Master

33 IT IS SO ORDERED:

34
35 DATED: AUG 14 1996, 1996

Susan Ilston
36 JUDGE OF THE DISTRICT COURT

HAUSAUER v. ROBERTSON, et al.
U.S. District Court, Northern District of California
Case No. C 94-01318 SI

Proof of Service List

William L. Nagle, Esq.
Special Master
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-1422
(415) 579-0623 (Fax)

SPECIAL MASTER

Tommy A. Conner, Esq.
Law Offices of Tommy A. Conner
444 DeHaro Street, Suite #121
San Francisco, CA 94107
(415) 621-3939
(415) 621-3999 (Fax)

Plaintiffs, Ruben Hausauer
Catherine Hausauer, and
Rube & Dan's Body Shop, Inc.

James D. Mayol, Esq.
Mayol & Barringer
P.O. Box 3049
Modesto, CA 95353
(209) 544-9555
(209) 544-9875 (Fax)

Jack Robertson, Lois Robertson,
Marvin Jordan, and Thelma Jordan

A. Nick Shamiyeh, Esq.
Attorney at Law
2221 Olympic Blvd., Suite #100
Walnut Creek, CA 94595-0308
(510) 935-9401
(510) 935-9407 (Fax)

William C. Owens and
Motor Partners

Mr. Barney Chan
Alameda County Department of
Environmental Health
1131 Harbor Bay Pkwy., Room #200
Alameda, CA 94502

Mr. Brian Kelleher
Brian Kelleher & Associates
1065 E. Hillsdale Blvd., Suite #230
Foster City, CA 94404

10-245-2 4.75 hrs

①

white - env. health
yellow - facility
pink - files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Pkwy
Alameda CA 94502
510/567-6700

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name New Genco Today's Date 8/10/96

Site Address 3927 214th St

City Oak Zip 94601 Phone _____

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

Inspection Categories:

____ I. Haz. Mat/Waste GENERATOR/TRANSPORTER

____ II. Hazardous Materials Business Plan, Acutely Hazardous Materials

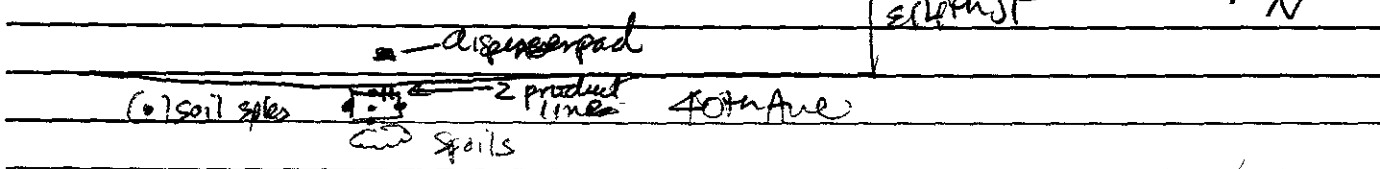
III. Under ground Storage Tanks Removal

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

Comments:

Witness removal of 1- 500 gallon waste oil/gasoline tank w/ 40" dia sidewalk informed & verified that tank was not filled entirely w/ concrete, only the full lined tank appears that ~ 50 gallons of residual oil exists. Based on the need to remove the tank on the weekend, + the assemblage of the contractors + consultant + Rab + the probable contents ^{being} at a minimum, waste oil, I agreed to allow Genco to clean & dispose of tank as non-hazardous under their TCU.

- Tank appears to have been used initially as a gas or fuel tank w/a dispenser w/ building, 2 pipes visible leading towards disp. At south base of Pit oily liquid on wall



Genco excavated pit to ~10' deep + sampled the soil from the pit bottom. Run on (Pb, Cd, Ni, Cr, T, S), metals Cd, Cr, Pb, Ni + Zn + BPEP

Contact Yvonne Thompson
Title Facility Manager
Signature [Signature]

Inspector B. CHAN
Signature [Signature]

II, III

white - env. health
yellow - facility
pink - files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Pkwy
Alameda CA 94502
510/567-6700

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name New Geniv Today's Date 8/10/96

Site Address 3927 514th St

City Oak Zip 94601 Phone _____

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

Inspection Categories:

____ I. Haz. Mat/Waste GENERATOR/TRANSPORTER

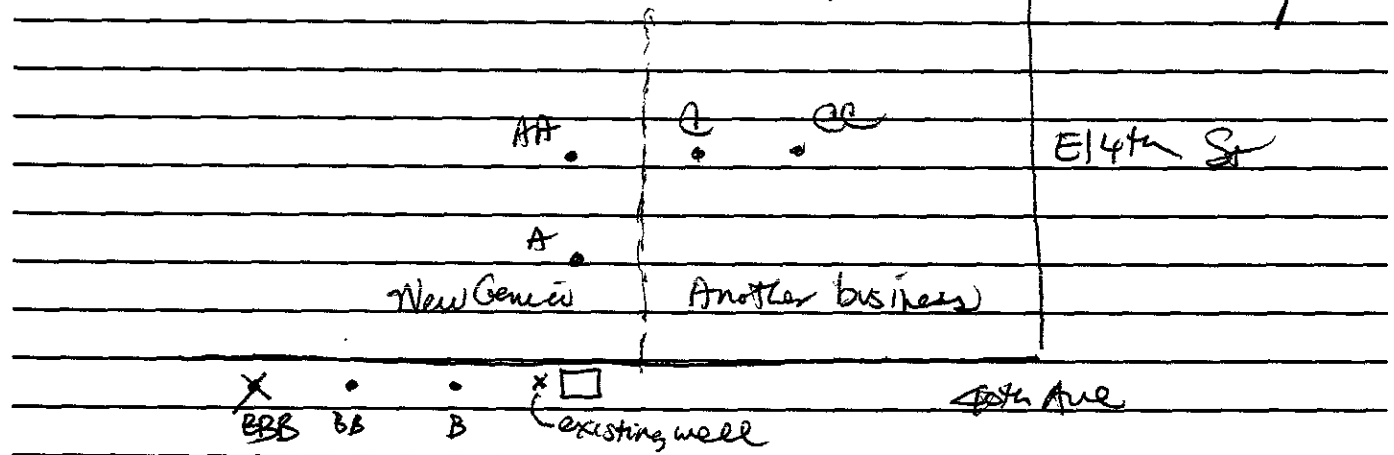
____ II. Hazardous Materials Business Plan, Acutely Hazardous Materials

III. Under ground Storage Tanks - Investigation

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

Comments:

ATE Environmental performing their approved SSI involving installing temporary barge down & upgrade of the 500 gallon tank. Wm Theysmani + Andrew Willetts present.



Contractors didn't bring casing therefore gw sample from w/ auger, B, BB - impacted w/ up to ~370 ppb Benzene. Will need to go further west w/ additional boring, BBB (Gregg Dillers) BBB water sample ~ 111 ppb benzene (not filtered or centrifuged). I okay'd setting well at this location (analysis by 8260 GAMS) Chlorobenzene @ 50 ppb also detected

Contact William Theysmani
Title Engineer Inspector B Chan
Signature William Theysmani Signature B Chan

On-site Lab = mobile lab - Michael - Analyte

II, III

3

1131 Harbor Bay Pkwy
Alameda CA 94502
510/567-6700

white -env.health
yellow -facility
pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name New Genco Today's Date 8/10/96

Site Address 3927 E 14th St

City Oak Zip 94601 Phone _____

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

Inspection Categories:

- ____ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- ____ II. Hazardous Materials Business Plan, Acutely Hazardous Materials
- III. Under ground Storage Tanks R/Ins.

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

Comments:

Stockpile soils taken (4 pt. composite) of the shallow soils, will be sampled by both SEMCO + ATC

- Will excavate to 10' (2' below tank invert) prior to sampling
- SEMCO took a flow spl @ 10', bgs
- ATC Env. took pool spl from the four (4) sidewalls @ 8' bgs (tank bottom) depth
- At 10', GW slowly began to infiltrate into pit
- SEMCO - washing tank under high pressure

Because of time constraint boring A will be converted into a MW.

- Tank appeared intact, single walled steel - no obvious leaks

- Drilling boring "A" - GW encountered @ ~8.5' bgs - no odors observed

Soil borings from 10-10.5' - gas odors observed. I decided to drill @ AA (convinced operator to extend hrs)

Tank pit backfilled w/ spoils, reignore land & clean fill to surface

MWS set @ "A" & BBS locations.

Tank 'insect' w/ sp. of 50-gal (insulate) & transported to metal recycler

- 1/2" survey manholes to be installed to the offsite well

Preliminary survey shows high "A" - 1-2 ppm benzene

Contact William Thomsen

Title Plant Manager

Signature [Signature]

Inspector B. CHAN

Signature [Signature]

II, III

1/2" 3/4" piping leading into pit,

WILLIAM L. NAGLE
Special Master/Mediator
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
Telephone (415) 579-1422
Facsimile (415) 579-0623

VIA FACSIMILE

TO: Tommy Conner, Esq. (415) 621-3999
James Mayol, Esq. (209) 544-9875
A. Nick Shamiyeh, Esq. (510) 935-9407
Barney Chan (510) 337-9335
Brian Kelleher (408) 253-3613

CASE NAME: Hausauer v. Robertson 1514

DOCUMENT TRANSMITTED: FAX

NUMBER OF PAGES (including cover page): 2

DATE: August 9, 1996

COMMENTS: GENTLEMEN:

Enclosed please find a copy of PRE-TRIAL ORDER NO. 4 which has been signed by the Special Master and sent to the Court for signature. We will serve you with an endorsed-filed copy as soon as possible.

Thank you for your courtesy and cooperation.

JWT

1 1514
 2 William L. Nagle, Esq./ Bar #59788
 3 SPECIAL MASTER
 4 345 Lorton Avenue, Suite 204
 5 Burlingame, CA 94010
 6 (415) 579-1422
 7 FAX (415) 579-0623

8 **IN THE UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

10
 11 RUBEN HAUSAUER, CATHERINE
 12 HAUSAUER, and RUBE & DAN'S
 13 AUTO BODY SHOP, INC.,

CASE NO. C 94-01318 SI

14 Plaintiffs,

PRE-TRIAL ORDER NO. 4

15 vs.

16 JACK D. ROBERTSON, LOIS
 17 ROBERTSON, E. MARVIN JORDAN,
 18 THELMA JORDAN, WILLIAM OWENS,
 19 OWENS MOTOR PARTNERS, MOTOR
 20 PARTNERS, INC.,

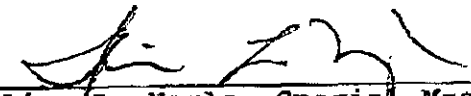
Defendants.

21 _____
 22 The Court having appointed William L. Nagle as Special
 23 Master in this matter and good cause appearing therefor,

24 IT IS HEREBY ORDERED that the Scoping Session for counsel
 25 and consultants scheduled on Wednesday, August 14, 1996, shall
 26 be continued to Tuesday, September 17, 1996. at 9:30 a.m. at the
 27 LAW OFFICES OF TOMMY A. CONNER, 444 De Haro Street, Suite 121, San
 28 Francisco, California. Mr. Barney Chan of the Alameda County
 29 Environmental Health Department shall attend.

30 APPROVED AND RECOMMENDED:

31 DATE: August 9, 1996

32 
 William L. Nagle, Special Master

33 IT IS SO ORDERED:

34
 35 DATED: _____, 1996

36 _____
 JUDGE OF THE DISTRICT COURT

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

August 8, 1996
StID # 4610 & 3682

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

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

Re: 3927 E. 14th St., Oakland CA 94601

Dear Mr. Hausauer:

Our office has received and reviewed the August 6, 1996 ATC Environmental's work plan for sampling beneath the former underground tank, the installation of temporarily-cased borings (TCB) and the installation of two to three monitoring wells. This work plan is acceptable and I understand this work will be performed on August 10, 1996 during the removal of the former closed-in-place tank at this site.

Please be aware that the groundwater threshold concentration of 50 ppb mentioned in the work plan is not firm. More importantly you should show that groundwater concentration has equilibrated or is attenuating. For a commercial setting 10^{-5} is an acceptable risk which equates to approximately 210 ppb benzene in groundwater using a commercial setting and vapor intrusion from groundwater to building as the exposure pathway.

It is also agreed that further evaluation will wait until the results of this investigation are available. You may contact me at (510) 567-6765 if you have any questions.

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

c: Mr. T. Conner, 444 De Haro St., Suite 121, San Francisco, CA
94107
Mr. J. Mayol, Mayol & Barringer, P.O. Box 3049, Modesto, CA
95353
W. Nagle, Special Master, 345 Lorton Ave., Burlingame, CA
94010
A. Nick Shamiyeh, 2221 Olympic Blvd., Suite 100, Walnut Creek
CA 94594
Mr. B. Kelleher, P.O. Box 850, Cupertino, CA 95014
Mr. G. Rogers, 2657 Bailey Ct., Fremont, CA 94536
Mr. W. Theyskens, ATC Environmental, 2380 Qume Dr., Suite C,
San Jose, CA 95131
G. Coleman, files wpap3927

HK₂, Inc. / SEMCO.

1751 Leslie Street, San Mateo, California, (415) 572-8033 (415) 572-9734 Fax

August 1, 1996

720468
CL

Mr. Barney Chan
Alameda County Health Care Services Agency
Department of Environmental Health
Environmental Protection Division
1131 Harbor Bay Parkway, Rm 250
Alameda, California 94502

Re: UST Removal
3927 E. 14th Street, Oakland

Dear Barney:

This letter is intended to serve as a closure plan for the above referenced location for the previously filled in place 500 gallon underground storage tank (UST).

1. Excavate to upper portion of UST.
2. Determine if any liquids or vapors are present by removing any existing plugs or pipes and verifying safety with a Gas Tech # 1314.
3. If vapors are present, openings will be packed with dry ice, any liquids will be removed and properly disposed if present.
4. After verifying safe conditions, a pneumatic cold cutter will be utilized to remove the top section of the tank shell for access to concrete contents. Concrete contents will be broken and removed with a backhoe mounted hydraulic breaker.
5. Tank will be removed from the excavation for final demolition and disposal as clean scrap metal.
6. Concrete contents will be analyzed for constituents of former contents of tank and disposed accordingly.
7. Samples will be collected according to regulation, one from the tank pit and one of the excavated materials.
8. A detailed closure report will be prepared and submitted by a Professional Engineer.

I hope this will define and clarify our work at this site. Should you have any questions, please call me at the office or page me at (415) 377-8660.

Sincerely,



Chuck Kiper
President

CK/rrk

HK2, Inc. / SEMCO 1751 Leslie Street, San Mateo, CA 94402

FAX

Date: 8-2-96
 Number of pages including cover sheet: 2

To:

Barney Chan

Alameda County

Environmental Health

Phone: 510-567-6765

Fax phone: 510-337-9335

CC: File

From:

_____ **Rhonda Reames-Kiper**

Phone: 415-572-8033

Fax phone: 415-572-9734

REMARKS: Urgent For your review Reply ASAP Please comment

Barney:

Faxed this over to Tommy this morning. The original will follow with the A & B forms in the mail.

Any questions, please give me a call.

Rhonda

ALAMEDA COUNTY
Hazardous Waste
CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

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

June 21, 1996
StID # 4610 & 3682

Mr. Ruben Hausauer
6017 E. 14th St.
Oakland CA 94601

Re: 3927 E. 14th St., Oakland CA 94601

Dear Mr. Hausauer:

Our office has received correspondence from Mr. Tommy Conner requesting comment on the proposal to remove the formerly closed-in-place tank at the above referenced site. Soil samples would be taken beneath the tank on the sidewalls, if possible. Although the removal of this tank is not required by our office, there is the possibility that the additional information obtained from both observations and soil sample results may clarify the uncertainty as to whether the petroleum release from this tank was significant or not. Therefore, in addition to the previously proposed borings and monitoring wells, you may proceed to remove this tank.

Please submit your tank closure plan to our office as soon as possible should you decide to remove the tank. Please advise if your prior work plan is valid or if a revised version will be submitted.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

c: Mr. T. Conner, 444 De Haro St., Suite 121, San Francisco, CA 94107 ;
Mr. J. Mayol, Mayol & Barringer, P.O. Box 3049, Modesto, CA 95353
W. Nagle, Special Master, 345 Lorton Ave., Burlingame, CA 94010
A. Nick Shamiyeh, 2221 Olympic Blvd., Suite 100, Walnut Creek CA 94594
Mr. B. Kelleher, P.O. Box 850, Cupertino, CA 95014
Mr. G. Rogers, 2657 Bailey Ct., Fremont, CA 94536
G. Coleman, files
UST-3927

3927. E14⁴ ST

4610

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER
Billing Number: 8060-02
Date: June 19, 1996
Cover page plus 2 page(s)

(0.3 hr review)

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: See Attached

CONFIDENTIALITY NOTICE

The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange for the return of the original documents to us.

LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

June 19, 1996

By Facsimile

William L. Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

Barney Chan
Alameda County Health
Care Services
1131 Harbor Bay Parkway
Alameda, CA 95402

James D. Mayol, Esq.
Mayol & Barringer
P. O. Box 3049
Modesto, CA 95353

Brian Kelleher
Kelleher & Associates
P. O. Box 850
Cupertino, CA 95014

(408) 253-8365

A. Nick Shamiyeh
2221 Olympic Blvd., Suite 100
Walnut Creek, CA 94594

Gary Rogers
2657 Bailey Court
Fremont, CA 94536

Re: Hausauer/3927 East 14th Street

Gentlemen:

Enclosed is a copy of a bid from SEMCO/HK2, Inc. ("SEMCO") for the potential tank pull. SEMCO -- the party that pulled the tank from Mr. Owens' property -- offers to pull the tank from Mr. Hausauer's property, and to take confirming samples -- all for \$5,100. The quote is dated June 5, 1996, and is good for thirty days. SEMCO has agreed to extend the quote for thirty additional days -- to August 4, 1996. SEMCO's bid is the best of three received to date, and Mr. Hausauer would like to perform this work now unless the ACHCS will stipulate that the tank may remain in place.

We believe that pulling the tank and taking additional sampling at the side walls under a separate purchase order will be more cost effective than driving a cluster of borings around the existing tank and taking samples at various depths. This view is based in large measure on our understanding that prior sampling reveals that some contamination has been discovered in the area. If so, ACHCS may require the removal of the tank following completion of the proposed borings. That would not be cost-effective.

LAW OFFICES OF
TOMMY A. CONNER

June 19, 1996
Page 2

By copy of this letter to Mr. Chan, Mr. Hausauer requests his input prior to the telephone conference scheduled for July 3, 1996.

Sincerely yours,



Tommy A. Conner

* Agree to removal of UST, only if, all parties agree that the results of the sampling will be used to determine liability. This must be determined in advance. Specific levels of specific C.O.C.s must be given weight.

SEMCO/HK2, Inc.

1741 Leslie Street , San Mateo, California, (415) 572-8033 (415) 572-9734 Fax

June 5, 1996

Tommy Connor
444 De Haro Street, Suite 121
San Francisco, California 94107

Re: 3927 E. 14th Street, Oakland
Contract Number 96-0220

Dear Tommy:

Enclosed please find Contract Number 96-0220 for the dismantle & removal of the underground storage tank (UST) at the above referenced location.

Necessary permits and soil analysis, based on tank contents and size, are included in this price. In some instances, regulatory inspectors may require further sampling. If additional samples are required, they will be invoiced separately.

The tank contents will be disposed under this contract as recycled material at an acceptable facility. Due to the fact the condition of the contents and tank interior prior to closing in place, the material may require disposal as hazardous waste. If so determined after removal, a cost for disposal will be evaluated and presented to you for approval.

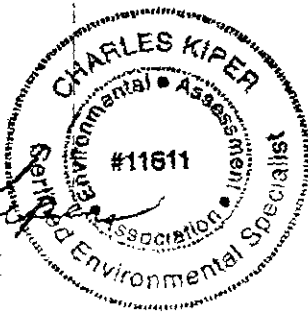
We have enclosed the original contract and a copy for your files. If you authorize SEMCO to perform the work, please sign and return the original contract to our office.

We appreciate the opportunity to bid on your project and look forward to working with you in the future. Please contact me if you have any questions or need additional information.

Sincerely,



Chuck Kiper, CES, CEI
President



Enclosure

CK/rrk

S E M C O / HKz, INC.
Environmental Contractors & General Engineering
License # 719103 A, B, C57,C-61/D40, ASB
Hazardous Substances Certification

1741 Leslie Street, San Mateo, California 94402
 (800) 831-2344 / (415) 572-8033
 (415) 572-9734 FAX

C O N T R A C T

DATE: June 5, 1996	NO: 96-0220
SUBMITTED TO: Tommy Conner 444 De Haro Street, # 121 San Francisco, CA 94107	LOCATION: 3927 E. 14 th Street Oakland
ATTN:	JOB DESCRIPTION:
PHONE: (415) 621-3939 FAX: (415) 621-3999	UST Removal

We hereby submit specifications and estimates for the following:

- Notify Underground Service Alert for utility marking.
- Prepare underground storage tank (UST) removal applications and obtain required permits
- Coordinate hazardous materials inspector, fire department and state certified laboratory for soil analysis.
- Excavate and remove one (1) 550 gallon UST previously closed in place. Dismantle on site with pneumatic cold cutter.
- Collect one (1) sample of contents and analyze for Total Oil and Grease (TOG), ICP 5 Metals, (if required).
- Load, transport and dispose of UST and miscellaneous equipment per state and local codes.
- Provide two (2) samples analyzed for Total Petroleum Hydrocarbons as Gas/Diesel (TPH-G/D) Benzene, Toluene, Ethyl Benzene, Xylenes (BTEX), TOG and ICP 5 Metals. One sample shall be collected from the UST excavation and one from the stockpiled soil.
- Backfill excavation with approved material and compact utilizing hydraulic compactor.
- Resurface affected area to match existing sidewalk.
- Clean job site and dispose of debris.
- UST removal permits and analytical fees by SEMCO.
- Disposal of UST as hazardous waste under manifest at a State Registered Treatment, Storage, Disposal Facility (if required).
- UST removal summary report by a professional engineer.

June 5, 1996
Page 2
Contract # 96-0220
Conner

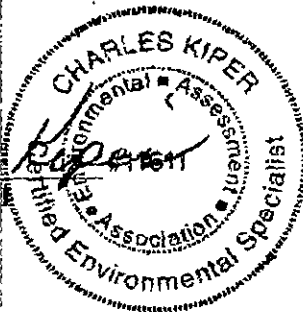
- For legal manifesting and disposal of regulated waste associated with your project, please obtain a temporary ID Number from the Environmental Protection Agency by calling (800) 618-6942.
- In the event of contamination, caving conditions, high watertable, underground obstacles, shoring or utilities, an estimate will be developed for the additional costs.
- During this project, we recommend that the Owner or representative be on site or available by telephone.
- Cost for disposal of tank contents (if required) will be determined after removal.

We hereby propose to furnish labor and materials in accordance with the above specifications, for the sum of \$ 5,100.00, with payment to be made as follows: 15% UPON ACCEPTANCE OF CONTRACT, 70% UPON UST REMOVAL, 15% UPON RESURFACING AND RECEIPT OF INVOICE.

Authorized
Signature

Chuck Kiper

Chuck Kiper CES, CEI
President



Note: This contract may be withdrawn by us if not accepted within 30 days.

Acceptance of Contract: The above specifications, conditions, and prices are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. The customer agrees to pay all charges within 30 days of invoicing and pay interest at the rate of 1 1/2% per month on any unpaid balance, unless otherwise stated above. The prevailing party in any legal action arising out of this contract shall be reimbursed for it's reasonable attorney's fees and costs incurred in such action.

Date: _____

Authorized
Signature: _____

S E M C O / HKL, INC.
Environmental Contractors & General Engineering
License # 719103 A, B, C57,C-61/D40, ASB
Hazardous Substances Certification

1741 Leslie Street, San Mateo, California 94402
(800) 831-2344 / (415) 572-8033
(415) 572-9734 FAX

C O N T R A C T

DATE: June 5, 1996	NO: 96-0220
SUBMITTED TO: Tommy Conner 444 De Haro Street, # 121 San Francisco, CA 94107	LOCATION: 3927 E. 14 th Street Oakland
ATTN:	JOB DESCRIPTION:
PHONE: (415) 621-3939 FAX: (415) 621-3999	UST Removal

We hereby submit specifications and estimates for the following:

- Notify Underground Service Alert for utility marking.
- Prepare underground storage tank (UST) removal applications and obtain required permits
- Coordinate hazardous materials inspector, fire department and state certified laboratory for soil analysis.
- Excavate and remove one (1) 550 gallon UST previously closed in place. Dismantle on site with pneumatic cold cutter.
- Collect one (1) sample of contents and analyze for Total Oil and Grease (TOG), ICP 5 Metals, (if required).
- Load, transport and dispose of UST and miscellaneous equipment per state and local codes.
- Provide two (2) samples analyzed for Total Petroleum Hydrocarbons as Gas/Diesel (TPH-G/D) Benzene, Toluene, Ethyl Benzene, Xylenes (BTEX), TOG and ICP 5 Metals. One sample shall be collected from the UST excavation and one from the stockpiled soil.
- Backfill excavation with approved material and compact utilizing hydraulic compactor.
- Resurface affected area to match existing sidewalk.
- Clean job site and dispose of debris.
- UST removal permits and analytical fees by SEMCO.
- Disposal of UST as hazardous waste under manifest at a State Registered Treatment, Storage, Disposal Facility (if required).
- UST removal summary report by a professional engineer.

June 5, 1996
Page 2
Contract # 96-0220
Conner

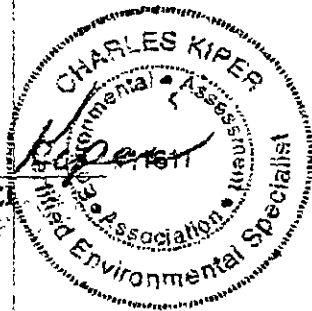
- For legal manifesting and disposal of regulated waste associated with your project, please obtain a temporary ID Number from the Environmental Protection Agency by calling (800) 618-6942.
- In the event of contamination, caving conditions, high watertable, underground obstacles, shoring or utilities, an estimate will be developed for the additional costs.
- During this project, we recommend that the Owner or representative be on site or available by telephone.
- Cost for disposal of tank contents (if required) will be determined after removal.

We hereby propose to furnish labor and materials in accordance with the above specifications, for the sum of \$ 5,100.00, with payment to be made as follows: 15% UPON ACCEPTANCE OF CONTRACT, 70% UPON UST REMOVAL, 15% UPON RESURFACING AND RECEIPT OF INVOICE.

Authorized
Signature

Chuck Kiper

Chuck Kiper CES, CEI
President



Note: This contract may be withdrawn by us if not accepted within 30 days.

Acceptance of Contract: The above specifications, conditions, and prices are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. The customer agrees to pay all charges within 30 days of invoicing and pay interest at the rate of 1 1/2% per month on any unpaid balance, unless otherwise stated above. The prevailing party in any legal action arising out of this contract shall be reimbursed for it's reasonable attorney's fees and costs incurred in such action.

Date: _____

Authorized
Signature: _____

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER + Tim Bak
Billing Number: 8060-02
Date: May 28, 1996
Cover page plus 5 page(s)

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: Copies of Mr. Kelleher's memorandum and Mr. Mayol's response to my May 23 facsimile to all parties. Following Mr. Mayol's letter, Mr. Rogers called. He voiced no objection to the tank pull, and agreed that it would be more efficient to pull the tank and sample than to bore, sample and later pull the tank. Please call me if you have any questions.

CONFIDENTIALITY NOTICE

The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange for the return of the original documents to us.

KELLEHER & ASSOCIATES
1065 East Hillsdale Blvd, Suite 230
Foster City, CA 94404

F A X C O V E R S H E E T

DATE: May 22, 1996 **TIME:** 10 AM
TO: Tommy Conner **Fax:** (415) 621-3999
Law Offices
FROM: B. Kelleher **PHONE:** (408) 253-8365
Kelleher & Associates **FAX:** (408) 253-3613
RE: Hausauer vs Robertson: ATC proposal
CC: Address List

Number of pages including cover sheet: [3]

Message

As part of the Task 3 field work, it is essential to have a number of TCB locations located as close as practicable to the location of the former UST (see markup to figure). It will be important for the contractor to prepare continuous logs of these borings and to collect discreet samples for each three-foot interval in the vadose zone, targeting the most suspect intervals in the soil column. In short, to satisfy the principal objective of this investigation, it is necessary to closely examine the vadose zone soils in the area immediately surrounding the former tank and its filling or dispensing plumbing. Depending on the investigation findings, it may be desirable to convert one or more of the TCB's in the former tank area to a multipurpose extraction well.

The project scope should cover management and disposal of investigation wastes.

In general, the costs for the workscope are somewhat lower than I would have expected.

5/22
TTC w/1
Brian H.

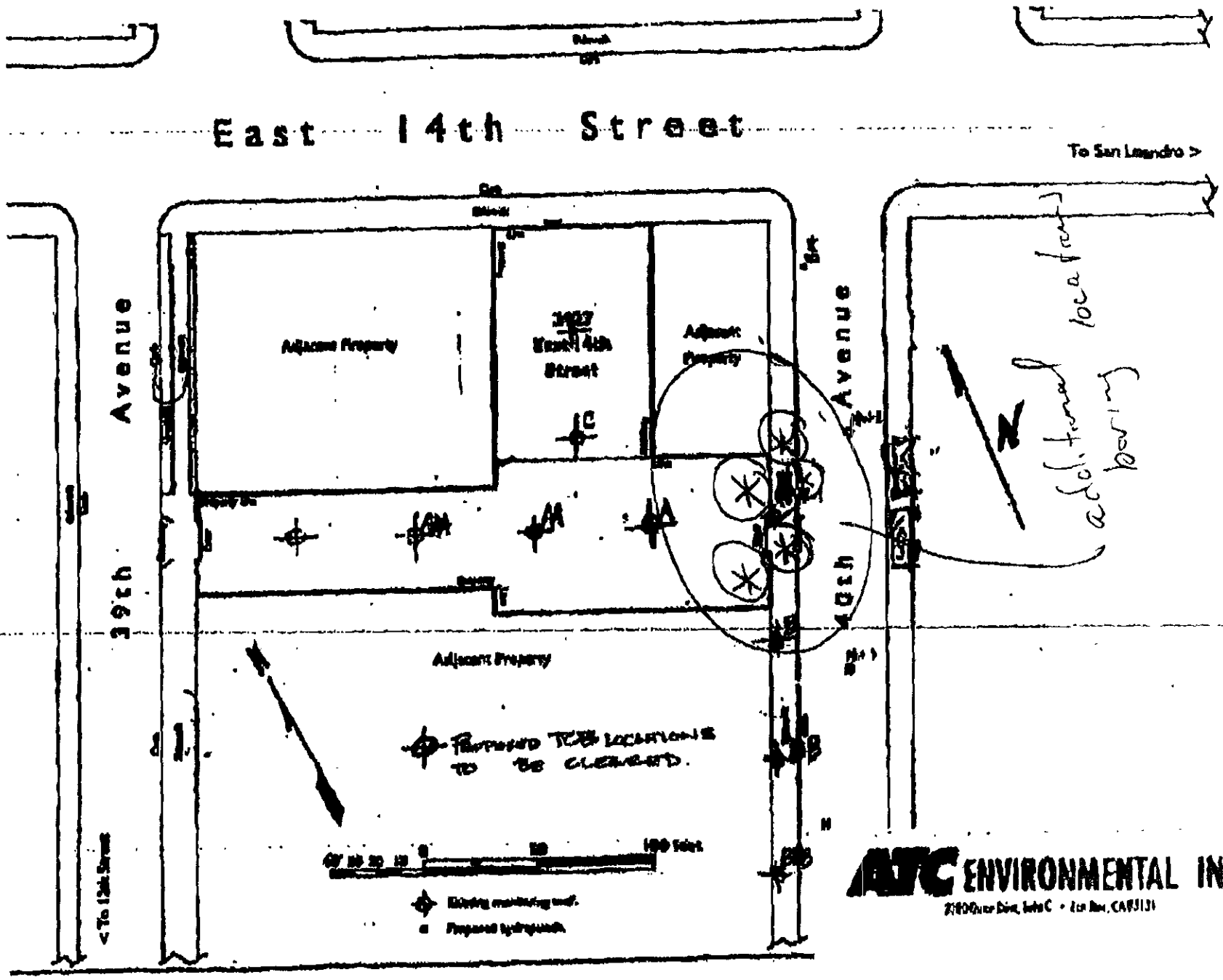
Principal Objective

To determine whether there is one phone or two

Additional
borings

looking for evidence of release from the existing tank on Rube's property

TOTAL P.14



AEC ENVIRONMENTAL INC.
 2180 Quince Drive, Suite C • San Jose, CA 95131

HAUSAUER v. ROBERTSON, et al.
U.S. District Court, Northern District of California
Case No. C 94-01318 EI

Proof of Service List

William L. Nagle, Esq.
 Special Master
 345 Lorton Avenue, Suite #204
 Burlingame, CA 94010
 (415) 579-1422
 (415) 579-0623 (Fax)

SPECIAL MASTER

Tommy A. Conner, Esq.
 Law Offices of Tommy A. Conner
 444 DeHaro Street, Suite #121
 San Francisco, CA 94107
 (415) 621-3939
 (415) 621-3999 (Fax)

Plaintiffs, Ruben Hausauer
 Catherine Hausauer, and
 Rube & Dan's Body Shop, Inc.

James D. Mayol, Esq.
 Mayol & Barringer
 P.O. Box 3049
 Modesto, CA 95353
 (209) 544-9555
 (209) 544-9875 (Fax)

Jack Robertson, Lois Robertson,
 Marvin Jordan, and Thelma Jordan

A. Nick Shamiyeh, Esq.
 Attorney at Law
 2221 Olympic Blvd., Suite #100
 Walnut Creek, CA 94595-0308
 (510) 935-9401
 (510) 935-9407 (Fax)

William C. Owens and
 Motor Partners

Mr. Barney Chan
 Alameda County Department of
 Environmental Health
 1131 Harbor Bay Pkwy., Room #200
 Alameda, CA 94502

Mr. Brian Kelleher
 Brian Kelleher & Associates
 1065 E. Hillsdale Blvd., Suite #230
 Foster City, CA 94404

page 2
May 24, 1996

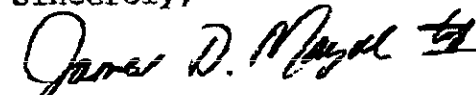
Mr. Hausauer's property. Now, however, there seems to be an effort to completely change the direction this case has taken than from in the past. Accordingly, we vigorously object to any plan which involves the removal of the UST, especially in light of the fact that Mr. Chan has never even considered ordering the same.

We further object to the general concept of "running-up damages" in this case as against the spirit of the mediation ordered by the United States District Court. Certainly, there is no evidence whatsoever that removal of the UST is necessary to ascertain the source of the plum(s) on either the Hausauer or Owens property. In fact, if we can ascertain and confirm, (as expected) that the contamination on the Hausauer property emanates from the Owens' property, the scope of the Hausauer/Robertson dispute is extremely diminished. On the contrary, simply pulling the tank and thereby causing damages to the Hausauer property greatly escalates the case. Simply put, such action is premature.

Again, we object to include any such proposal in the workplan, and would request an immediate meeting with the Special Master via conference call to discuss this alternative. Furthermore, we request the immediate opportunity to have our consultant take place in any such telephone conference PRIOR to any decision regarding inclusion of tank pull in the workplan.

I look forward to an immediate response from the Special Master as to this conference call and am happy to arrange the same if necessary.

Sincerely,



JAMES D. MAYOL

Dictated by the writer, but not read.
Signed and mailed in his absence
to avoid delay.

JDM/tsf

cc: clients

Robert Job, Condor Earth Technologies

LAW OFFICES OF
Mayol & Barringer

James D. Mayol
Bart W. Barringer
Carl E. Combs

1324 "J" Street, Modesto, CA 95354
P. O. Box 3049, Modesto, CA 95353

Telephone:(209)544-9555
Facsimile:(209)544-9875

May 24, 1996

Telecopied to:

(415) 621-3999
Law Offices of Tommy Conner
Tommy A. Conner, Esq.
444 DeHaro Street, Suite 121
San Francisco, CA 94107

f(415) 579-0623
William Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

P 415 579-4422

(510) 935-9407
A. Nick Shamiyeh, Esq.
2221 Olympic Blvd., Suite 100
Walnut Creek, CA 94594

Barney Chan
Alameda County Health
Care Services
1131 Harbor Bay Parkway
Alameda, CA 95402

Brian Kelleher
Kelleher & Associates
P.O. Box 850
Cupertino, CA 95014

Gary Rogers
2657 Bailey Court
Fremont, CA 94536

RE: Hausauer v. Robertson, et al.
3927 East 14th Street
Our file No. 1678

Dear Mr. Conner, et al.:

I am in receipt of Mr. Conner's fax dated May 23, 1996, and must vehemently object to any proposal that suggests that pulling the UST on the Hausauer property is a necessary step to ascertain potential liabilities in this case. Nor, can we agree with Mr. Conner's assertion that pulling the UST is somehow cost equivalent to the costs of additional borings in the vicinity of the UST.

We understand the UST in question is at least in part, underneath the street and/or the building located on Mr. Hausauer's real property. Accordingly, removal of the tank would likely cause structural damage to the street and/or the building in question which greatly escalates the damages which have been alleged in this case to date. In fact, it is only because Mr. Chan has consistently indicated that it was highly unlikely that he would require the UST to be pulled that my clients have taken a "low-cost approach" relative to having consultants crawl over every inch of

page 2
May 24, 1996

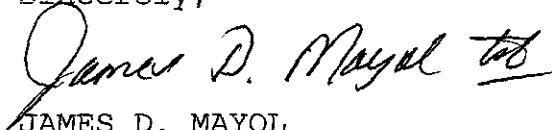
Mr. Hausauer's property. Now, however, there seems to be an effort to completely change the direction this case has taken than from in the past. Accordingly, we vigorously object to any plan which involves the removal of the UST, especially in light of the fact that Mr. Chan has never even considered ordering the same.

We further object to the general concept of "running-up damages" in this case as against the spirit of the mediation ordered by the United States District Court. Certainly, there is no evidence whatsoever that removal of the UST is necessary to ascertain the source of the plum(s) on either the Hausauer or Owens property. In fact, if we can ascertain and confirm, (as expected) that the contamination on the Hausauer property emanates from the Owens' property, the scope of the Hausauer/Robertson dispute is extremely diminished. On the contrary, simply pulling the tank and thereby causing damages to the Hausauer property greatly escalates the case. Simply put, such action is premature.

Again, we object to include any such proposal in the workplan, and would request an immediate meeting with the Special Master via conference call to discuss this alternative. Furthermore, we request the immediate opportunity to have our consultant take place in any such telephone conference PRIOR to any decision regarding inclusion of tank pull in the workplan.

I look forward to an immediate response from the Special Master as to this conference call and am happy to arrange the same if necessary.

Sincerely,



JAMES D. MAYOL

Dictated by the writer, but not read.
Signed and mailed in his absence
to avoid delay.

JDM/tsf

cc: clients

Robert Job, Condor Earth Technologies

LAW OFFICES OF TOMMY A. CONNER
444 De Haro Street, Suite 121
San Francisco, California 94107
(415) 621-3939
Facsimile: (415) 621-3999

FACSIMILE COVER SHEET

To: BARNEY CHAN
Facsimile: 510/337-9335
Telephone: 510/567-6765
From: TOMMY CONNER
Billing Number: 8060-02
Date: May 23, 1996

Cover page plus 2 page(s)

Please call (415) 621-3939 if there is a problem with this transmission. Thank you.

MESSAGE: See attached.

CONFIDENTIALITY NOTICE

The documents accompanying this facsimile transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone to arrange for the return of the original documents to us.

LAW OFFICES OF
TOMMY A. CONNER

444 De Haro Street
Suite 121
San Francisco, CA 94107
Tel 415-621-3939
Fax 415-621-3999

May 23, 1996

By Facsimile

William L. Nagle, Esq.
Special Master
345 Lorton Avenue
Burlingame, CA 94010

Barney Chan
Alameda County Health
Care Services
1131 Harbor Bay Parkway
Alameda, CA 95402

James D. Mayol, Esq.
Mayol & Barringer
P. O. Box 3049
Modesto, CA 95353

Brian Kelleher
Kelleher & Associates
P. O. Box 850
Cupertino, CA 95014

A. Nick Shamiyeh
2221 Olympic Blvd., Suite 100
Walnut Creek, CA 94594

Gary Rogers
2657 Bailey Court
Fremont, CA 94536

Re: Hausauer/3927 East 14th Street

Gentlemen:

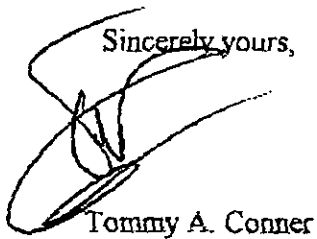
This confirms my discussion this morning with Mr. Kelleher regarding his May 22, 1996 memorandum to all parties. Mr. Kelleher confirms that the principal objective of the pending investigation is to determine whether there is one plume or two, and that the best evidence of whether the UST on Mr. Hausauer's property was a source of the groundwater contamination in the area is to analyze soil samples in the immediate vicinity of the UST. Given that the same information (i.e., side wall samples) would be available during a tank pull, and that the cost of five additional borings approximates the cost of pulling the UST, we propose to modify the pending work plan to include the removal of the UST, and to take soil samples from the bottom of the tank pit and along all four sides of the pit. Please comment on this alternative.

LAW OFFICES OF
TOMMY A. CONNER

May 23, 1996
Page 2

We have requested bids for the referenced work and will submit the best bid for review by all parties. Please call me if you have any questions or comments on this approach.

Sincerely yours,



Tommy A. Conner

TACLps

4610/3682

1 1514
2 William L. Nagle, Esq./ Bar #59788
3 SPECIAL MASTER
4 345 Lorton Avenue, Suite 204
5 Burlingame, CA 94010
6 (415) 579-1422
7 FAX (415) 579-0623

ENVIRONMENTAL
PROTECTION
96 MAY 10 PM 12:47

ORIGINAL
FILED
MAY - 7 1996
RICHARD W. WAGNER
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 **IN THE UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

11 RUBEN HAUSAUER, CATHERINE
12 HAUSAUER, and RUBE & DAN'S
13 AUTO BODY SHOP, INC.,

CASE NO. C 94-01318 SI

14 Plaintiffs,

PRE-TRIAL ORDER NO. 3

15 vs.

16 JACK D. ROBERTSON, LOIS
17 ROBERTSON, E. MARVIN JORDAN,
18 THELMA JORDAN, WILLIAM OWENS,
19 OWENS MOTOR PARTNERS, MOTOR
20 PARTNERS, INC.,

Defendants.

21
22 The Court having appointed William L. Nagle as Special
23 Master in this matter and good cause appearing therefor,

24 IT IS HEREBY ORDERED:

25 1. Counsel for Hausauer shall circulate a DRAFT workplan
26 to all parties for review by Wednesday, May 15, 1996.

27 2. Comments regarding the DRAFT workplan shall be
28 submitted in writing to all parties and the Special Master by
29 Wednesday, May 22, 1996.


30 3. Counsel for Hausauer shall submit a copy of the
31 workplan to Barney Chan of the Alameda County Environmental
32 Health Department by Wednesday, May 29, 1996.

33 4. The Special Master shall hold a Scoping Session for
34 counsel and consultants on Wednesday, August 14, 1996, at 9:30
35 a.m. at the LAW OFFICES OF TOMMY A.CONNER, 444 De Haro Street,
36 Suite 121, San Francisco, California. Mr. Barney Chan of the

1 Alameda County Environmental Health Department shall attend.

2 APPROVED AND RECOMMENDED:

3
4 DATE: April 30, 1996

5 
6 William L. Nagle, Special Master

7 IT IS SO ORDERED:

8
9 DATED: MAY - 6 1996, 1996

10 Susan Illston
11 JUDGE OF THE DISTRICT COURT
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1514
William L. Nagle, Esq. SBN 59788
Special Master
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-1422
(415) 579-0623 (Fax)

SPECIAL MASTER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RUBEN HAUSAUER, et al.,

CASE NO. C 94-01318 SI

Plaintiffs,

vs.

DECLARATION OF SERVICE BY MAIL

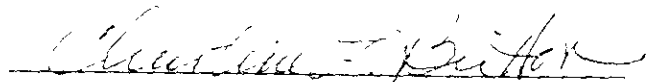
JACK D. ROBERTSON, et al.,

Defendants.

I am a citizen of the United States. My business address is 345 Lorton Avenue, Suite #204, Burlingame, California. I am employed in the County of San Mateo where this mailing occurs. I am over the age of eighteen years and not a party to the within cause. I served PRE-TRIAL ORDER NO. 3 (Endorsed-Filed May 7, 1996) on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in a United States post office mailbox at Burlingame, California, addressed as follows:

Please see attached list.

I, Christine L. Britton, declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 9, 1996 at Burlingame, California.



HAUSAUER v. ROBERTSON, et al.
U.S. District Court, Northern District of California
Case No. C 94-01318 SI

Proof of Service List

William L. Nagle, Esq.
Special Master
345 Lorton Avenue, Suite #204
Burlingame, CA 94010
(415) 579-1422
(415) 579-0623 (Fax)

SPECIAL MASTER

Tommy A. Conner, Esq.
Law Offices of Tommy A. Conner
444 DeHaro Street, Suite #121
San Francisco, CA 94107
(415) 621-3939
(415) 621-3999 (Fax)

Plaintiffs, Ruben Hausauer
Catherine Hausauer, and
Rube & Dan's Body Shop, Inc.

James D. Mayol, Esq.
Mayol & Barringer
P.O. Box 3049
Modesto, CA 95353
(209) 544-9555
(209) 544-9875 (Fax)

Jack Robertson, Lois Robertson,
Marvin Jordan, and Thelma Jordan

A. Nick Shamiyeh, Esq.
Attorney at Law
2221 Olympic Blvd., Suite #100
Walnut Creek, CA 94595-0308
(510) 935-9401
(510) 935-9407 (Fax)

William C. Owens and
Motor Partners

Mr. Barney Chan.
Alameda County Department of
Environmental Health
1131 Harbor Bay Pkwy., Room #200
Alameda, CA 94502

Mr. Brian Kelleher
Brian Kelleher & Associates
1065 E. Hillsdale Blvd., Suite #230
Foster City, CA 94404

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, DIRECTOR

March 21, 1996
StID # 4610

DEPARTMENT OF ENVIRONMENTAL HEALTH
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510)567-6700

Mr. Reuben Hausauer
6017 E. 14th St.
Oakland CA 94601

**Re: Evaluation of March 17, 1996 Proposal for 3927 E. 14th St.,
Oakland CA**

Dear Mr. Hausauer:

Our office has received and reviewed the above referenced work plan for additional site characterization as provided by Mr. John Cummings of JPCA. This proposal calls for advancing eight (8) hydropunch borings on the sidewalks of 40th and 39th Ave. and within the 3927 E. 14th building. The exact locations are shown on Fig. 2 of the Site Area Map enclosed within the proposal. Both soil and grab groundwater samples will be collected for chemical analysis. This investigation will provide clarification regarding the origin of fuel contaminants being detected in MW-1. Our office conditionally approves of this proposal with the following conditions:

1. The location of the soil samples should be just above the first encountered groundwater.
2. The analysis for the metals: cadmium, chromium, lead, nickel and zinc may be omitted. The current levels of these analytes in MW-1 do not warrant further delineation. TPHg, TPHd, TPHmo and BTEX should be tested for in the soil and groundwater samples.
3. You may forego analysis of the borings on 39th Ave. if the borings within the building indicate little to no hydrocarbon impact.
4. Please contact me at least 72 hours prior to your field work.

I may be reached at (510) 567-6765 if you have any questions.

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

c: Mr. J. Cummings, P.O. Box 2847, Fremont CA 94536-2847
Mr. Bill Owens, 2221 Olympic Blvd., Walnut Creek, CA 94595
G. Coleman, files
wpap3927

John P. Cummings & Associates

Environmental Consultants

Ph. (510) 505-0722
Fax (510) 791-3306

P.O. Box 2847
Fremont, CA 94536-2847

File No. 0393002.03
March 17, 1996

4610

Barney Chan
Hazardous Materials Specialist
Alameda County
Department of Environmental Health
UST Local Oversight Program
1131 Harbor Bay Pkwy
Alameda, CA 94502-6577

ENVIRONMENTAL
PROTECTION
96 MAR 19 PM 1:46

Re: 3927 East 14th Street
Oakland, CA

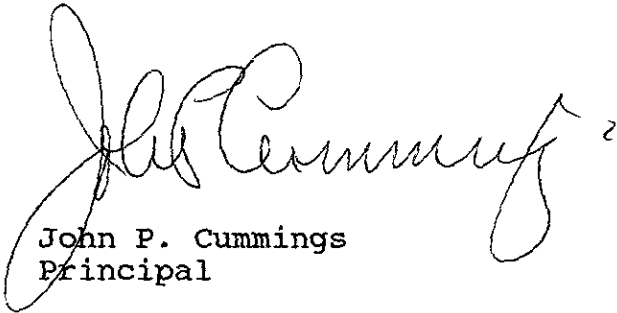
Dear Mr. Chan:

Please find enclosed with this letter our proposal for characterizing the subject property.

The site has had some prior characterization and this proposed workplan is expected to give a better indication of the extent of the lateral and vertical contamination at the subject site.

If you have questions or suggestions with respect to this workplan please call me at 510-505-0722.

Sincerely,



John P. Cummings
Principal

Enclosure

File No. 0193002.02

March 17, 1996

Mr. Ruben Hausauer
6017 East 14th Street
Oakland CA 94601

COPY

Subject; Site Characterization
at 3927 E. 14th Street, Oakland CA

Dear Mr. Hausauer:

John P. Cummings & Associates (JPCA) is pleased to present the following proposal for the characterization to include soil and groundwater sampling and analysis of the subject property located at 3927 E. 14th Street, Oakland, CA. Figure 1.

SCOPE OF WORK

In order to complete the characterization required the following four tasks are required.

Task 1

Permits for the drilling need to be received from Zone 7. U S Alert will be contacted prior to drilling to identify beneath surface hazards if any exist. A site specific Safety Plan will be completed.

Task 2

Based on prior work completed at the subject property JPCA anticipates that groundwater will be encountered less than ten feet below grade at the subject property. One soil sample and one groundwater grab sample will be collected from each of the eight borings. The proposed locations of the borings are depicted in Figure 2.

Task 3

The soil (8) and groundwater (8) samples shall be analyzed for Total Petroleum Hydrocarbons, as gasoline (TPHG) and diesel (TPHD); Benzene, Toluene, Ethylbenzene and Xylene (BTEX); Total Oil and Grease (TOG) via the GC FID method; and for the metals Cadmium, Chromium, Lead, Nickel and Zinc (CAM 5) using the WET method. These analyses are those required in the "Tri-Regional Guidelines" which are directives of the Regional Water Quality Control Board

not necessary

may choose to hold spils on 39th 1

Are if samples w/ borings do not indicate Contamination ?

COPY

and requested by the ACDEH.

Task 4

A report documenting the results of the investigation and the laboratory analyses of the samples to include a summary, conclusions and recommendations regarding the potential environmental liabilities, if any, will be prepared and signed by a California Certified Engineering Geologist.

ESTIMATED COSTS and SCHEDULE

The cost estimated for the proposed work will be sent under separate cover and is based on the assumptions listed below. The costs include Professional fees, supplies, equipment rental and chemical analyses.

1. The depth to groundwater and the gradient are generally as assumed.
2. Groundwater is not contaminated and can be disposed of on-site. Disposal of any contaminated groundwater is the responsibility of the property owner.
3. Laboratory analyses are conducted on a normal (15 day) turnaround schedule. Shorter turnaround time is available.
4. Water and electric power are available on site during the drilling.
5. The county and/or other regulatory agencies do not request data that is in addition to what is proposed here.

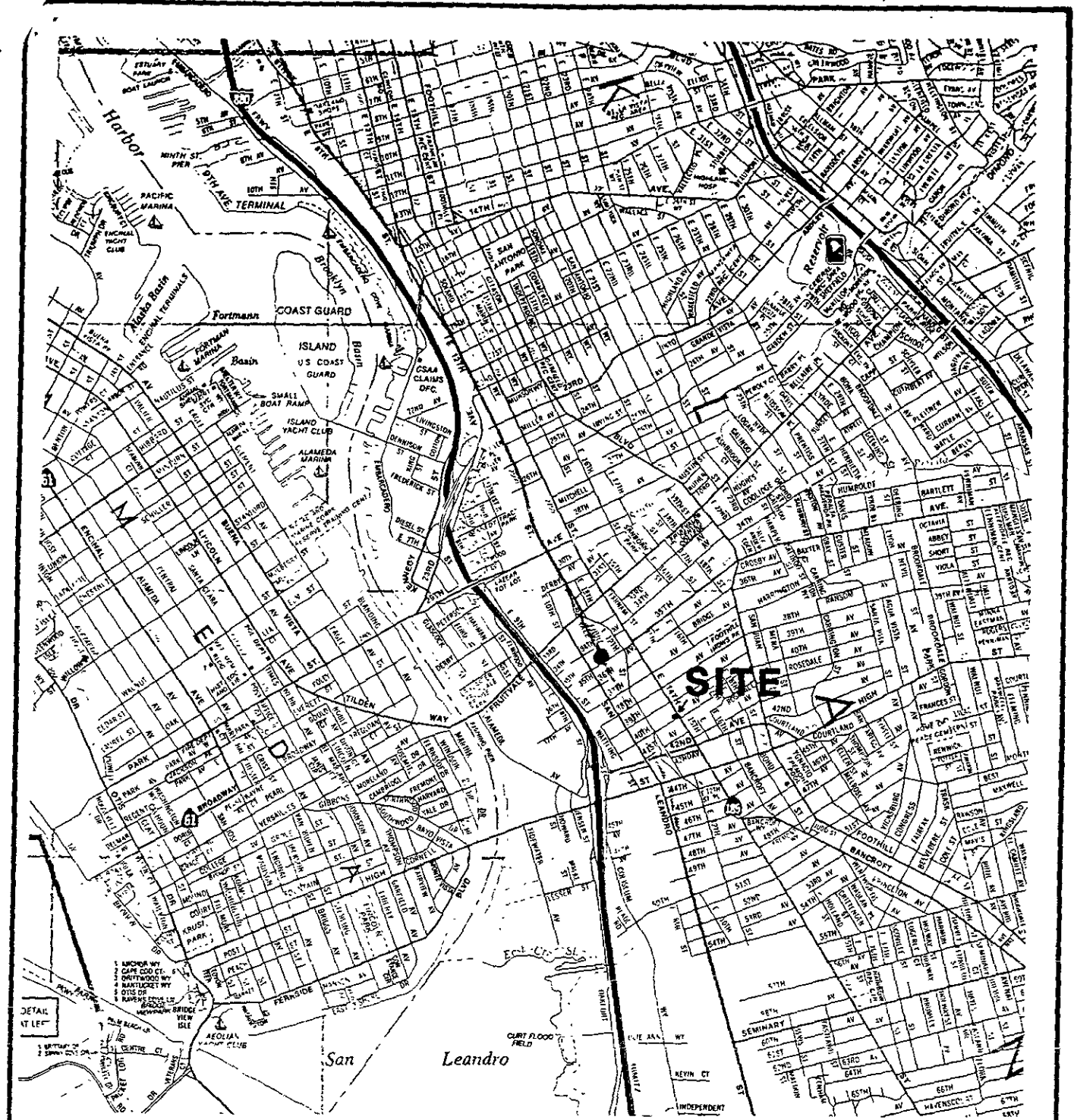
Projects of this nature can be completed by our firm in about two weeks from the date of sampling.

We are pleased to provide you with this proposal. Should you have any questions please contact the undersigned, at (510) 505-0722.

Sincerely,

John P. Cummings
Principal

cc: KING, SHAPIRO, MITTELMAN and BUCHMAN



<p>JOHN P. CUMMINGS & ASSOCIATES</p>	<p>PROJECT # 0293002.00 NEW GENICO OAKLAND, CALIF.</p>
--	--

Fig. 1 **SITE LOCATION MAP**

WILLIAM L. NAGLE
SPECIAL MASTER/MEDIATOR
345 LORTON AVENUE, SUITE 204
BURLINGAME, CALIFORNIA 94010
TELEPHONE (415) 579-1422
FACSIMILE (415) 579-0623

PARTNER
NAGLE, KRUG & WINTERS

March 5, 1996

The Honorable Susan Illston
Judge of the United States District Court
Northern District of California
United States Courthouse, Federal Building
450 Golden Gate Avenue
San Francisco, CA 94102

RE: Hausauer, et al. v. Robertson, et al.
Case No: C 94-01318 SI
Our File No: 1514

Dear Judge Illston:

This is a LUFT (leaking underground fuel tank) case in the Special Master Program. It involves two adjacent sites in Alameda County.

Currently, the parties are completing their Phase II site characterization. This is the investigation involving whether the plume of contamination has gone off site. It is required by the Regulatory Agency and is necessary in order to ultimately obtain reimbursement from the Underground Storage Tank Fund in Sacramento.

We have ordered that the parties complete their Phase II site characterization within 60 days. The next stage will be to get a Scoping Session with the Court Consultant, the various consultants for the parties, and the Regulatory Agency to determine the type of remediation that will be required. It is usually at this stage that we sit down with the parties and discuss settlement.

The methodology we have been using in settling the LUFT cases is the following:

We work with the local Regulatory Agency and keep them actively involved in the investigation. This saves time and money. We apply to the Underground Storage Tank Fund in Sacramento. The local Regulatory Agency advises the UST Fund that we are technically in compliance. When the UST application number comes up, a letter of commitment is issued. UST Fund monies are used to remediate the site. By coordinating with the technical review people at the UST Fund, we are doing our best to obtain close to 100% reimbursement of any funds loaned into a trust account for purposes of remediation.

The Honorable Susan Illston
March 5, 1996
Page 2

Once the site has been fully characterized, and we have a good idea of how much it will cost to remediate the site, then we sit down with the lawyers and seriously discuss settlement. Normally, the settlement includes making plaintiff whole by reimbursing out of pocket costs such as reasonable attorney's fees and reasonable loss of use. This is the art of the practical. Actually, attorney's fees are not allowed in these actions, but we find that we need to put some money in the settlement pot for attorney's fees in order to resolve the cases.

This case is a little unusual because one of the parties claims that it never used gasoline in its underground storage tank. However, it is premature to make any real conclusions, and we will have a better idea of settlement possibilities after the sites are fully characterized.

I will keep you advised of significant developments. If you have any questions regarding the proposed Orders or status of the case, please so advise.

Respectfully yours,

William L. Nagle

WLN:cb
Enclosure

King, Shapiro, Mittelman & Buchman
Attorneys At Law

Robert W. Shapiro, P.C.
Mark R. Mittelman, P.C.
Robert A. Buchman, P.C.
David S. Stromberg
Joan D.B. Edelson

Christopher R. Aker
Ann Marie De Die
L. Letanne Joe
Debra E. Keller
Jenny J. Kim
Robin M. Pearson
Leanne Schlegel
Peter M. Sproul
David S. Wallace

Of Counsel
Donald S. Honigman
Donald Tenconi

1331 North California Boulevard, Sixth Floor
Walnut Creek, California 94596
Telephone (510) 935-7755 Facsimile (510) 935-1553

Oakland Office
1999 Harrison Street
Suite 1600
Oakland, CA 94612

San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

Please Reply To
WALNUT CREEK

Withdrawn from the Firm
George King

September 26, 1995

VIA FACSIMILE AND FIRST CLASS MAIL
337-9335

Mr. Barney M. Chan
Hazardous Material Specialist
Alameda County Health Care Services Agency
Department of Environmental Health
UST Local Oversight Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

Re: Hausauer v. Robertson
Our File No.: 1023-0031

Dear Mr. Chan:

This letter will memorialize our telephone conversation yesterday concerning the Notice of Pre-Enforcement Review Panel sent to Bill Owens regarding the Motor Partners Site at 1234 40th Avenue in Oakland.

You indicated that you the purpose of the hearing is to ascertain the reasons why the work on the Motor Partners site isn't progressing in a timely fashion. You informed me that Mr. Owens claims to have given his consultants the authority to proceed with the work.

You also informed me that you specifically inquired of Mr. Owens whether there was any reason that my client Rube Hausauer and our consultant would need to be present. Mr. Owens acknowledged that there was no need for anyone on behalf of Hausauer to be present; that he had authorized his consultants to proceed and didn't envision that there would be any problem.

As we discussed, I am concerned that Mr. Owens might use tomorrow's hearing as a forum to pursue his unfounded claim (unsupported by any consultant) that his property is downgradient from the Hausauer property. You have assured me that if Mr. Owens makes this claim tomorrow you will suspend the proceeding and reconvene it next month, enabling my client, consultant and me to attend.

Mr. Barney M. Chan
September 26, 1995

Page 2

Thank you for your cooperation. I would appreciate it if you would apprise me of what transpires during the hearing. I will be in the office all day Wednesday.

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN



David S. Stromberg

DSS:rlj
cc: client

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF CLEAN WATER PROGRAMS
2014 T STREET, SUITE 130
P.O. BOX 944212
SACRAMENTO, CALIFORNIA 94244-2120
(916) 227-4360
(916) 227-4530 (FAX)



AUG 04 1995

Ruben Hausauer
6017 E. 14th Street
Oakland, CA 94621

UNDERGROUND STORAGE TANK CLEANUP FUND, CLAIM NO. 008829, FOR SITE ADDRESS: 3927 E. 14th Street, Oakland, CA 94601

The State Water Resources Control Board (State Board) takes pleasure in issuing the attached Letter of Commitment in an amount not to exceed \$20,000. This Letter of Commitment is based upon our review of the corrective action costs incurred to date and your application received on July 18, 1994 and may be modified by the State Board in writing by an amended Letter of Commitment.

Read the terms and conditions listed in the Letter of Commitment. The State Board will take steps to withdraw this Letter of Commitment after 90 calendar days from the date of this transmittal letter unless you proceed with due diligence with your cleanup effort. This means that you must take positive, concrete steps to ensure that corrective action is proceeding with all due speed. For example, if you have not started your cleanup effort, you must obtain three bids and sign a contract with one of these bidders within 90 calendar days. If your cleanup effort has already started and was delayed, you must resume the expenditure of funds to ensure that your cleanup is proceeding in an expeditious manner. You are reminded that you must comply with all regulatory agency time schedules and requirements.

This package includes the following:

- A "Reimbursement Request Instructions" package. Retain this package for future reimbursement requests. These instructions must be followed when seeking reimbursement for corrective action costs incurred after January 1, 1988. Included in the instruction package are:
 - Samples of completed Reimbursement Request forms and Spreadsheets.
 - Recommended Minimum Invoice Cost Breakdown
- A "Bid Summary-Sheet to list information on bids received.
- A "Certification of Non-Recovery From Other Sources" which must be returned before any reimbursements can be made.
- "Reimbursement Request" forms which you must use to request reimbursement of costs incurred.
- "Spreadsheet" forms which you must use in conjunction with your Reimbursement Request.
- "Claimant Data Record" (Std. Form 204) which must be completed and returned with your first Reimbursement Request.

YOU MUST SUBMIT A REIMBURSEMENT REQUEST PACKAGE BY October 21, 1995, OR SEND A WRITTEN UPDATE EXPLAINING:

1. Status of cleanup to date.
2. Reason(s) why a reimbursement request has not been submitted.
3. Costs incurred to date for corrective action.
4. Projected date for submitting a reimbursement request.

We constantly review the status of all active claims. If you do not submit a reimbursement request or a written update by the date above, or fail to proceed with due diligence with the cleanup, we will take steps to withdraw your Letter of Commitment.

If you have any questions regarding the Letter of Commitment or the Reimbursement Request package, please contact Cheryl Gordon at (916) 227-4539.

Sincerely,

Steve Deaner, Manager
UST Cleanup Fund Program

Closures

Mr. Steve Morse
California Regional Water Quality
Control Board, San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612

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

LETTER OF COMMITMENT FOR REIMBURSEMENT OF COSTS

CLAIM NO: 008829

AMENDMENT NO: 0

CLAIMANT: Ruben Hausauer

BALANCE FORWARD: \$0

CO-PAYEE: None

JOINT CLAIMANT: None

THIS AMOUNT: \$20,000

NEW BALANCE: \$20,000

CLAIMANT ADDRESS: 6017 E. 14th Street
Oakland, CA 94621

TAX ID/SSA NO: 557-36-1623

Subject to availability of funds, the State Water Resources Control Board (SWRCB) agrees to reimburse Ruben Hausauer (Claimant) for eligible corrective action costs at New Genico 3927 E. 14th Street, Oakland, CA 94601 (Site). The commitment reflected by this Letter is subject to all of the following terms and conditions:

1. Reimbursement shall not exceed \$20,000 unless this amount is subsequently modified in writing by an amended Letter of Commitment.
2. The obligation to pay any sum under this Letter of Commitment is contingent upon availability of funds. In the event that sufficient funds are not available for reasons beyond the reasonable control of the SWRCB, the SWRCB shall not be obligated to make any disbursements hereunder. If any disbursements otherwise due under this Letter of Commitment are deferred because of unavailability of funds, such disbursements will promptly be made when sufficient funds do become available. Nothing herein shall be construed to provide the Claimant with a right of priority for disbursement over any other claimant who has a similar Letter of Commitment.
3. All costs for which reimbursement is sought must be eligible for reimbursement and the Claimant must be the person entitled to reimbursement thereof.
4. Claimant must at all times be in compliance with all applicable state laws, rules and regulations and with all terms, conditions, and commitments contained in the Claimant's Application and any supporting documents or in any payment requests submitted by the Claimant.
5. No disbursement under this Letter of Commitment will be made except upon receipt of acceptable Standard Form Payment Requests duly executed by or on behalf of the Claimant. All Payment Requests must be executed by the Claimant or a duly authorized representative who has been approved by the Division of Clean Water Programs.
6. Any and all disbursements payable under this Letter of Commitment may be withheld if the Claimant is not in compliance with the provisions of Paragraph 5 above.
7. Neither this Letter of Commitment nor any right thereunder is assignable by the Claimant without the written consent of the SWRCB. In the event of any such assignment, the rights of the assignee shall be subject to all terms and conditions set forth in this Letter of Commitment and the SWRCB's consent.
8. This Letter of Commitment may be withdrawn at any time by the SWRCB if completion of corrective action is not performed with reasonable diligence.

IN WITNESS WHEREOF, this Letter of Commitment has been issued by the SWRCB this 21st day of July, 1995

STATE WATER RESOURCES CONTROL BOARD

BY [Signature]
Manager, Underground Storage Tank Cleanup Fund Program

BY [Signature]
Chief, Division Administrative Services

STATE USE CALSTRAPS CODING 0550-569 02 - 36530 \$ _____
--

Law Offices of
A. Nick Shamiyeh

2221 Olympic Boulevard, Suite 100
Walnut Creek, California 94595-0308
Telephone: (510) 935-9401
Facsimile: (510) 935-9407

Reply To: Walnut Creek Office

San Francisco Branch Office
703 Market Street, 20th Floor
San Francisco, CA 94103
Telephone: (415) 777-0700
Facsimile: (415) 543-0891

August 2, 1995

SENT VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Ruben Hausauer
Mrs. Catherine Hausauer
Rebe and Dan's Body Shop, Inc.
c/o Arthur E. Fisher, Esquire
KING, SHAPIRO, MITTLEMAN & BUCHMAN
1331 North California Blvd., 6th Floor
Walnut Creek, California 94596

95 AUG -3 PM 1:39

ENVIRONMENTAL
PP, J, M, T, A, L

RE: Underground Soil Contamination at 1236 - 40th Ave, Oakland, California

Dear Lady & Gentlemen:

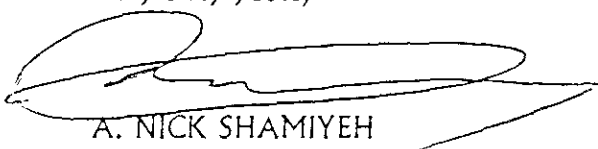
This firm represents Motor Partners, a California General Partnership which owns the property located at 1236 - 40th Avenue, Oakland, California. As you know, you own the adjoining property located at 3927 East 14th Street, Oakland, California.

Based on information which our client has received from various consultants and the Alameda County Health Services Agency that there is ongoing investigations relating to underground soil contamination of our client's property. Based on this information, we believe that pollutants contained on our client's property migrated through the underground channels from your property to our client's property causing it to be contaminated. At this time, our client is currently investigating the situation, has employed the necessary experts and is conducting the necessary tests at its costs and expense to determine the extent and the source of the contamination.

This letter is written to you to request your participation and cooperation with the Alameda County Health Services Agency, in the investigation to determine the extent of the contamination of our client's property.

This notice will also serve as notice under 42 U.S.C. §9659(d) and 6972(b) of our client's intent to amend our client's complaint against you in the ongoing legal action in the United States District Court action number C94-01318 SI, for contribution to site investigation clean-up costs, together with all other remedies available to our client under both California and Federal laws. Copies of this letter are being served on the appropriate State and Federal agencies who are hereby being notified of our client's intent in this matter.

Very truly yours,



A. NICK SHAMIYEH

ANS:lel

cc: Client
cc: Arthur E. Fisher, Esquire (via certified mail return receipt requested)
cc: Barney Chan, Department of Environmental Health (via certified mail return receipt requested)
cc: Regional Administrator, Federal EPA, Region Nine (via certified mail return receipt requested)

LAW OFFICES OF
Mayol & Barringer

James D. Mayol
Bart W. Barringer
Carl E. Combs

1324 "J" Street, Modesto, CA 95354
P.O. Box 3049, Modesto, CA 95353

Telephone: (209) 544-9555
Facsimile: (209) 544-9875

March 8, 1995

Barney Chan
ALAMEDA COUNTY HEALTH AGENCY
80 Swan Way, Room 350
Oakland, CA 94621

Blasius Reviewed

RE: 3297 East 14th Street, Oakland, California
Our file No. 1678
Hausauer v. Robertson, et al.

Dear Mr. Chan:

Pursuant to our recent discussion, my clients, Marvin and Thelma Jordan and Lois and Jack Robertson hereby object to any proposal whereby they are added to any county or other order as a potentially responsible party.

As we discussed, only Marvin Jordan and Lois Robertson (who are brother and sister) inherited the property in question and only held the same pending sale for a period approximating less than one year (1979-1980). Prior to their inheriting the property, they had no ownership interest in the subject property, nor did they operate the business(es) located on said premises. As to Jack Robertson and Thelma Jordan, the only connections are their respective marriages to Lois Robertson and Marvin Jordan and the fact they were forced to execute a deed to the Hausauers conveying what, if any, community property interest they had in the subject property. In any case, there is no evidence that any hazardous waste disposal or leak on the subject property occurred during the brief time any of my clients owned the property.

As you are aware, the regulations you have provided to me regarding the definition of a "responsible party" are derived in large part from CERCLA and RCRA. As you are certainly further aware, CERCLA and RCRA both provide for an innocent landowner defense, especially applicable when individuals inherit a purportedly contaminated property 42 U.S.C. 9601(35)(A)(B), 9607(b)(3).

Although the federal court litigation by and between the present owners and my clients is presently in a holding pattern, we fully expect to establish the following to prove our defense:

1. The release or threat of release of a hazardous substance and the resulting damages were caused solely by an act or omission of a third party (my clients have no knowledge of any such release or the cause of the same);

2. The third party's act or omission did not incur in connection with the contractual relationship either indirect or direct with the defendants (deed for conveyance of inheritance excepted as discussed below);

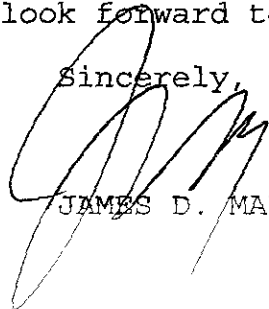
3. The defendants exercised due care with respect to the hazardous substance (they were never involved with the management of said hazardous substances, as they didn't know of its presence); and

4. The defendants took precautions against the third parties' foreseeable acts or omissions and the foreseeable consequences resulting therefrom (not required due to lack of knowledge of said substances).

You may wish to examine the case of United States of America v. Pacific Hide & Fur Depot, Inc. 716 F.Supp. 1341 (D. Idaho 1989), in which the court meticulously explains that persons who inherit property will be absolved from liability, even though they may have gained ownership of the property via deed, when they acquired the property after the disposal or placement of the hazardous substance on, in, or at the facility and otherwise acquired the facility by inheritance or bequest. In the instant case, no evidence exists that any hazardous substance was placed on or in the real property in question during the brief tenure of my clients' ownership. Furthermore, it is undisputed that two of my clients inherited the subject property and two never had any technical ownership or other responsibilities relative to the same, except as to their executing the deed described above. Thus, a prima facie case cannot be made against any of our four clients.

If you have any questions regarding our refusal to accept categorization as potentially responsible parties, please do not hesitate to contact me. I look forward to your response.

Sincerely,



JAMES D. MAYOL

JDM/tsf

cc: clients
Art Fisher, Esq.

**Alameda County Department of Environmental Health
Hazardous Materials Division**
80 Swan Way, Rm. 200, Oakland, CA 94621
Ph: 510-271-4320

BILLING FOR SERVICES

4610 +
STID# 3682

3927 E 14th St - New Genico +

A. Site Name 1234 40th Ave - Motor Partners Phone _____

Site Address
(If no address, description of area) _____
Number Street City Zip

Prior Business Name _____ Prior Owner's Name _____

B. Service Requestor Steven Plas Collins Schlotthauer 408-298-5161
Contact Person Company Name Phone

Billing Address 60 S. Market St, Suite 1100 San Jose CA 95113-2369
Number Street City Zip

Category of Service		#Hours	x \$	/Hr	\$
<input type="checkbox"/>	Site Search	<u>1</u>	x \$	<u>90</u> /Hr	\$ <u>90</u>
<input checked="" type="checkbox"/>	File Search	_____	x \$	_____/Copy	\$ _____
<input type="checkbox"/>	Other _____	_____	x \$	_____	\$ _____
TOTAL CHARGE:					\$ <u>90⁰⁰</u>

REMARKS: Copying of above 2 files for Mr Plas.
1 hr @ 90⁰⁰ /hr.

You will receive an invoice in accordance with Article 11 of Chapter 6, Title 3 of the Ordinance Code of Alameda County

Service Requestor Steven Plas [Signature] Date 3/2/95
printed name signature
HazMat Specialist Barney Simon [Signature] Date 3/6/95
printed name signature

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

~~RAFAT A. SHAHID, ASST. AGENCY DIRECTOR~~

February 22, 1995
StID # 4610

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Mr. Reuben Hausauer
2672 Warwick Place
Hayward CA 94542

NOTICE OF VIOLATION

**Re: Request for Quarterly Monitoring Reports for 3927 E. 14th
St., Oakland CA 94601**

Dear Mr. Hausauer:

Please be aware that you are delinquent in the sampling and reporting of groundwater monitoring for the well at the above referenced site. I refer you to my April 27, 1994 letter which, although put on hold your need to perform additional site assessment, did require you to continue monitoring the existing well at the above site on a quarterly basis. A monitoring report should be sent to our office **within 30 days** of the monitoring event. It appears that the last monitoring event occurred in June of 1994.

You are required to re-institute quarterly groundwater monitoring immediately. Your quarterly report is due **within 30 days or by March 24, 1995**. Please keep in mind that you must remain in compliance with all applicable requirements (ie report submittal) as one condition of eligibility for the SWRCB Clean-up Fund.

In another matter, I have spoken with Mr. John Cummings who informed me of another PRP (potential responsible party) exists for your site. Please provide documentation and justification for adding such an individual if this is the case. At this time, no other RPs are formerly listed for this site.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

cc: Mr. J. Cummings, P.O. Box 2847, Fremont CA 94536-2847
Mr. Art Fisher, King, Shapiro, Mittleman & Buchman, Attorneys
At Law, Lake Merritt Plaza, Suite 1600, 1999
Harrison St., Oakland CA 94612
Mr. Bill Owens, 2221 Olympic Blvd., Walnut Creek, CA 94595
Ms. C. Gordon, SWRCB Clean-up Fund, P.O. Box 944212,
Sacramento, CA 94244-2120
E. Howell, files nov3927

King, Shapiro, Mittelman & Buchman
Attorneys At Law

Robert W. Shapiro, P.C.
Marië R. Mittelman, P.C.
Robert A. Buchman, P.C.
David S. Stromberg
Joan D.B. Edelson

Christopher R. Aker
Jonathan E. Bates
Ann Marie De Die
Arthur E. Fisher
L. Leianne Joe
Debra E. Keller
Jenny J. Kim
Robin M. Pearson
Leanne Schlegel
Peter M. Sproul
David S. Wallace

Of Counsel
Donald S. Honigman
Donald Tenconi

ROUTED

1331 North California Boulevard, Sixth Floor
Walnut Creek, California 94596
Telephone (510) 935-7755 Facsimile (510) 935-1553

Oakland Office
1999 Harrison Street
Suite 1600
Oakland, CA 94612

San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

Please Reply To
WALNUT CREEK

Retired from the Firm
George King

February 22, 1995

Barney Chan
Alameda County Health
Services Agency
Dept. of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

VIA FACSIMILE AND U.S. MAIL
(415) 569-4757

Re: Hausauer v. Robertson
UST ID No.: 4610
3927 East 14th Street, Oakland
Our File No.: 1023-0031

Dear Mr. Chan:

Attached is a copy of our November 7, 1994 letter discussing the Federal district court litigation against other potentially responsible parties at the referenced site. This confirms that the prior owners, the Robertsons and the Jordans, are believed to be principally liable for any contamination emanating from the UST on the referenced site. Their addresses for contact by your agency or the Water Board are listed on the attached prior correspondence.

The theory and facts on which these defendants are believed liable is that Mr. Hausauer purchased the property from them in 1979 and at no time has he ever used the UST for waste disposal or for any other purpose. He only discovered its existence in 1990. Thus as prior owners, the Robertsons and the Jordans should be held liable for their role in causing any contamination emanating from the UST.

////

////

Barney Chan
February 22, 1995

Page 2

Please contact the undersigned with any further questions,

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN



ARTHUR E. FISHER

AEF:rj
cc: client

November 7, 1994

Barney Chan
Alameda County Health
Services Agency
Dept. of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

Re: Hausauer v. Robertson
UST ID No.: 4610
3927 East 14th Street, Oakland
Our File No.: 1023-0031

Dear Mr. Chan:

This letter follows discussions between myself and John Cummings, the consultant hired by Mr. Hausauer to conduct site investigation and characterization at the referenced location. Mr. Cummings informed you of our position that the prior owners of the site, the Jordans and Robertsons, are also potentially responsible parties with reference to any alleged contamination. Civil litigation is currently on file in the United States District Court for the Northern District of California as well as the Alameda County Superior Court, seeking to hold these PRPs liable for damages relative to the alleged contamination and for the county's enforcement action.

We hereby notify you of these circumstances and urge you to contact them, through their attorney, James D. Mayol, Post Office Box 3049, Modesto, California 95353, telephone number (209) 544-9555.

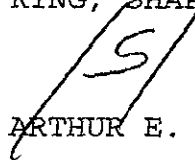
Barney Chan
November 7, 1994

Page 2

Please contact the undersigned with any questions concerning this matter.

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN



ARTHUR E. FISHER

AEF:rj

cc: John Cummings

November 7, 1994

Barney Chan
Alameda County Health
Services Agency
Dept. of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

Re: Hausauer v. Robertson
UST ID No.: 4610
3927 East 14th Street, Oakland
Our File No.: 1023-0031

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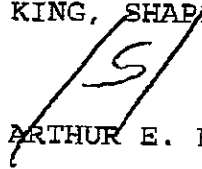
Barney Chan
November 7, 1994

Page 2

Please contact the undersigned with any questions concerning this matter.

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN


ARTHUR E. FISHER

AEF:rj
cc: John Cummings

COPY

COLLINS
SCHLOTHAUER
ATTORNEYS AT LAW

February 9, 1995

SENT VIA TELEFAX

Juliet Blake
c/o Department of Environmental Health
1131 Harborbay Parkway
Alameda, CA 94502

Re: StID#4610
Site Address: 3927 E. 14th Street, Oakland, CA

Dear Ms. Blake:

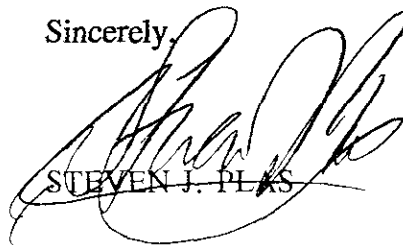
This office has been requested by National American Insurance Company to review File StID#4610, 3927 E. 14th Street, Oakland, California, 94601 -- in the presence of an environmental inspector.

We acknowledge the cost for the availability of the inspector is \$90.00 per hour; and your agency charges \$.10 per copy of the file. We estimate inspection of the file will consume one hour and we will likely request your agency to copy the entire file.

Therefore, please confirm your receipt of this request; advise the dates between February 13-15, 1995 that the file and inspector is available; and also advise of your specific payment procedures.

Thank you for your attention.

Sincerely,



STEVEN J. PLAS

SJP/tjc

Mark Scott Collins, Inc.

Steven J. Plas

David N. Poll

Linda L. Davenport

Michael P. Dunn

Jovita D. Prestoza

OF COUNSEL

Thomas L. Schlothauer

Todd E. Macaluso

King, Shapiro, Mittelman & Buchman

Attorneys At Law

Robert W. Shapiro, P.C.
Mark R. Mittelman, P.C.
Robert A. Buchman, P.C.
David S. Stromberg
Joan D.B. Edelson

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Jonathan E. Bates
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L. Leianne Joe
Debra E. Keller
Robin M. Pearson
Leanne Schlegel
Peter M. Sproul
David S. Wallace

Of Counsel
Donald S. Honigman
Donald Tenconi

1331 North California Boulevard, Sixth Floor
Walnut Creek, California 94596
Telephone (510) 935-7755 Facsimile (510) 935-1553

November 7, 1994

ALCO
HAZMAT

94 NOV 15 AM 7:51

Oakland Office
1999 Harrison Street
Suite 1600
Oakland, CA 94612

San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

Please Reply To
WALNUT CREEK

Retired from the Firm
George King

Barney Chan
Alameda County Health
Services Agency
Dept. of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

Re: Hausauer v. Robertson
UST ID No.: 4610
3927 East 14th Street, Oakland
Our File No.: 1023-0031

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We hereby notify you of these circumstances and urge you to contact them, through their attorney, James D. Mayol, Post Office Box 3049, Modesto, California 95353, telephone number (209) 544-9555.

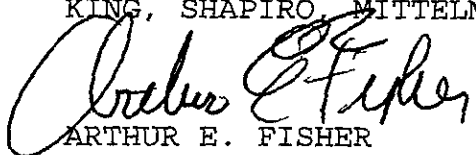
Barney Chan
November 7, 1994

Page 2

Please contact the undersigned with any questions concerning this matter.

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN



ARTHUR E. FISHER

AEF:rj

cc: John Cummings

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 T STREET, SUITE 130
P.O. BOX 944212
SACRAMENTO, CA 94244-2120

(916) 227-4325
FACSIMILE (916) 227-4349



RECEIVED
HAZMAT
94 NOV -8 7:17:41

NOV 03 1994

Arthur E. Fisher
King, Shapiro, Mittelman & Buchman
Attorneys at Law
1331 North California Boulevard
Sixth Floor
Walnut Creek, CA 94596

Dear Mr. Fisher:

UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT PROGRAM, SITE NO.
4610, 3927 EAST 14TH STREET, OAKLAND, ALAMEDA COUNTY

This is in response to your letter dated October 20, 1994 submitted on behalf of your client Ruben Hausauer. You have asked us to direct future correspondence to Mr. Hausauer in care of your office. In order for us to accommodate your request, Mr. Hausauer needs to send us a letter instructing us to send all correspondence/invoices to you. By copy of this letter, Mr. Hausauer is so informed.

Your letter indicates that your client is not responsible for the oversight costs pursuant to Section 25360.2 of the Health and Safety Code. This section deals with sites where oversight costs were funded with Hazardous Substance Bond Account and Hazardous Substance Cleanup Fund money. Oversight costs for the subject site were funded with Federal Petroleum Trust Fund money. Article 11, Chapter 16, Title 23, California Code of Regulations, defines a responsible party as:

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

Definition number 3 would apply to Mr. Hausauer.

Mr. Arthur E. Fisher

-2-

Your letter also indicates that adjoining landowners are responsible for the contamination at the subject site. According to Barney Chan of the County, there is no conclusive evidence that this is the case. Property adjacent to your site is also in the Local Oversight Program and is undergoing an investigation to determine the extent of contamination.

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

Sincerely,



Lori Casias
Local Oversight Program

cc: Ruben Hausauer
 Barney Chan

King, Shapiro, Mittelman & Buchman

Attorneys At Law

Robert W. Shapiro, P.C.
Mark R. Mittelman, P.C.
Robert A. Buchman, P.C.
David S. Stromberg
Joan D.B. Edelson

Christopher R. Aker
Ann Marie De Die
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Leanne Schlegel
Peter M. Sproul
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Of Counsel
Donald S. Honigman
Donald Tenconi

1331 North California Boulevard, Sixth Floor
Walnut Creek, California 94596
Telephone (510) 935-7755 Facsimile (510) 935-1553

ALCO
HAZMAT

94 MAY 11 AM 11:47

Oakland Office
1999 Harrison Street
Suite 1600
Oakland, CA 94612

San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

Please Reply To
WALNUT CREEK

May 10, 1994

4610

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

Re: Hausauer v. Robertson
Our File No.: 1023-0031

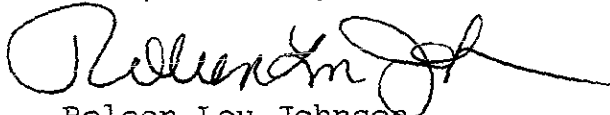
Dear Mr. Chan:

For your information please find enclosed a copy of our complaint in the above-referenced matter filed on April 18, 1994. Please retain this copy for your review and future reference.

If you have any questions concerning the enclosed, please call Arthur Fisher or Robert Shapiro at your convenience.

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN



Roleen Lou Johnson
Secretary to Arthur E. Fisher

RLJ
Enclosure

1 ARTHUR E. FISHER, ESQ. SBN 91650
2 KING, SHAPIRO, MITTELMAN & BUCHMAN
3 1331 N. California Blvd., Sixth Floor
4 Walnut Creek, CA 94596
5 Telephone: (510) 935-7755
6 Facsimile: (510) 935-1553

7 Attorneys for Plaintiffs
8 RUBEN HAUSAUER, CATHERINE
9 HAUSAUER, and RUBE & DAN'S
10 BODY SHOP, INC.

ALCO
HAZMAT

96 MAY 11 AM 11:47

ORIGINAL
FILED

APR 18 1994

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 IN THE UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 **C94 1318 VRW**
14 No.

15 RUBEN HAUSAUER, CATHERINE
16 HAUSAUER, and RUBE & DAN'S
17 BODY SHOP, INC.,

18 Plaintiffs,

19 vs.

20 JACK D. ROBERTSON, LOIS
21 ROBERTSON, E. MARVIN JORDAN,
22 THELMA JORDAN, WILLIAM OWENS,
23 OWENS MOTOR PARTNERS, MOTOR
24 PARTNERS, INC.,

25 Defendants.

26 COMPLAINT FOR INTENTIONAL
27 MISREPRESENTATION; NEGLIGENT
28 MISREPRESENTATION; DECLARATORY
RELIEF; DAMAGE TO PROPERTY;
TRESPASS; NUISANCE; CERCLA [42
U.S.C. §9613] CONTRIBUTION AND
DECLARATORY RELIEF; RCRA [42
U.S.C. §6973] DECLARATORY
RELIEF, COSTS AND ATTORNEYS'
FEES
DEMAND FOR JURY TRIAL

29 Plaintiffs allege:

30 GENERAL ALLEGATIONS

31 1. Plaintiffs are the legal owners of certain real proper-
32 ty located at 3927 East 14th Street, Oakland, Alameda County,
33 California ("the Property"), pursuant to a Real Estate Purchase
34 Contract and Receipt for Deposit ("REPC") dated April 7, 1980, a
35 true copy of which is attached hereto as Exhibit "A" and incorpo-
36 rated herein by reference.
37
38

39 COMPLAINT

1 2. Defendants JACK D. ROBERTSON, LOIS ROBERTSON, E. MARVIN
2 JORDAN, and THELMA JORDAN, all individuals, (the "ROBERTSONS")
3 were owners of the Property prior to Plaintiffs' possession and
4 were "owners" of the Property as that term is defined in Califor-
5 nia Health & Safety Code §25281(g) and 42 U.S.C. §9607(a)(2).

6 3. Defendants William Owens, Owens Motor Partners and
7 Motor Partners, Inc. ("Owens") are interrelated individuals and
8 business entities of unknown form or composition, with ownership
9 or possessory interest in premises adjacent to the Property. The
10 Owens' parcel adjacent to the Property is and was, at all times
11 relevant hereto, owned and/or operated by Owens in such a manner
12 to cause or contribute to alleged pollution and/or contamination
13 on the Property.

14 4. Plaintiffs are ignorant of the true names and capaci-
15 ties of the Defendants sued herein as DOES 1 through 10, inclu-
16 sive, and therefore sue these Defendants by such fictitious
17 names. Plaintiffs will amend this complaint to allege their true
18 names and appropriate capacities when ascertained. Plaintiffs
19 are informed and believe that each of the fictitiously-named
20 Defendants is responsible in some manner as a predecessor or
21 prior "owner, operator or transporter" as those terms are used
22 and defined in current statutory and decisional authority with
23 respect to the Property, relative to the occurrences herein
24 alleged, and that Plaintiffs' damages as herein alleged were
25 proximately caused by their conduct.

26 5. Plaintiffs are informed and believe that at all times
27 herein mentioned, each of the Defendants, whether individual,
28 corporate, partnership, joint venture, association or otherwise,

1 was the agent/employee/partner/joint venturer of each of the
2 remaining Defendants, and in doing the things herein alleged was
3 acting within the course and scope of such agency, employment,
4 partnership and/or joint venture and under the direction of, and
5 with the consent and permission, advance knowledge, and/or subse-
6 quent ratification of the other Defendants.

7 6. Each of the causes of action contained in this com-
8 plaint are to be read and construed as applying to each of the
9 fictitiously-named Defendants, unless otherwise specified.

10 7. On or about April 7, 1980, Plaintiffs acquired title to
11 the Property from the Robertsons in consideration for payment of
12 the purchase price of \$180,000.00, partially secured by a Deed of
13 Trust, as is more fully set forth on Exhibit "A" hereto. Plain-
14 tiffs have discharged all concurrent and subsequent obligations
15 attendant on the real estate conveyance reflected by Exhibit "A."

16 8. Defendants and the appropriate governmental agencies
17 are on actual as well as constructive notice, as required by
18 various environmental statutes, of plaintiffs' intent to file and
19 proceed with this litigation.

20 9. There exists, and at all times herein mentioned there
21 existed, a unity of interest and ownership between Defendants,
22 such that any individuality and separateness between such parties
23 has ceased, and each is the alter ego of the other, in that
24 Plaintiffs are informed and believe that Defendants have com-
25 pletely controlled, dominated, managed, and operated each other
26 and intermingled their assets, liabilities, and obligations as
27 pertains to ownership and sale of the land in question.

28 ////

1 that at all times relevant hereto Defendants, the Robertsons,
2 intentionally concealed from Plaintiffs, despite actual knowledge
3 and an affirmative duty to render full factual disclosure, the
4 previous and continuing existence of an underground waste oil
5 storage tank ("UST") on the Property.

6 14. Plaintiffs are informed and believe that the UST and
7 surrounding soil and groundwater contain petroleum products as
8 well as other hazardous wastes and hazardous substances spilled,
9 disposed of, discharged or which migrated or were placed there by
10 Defendants, which contaminants pose and constitute actual and
11 threatened releases into the environment and contamination; that
12 remediation, removal and investigation measures to excavate the
13 UST and decontaminate surrounding soil and/or groundwater contam-
14 inated by the spill, discharge, release or migration of petroleum
15 and other hazardous wastes and hazardous substances will be
16 necessary and mandated by various local, State, and Federal
17 regulations and agencies, at a cost not yet determined.

18 15. At the time the representations by Defendants were made
19 or the affirmative acts of concealment occurred, Plaintiffs were
20 unaware of the true facts, or of the USTs existence or soil and
21 groundwater characteristics, and could not have discovered them
22 in the exercise of reasonable diligence.

23 16. Plaintiffs are informed and believe that the conceal-
24 ment and suppression of facts relative to the UST's presence on
25 the Property and failure to disclose other related information by
26 Defendants, were intended to induce Plaintiffs to purchase the
27 Property for the price set forth in the REPC (Exhibit "A") and
28 were further intended to transfer the responsibility for investi-

1 gation, response, removal and remediation costs associated with
2 the cleanup of environmental contamination resulting from dis-
3 charges from the UST from said Defendants to Plaintiffs.

4 17. Plaintiffs reasonably relied on the representations by
5 the Sellers and on the ignorance brought about by the aforesaid
6 concealments and nondisclosures, in that absent any visible mani-
7 festation of the existence of the UST or the potential environ-
8 mental contamination resulting therefrom, Plaintiffs would not
9 have had reason to perform any investigation so as to ascertain
10 the true facts relating to its existence and nature.

11 18. In or around 1990, Plaintiffs first discovered the
12 existence of, and subsequently beginning in or around 1993, began
13 to gain information concerning the characteristics and potential
14 for releases from the UST. Thereafter, in mid to late 1993
15 information began to surface giving rise to belief that, contami-
16 nation and pollution had off site sources and was occurring via
17 migration from, inter alia upgradient property owned by Owens.

18 19. As a proximate result of entering into the REPC with
19 Defendants and assuming ownership of the Property, Plaintiffs
20 have incurred and will incur substantial economic damages,
21 including without limitation costs, expenses and damages associ-
22 ated with compliance with federal, state and county regulations;
23 remediation and/or removal of any environmental contamination
24 associated with contamination; diminution in value of the Proper-
25 ty; and interference with quiet enjoyment and/or constructive
26 eviction from the Property during investigation, removal and
27 remediation. Plaintiffs have sustained and will sustain further
28 and future losses of income as a consequence of the material

1 nondisclosures by Defendants according to proof.

2 20. In concealing the true facts as herein alleged, and in
3 engaging in the material nondisclosure described herein, Defen-
4 dants intended to and did deprive Plaintiffs of their money,
5 property and legal rights, and acted maliciously in preventing
6 Plaintiffs and other third parties from discovering the existence
7 of a potential for environmental contamination and from address-
8 ing the threatened releases, actual releases and/or contamination
9 so as to minimize or mitigate the resulting environmental damage.
10 Said Defendants' actions in this regard constitute despicable
11 conduct with a willful and conscious disregard of the rights or
12 safety of others, thereby justifying an award of punitive damag-
13 es.

14 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
15 forth.

16

17

**SECOND CAUSE OF ACTION
(Negligent Misrepresentation)
[Against Defendants Robertson]**

18

19 21. Plaintiffs reallege and incorporate herein by reference
20 the allegations contained in paragraphs 1-20, above.

21

22 22. Defendants knew, or in the exercise of reasonable
23 diligence should have known of the presence of the UST and of its
24 hazardous contents and its potential for actual or threatened
25 releases into the environment. Defendants were under an affirma-
26 tive duty to learn of and disclose these facts to Plaintiffs
27 prior to sale of the Property, and their failure to do so consti-
28 tutes a negligent concealment of facts material to the transac-
tion.

1 23. Defendants, at the time they made representations to
2 and engaged in concealment from Plaintiffs as to the presence of
3 the UST and as to the consequent character and suitability of the
4 Property for use and sale, represented facts and conditions which
5 they could not accurately, completely or truthfully represent,
6 affecting and bearing on the value, character and suitability of
7 the Property for use and sale; they did so regardless of such
8 inability, to Plaintiffs' detriment.

9 24. Defendants made such representations with no reasonable
10 grounds for believing them to be true and Plaintiffs are informed
11 and believe and thereon allege that Defendants did not have
12 accurate information, nor any information, concerning the
13 presence or capacity of the UST or concerning environmental
14 releases or off site migration of hazardous substances on to the
15 property and could not accurately make the representations made.

16 25. The representations made at the time of sale by Defen-
17 dants were made by Defendants with the intent to induce Plain-
18 tiffs to act in the manner herein alleged and with the intent
19 specifically to induce Plaintiffs to rely on the completeness and
20 accuracy of representations made by them.

21 26. In reliance on the representations made by Defendants
22 as aforesaid, Plaintiffs executed the REPC and acquired title to
23 the Property, effecting payment as required.

24 27. Failing the negligent misrepresentations made by
25 Defendants as aforesaid, Plaintiffs would not have purchased the
26 Property and would not have incurred the expenses, liabilities
27 and losses herein alleged.

28 28. As a proximate result of said Defendants' negligent

1 concealment of material facts herein alleged, Plaintiffs have
2 been damaged in a sum according to proof, including without
3 limitation costs associated with compliance with federal, state
4 and county environmental regulations, removal, investigation
5 and/or remediation of any environmental contamination, diminution
6 in value and loss of income resulting from interference with use
7 of and/or constructive eviction from the Property.

8 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
9 forth.

10 **THIRD CAUSE OF ACTION**
11 **(Declaratory Relief)**

12 29. Plaintiffs re-allege and incorporate herein by refer-
13 ence as though set forth in full each and every allegation
14 contained in Paragraphs 1 through 28, above.

15 30. An actual controversy has arisen and now exists between
16 Plaintiffs and Defendants in that Plaintiffs contend that Defen-
17 dants, as prior owners of the Property or contributors to
18 contamination thereon, and each of them, are responsible parties
19 jointly, severally and strictly liable for the costs and expendi-
20 tures of the clean-up, removal, investigation and/or remediation
21 of soil and groundwater contamination resulting from the unautho-
22 rized spills, releases and/or migration of petroleum hydrocarbons
23 and other hazardous wastes on the Property.

24 31. Plaintiffs are informed and believe that Defendants,
25 and each of them, will deny responsibility for the costs and
26 expenditures incurred and to be incurred by the Plaintiffs
27 associated with soil and groundwater contamination clean-up,
28 removal, investigation and/or remediation.

1 Plaintiffs will be required to remove, investigate and/or
2 remediate.

3 36. As a proximate result of the acts of Defendants, and
4 each of them, Plaintiffs have incurred and will continue to incur
5 property damage and other damages, including, but not limited to,
6 the costs associated with the clean-up, removal, investigation
7 and/or remediation of soil and groundwater contamination at the
8 Property, as well as a diminution in value of the property as a
9 result of the contamination, in a sum according to proof.

10 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
11 forth.

12
13 **FIFTH CAUSE OF ACTION**
14 **(Trespass)**

15 37. Plaintiffs reallege and incorporate by reference as
16 though set forth in full each and every allegation contained in
17 Paragraphs 1 through 36, above.

18 38. In participating in the acts described above, Defen-
19 dants negligently caused or allowed unauthorized spills, releases
20 or migration of hazardous materials and contaminants to impact
21 the soil and groundwater at the Property. Defendants' said
22 conduct constitutes a trespass upon Plaintiffs' Property.

23 39. As a proximate result of this trespass Plaintiffs will
24 be required by state, local and/or federal agencies to undertake
25 clean-up, removal, investigation and/or remediation activities as
26 required to restore the property to its prior condition before
27 the unauthorized releases. Plaintiffs have been or will be
28 forced to incur ongoing clean-up, investigative, removal and

1 remediation costs and other expenditures. Said costs and expen-
2 ditures are continuing and prospective and entitle Plaintiffs to
3 damages for trespass in an amount according to proof.

4 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
5 forth.

6
7 **SIXTH CAUSE OF ACTION**
8 **(Nuisance)**

9 40. Plaintiffs re-allege and incorporate by reference as
10 though set forth in full each and every allegation contained in
11 Paragraphs 1 through 39, above.

12 41. In participating in the acts described above, each of
13 the Defendants intentionally or negligently created a private
14 nuisance on the Property. Plaintiffs have and will be required
15 to incur costs for abating the nuisance, which costs are continu-
16 ing. As a proximate result of this nuisance, Plaintiffs have
17 been damaged in an amount to be determined and will incur further
18 costs and expenditures entitling Plaintiffs to damages for
19 nuisance.

20 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
21 forth.

22
23 **SEVENTH CAUSE OF ACTION**
24 **(Declaratory Relief, Strict Liability,**
25 **Damage to Property, Trespass, Nuisance,**
26 **CERCLA [42 U.S.C. §9613])**

27 42. Plaintiffs re-allege and incorporate by reference as
28 though set forth in full each and every allegation contained in
Paragraphs 1 through 41, above.

43. By reason of the facts hereinabove alleged and incor-

1 porated relative to Plaintiffs' existing and future obligation to
2 effect removal, investigation, clean up and remediation of the
3 Property, and by reason of Defendants' status as former "owners"
4 as defined in 42 U.S.C §9607 and other relevant statutes, or as
5 adjacent landowners Defendants are obligated strictly, jointly
6 and severally for contribution to such removal, investigation,
7 clean-up, remediation and response costs.

8 44. Under the authority cited above and under 42 United
9 States Code §9613 Plaintiffs are entitled to contribution from
10 Defendants, and each of them, to all costs relative to removal,
11 investigation, clean up and remediation of the Property.

12 45. Plaintiffs are further entitled to declaratory judgment
13 under 42 United States Code §9613(f)(1) that Defendants, and each
14 of them, are strictly liable for contribution to all future
15 removal, investigation and remediation activity at the Property.

16 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
17 forth.

18
19 **EIGHTH CAUSE OF ACTION**
20 **(RCRA [42 U.S.C. §6973] Declaratory Relief**
And Attorney Fees)

21 46. Plaintiffs re-allege and incorporate by reference as
22 though set forth in full each and every allegation contained in
23 Paragraphs 1 through 45, above.

24 47. By reason of the facts hereinabove alleged and incorpo-
25 rated and under the authority set forth in 42 U.S.C. §6972 et
26 seq., Plaintiffs are entitled to a declaratory judgment that
27 Defendants, and each of them, shall be required to contribute,
28 jointly and severally, to any present or future costs incurred in

COMPLAINT

1 clean up, removal, investigation and remediation of the Property.

2 48. Plaintiffs further seek a declaration by the Court that
3 Defendants shall be required to pay Plaintiffs' litigation costs,
4 including those for attorneys' fees and expert witnesses under
5 the authority set forth in 42 United States Code §6972(e).

6 WHEREFORE, Plaintiffs request a trial by jury and pray for
7 judgment against Defendants, and each of them, as follows:

8 1. For actual, compensatory and consequential damages
9 according to proof;

10 2. For contribution, indemnification and/or reimbursement
11 of damages, costs and expenses incurred for all testing,
12 investigation, disposal, removal and/or remediation in connection
13 with contamination to the soil and groundwater on the Property;

14 3. For declaration that Defendants, and each of them are
15 liable presently and prospectively for the costs of clean-up,
16 removal, investigation and remediation of soil and groundwater
17 contamination on the Property;

18 4. For punitive damages for fraud;


19 5. For costs of suit incurred herein;

20 6. For attorneys' fees and other costs;

21 7. For interest on said sum; and

22 8. For such other and further relief as the court may deem
23 just and proper.

24 Dated: April 18, 1994 KING, SHAPIRO, MITTELMAN & BUCHMAN

25 
ARTHUR E. FISHER

26 Attorneys for Plaintiffs

27 RUBEN HAUSAUER, CATHERINE HAUSAUER,
and RUBE & DAN'S BODY SHOP, INC.

Received from Oakland, California, April 7, 1980
 the sum of Two Thousand Dollars (\$ 2,000.00)
 evidenced by cash personal check cashier's check or _____
 purchase price of One hundred and eighty thousand Dollars (\$ 180,000.00)
 for the purchase of property, situated in the City of Oakland, County of Alameda
 California, described as follows: 3927 East 14th. Street with improvements thereon
 in an "AS IS" condition

1. Buyer will deposit in escrow with Transamerica Title Co. the balance of purchase price as follows:
\$25,000.00 cash down including the above deposit
The balance of \$155,000.00 to be carried by the sellers in the form
of a first note and deed of trust payable at the rate of \$2048.44
per month including interest at the rate of 10%. No additional
payments to be made during the first five years. After the first
five years, additional payments may be made at any time by the
purchasers to be applied to the principle.
City transfer tax to be split between sellers and purchasers.

Set forth above any terms and conditions of a factual nature applicable to this sale, such as financing, prior sale of other property, the matter of structural pest control inspection, repairs and personal property to be included in the sale.

2. Title is to be free of liens, encumbrances, easements, restrictions, rights and conditions of record or known to Seller, other than the following: None

Seller shall furnish to Buyer at Buyers expense a standard California Land Title Association policy issued by Transamerica Title Co. Company, showing title vested in Buyer subject only to liens, encumbrances, restrictions, rights and conditions of record as set forth above. If Seller fails to deliver title as herein provided, Buyer at his option may terminate this agreement and any deposit shall thereupon be returned to him.

3. Property taxes, premiums on insurance acceptable to Buyer, rents, interest, and _____
 [insert in blank any other items of income or expense to be prorated] shall be prorated as of (1) the date of recordation of deed or (2) _____
 [Strike (1) if (2) is used]. The amount of any bond or assessment which is a lien shall be paid [Strike one] by Sellers

4. Possession shall be delivered to Buyer [Strike inapplicable alternatives] (a) on close of escrow, or (b) not later than _____ days after closing escrow, or (c) _____

5. Escrow instructions signed by Buyer and Seller shall be delivered to the escrow holder within _____ days from the Seller's acceptance hereof and shall provide for closing within _____ days from the Seller's acceptance hereof, subject to written extensions signed by Buyer and Seller.

6. Unless otherwise designated in the escrow instructions of Buyer, title shall vest as follows: Ruben Hausauer and Catherine G. Hausauer, his wife as Joint Tenants

[The manner of taking title may have significant legal and tax consequences. Therefore, give this matter serious consideration.]

7. If the improvements on the property are destroyed or materially damaged prior to close of escrow, then, on demand by Buyer, any deposit made by Buyer shall be returned to him and this contract thereupon shall terminate.

8. If Buyer fails to complete said purchase as herein provided by reason of any default of Buyer, Seller shall be released from his obligation to sell the property to Buyer and may proceed against Buyer upon any claim or remedy which he may have in law or equity, provided, however, that by placing their initials here Buyer: () Seller: ()
 Buyer and Seller agree that it would be impractical or extremely difficult to fix actual damages in case of Buyer's default, that the amount of the deposit is a reasonable estimate of the damages, and that Seller shall retain the deposit as his sole right to damages.

9. Buyer's signature hereon constitutes an offer to Seller to purchase the real estate described above. Unless acceptance hereof is signed by Seller and the signed copy delivered to Buyer, either in person or by mail to the address shown below, within _____ days hereof, this offer shall be deemed revoked and the deposit shall be returned to Buyer.

10. Time is of the essence of this contract.

Real Estate Broker _____ By _____
 Address _____ Telephone _____

The undersigned Buyer offers and agrees to buy the above described property on the terms and conditions above stated and acknowledges receipt of a copy hereof.

Address 2672 Warwick Place, Hayward Buyer _____
 Telephone 94542 Buyer _____

ACCEPTANCE

The undersigned Seller accepts the foregoing offer and agrees to sell the property described thereon on the terms and conditions therein set forth. The undersigned Seller has employed _____ as Broker(s) and for the Broker(s) services agrees to pay _____ Dollars (\$ _____) payable as follows: (a) On recordation of the deed or other evidence of title, or (b) if completion of sale is prevented by default of Seller upon Seller's default, or (c) if completion of sale is prevented by default of Buyer, only if and when Seller collects the damages from Buyer, by suit or otherwise, and then in an amount not to exceed one half that portion of the damages collected after first deducting title and escrow expenses and the expenses of collection, if any.

The undersigned acknowledges receipt of a copy hereof and authorizes Broker(s) to deliver a signed copy of it to Buyer.
 Dated _____ Address _____
 Telephone _____ Seller [Signature]

Broker(s) consent to the foregoing. Broker _____
 Dated _____ By _____ Dated _____ By _____

EXHIBIT A

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

April 27, 1994
StID # 4610

Mr. Reuben Hausauer
2672 Warwick Place
Hayward CA 94542

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

**Re: Comment on April 8, 1994 Report on Monitoring Well
Installation at 3927 E. 14th St., Oakland CA 94601**

Dear Mr. Hausauer:

Our office has received and reviewed the above referenced report detailing the installation of a boring and a monitoring well at the above site. The additional boring in the sidewalk direction was not able to be installed due to blockage of this area.

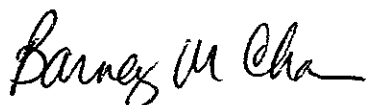
It appears that significant gasoline contamination exists beneath and within the immediate proximity of your site. Soil and groundwater contamination was found in borings and in monitoring well MW-1. Typically, upon review of analytical data of with these concentrations, additional site assessment would be required. It is acknowledged, however, that the full extent of petroleum contamination from the former underground storage tanks at 1234 40th Ave. has not been determined and from observation, it appeared that there may have been a significant fuel release from that site which may have impacted yours. With this in mind, our office is willing to put on hold the request for a supplemental work plan assuming that the 1234 40th Ave. site will be characterized shortly. You should be aware that the work plan for 1234 40th Ave., Mr. Bill Owens site, has been approved by our office and we have requested its implementation by July 1994.

In any event, you should be aware that until further notice, you are required to monitor and sample your well on a quarterly basis and send a copy of this report to our office. You are also encouraged to work with Mr. Owens, to share information and share in the investigation of both sites. Please include any update on current developments in your quarterly monitoring report.

You may contact me at (510) 271-4530 if you have any questions.

Mr. R. Hausauer
StID # 4610
3927 E. 14th St.
April 27, 1994
Page 2.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

cc: J. P. Cummings & Associates, Mr. J. Cummings, P.O. Box 2847,
Fremont, CA 94536-2847
Mr. Art Fisher, King, Shapiro, Mittelman & Buchman, Attorneys
At Law, Lake Merritt Plaza, Suite 1600, 1999
Harrison St., Oakland CA 94612
Mr. Bill Owens, 2221 Olympic Blvd., Walnut Creek, CA 94595
E. Howell, files

3-3927E14

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1331 North California Boulevard, Sixth Floor
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Oakland Office
1999 Harrison Street
Suite 1600
Oakland, CA 94612

San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

Please Reply To
WALNUT CREEK

February 24, 1994

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

Re: Hausauer v. Robertson
Our File No.: 1023-0031

Dear Mr. Chan:

Pursuant to our meeting of January 12, 1994, this letter shall confirm that as a result of this meeting, and other information you have received regarding adjacent landowners (i.e., the Owens sites) you will not require three wells as set forth in your letter dated January 7, 1994.

Our consultant, John Cummings, has prepared a proposal to do the work that was identified in our meeting of January 12, 1994. You have agreed that one well and two additional borings will be required at this time. We also agreed to further identify the effect of the Owens site on our client's site. I believe that Mr. Cummings has been in touch with you regarding obtaining copies of various files that we discussed (the two Owens files, the Shell file, and the Unocal file).

Thank you for your continued cooperation.

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN

Robert W. Shapiro
RWS:ltn
cc: Client
Mr. John Cummings
Mr. John Mayol

1/12/94

New Genco Meeting

Name

Assoc

Ph #

Robert Job

LONDON EARTH TECHNOLOGIES, INC.

(209) 532-0361

Jim Mayol

MAYOL & BARRINGER

(209) 544-9555

ATTY FOR JORDANS & ROBERTSONS

P.O. Box 3049 Modesto 95353

Robert Shapiro

WING-SHAPIRO MUELMAN + BUCHMAN (510) 935-775

Atty for Hausauer

1331 No. Cal Blvd

WC., CA 94586

JOHN CUMMINGS

Engineer

505-0722

Rube Hausauer

Owner

638-7501

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

January 7, 1993
StID # 4610

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Mr. Ruben Hausauer
2672 Warwick Place
Hayward CA 94542

**Re: Comment on November 15, 1993 Proposal for Monitoring Well
Installation at 3927 E. 14th St., Oakland CA 94601**

Dear Mr. Hausauer:

Our office has received and reviewed the above referenced work plan for the installation of one monitoring well at the above site. Recall, this work plan responds to my previous request for further subsurface investigation due to the evidence of a petroleum hydrocarbon release from the underground tank at this site. Please be aware that the installation of one monitoring well should be considered only the first step of your investigation. It does not constitute a **complete** characterization of this site for **all potential soil and groundwater** contamination. In fact, the previous borings identified elevated levels of gasoline and oil and grease. Generally, our office encourages soil and groundwater contaminant delineation to non-detectable or low concentrations. To this end, additional borings will be required around the tank. In addition, you are reminded that unless you provide gradient information which verifies the groundwater gradient at this site, a minimum of three monitoring wells will be required. Please provide your supporting data which verifies this site's assumed gradient.

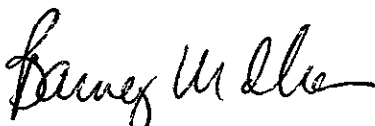
Our office recognizes that you may want to perform a phased approach to your investigation, therefore, as long as you recognize that the above additional work is required, you may proceed with the installation of the lone well with the following conditions:

1. Please run Total Oil and Grease via the GC FID method, (TPH as motor oil). You should also perform a soluble metals analysis via the WET method for all total metals samples which exceed ten times their STLC (Soluble Threshold Limit Concentration).
2. Please provide a time schedule stating when a work plan addendum will be submitted for the additional work mentioned above.
3. Please notify our office at least 48 working hours prior to performing your field activities so I may witness these activities if possible.

Mr. R. Hausauer
StID # 4610
January 7, 1993
Page 2.

You may contact me at (510) 271-4530 if you have any questions.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

cc: J. P. Cummings & Associates, Mr. J. Cummings, P.O. Box 2847,
Fremont, CA 94536-2847
King, Shapiro, Mittelman & Buchman, Attorneys At Law, Mr.
Arthur Fisher, Lake Merritt Plaza, Suite 1600, 1999
Harrison St., Oakland CA 94612
E. Howell, files

2wp3927

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Oakland Office
1999 Harrison Street
Suite 1600
Oakland, CA 94612

San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

Please Reply To
WALNUT CREEK

January 4, 1994

John P. Cummings
John P. Cummings & Associates
Post Office Box 2847
Fremont, CA 94536-2847

James D. Mayol, Esq.
Mayol & Barringer
Post Office Box 3049
Modesto, CA 95353

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

Re: Hausauer v. Robertson
Our File No.: 1023-0031

Dear Gentlemen:

This letter is to confirm the meeting on January 12, 1994, at 1:00 p.m. to be held at the Alameda County Health Care Services Agency, located at 80 Sway Way, Room 200 in Oakland.

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

Very truly yours,

KING, SHAPIRO, MITTELMAN & BUCHMAN

Roleen Lou Johnson
Secretary to Arthur E. Fisher

RLJ

ALCO
HAZMAT
54 JAN -5 P.11 2:29

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

December 9, 1993
StID # 4610

Mr. Ruben Hausauer
6017 14th St.
Oakland CA 94601

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

**Re: Comment on November 15, 1993 Proposal for Monitoring Well
Installation at 3927 E. 14th St., Oakland CA 94601**

Dear Mr. Hausauer:

Our office has received and reviewed the above referenced work plan for the installation of one monitoring well at the above site. Recall, this work plan responds to my previous request for further subsurface investigation due to the evidence of a petroleum hydrocarbon release from the underground tank at this site. Please be aware that the installation of one monitoring well should be considered only the first step of your investigation. It does not constitute a **complete** characterization of this site for **all potential soil and groundwater** contamination. In fact, the previous borings identified elevated levels of gasoline and oil and grease. Generally, our office encourages soil and groundwater contaminant delineation to non-detectable or low concentrations. To this end, additional borings will be required around the tank. In addition, you are reminded that unless you provide gradient information which verifies the groundwater gradient at this site, a minimum of three monitoring wells will be required. Please provide your supporting data which verifies this site's assumed gradient.

Our office recognizes that you may want to perform a phased approach to your investigation, therefore, as long as you recognize that the above additional work is required, you may proceed with the installation of the lone well with the following conditions:

1. Please run Total Oil and Grease via the GC FID method, (TPH as motor oil). You should also perform a soluble metals analysis via the WET method for all total metals samples which exceed ten times their STLC (Soluble Threshold Limit Concentration).
2. Please provide a time schedule stating when a work plan addendum will be submitted for the additional work mentioned above.
3. Please notify our office at least 48 working hours prior to performing your field activities so I may witness these activities if possible.

Mr. R. Hausauer
StID # 4610
December 9, 1993
Page 2.

You may contact me at (510) 271-4530 if you have any questions.

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

cc: J. P. Cummings & Associates, Mr. J. Cummings, P.O. Box 2847,
Fremont, CA 94536-2847
King, Shapiro, Mittelman & Buchman, Attorneys At Law, Mr.
Arthur Fisher, Lake Merritt Plaza, Suite 1600, 1999
Harrison St., Oakland CA 94612
E. Howell, files

2wp3927

King, Shapiro, Mittelman & Buchman
Attorneys At Law

Robert W. Shapiro, P.C.
Mark R. Mittelman, P.C.
Robert A. Buchman, P.C.
David S. Stromberg

Christopher R. Aker
Ann Marie De Die
Joan D.B. Edelson
Arthur E. Fisher
L. Leianne Joe
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Jeffrey S. Rosen
Peter M. Sproul
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Of Counsel
Donald S. Honigman

Resident Contra Costa Office

H
4610

Lake Merritt Plaza, Suite 1600
1999 Harrison Street, Oakland, CA 94612
Telephone (510) 273-8833 Facsimile (510) 273-8636

Contra Costa Office
3650 Mt. Diablo Blvd.
Suite 130
Lafayette, CA 94549
Telephone (510) 283-1563
Facsimile (510) 283-1595
San Francisco Office
1592 Union Street
Suite 167
San Francisco, CA 94123

November 10, 1993

Please Reply To
OAKLAND

Barney M. Chan
Hazardous Materials Specialist
Department of Environmental Health
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Programs
80 Swan Way, Room 200
Oakland, CA 94621

Re: 3927 East 14th Street, Oakland, CA; Our Client Ruben Hausauer
Our File No.: 1023-0031

Dear Mr. Chan:

Attached is the complaint in a pending federal district court lawsuit with respect to the subject property. The individuals and entities identified as defendants in the caption include all additional PRPs that we have thus far been able to identify. Certain of these parties are represented by James Mayol, an attorney in Modesto. His phone number is (209) 544-9555.

We acknowledge receipt of the Request for Workplan set forth in your November 2 correspondence. We are consulting with our engineers regarding an appropriate course of compliance. We will be in touch in the near future to begin work on resolving the matter.

Yours truly,

KING, SHAPIRO, MITTELMAN & BUCHMAN

Handwritten signature of Arthur E. Fisher

ARTHUR E. FISHER

AEF:rlj
Enclosure (complaint)

cc: client
Robert Shapiro
J. P. Cummings

ALCOO
HAZMAT
93 NOV 15 PM 12:26

1 ARTHUR E. FISHER, ESQ. SBN 91650
2 KING, SHAPIRO, MITTELMAN & BUCHMAN
3 Lake Merritt Plaza, Suite 1600
4 1999 Harrison Street
5 Oakland, California 94612
6 (510) 273-8833

7 Attorneys for Plaintiffs
8 REUBEN HAUSAUER, CATHERINE
9 HAUSAUER, and RUBE & DAN'S
10 BODY SHOP, INC.

ORIGINAL FILED
MAY 11 1987
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 IN THE UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

C93 2215 SBA

11 REUBEN HAUSAUER, CATHERINE)
12 HAUSAUER, and RUBE & DAN'S)
13 BODY SHOP, INC.,)
14 Plaintiffs,)
15 vs.)
16 JACK D. ROBERTSON, LOIS)
17 ROBERTSON, E. MARVIN JORDAN,)
18 THELMA JORDAN, RIMMER AND)
19 JORDAN PONTIAC, LEE ADAMS)
20 PONTIAC and DOES 1-10,)
21 inclusive,)
22 Defendants.)

No.)
COMPLAINT FOR INTENTIONAL)
MISREPRESENTATION; NEGLIGENT)
MISREPRESENTATION; DECLARATORY)
RELIEF; DAMAGE TO PROPERTY;)
TRESPASS; NUISANCE; CERCLA [42)
U.S.C. §9613] CONTRIBUTION AND)
DECLARATORY RELIEF; RCRA [42)
U.S.C. §6973] DECLARATORY)
RELIEF, COSTS AND ATTORNEYS')
FEES)
AND JURY DEMAND)

23 Plaintiffs allege:

GENERAL ALLEGATIONS

24 1. Plaintiffs are the legal owners of certain real proper-
25 ty located at 3927 East 14th Street, Oakland, Alameda County,
26 California ("the Property"), pursuant to a Real Estate Purchase
27 Contract and Receipt for Deposit "REPC" dated April 7, 1980, a
28 true copy of which is attached hereto as Exhibit "A" and incorpo-
rated herein by reference

COMPLAINT

1 2. Defendants JACK D. ROBERTSON, LOIS ROBERTSON, E. MARVIN
2 JORDAN, and THELMA JORDAN, all individuals, and Defendants RIMMER
3 AND JORDAN PONTIAC and LEE ADAMS PONTIAC, business entities of
4 unknown composition or form, (hereinafter "Sellers" or "Defen-
5 dants") were owners of the Property prior to Plaintiffs' posses-
6 sion and were "owners" of the Property as that term is defined in
7 California Health & Safety Code §25281(g) and 42 U.S.C.
8 §9607(a)(2).

9 3. Plaintiffs are ignorant of the true names and capaci-
10 ties of the Defendants sued herein as DOES 1 through 10, inclu-
11 sive, and therefore sue these Defendants by such fictitious
12 names. Plaintiffs will amend this complaint to allege their true
13 names and appropriate capacities when ascertained. Plaintiffs
14 are informed and believe that each of the fictitiously-named
15 Defendants is responsible in some manner as a predecessor or
16 prior "owner, operator or transporter" as those terms are used
17 and defined in current statutory and decisional authority with
18 respect to the Property, relative to the occurrences herein
19 alleged, and that Plaintiffs' damages as herein alleged were
20 proximately caused by their conduct.

21 4. Plaintiffs are informed and believe that at all times
22 herein mentioned, each of the Defendants, whether individual,
23 corporate, partnership, joint venture, association or otherwise,
24 was the agent/employee/partner, joint venturer of each of the
25 remaining Defendants, and in doing the things herein alleged was
26 acting within the course and scope of such agency, employment,
27 partnership and/or joint venture and under the direction of, and
28

1 with the consent and permission, advance knowledge, and/or subse-
2 quent ratification of the other Defendants.

3 5. Each of the causes of action contained in this com-
4 plaint are to be read and construed as applying to each of the
5 fictitiously-named Defendants, unless otherwise specified.

6 6. On or about April 7, 1980, Plaintiffs acquired title to
7 the Property from Defendants in consideration for payment of the
8 purchase price of \$180,000.00, partially secured by a Deed of
9 Trust, as is more fully set forth on Exhibit "A" hereto. Plain-
10 tiffs have discharged all concurrent and subsequent obligations
11 attendant on the real estate conveyance reflected by Exhibit "A."

12 7. There exists, and at all times herein mentioned there
13 existed, a unity of interest and ownership between Defendants,
14 such that any individuality and separateness between such parties
15 has ceased, and each is the alter ego of the other, in that
16 Plaintiffs are informed and believe that Defendants have com-
17 pletely controlled, dominated, managed, and operated each other
18 and intermingled their assets, liabilities, and obligations as
19 pertains to ownership and sale of the land in question.

20 JURISDICTIONAL ALLEGATIONS

21 8. Jurisdiction in this court is appropriate in that both
22 Plaintiffs and Defendants reside and do business within the
23 Northern District of California, the Property is situated within
24 the District, and relief is sought under Federal statutes [42
25 U.S.C. 59601 et seq. (RCRA) and 42 U.S.C. 9601 et seq.
26 (RCRA)], conferring jurisdiction as to matters arising thereunder
27 on the United States District Courts, exclusive of State Court
28

1 jurisdiction. This conforms to the "Federal Question" require-
2 ments articulated in 28 U.S.C. §1331.

3 9. Plaintiffs seek relief under 42 United States Code
4 §9613 et seq. governing the litigation of private actions for
5 environmental response and contribution CERCLA, and 42 United
6 States Code §6972 RCRA, governing declaratory and injunctive
7 relief for prospective environmental clean up, remediation and
8 response activities. Jurisdiction is appropriate in this court
9 over the remaining causes of action under the doctrine of supple-
10 mental jurisdiction set forth at 28 U.S.C. §1367(a) in that there
11 is a common nucleus of operative fact between these causes of
12 action and the federal question counts and that all causes of
13 action involve the same case and controversy.

14
15 **FIRST CAUSE OF ACTION**
16 **(Intentional Misrepresentation and**
Fraudulent Concealment)

17 10. Plaintiffs reallege and incorporate by reference the
18 allegations contained in paragraphs 1-7, inclusive, above.

19 11. Plaintiffs are informed and believe and thereon allege
20 that at all times relevant hereto Defendants intentionally
21 concealed from Plaintiffs, despite actual knowledge and an
22 affirmative duty to render full factual disclosure, the previous
23 and continuing existence of an underground waste oil storage tank
24 ("UST") on the Property.

25 12. Plaintiffs are informed and believe that the UST
26 contains petroleum products as well as other hazardous wastes and
27 hazardous substances disposed, discharged or placed there by
28 Defendants, which pose and constitute actual and threatened

COMPLAINT

1 releases into the environment; that remediation, removal and
2 investigation measures to excavate the UST and decontaminate
3 surrounding soil and/or groundwater contaminated by the discharge
4 of petroleum and other hazardous wastes and hazardous substances
5 will be necessary and mandated by various local, State, and
6 Federal regulations and agencies, at a cost not yet determined.

7 13. At the time the representations by Defendants were made
8 or the affirmative acts of concealment occurred, Plaintiffs were
9 unaware of the true facts, or of the USTs existence or character-
10 istics and could not have discovered them in the exercise of
11 reasonable diligence.

12 14. Plaintiffs are informed and believe that the conceal-
13 ment and suppression of facts relative to the UST's presence on
14 the Property and failure to disclose other related information by
15 Defendants, were intended to induce Plaintiffs to purchase the
16 Property for the price set forth in the REPC (Exhibit "A") and
17 were further intended to transfer the responsibility for investi-
18 gation, response, removal and remediation costs associated with
19 the cleanup of environmental contamination resulting from dis-
20 charges from the UST from said Defendants to Plaintiffs.

21 15. Plaintiffs reasonably relied on the representations by
22 the Sellers and on the ignorance brought about by the aforesaid
23 concealments and nondisclosures, in that absent any visible mani-
24 festation of the existence of the UST or the potential environ-
25 mental contamination resulting therefrom, Plaintiffs would not
26 have had reason to perform any investigation so as to ascertain
27 the true facts relating to its existence and nature.

28 16. On or about June 12, 1991, Plaintiffs first discovered

1 the existence of, and subsequently began to gain information
2 concerning the characteristics and potential for releases from
3 the UST.

4 17. As a proximate result of entering into the REPC with
5 Defendants and assuming ownership of the Property, Plaintiffs
6 have incurred and will incur substantial economic damages,
7 including without limitation costs, expenses and damages associ-
8 ated with compliance with federal, state and county regulations;
9 remediation and/or removal of any environmental contamination
10 associated with the UST; diminution in value of the Property; and
11 interference with quiet enjoyment and/or constructive eviction
12 from the Property during investigation, removal and remediation.
13 Plaintiffs have sustained and will sustain further and future
14 losses of income as a consequence of the material nondisclosures
15 by Defendants according to proof.

16 18. In concealing the true facts as herein alleged, and in
17 engaging in the material nondisclosure described herein, Defen-
18 dants intended to and did deprive Plaintiffs of their money,
19 property and legal rights, and acted maliciously in preventing
20 Plaintiffs and other third parties from discovering the existence
21 of the UST and its potential for environmental contamination and
22 from addressing the threatened releases, actual releases and/or
23 contamination so as to minimize or mitigate the resulting
24 environmental damage. Said Defendants' actions in this regard
25 constitute despicable conduct with a willful and conscious
26 disregard of the rights or safety of others, thereby justifying
27 an award of punitive damages.

28

LAW OFFICES OF
KENNETH J. WILSON
WHITE MAN & WILSON
909 HERRING AVENUE
DALLAS, TEXAS 75201
1984.3

COMPLAINT

1 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
2 forth.

3
4 **SECOND CAUSE OF ACTION**
5 **(Negligent Misrepresentation)**

6 19. Plaintiffs reallege and incorporate herein by reference
7 the allegations contained in paragraphs 1-18, above.

8 20. Defendants knew, or in the exercise of reasonable
9 diligence should have known of the presence of the UST and of its
10 hazardous contents and its potential for actual or threatened
11 releases into the environment. Defendants were under an affirma-
12 tive duty to learn of and disclose these facts to Plaintiffs
13 prior to sale of the Property, and their failure to do so consti-
14 tutes a negligent concealment of facts material to the transac-
15 tion.

16 21. Defendants, at the time they made representations to
17 and engaged in concealment from Plaintiffs as to the presence of
18 the UST and as to the consequent character and suitability of the
19 Property for use and sale, represented facts and conditions which
20 they could not accurately, completely or truthfully represent,
21 affecting and bearing on the value, character and suitability of
22 the Property for use and sale; they did so regardless of such
23 inability, to Plaintiffs' detriment.

24 22. Defendants made such representations with no reasonable
25 grounds for believing them to be true and Plaintiffs are informed
26 and believe and thereon allege that Defendants did not have
27 accurate information, nor any information, concerning the
28 presence or capacity of the UST for environmental releases of

1 hazardous substances and could not accurately make the represen-
2 tations made.

3 23. The representations made at the time of sale by Defen-
4 dants were made by Defendants with the intent to induce Plain-
5 tiffs to act in the manner herein alleged and with the intent
6 specifically to induce Plaintiffs to rely on the completeness and
7 accuracy of representations made by them.

8 24. In reliance on the representations made by Defendants
9 as aforesaid, Plaintiffs executed the REPC and acquired title to
10 the Property, effecting payment as required.

11 25. Failing the negligent misrepresentations made by --
12 Defendants as aforesaid, Plaintiffs would not have purchased the
13 Property and would not have incurred the expenses, liabilities
14 and losses herein alleged.

15 26. As a proximate result of said Defendants' negligent
16 concealment of material facts herein alleged, Plaintiffs have
17 been damaged in a sum according to proof, including without
18 limitation costs associated with compliance with federal, state
19 and county environmental regulations, removal, investigation
20 and/or remediation of any environmental contamination from the
21 UST, diminution in value and loss of income resulting from
22 interference with use of and/or constructive eviction from the
23 Property.

24 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
25 forth.

26
27
28

COMPLAINT

1 THIRD CAUSE OF ACTION
2 (Declaratory Relief)

3 27. Plaintiffs re-allege and incorporate herein by refer-
4 ence as though set forth in full each and every allegation
5 contained in Paragraphs 1 through 26, above.

6 28. An actual controversy has arisen and now exists between
7 Plaintiffs and Defendants in that Plaintiffs contend that Defen-
8 dants, as prior owners of the Property, and each of them, are
9 responsible parties jointly, severally and strictly liable for
10 the costs and expenditures of the clean-up, removal,
11 investigation and/or remediation of soil and groundwater contam-
12 ination resulting from the unauthorized release of petroleum
13 hydrocarbons and other hazardous wastes from the UST and appurte-
14 nances thereto.

15 29. Plaintiffs are informed and believe that Defendants,
16 and each of them, will deny responsibility for the costs and
17 expenditures incurred and to be incurred by the Plaintiffs
18 associated with soil and groundwater contamination clean-up,
19 removal, investigation and/or remediation.

20 30. Plaintiffs desire a judicial determination of the
21 respective rights and duties of Plaintiffs and Defendants and of
22 Defendants' strict liability under statute with respect to the
23 foregoing controversy. Such a declaration is necessary and
24 appropriate at this time in order that Plaintiffs may ascertain
25 their rights and duties relative to costs associated with the
26 clean-up, removal, investigation and/or remediation of the soil
27 and groundwater connected with the Property.
28

1 Property, as well as a diminution in value of the property as a
2 result of the contamination, in a sum according to proof.

3 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
4 forth.

5

6 FIFTH CAUSE OF ACTION
7 (Trespass)

8 35. Plaintiffs re-allege and incorporate by reference as
9 though set forth in full each and every allegation contained in
10 Paragraphs 1 through 26, 32-33, above.

11 36. In participating in the acts described above, Defen-
12 dants negligently caused or allowed unauthorized releases of
13 hazardous materials and contaminants into the soil and ground
14 water at the Property. Defendants' said conduct constitutes a
15 trespass upon Plaintiffs' Property.

16 37. As a proximate result of this trespass Plaintiffs will
17 be required by state, local and/or federal agencies to undertake
18 clean-up, removal, investigation and/or remediation activities as
19 required to restore the property to its prior condition before
20 the unauthorized releases. Plaintiffs have been or will be
21 forced to incur ongoing clean-up, investigative, removal and
22 remediation costs and other expenditures. Said costs and expen-
23 ditures are continuing and prospective and entitle Plaintiffs to
24 damages for trespass in an amount according to proof.

25 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
26 forth.

27
28

SIXTH CAUSE OF ACTION
(Nuisance)

38. Plaintiffs re-allege and incorporate by reference as though set forth in full each and every allegation contained in Paragraphs 1 through 26, 32-33, above.

39. In participating in the acts described above, each of the Defendants intentionally or negligently created a private nuisance on the Property. Plaintiffs have and will be required to incur costs for abating the nuisance, which costs are continuing. As a proximate result of this nuisance, Plaintiffs have been damaged in an amount to be determined and will incur further costs and expenditures entitling Plaintiffs to damages for nuisance.

40. WHEREFORE, Plaintiffs pray for judgment as hereinafter set forth.

SEVENTH CAUSE OF ACTION
(Declaratory Relief, Strict Liability,
Damage to Property, Trespass, Nuisance,
CERCLA [42 U.S.C. §9613])

41. Plaintiffs re-allege and incorporate by reference as though set forth in full each and every allegation contained in Paragraphs 1 through 26, 32-33, above.

42. By reason of the facts hereinabove alleged and incorporated relative to Plaintiffs' existing and future obligation to effect removal, investigation, clean up and remediation of the Property, and by reason of Defendants' status as former "owners" as defined in 42 U.S.C. §9601 and other relevant statutes, Defendants are obligated strictly, jointly and severally for contribution to such removal, investigation, clean-up, remediation and

1 response costs.

2 43. Under the authority cited above and under 42 United
3 States Code §9613 Plaintiffs are entitled to contribution from
4 Defendants, and each of them, to all costs relative to removal,
5 investigation, clean up and remediation of the Property.

6 44. Plaintiffs are further entitled to declaratory judgment
7 under 42 United States Code §9613(f)(1) that Defendants, and each
8 of them, are strictly liable for contribution to all future
9 removal, investigation and remediation activity at the Property.

10 WHEREFORE, Plaintiffs pray for judgment as hereinafter set
11 forth.

12

13

EIGHTH CAUSE OF ACTION
(RCRA [42 U.S.C. §6973] Declaratory Relief
And Attorney Fees)

14

15 45. Plaintiffs re-allege and incorporate by reference as
16 though set forth in full each and every allegation contained in
17 Paragraphs 1 through 26, 32-33, above.

18 46. By reason of the facts hereinabove alleged and incorpo-
19 rated and under the authority set forth in 42 U.S.C. §6972 et
20 seq., Plaintiffs are entitled to a declaratory judgment that
21 Defendants, and each of them, shall be required to contribute,
22 jointly and severally, to any present or future costs incurred in
23 clean up, removal, investigation and remediation of the Property.

24 47. Plaintiffs further seek a declaration by the Court that
25 Defendants shall be required to pay Plaintiffs' litigation costs,
26 including those for attorneys' fees and expert witnesses under
27 the authority set forth in 42 United States Code §6972 et seq.

28

COMPLAINT

1 WHEREFORE, Plaintiffs request a trial by jury and pray for
2 judgment against Defendants, and each of them, as follows:

3 1. For actual compensatory and consequential damages
4 according to proof;

5 2. For contribution, indemnification and/or reimbursement
6 of damages, costs and expenses incurred for all testing,
7 investigation, disposal, removal and/or remediation in connection
8 with contamination to the soil and groundwater on the Property
9 caused by the UST;

10 3. For declaration that Defendants, and each of them are
11 liable presently and prospectively for the costs of clean-up,
12 removal, investigation and remediation of soil and groundwater
13 contamination on the Property;

14 4. For punitive damages for fraud;

15 5. For costs of suit incurred herein;

16 6. For attorneys' fees and other costs;

17 7. For interest on said sum; and

18 8. For such other and further relief as the court may deem
19 just and proper.

20 Dated: June 10, 1993

21 KING, SHAPIRO, MITTELMAN & BUCHMAN

22
23 

24 ARTHUR E. FISHER
25 Attorneys for Plaintiffs
26 RYAN MAUSAUER, CATHERINE MAUSAUER,
and RUBE & DAN'S BODY SHOP, INC.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
 Mr. Reuben Hausauer **RO408**
 N/a **CL**
 6017 E. 14th Street
 Oakland, CA 94601
 STID# 4610

4a. Article Number
 P 422 218 056

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 11/19/93

5. Signature (Addressee)
[Signature]

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)
[Signature]

Thank you for using Return Receipt Service.

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J KEARS, Agency Director



RAFAT A. SHAHID, ASST AGENCY DIRECTOR

November 2, 1993
StID # 4610

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Mr. Ruben Hausauer
6017 14th St.
Oakland CA 94601

**Re: Request for Work Plan for Further Subsurface Investigation
at 3927 E. 14th St., Oakland CA 94601**

Dear Mr. Hausauer:

Our office has received and reviewed the September 30, 1993 report from John P. Cummings & Associates detailing the results of two borings performed on the ends of a 550 gallon underground storage tank (UST) at the above address. Recall, on September 9, 1993 two borings, B-1 and B-2, were advanced at each end of the previously closed tank. Four samples were analyzed for a variety of parameters. As mentioned in this report, both soil samples from the 6 foot depth exhibited a strong hydrocarbon odor. Results indicate 180 parts per million (ppm) and 360 ppm Total Petroleum Hydrocarbons as gasoline (TPHg), as well as Total Oil and Grease as high as 220 ppm. Elevated levels of lead was also found in sample B-2-2 which may also indicate a release. Because of these results, you will be required to perform additional investigation to determine the extent of and potentially remediate the hydrocarbon contamination.

Please be aware that our ^{Lawrence} office has been delegated the authority from the Regional Water Quality Control Board (RWQCB) to oversee the remediation of sites ^{experiencing} unauthorized releases of petroleum hydrocarbons. In addition, our office has a contract with the State Water Resources Control Board (SWRCB) to oversee these cases through the Local Oversight Program (LOP). You have been made aware of this through the **Notice of Requirement to Reimburse** letter recently sent to your attention.

Enclosed please find the document Appendix A, Workplan for Initial Subsurface Investigation. This may be used as a reference illustrating the common elements of a work plan. Your work plan should propose actions to determine the extent of soil and groundwater contamination. Unless groundwater gradient has been previously determined for this site, a minimum of three monitoring wells will be required. Depending on the results of your investigation, you may need to consider excavation of the tank pit area and the removal of the previously closed tank.

It is noted in the referenced report that a proposal for the installation of one monitoring well will be sent to you. Please provide our office with a copy of all future work plans for this site for our review and comment. Please provide your work plan for additional subsurface investigation to our office **within 45 days or by December 20, 1993.**

You should consider this a formal request for technical reports pursuant to the California Water Code Section 13267 (b). Failure to submit the requested reports may subject you to civil liability. Please note that you need not submit any reports to the RWQCB since all files will be kept at our office.

You may contact me at (510) 271-4530 if you have any questions.

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

enclosures (Mr. Hausauer)

cc: J. P. Cummings & Associates, Mr. J. Cummings, P.O. Box 2847,
Fremont, CA 94536-2847
King, Shapiro, Mittelman & Buchman, Attorneys At Law, Mr.
Arthur Fisher, Lake Merritt Plaza, Suite 1600, 1999
Harrison St., Oakland, CA 94612
E. Howell, files

wp-3927E14

Plaza, Suite 1600, 1999 Harrison St., Oakland

P/O Ruben Hausauer
6017 E 14th St
Oak ~~CA~~ 94601

DATE: 11/1-93
TO : Local Oversight Program
FROM: BE
SUBJ: Transfer of Eligible Oversight Case

2672 Warwick Place
Hayward CA 94542

Site name: New Genico
Address: 3927 E 14th St City 94601 Zip 94601
Closure plan attached? Y N DepRef remaining \$ _____
DepRef Project # _____ STID #(if any) 4610
Number of Tanks: 0 removed? Y N Date of removal N/A
Leak Report filed? Y N Date of Discovery 11/1/93
Samples received? Y N Contamination: gasoline 8006619
Petroleum Y N Types: Avgas Jet Leaded unleaded Diesel
fuel oil waste oil kerosene solvents
Monitoring wells on site 0 Monitoring schedule? Y N
LUFT category 1 2 3 * H S C A R W G O
Briefly describe the following:
Preliminary Assessment _____
Remedial Action _____
Post Remedial Action Monitoring _____
Enforcement Action _____

12/1/93 + 26 ppm TPH
2/1/94 + 15 ppm TPH
1/1/95 + 12 ppm TPH

01 NCY 0221

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

EMERGENCY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	FOR LOCAL AGENCY USE ONLY I HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM. <i>John P. Cummings</i> 1/11/93 SIGNED _____ DATE
REPORT DATE 1/10/93	CASE #	

REPORTED BY	NAME OF INDIVIDUAL FILING REPORT JOHN P. CUMMINGS	PHONE (510) 575 0722	SIGNATURE <i>John P. Cummings</i>
	REPRESENTING <input checked="" type="checkbox"/> OWNER/OPERATOR <input type="checkbox"/> REGIONAL BOARD <input type="checkbox"/> LOCAL AGENCY <input type="checkbox"/> OTHER	COMPANY OR AGENCY NAME JOHN P. CUMMINGS + ASSOCIATES	
	ADDRESS PO BOX 2847 STREET FREMONT CITY CA STATE 94531 ZIP		

RESPONSIBLE PARTY	NAME Ruben Hausauer <input type="checkbox"/> UNKNOWN	CONTACT PERSON Ruben Hausauer	PHONE (510) 638 7501
	ADDRESS 6017 East 14th St STREET OAKLAND CITY CA STATE 94621 ZIP		

SITE LOCATION	FACILITY NAME (IF APPLICABLE) New Genico	OPERATOR William Sull	PHONE (510) 532 0910
	ADDRESS 3927 East 14th St STREET OAKLAND CITY CA COUNTY Alameda ZIP 94621		
	CROSS STREET 40th Ave		

IMPLEMENTING AGENCIES	LOCAL AGENCY ALAMEDA CO Dept Env Health	AGENCY NAME	CONTACT PERSON Barney Chan	PHONE (510) 271 4300
	REGIONAL BOARD SAN FRANCISCO Bay Area			PHONE (510) 286 1253

SUBSTANCE INVOLVED	(1) NAME WASTE OIL	QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN <input type="checkbox"/> _____
	(2)	<input type="checkbox"/> UNKNOWN

DISCOVERY/ABATEMENT	DATE DISCOVERED 01/03/93	HOW DISCOVERED <input type="checkbox"/> INVENTORY CONTROL <input checked="" type="checkbox"/> SUBSURFACE MONITORING <input type="checkbox"/> TANK TEST <input type="checkbox"/> TANK REMOVAL <input type="checkbox"/> OTHER	<input type="checkbox"/> NUISANCE CONDITIONS
	DATE DISCHARGE BEGAN <input checked="" type="checkbox"/> UNKNOWN	METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) <input type="checkbox"/> REMOVE CONTENTS <input type="checkbox"/> CLOSE TANK & REMOVE <input type="checkbox"/> REPAIR PIPING <input type="checkbox"/> REPAIR TANK <input checked="" type="checkbox"/> CLOSE TANK & FILL IN PLACE <input type="checkbox"/> CHANGE PROCEDURE <input type="checkbox"/> REPLACE TANK <input type="checkbox"/> OTHER	
	HAS DISCHARGE BEEN STOPPED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, DATE UNK 8/10		

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

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

CURRENT STATUS	CHECK ONE ONLY <input type="checkbox"/> NO ACTION TAKEN <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT WORKPLAN SUBMITTED <input type="checkbox"/> POLLUTION CHARACTERIZATION <input type="checkbox"/> LEAK BEING CONFIRMED <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT UNDERWAY <input type="checkbox"/> POST-CLEANUP MONITORING IN PROGRESS <input type="checkbox"/> REMEDIATION PLAN <input type="checkbox"/> CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY) <input type="checkbox"/> CLEANUP UNDERWAY
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RECOMMENDED ACTION	CHECK APPROPRIATE ACTION(S) (SEE BACK FOR DETAILS) <input type="checkbox"/> CAP SITE (CS) <input type="checkbox"/> EXCAVATE & DISPOSE (ED) <input type="checkbox"/> REMOVE FREE PRODUCT (FP) <input type="checkbox"/> ENHANCED BIODEGRADATION (E) <input type="checkbox"/> CONTAINMENT BARRIER (CB) <input type="checkbox"/> EXCAVATE & TREAT (ET) <input type="checkbox"/> PUMP & TREAT GROUNDWATER (GT) <input type="checkbox"/> REPLACE SUPPLY (RS) <input type="checkbox"/> VACUUM EXTRACT (VE) <input type="checkbox"/> NO ACTION REQUIRED (NA) <input type="checkbox"/> TREATMENT AT HOOKUP (HU) <input type="checkbox"/> VENT SOIL (VS) <input type="checkbox"/> OTHER (OT)
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COMMENTS	
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Records Organize Go To Exit
SITENAME NEW GENICO CASENO.# RBFILENO 01-2107
STREETNO 3927 STREET 14TH ST E HOW DISCOVERED SM
CITY OAKLAND ZIP 94621 DISCVRDATE 09/30/93
COUNTY 01 LOCALAGENCY 01000 MOPNO HOWSTOPPED CT STOPDATE 01/01/80
PILOTPROGRAM Y FUNDING F LEAKSOURCE T LEAKCAUSE U

ENTERDATE 06/14/94 REVIEWDATE 08/11/95 CORRDATE 07/04/94 RPTDATE 10/01/93
UPDATE N REVSTAT C STAFF KLG NO# OF WELLS: MATCHLEVEL: 0

PRIM SUB 12035 SEC SUB MAXSOIL 0 MAXGW 0
MAXBENZENE 0 BENZENE 0 GWDEPTH CASETYPE U STATUS 1

DATE 1 08/11/95 DATE3A 00/00/00 DATE3B 00/00/00 DATE5C 00/00/00
DATE5R 00/00/00 DATE 7 00/00/00 DATE 8 00/00/00 DATE 9 00/00/00

INTERIM N INTERIMDATE 00/00/00 ABATEMETHOD NT LEADAGENCY LI
GISDATA:LAT:< 0.0000000>LON:< 0.0000000>X:< 0.0000000>Y:< 0.0000000>
CASELIST NCY ENFORCETYPE 0 ENFORCEDATE 00/00/00 RPSEARCH S

COMMENT ANALYTICAL REPORT INCLUDED.

SUMMARY LOC 8/4/95/ WAS 01NCY0221

Edit T:\apps\fuels\FUELDB Rec 4340/7944 File NumCaps

ALAMEDA COUNTY HAZARDOUS MATERIALS DIVISION
Declaration of Site Account Refund Recipient

SITE OWNER FILLS OUT PER SITE
-- OPTIONAL --

The property owner will use this form to designate someone other than him- or her- self to receive any refund due at the completion of all deposit/refund projects at the site listed below. In the absence of this form, the property owner will receive any refund. Only one person at any one time may be designated to receive any refund.

SITE NUMBER/ADDRESS:

PROPERTY OWNER

Site Number

JOHN P. CUMMINGS ASSOCIATES

Company Name

Owner's Name

PO BOX 2847

Street Address

Owner's Address

Fremont CA 94536

City

Zip Code

Owner's City

State

Zip

I designate the following person to receive any refund due at the completion of all deposit/refund projects:

JOHN P. CUMMINGS

Name

PO BOX 2847

Mail ~~Street~~ Address

FREMONT CA 94536

City / Zip

AS-74
Property Owner Signature

5/22/93
Date

Reuben Hausman
Property Owner Name

RETURN FORM TO: Alameda County, Hazardous Materials Div.
80 Swan Way, Rm 200
Oakland, CA 94621-1439
Phone: (510) 271-4320

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		_____		
_____ Company Name		_____ Owner's Name		
_____ Street Address		_____ Owner's Address		
_____ City	_____ Zip Code	_____ 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.

_____ Signature of Depositor	_____ Date
_____ Depositor Name	
_____ Company Name	
_____ Street Address	
_____ City / Zip	

FACSIMILE TRANSMITTAL COVER SHEET

FALCON ENERGY ASSOCIATES
IN PARTNERSHIP WITH THE ENVIRONMENT
P.O. BOX 1287
STOCKTON, CA 95291

FAX: (209) 463-2712
PHONE: (209) 463-7108
AFTER HOURS EMERGENCY: 1-800-399-HELP

TO FAX NUMBER: (510) 589-4757

PAGE: One of TWO

ATTENTION: Barney Chan

PHONE:

COMPANY: Alameda County

DATE: August 27, 1993

SUBJECT: Certificate of Insurance

Enclosed, requested copy of workers compensation certificate

Regards,

Janice Barkley
Bookkeeper

This message is intended for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient you are hereby notified that dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone. Thank you for your cooperation and assistance.

If you did not receive all pages or have mechanical difficulties call: (209) 463-7108

**STATE
COMPENSATION
INSURANCE
FUND**

P.O. BOX 807, SAN FRANCISCO, CA 94101-0807

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

JUNE 16, 1993

POLICY NUMBER:
CERTIFICATE EXPIRES:

1338012 - 92
11-30-93

JOB LICENSE # 584524

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon ³⁰days' advance written notice to the employer.

We will also give you ³⁰days' advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

John A. Skelt
PRESIDENT

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 12/31/92 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

EMPLOYER

FALCON ENERGY INC. GENERAL PARTNER & VARIOUS
LIMITED PARTNERS DBA: FALCON ENERGY ASSOCIATES
P.O. BOX 1257
STOCKTON, CA 95201

John P. Cummings & Associates

Environmental Consultants

Ph. (510) 505-0722
Fax (510) 791-3306

P.O. Box 2847
Fremont, CA 94536-2847

File No 0293002.00
July 20, 1993

*I need a refund receipt sheet
pulled out, left message
Mr Cummings 7/26/93*

Edgar B. Howell, Chief
ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
DEPARTMENT OF ENVIRONMENTAL HEALTH
HAZARDOUS MATERIALS DIVISION
80 Swan Way, Room 200
Oakland, CA 94621

Dear Mr. Howell:

Enclosed find three copies of the Underground Tank Closure Plan,
with the required attachments.

One copy of the UST Permit Application Form A and Form B are
included.

The required deposit is attached to the top copy of the plan.

If you have questions please contact me at (510) 505-0722.

Sincerely,


John P. Cummings
Principal

Enclosures

Plan
Form A
Form B
Check for deposit of fees.

cc: Ruben Hausauer (without enclosures)
Robert W. Shapiro, Esq. (without enclosures)

0293002.00

ALAMEDA COUNTY CARE SERVICES AGENCY
 DEPARTMENT OF ENVIRONMENTAL HEALTH
 HAZARDOUS MATERIALS DIVISION
 80 SWAN WAY, ROOM 200
 OAKLAND, CA 94621
 PHONE NO. 510/271-4320

Barney Chan

7/26/93

OR. Bala 8/27/93

ACCEPTED

DEPARTMENT OF ENVIRONMENTAL HEALTH
 470 - 27th St. 3rd Floor
 Oakland, CA 94612
 Telephone: (415) 374-7237

These plans have been reviewed and found to be acceptable and meet the requirements of State and local health laws. Changes to your plans indicated by this Department are to assure compliance with State and local laws. The project proposed herein is now eligible for issuance of any required building permits for construction. A copy of these accepted plans must be on the job and available to all contractors and craftsmen involved with the removal. Any change or alteration of these plans and specifications must be submitted to this Department and to the Fire Department for approval. The Department will not issue a permit to operate until the following required inspections: Removal of Tank and Piping, Sampling, Final Inspection. Issuance of a permit to operate is dependent on compliance with accepted plans and all applicable laws and regulations.

THIS IS A FINANCIAL PENALTY FOR NOT OBTAINING THESE INSPECTIONS.

UNDERGROUND TANK CLOSURE PLAN

*** Complete according to attached instructions ***

1. Business Name NEW GENICO
 Business Owner WILLIAM SULL
2. Site Address 3927 East 14th STREET
 City OAKLAND, CA Zip 94601 Phone (510) 532-0960
3. Mailing Address 6017 East 14th Street
 City OAKLAND, CA Zip 94601 Phone (510) 638-7501
4. Land Owner RUBEN HAUSAUER
 Address 6017 East 14th ST. OAKLAND City, State CA Zip 94601
5. Generator name under which tank will be manifested RUBEN HAUSAUER
 EPA I.D. No. under which tank will be manifested CAC 000 870 752

6. Contractor FALCON ENERGY ASSOCIATES
Address NUMBER ONE, PORT ROAD 21, PORT OF STOCKTON
City STOCKTON, CA Phone (209) 463-7108
License Type CA DHS HAULER #2463 ID# CAD 982 526 857
CA Gen Cont #584524

*Effective January 1, 1992, Business and Professional Code Section 7058.7 requires prime contractors to also hold Hazardous Waste Certification issued by the State Contractors License Board. Indicate that the certificate has been received, in addition, to holding the appropriate contractors license type.

7. Consultant JOHN P. CUMMINGS & ASSOCIATES
Address P O BOX 2847
City FREMONT, CA 94536 Phone (510) 505-0722

8. Contact Person for Investigation
Name John P. Cummings Title Consultant
Phone (510) 505-0722

9. Number of tanks being closed under this plan one
Length of piping being removed under this plan none
Total number of tanks at facility one

10. State Registered Hazardous Waste Transporters/Facilities (see instructions).

**** Underground tanks are hazardous waste and must be handled **
as hazardous waste**

a) Product/Residual Sludge/Rinsate Transporter
Name FALCON ENERGY ASSOCIATES EPA I.D. No. CAD 982 526 857
Hauler License No. 2463 License Exp. Date 30 June 1994
Address P O BOX 1257
City STOCKTON State CA Zip 95201-1257

b) Product/Residual Sludge/Rinsate Disposal Site
Name GIBSON ENVIRONMENTAL EPA I.D. No. CAD 980 883 177
Address COMMERCIAL DRIVE
City BAKERSFIELD State CA Zip 93308

c) Tank and Piping Transporter

Name FALCON ENERGY ASSOCIATES EPA I.D. No. CAD 982 526 857
Hauler License No. 2463 License Exp. Date 30 June 1994
Address P O BOX 1257
city STOCKTON, state CA zip 95201

d) Tank and Piping Disposal Site

Name ERICKSONS INC. EPA I.D. No. CAD 009 466 392
Address 255 PARR ROAD
city RICHMOND state CA zip 94801

11. Experienced Sample Collector

Name John P. Cummings
Company JOHN P. CUMMINGS & ASSOCIATES
Address P O BOX 2847
city FREMONT state CA zip 94536 Phone (510) 505-0722

12. Laboratory

Name TRACE ANALYSIS LABORATORY INC.
Address 3423 INVESTMENT BLVD. # 8
city HAYWARD state CA zip 94545
State Certification No. 1199

13. Have tanks or pipes leaked in the past? Yes [] No [X]

If yes, describe. _____

14. Describe methods to be used for rendering tank inert

The tank and any associated piping will be flushed out. Residual product will be removed by a vacuum truck. THE TANK WILL BE THOROUGHLY RINSED. The tank will then have dry ice added to render the atmosphere in the tank inert. The LEL Meter will check to make certain the atmosphere is non-explosive.

Before tanks are pumped out and inerted, all associated piping must be flushed out into the tanks. All accessible associated piping must then be removed. Inaccessible piping must be plugged.

The Bay Area Air Quality Management District (771-6000), along with local Fire and Building Departments, must also be contacted for tank removal permits. Fire departments typically require the use of explosion proof combustible gas meters to verify tank inertness. It is the contractor's responsibility to bring a working combustible gas meter on site to verify tank inertness.

15. Tank History and Sampling Information

Tank		Material to be sampled (tank contents, soil, ground-water, etc.)	Location and Depth of Samples
Capacity	Use History (see instructions)		
550 gallons	Estimated that the tank has not been used for 12 years.	Soil samples	In the native soil beneath the tank, approximately 2 feet beneath the fill/native soil line.

One soil sample must be collected for every 20 feet of piping that is removed. A ground water sample must be collected should any ground water be present in the excavation.

Excavated/Stockpiled Soil	
Stockpiled Soil Volume (Estimated) 10 cubic yards	Sampling Plan Sample will be taken if the excavated soil has an odor or staining is discovered. Then a composite sample will be taken.

Stockpiled soil must be placed on bermed plastic and must be completely covered by plastic sheeting.

16. Chemical methods and associated detection limits to be used for analyzing samples

The Tri-Regional Board recommended minimum verification analyses and practical quantitation reporting limits should be followed. See attached Table 2.

Contaminant Sought	EPA, DHS, or Other Sample Preparation Method Number	EPA, DHS, or Other Analysis Method Number	Method Detection Limit
TPH GASOLINE	GCFID 5030	GCFID 5030	1.0 ppm
TPH DIESEL	GCFID 3550	GCFID 3550	1.0 ppm
BTEX		EPA 8020	.005 ppm
O & G		EPA 5520 E & F	50.0 ppm
CD, CR, PB, Zn, NI		ICAP	.25 ppm
CL HC		EPA 8010	.005 ppm

17. Submit Site Health and Safety Plan (See Instructions)

18. Submit Worker's Compensation Certificate copy

Name of Insurer STATE COMPENSATION INSURANCE FUND

19. Submit Plot Plan (See Instructions)

20. Enclose Deposit (See Instructions)

21. Report any leaks or contamination to this office within 5 days of discovery. The report shall be made on an Underground Storage Tank Unauthorized Leak/Contamination Site Report form. (see Instructions)

22. Submit a closure report to this office within 60 days of the tank removal. This report must contain all the information listed in item 22 of the instructions.

I declare that to the best of my knowledge and belief the statements and information provided above are correct and true.

I understand that information in addition to that provided above may be needed in order to obtain an approval from the Department of Environmental Health and that no work is to begin on this project until this plan is approved.

I understand that any changes in design, materials or equipment will void this plan if prior approval is not obtained.

I understand that all work performed during this project will be done in compliance with all applicable OSHA (Occupational Safety and Health Administration) requirements concerning personnel health and safety. I understand that site and worker safety are solely the responsibility of the property owner or his agent and that this responsibility is not shared nor assumed by the County of Alameda.

Once I have received my stamped, accepted closure plan, I will contact the project Hazardous Materials Specialist at least three working days in advance of site work to schedule the required inspections.

Signature of Contractor

Name (please type) JOHN P. CUMMINGS AGENT FOR FALCON ENERGY ASSOCIATES

Signature *[Handwritten Signature]*

Date July 17, 1993

Signature of Site Owner or Operator

Name (please type) JOHN P. CUMMINGS AGENT FOR RUBE HAUSAUER

Signature *[Handwritten Signature]*

Date July 19, 1993

SITE SPECIFIC HEALTH AND SAFETY PLAN

1. INTRODUCTION

This document describes the health and safety procedures for the activities planned in performing an Underground Storage Tank (UST) removal at 3927 E. 14th Street, Oakland, California. All personnel and subcontractors will follow this plan. The prime responsibility for employee safety lies with each company that is involved in the work for it's own employees. It is expressly intended that all project work will comply with applicable sections of the California Occupational Health and Safety code. All parties working on this project will maintain a general responsibility to identify and correct any health and safety hazards and are responsible for working in a safe manner. All personnel, workers or visitors, will read and sign this document prior to coming on site.

2. PERSONNEL RESPONSIBILITY

Project personnel who will have overall responsibility for the safe operation of this are:

Site Contact: **John N. Alt, CEG.** (510) 791-1986

Project Manager: **John P. Cummings**

Site Safety Officer: **John P. Cummings**

2.1 Project Manager and Safety Officer Responsibilities:

- * To conduct initial site safety training for all project field personnel as described in this document and ascertain that field personnel have the appropriate OSHA approved training and medical surveillance per 29 CFR 1910.120
- * To assure all field personnel have read, understand and signed the Health and Safety Plan
- * To assure that all work performed on this project is conducted in a safe manner
- * To coordinate with field personnel fire-watch, traffic control and site security

- * To monitor activities to assure the proper use of protective equipment such as hard hats, protective eyewear, gloves, coveralls, respirators, etc.
- * To monitor ambient hydrocarbon vapors
- * To shut down or modify field work activity based on criteria in the site safety plan.

2.2 Sub-Contractor Responsibilities

- * To read, understand and accept this Health and Safety Plan
- * To assure all field staff attend a site safety training program
- * To make certain all equipment and other machines are properly inspected and maintained and are in compliance with applicable sections of the California Health and Safety Code
- * To supply and maintain safety related protective equipment such as hard hats, safety boots, protective coveralls, gloves, safety eyewear, respirators, etc., as specified in this plan
- * To assure each employee read and comply with this Health and Safety Plan, and
- * To enforce corrective action under the direction of the Site Safety Officer.

2.3 Field Personnel Responsibilities

- * To read, understand and follow this plan
- * To perform work safely
- * To cooperate with key personnel
- * To report any unsafe conditions to the Site Safety Officer, and
- * To be aware of and alert for signs and symptoms of potential exposure to site contaminants and heat stress.

3. HAZARD CRITERIA

Note: As air, water, soil and chemical substance monitoring data

become available for site work, the information will be evaluated by the Site Safety Officer. Appropriate action in the Health and Safety Plan modifications will be initiated by the Safety Officer if necessary.

The anticipated activities of this project include:

- * Excavating and removing one 550 gallon waste oil UST
- * Collection, handling and storage of soil and groundwater samples
- * Monitoring of ambient air hydrocarbon concentrations during project activities

3.1 Potential Hazards

The general types of potential hazards associated with this project are:

- * Mechanical hazards: swinging objects, machinery, etc.
- * Electrical hazards: buried cables, overhead power lines
- * Chemical hazards: gasoline, diesel, waste oil,
- * Fire hazards: natural gas and product lines, flammable petroleum hydrocarbons, and motor driven equipment
- * Thermal hazards: heat stress
- * Acoustical hazards: excessive noise created by machinery

Job hazard analyses associated with each major work activity are presented in the following sections.

3.2 Hazard Evaluation: Soil Borings

Note: Excavating for the UST removal, collecting soil and groundwater samples potentially expose personnel on site to the following;

Chemical hazards:

Exposure to various chemical substances, including but not limited to, petroleum hydrocarbon liquids and vapors from gasoline and diesel fuel, and waste petroleum oil.

Physical hazards:

- * operating machinery

- * falling objects, and
- * exposure to outside temperature extremes.

Fire, Electrical and Noise Hazards:

- * Underground gas and product lines, and
- * excessive machinery noise.

Due to the nature of excavating, there is a risk for electrical shock from overhead and underground electrical lines. There is also a risk of physical injury from moving machinery and heavy drilling equipment. Explosive hazards may exist if fuel vapor concentrations in the UST reach explosive levels (greater than 10% LEL).

4. DISCUSSION OF POTENTIAL CHEMICAL HAZARDS

The Material Safety Data Sheets (MSDS) for compounds that are potentially present on site are included in Appendix A.

4.1 Hydrocarbon Vapors

Hydrocarbon vapors expected to be encountered consist of gasoline and diesel fuel. Exposure to elevated levels of hydrocarbon vapors presents potential health risks that need to be properly controlled. Work practices and methods will be instituted to limit exposures. Where elevated exposures persists, respiratory protection will be the primary control method to protect personnel from inhalation of hydrocarbon vapors. The hydrocarbon vapors expected to be encountered during project activities are composed of a variety of volatile refined petroleum compounds. The majority of these have limited toxicity requiring minimal controls at the concentrations expected.

Petroleum fuel consists of hundreds of chemical compounds. There are certain compounds such as Benzene that present significant hazards and must be properly controlled. To do so, a working limit of 100 ppm total hydrocarbon is proposed as the maximum acceptable level of exposure without respiratory protection. In a typical situation with 1% of the hydrocarbon vapors being benzene, a 100 ppmv concentration of total hydrocarbon will result in a breathing zone of less than 1 ppmv benzene. This level is one tenth of the current occupational Permissible Exposure Limit (PEL) for an 8 hour exposure to benzene.

4.2 Action Levels of Hydrocarbon Components in Petroleum Fuel

Gasoline	>300ppm	PEL	LEL >10%
Benzene	> 1ppm	PEL	Oxygen <19.5%

Toluene	>100ppm	PEL
Xylene	>100ppm	PEL
Ethyl Benzene	>100ppm	PEL

A hydrocarbon vapor analyzer will be used to measure real time breathing zone concentration for comparison with the 100 ppmv working limit. When a persistent level of 100 ppmv is observed, appropriate respirators will be donned and other vapor measurements will be made. If hydrocarbon vapors exceed 1000 ppmv or 10 ppm benzene, work will be stopped. The field crew will be instructed to stay up wind and methods will be applied to subdue fugitive vapor emissions such as sprinkling soil with water, or use of copus blower. The Site Safety Officer will make such determinations.

If LEL is >10% in or around the tank, work must stop and not commence until determined safe and/or the LEL drops below <10%.

If oxygen levels in the immediate work area are < 19.5%, work must stop until determinate safe and/or levels are >19.5%.

5. Symptoms of Acute Overexposure

Gasoline and gasoline vapors maybe irritating to the skin, eyes and respiratory tract. Gasoline vapors may effect the central nervous system and may cause headaches and dizziness.

Oxygen Deficiency:

May cause dizziness.

Heat Stress and Noise:

A hazard exists when individuals are required to work in warm temperatures, particularly while wearing impervious protective clothing. When the ambient air temperature exceeds 65 degrees, heat stress may become problem. If these conditions are encountered, the following precautions on the next will be taken:

- * During day-to-day field work, the on-site supervisor will be alert for the signs and symptoms of heat exposure.

Field workers will be observed for the following signs and symptoms of heat stress:

- * profuse sweating, or complete lack of sweating ,
- * skin color change,
- * increased heart rate,

- * body temperatures in excess of 100 degrees as measured by thermometers, and
- * vision problems.

Any team member who exhibits any of these signs or symptoms will be removed immediately from field work and be requested to consume electrolyte fluid or cool water while resting in a shaded area. The individual will be instructed to rest until the symptoms are no longer recognizable. If the symptoms appear critical, persist or become worse, immediate medical attention will be sought.

When working around mechanical equipment the potential exists for exposure to excessive noise. To deal with the health hazards of excessive noise, ear plugs will be provided.

6. PERSONAL PROTECTION EQUIPMENT REQUIREMENTS

This section specifies personal protective equipment required for the various tasks of this project.

Respiratory Protection: All field personnel will be required to have available an air purifying respirator with organic vapor cartridges. The respirators will be required based on criteria presented in this safety plan. All respirators must be NIOSH approved, canister-equipped for all organic vapors up to 100 ppm.

Protective Clothing: All field personnel who handle contaminated soil or liquid will wear impervious coveralls and butyl rubber gloves. Impervious coveralls will not be required if soil or water is not visibly contaminated, or if vapor measurements are below 500 ppmv. Level "D" protective clothing and equipment will be worn at all times on the job site. All employees will have level "C" protective equipment available at all times. The Site Safety Officer or his representative will monitor air borne contaminate levels for determination of when to don level "C" equipment.

Head Protection: Field personnel will wear non-metallic safety helmets.

Foot Protection: Field personnel will wear neoprene rubber boots with steel toes. Under non-liquid exposure conditions, leather boots with steel toes and shanks are permissible.

Ear Protection: Field personnel, based on noise levels, may be required to wear earplugs during drilling or soil excavation.

Eye Protection: Field personnel will wear chemical-resistant safety glasses with attached side shield where splashes of potentially hazardous liquid or particles are likely.

7. WORK ZONES

During soil excavation operations, a work zone around the immediate vicinity of the project will be established and taped off. Only authorized personnel will be permitted to enter the work zone. Authorized personnel will include those who have duties requiring their presence in the work zone and have read this site safety plan. Work zones are also created to aid in the decontamination of equipment and personnel. The following describes the zones to be established.

Exclusion Zone: A 75 foot circle around the work area will be defined before work starts. The area inside the circle will constitute the "Exclusion Zone". The Exclusion Zone constitutes the area where the potentially hazardous air borne contaminants and physical hazards to the workers exist. Appropriate personal protection must be available to all personnel in this area. The size of the Exclusion Zone may be changed to accommodate site conditions and to assure contaminate containment.

Contamination Reduction Zone: A formal decontamination zone should not be required during the preliminary investigation. However, an area will be designated in the event extreme gasoline contamination is encountered. The decontamination zone will be an area where personnel can clean protective equipment. A waste container will be placed outside of the exclusion zone so contaminated equipment can be placed inside and covered.

Support Zone: A Support Zone, the outermost zone, must be defined for each field activity. Support equipment is located in this uncontaminated or clean area. Normal work clothes are appropriate within this zone. The location of this zone depends on factors such as accessibility, wind direction (it should be up wind of excavation), and resources (e.g. roads, utilities, shelter).

8. DECONTAMINATION PROCEDURES

Petroleum hydrocarbon liquids and vapors are anticipated. Due to the volatile nature of hydrocarbons that may be encountered during the initial excavation and sampling operations, decontamination of equipment and vehicles will be of minimal importance since the volatile hydrocarbons will rapidly vaporize. Therefore, no formal decontamination procedure will be followed with the exception of general cleaning. No eating, drinking or smoking will be permitted in the exclusion zone. All personnel involved in work activities will be instructed to wash their hands, face, neck and forearms at the end of the work day. Soap, water and towels will be provided at the site for this purpose. The field personnel will also be instructed to shower at home at the end of each work day.

As work progresses, the nature of materials handled and the extent

of contamination may possibly require formal decontamination procedures and delineated work/clean zones. However, we do not expect that such formal procedures will be necessary at this site and will only proceed at the Safety Officer's discretion. In the event extreme contamination is encountered, decontamination of personnel, equipment and vehicles will be important to insure that contamination does not spread to unsuspecting people and property. Personal decontamination mainly involves personal hygiene. Contamination should not be present on the skin if the proper protective methods specified in this plan are used. However all field personnel will be instructed to follow these guidelines to insure that contamination dose not remain on equipment, sample containers or in contact with their bodies.

The field personnel sould remove their personal protective clothing in the following sequence:

Step 1: Move out of the exclusion zone and into the decontamination zone. Do not remove personal protective equipment.

Step 2: Obtain decontamination solutions and decontaminate the spades, shovels and other equipment by brushing them under a water rinse. A high-pressure steam cleaner may also be used for decontamination. All wastes and spent decontamination liquids will be properly contained.

Step 3: Remove outer gloves and coveralls and place them inside a garbage bag. Keep the air purifying respirator on.

Step 4: Move to the support zone and remove the respirator.

9. MONITORING PROGRAM

Personal exposure to ambient airborne hazards will be monitored to assure that personnel exposures do not exceed acceptable limits and that appropriate selection of protective equipment items is made. Airborne hydrocarbon vapor concentrations will be measured primarily by the use of a hydrocarbon vapor meter. If concentrations approach criteria levels, all personnel will be notified of possible site safety changes. Audits may be conducted by the Safety Officer to insure compliance with the Health and Safety Plan and to provide additional support as required.

9.1 Ambient Vapor Reading

A hydrocarbon vapor detector will be used during excavation activities. This instrument will be used to measure both excavation and breathing zone concentration of hydrocarbon vapors. The instrument will be calibrated on a regular schedule using known calibrated gases.

Readings will be taken in the area where the field team members are

working and surrounding down-wind areas. Measurements will be taken every 30 minutes where hydrocarbon vapors indicate levels above 30 ppmv. All readings will be recorded in a field notebook.

10. EMERGENCY RESPONSE PLAN

Emergency Procedures listed in this plan are designed to give the field personnel instruction on how to handle medical emergencies and fires and explosions. The emergency procedures will be carefully reviewed with the field team during the health and safety training session.

The field personnel will be instructed to seek immediate professional medical attention for all serious injuries. A first aid kit and manual will be present at the project site in case of minor injuries.

10.1 Fire and Explosion Hazards

Fires on site are of particular concern during soil drilling and sampling activities during the possibility of encountering flammable petroleum hydrocarbon liquids and vapors. During these activities the Site Safety Officer will be present and equipped with an explosive vapor monitor for area monitoring and a multipurpose (A, B, C,) fire extinguisher.

Flammable materials will be cleared away from the site prior to the start of work. If a fire does occur, the local fire dept. will be contacted immediately.

10.2 Activities Shutdown

Under extreme circumstances the on-site supervisor, safety officer, or project manager may require that field operations be temporarily suspended while an underlying hazard is corrected or controlled. If vapor measurements with the explosive vapor monitor show levels approaching explosive limits, operations will be stopped while the situation is controlled. During this activity, personnel will be evacuated from the area to prevent exposure to fugitive vapor emissions or injury in the event of an explosion. The Site Safety Officer will have ultimate authority for both the shutdown and later resumption of the field activities.

10.3 Community Protection

To assure the community is protected from health and fire hazards, up wind and down wind vapor monitoring will be performed if the general work area has hydrocarbon levels exceeding 100 ppmv. If down wind monitoring indicates persistent levels of 30 ppmv at the perimeter of the work area, work will be shutdown and vapor control efforts will be instituted until measurements indicate levels have

taped off area zone may be used to provide additional community protection.

10.4 Emergency Contacts

Fire Dept.	911
Ambulance	911
Police	911
Hospital	ALAMEDA HOSPITAL (510) 522-3700; 2070 CLINTON AVENUE, ALAMEDA
Site or Client Phone	(510) 532-0960
Poison Control Center	(415) 974-7500
Chem Trec	(800) 424-9300
EPA Emergency Response	(415) 974-7500
State Office of Emergency Services	(800) 852-7550
Emergency Response (Falcon Energy)	(209) 463-7108, 1-800-HELP
Clean-up (Falcon Energy)	(209) 463-7108, 1-800-HELP

*Note: Prior to start of work note the nearest location of functional telephone.

Medical problems occurring on site should be handled quickly. Emergency telephone numbers will be written down and posted in the passenger compartments of the field vehicles.

The Emergency Route from the site to the hospital is attached.

10.5 Emergency First Aid Procedures:

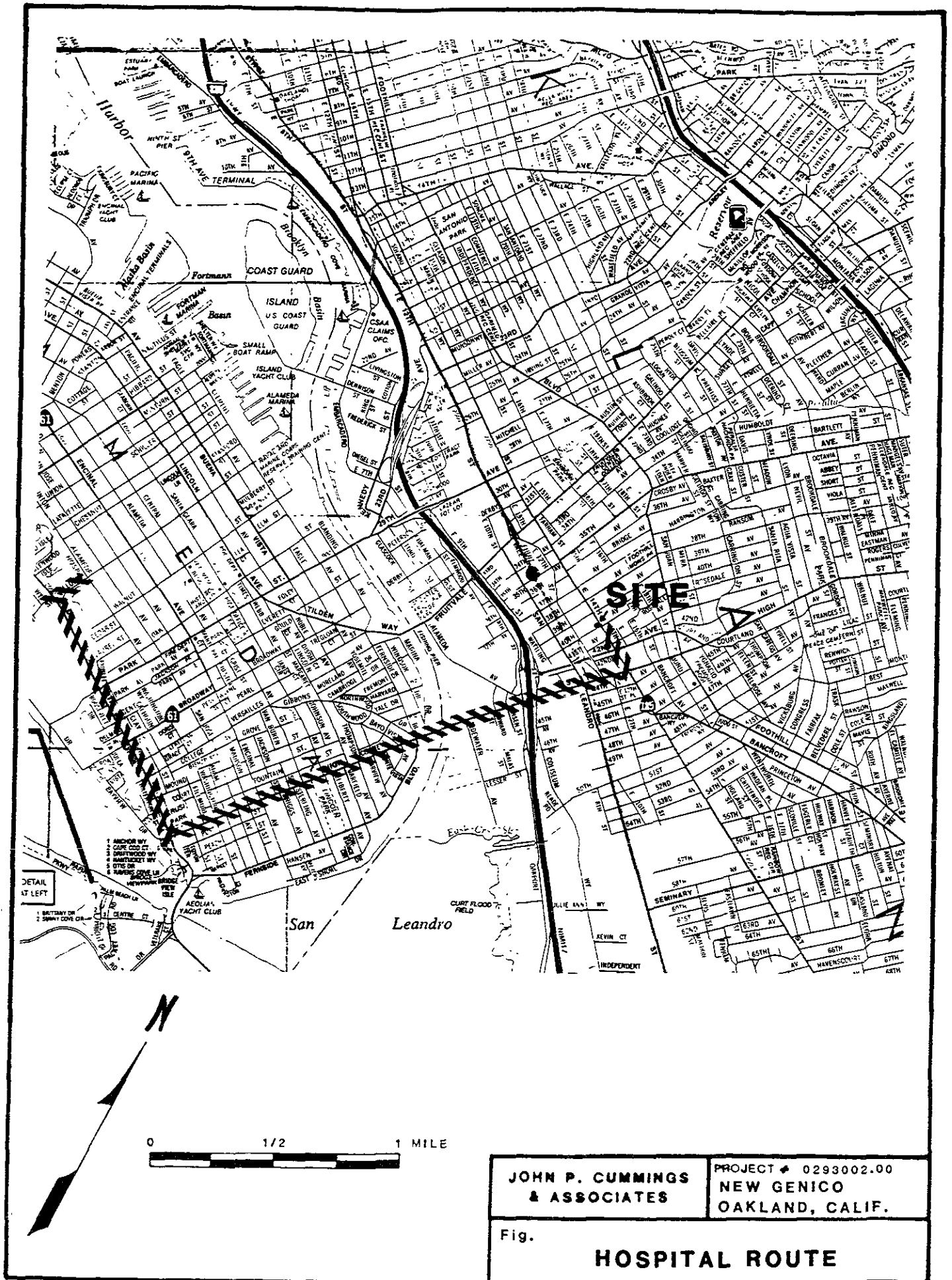
Eye Contact: Flush with clear water for 15 minutes or until irritation subsides. See a physician.

Skin Contact: Wash thoroughly with soap and water.

Inhalation: Remove from area away from vapor/exposure. Call 911 and start CPR resuscitation IMMEDIATELY if breathing has stopped.

11. SITE SECURITY

The work area will be cordoned off and barricades erected, during work progress. Temporary security will be placed around the work site after working hours. The stockpiled soil will be placed on visqueen and covered securly with visqueen, inside the secure area.



GASOLINES: AUTOMOTIVE (< 4.23g lead/gal)

GAT

Common Synonyms Motor spirit Petrol	Watery liquid Floats on water	Colorless to pale brown or pink	Gasoline odor
Flammable, irritating vapor is produced			
<p>Stop discharge if possible. Keep people away Shut off ignition sources and call fire department Stay upwind and use water spray to "knock down" vapor Isolate and remove discharged material Notify local health and pollution control agencies</p>			
Fire	<p>FLAMMABLE Flashback along vapor trail may occur. Vapor may explode if ignited in an enclosed area. Extinguish with dry chemical, foam, or carbon dioxide Water may be ineffective on fire. Cool exposed containers with water</p>		
Exposure	<p>CALL FOR MEDICAL AID</p> <p>VAPOR Irritating to eyes, nose and throat If inhaled, will cause dizziness, headache, difficult breathing or loss of consciousness Move to fresh air If breathing has stopped, give artificial respiration If breathing is difficult, give oxygen</p> <p>LIQUID Irritating to skin and eyes If swallowed, will cause nausea or vomiting Remove contaminated clothing and shoes Flush affected areas with plenty of water IF IN EYES, hold eyelids open and flush with plenty of water IF SWALLOWED and victim is CONSCIOUS, have victim drink water or milk DO NOT INDUCE VOMITING</p>		
Water Pollution	<p>HARMFUL TO AQUATIC LIFE IN VERY LOW CONCENTRATIONS Fouling to shoreline May be dangerous if it enters water intakes Notify local health and wildlife officials. Notify operators of nearby water intakes</p>		
1 RESPONSE TO DISCHARGE (See Response Methods Handbook)	2 LABEL		
Issue warning-high flammability Evacuate area Disperse and flush	<p>2.1 Category: Flammable liquid 2.2 Class: 3</p>		
3. CHEMICAL DESIGNATIONS	4. OBSERVABLE CHARACTERISTICS		
<p>3.1 CG Compatibility Class: Miscellaneous Hydrocarbon Mixtures 3.2 Formula: (Mixture of hydrocarbons) 3.3 IMO/IUN Designation: 3 1/1203 3.4 DOT ID No.: 1203 3.5 CAS Registry No.: Data not available</p>	<p>4.1 Physical State (as shipped): Liquid 4.2 Color: Colorless to brown 4.3 Odor: Gasoline</p>		
5. HEALTH HAZARDS			
<p>5.1 Personal Protective Equipment: Protective goggles, gloves. 5.2 Symptoms Following Exposure: Irritation of mucous membranes and stimulation followed by depression of central nervous system. Breathing of vapor may also cause dizziness, headache, and incoordination or, in more severe cases, anesthesia, coma, and respiratory arrest. If liquid enters lungs, it will cause severe irritation, coughing, gagging, pulmonary edema, and, later, signs of bronchopneumonia and pneumonitis. Swallowing may cause irregular heartbeat. 5.3 Treatment of Exposure: INHALATION: maintain respiration and administer oxygen; enforce bed rest if liquid is in lungs. INGESTION: do NOT induce vomiting; stomach should be lavaged (by doctor) if appreciable quantity is swallowed. EYES: wash with copious quantity of water. SKIN: wipe off and wash with soap and water. 5.4 Threshold Limit Value: 300 ppm 5.5 Short Term Inhalation Limit: 500 ppm for 30 min 5.6 Toxicity by Ingestion: Grade 2. LD₅₀ = 0.5 to 5 g/kg 5.7 Late Toxicity: None 5.8 Vapor (Gas) Irritant Characteristics: Vapors cause a slight smarting of the eyes or respiratory system if present in high concentrations. The effect is temporary. 5.9 Liquid or Solid Irritant Characteristics: Minimum hazard. If spilled on clothing and allowed to remain, may cause smarting and reddening of the skin. 5.10 Odor Threshold: 0.25 ppm 5.11 IDLH Value: Data not available</p>			

6. FIRE HAZARDS
<p>6.1 Flash Point: -36°F C C 6.2 Flammable Limits in Air: 1.4%-7.4% 6.3 Fire Extinguishing Agents: Foam, carbon dioxide, dry chemical 6.4 Fire Extinguishing Agents Not to be Used: Water may be ineffective 6.5 Special Hazards of Combustion Products: None 6.6 Behavior in Fire: Vapor is heavier than air and may travel considerable distance to a source of ignition and flash back 6.7 Ignition Temperature: 853°F 6.8 Electrical Hazard: Class I, Group D 6.9 Burning Rate: 4 mm/min 6.10 Adiabatic Flame Temperature: Data not available 6.11 Stoichiometric Air to Fuel Ratio: Data not available 6.12 Flame Temperature: Data not available</p>
7. CHEMICAL REACTIVITY
<p>7.1 Reactivity With Water: No reaction 7.2 Reactivity with Common Materials: No reaction 7.3 Stability During Transport: Stable 7.4 Neutralizing Agents for Acids and Caustics: Not pertinent 7.5 Polymerization: Not pertinent 7.6 Inhibitor of Polymerization: Not pertinent 7.7 Molar Ratio (Reactant to Product): Data not available 7.8 Reactivity Group: 33</p>
8. WATER POLLUTION
<p>8.1 Aquatic Toxicity: 90 ppm/24 hr/juvenile American shad/TL₅₀/fresh water 91 mg/1/24 hr/juvenile American shad/TL₅₀/salt water 8.2 Waterfowl Toxicity: Data not available 8.3 Biological Oxygen Demand (BOD): 8%, 5 days 8.4 Food Chain Concentration Potential: None</p>
9. SHIPPING INFORMATION
<p>9.1 Grades of Purity: Various octane ratings, military specifications 9.2 Storage Temperature: Ambient 9.3 Inert Atmosphere: No requirement 9.4 Venting: Open (flame arrester) or pressure-vacuum</p>

10. HAZARD ASSESSMENT CODE (See Hazard Assessment Handbook) A-T-U-V-W																																				
11. HAZARD CLASSIFICATIONS																																				
<p>11.1 Code of Federal Regulations: Flammable liquid 11.2 NAS Hazard Rating for Bulk Water Transportation:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Category</th> <th style="text-align: right;">Rating</th> </tr> </thead> <tbody> <tr> <td>Fire</td> <td style="text-align: right;">3</td> </tr> <tr> <td>Health</td> <td></td> </tr> <tr> <td>Vapor Irritant</td> <td style="text-align: right;">1</td> </tr> <tr> <td>Liquid or Solid Irritant</td> <td style="text-align: right;">1</td> </tr> <tr> <td>Poisons</td> <td style="text-align: right;">2</td> </tr> <tr> <td>Water Pollution</td> <td></td> </tr> <tr> <td>Human Toxicity</td> <td style="text-align: right;">1</td> </tr> <tr> <td>Aquatic Toxicity</td> <td style="text-align: right;">2</td> </tr> <tr> <td>Aesthetic Effect</td> <td style="text-align: right;">2</td> </tr> <tr> <td>Reactivity</td> <td></td> </tr> <tr> <td>Other Chemicals</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Water</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Self Reaction</td> <td style="text-align: right;">0</td> </tr> </tbody> </table> <p>11.3 NFPA Hazard Classification:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Category</th> <th style="text-align: right;">Classification</th> </tr> </thead> <tbody> <tr> <td>Health Hazard (Blue)</td> <td style="text-align: right;">1</td> </tr> <tr> <td>Flammability (Red)</td> <td style="text-align: right;">3</td> </tr> <tr> <td>Reactivity (Yellow)</td> <td style="text-align: right;">0</td> </tr> </tbody> </table>	Category	Rating	Fire	3	Health		Vapor Irritant	1	Liquid or Solid Irritant	1	Poisons	2	Water Pollution		Human Toxicity	1	Aquatic Toxicity	2	Aesthetic Effect	2	Reactivity		Other Chemicals	0	Water	0	Self Reaction	0	Category	Classification	Health Hazard (Blue)	1	Flammability (Red)	3	Reactivity (Yellow)	0
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12. PHYSICAL AND CHEMICAL PROPERTIES																																				
<p>12.1 Physical State at 15°C and 1 atm: Liquid 12.2 Molecular Weight: Not pertinent 12.3 Boiling Point at 1 atm: 140-390°F = 60-193°C = 333-472°K 12.4 Freezing Point: Not pertinent 12.5 Critical Temperature: Not pertinent 12.6 Critical Pressure: Not pertinent 12.7 Specific Gravity: 0.7321 at 20°C (liquid) 12.8 Liquid Surface Tension: 19.23 dynes/cm = 0.019-0.023 N/m at 20°C 12.9 Liquid Water Interfacial Tension: 49-51 dynes/cm = 0.049-0.051 N/m at 20°C 12.10 Vapor (Gas) Specific Gravity: 3.4 12.11 Ratio of Specific Heats of Vapor (Gas): (est.) 1.054 12.12 Latent Heat of Vaporization: 130-150 Btu/lb = 71-81 cal/g = 3.0 - 3.4 X 10³ J/kg 12.13 Heat of Combustion: -18,720 Btu/lb = -10,400 cal/g = 435.1 X 10³ J/kg 12.14 Heat of Decomposition: Not pertinent 12.15 Heat of Solution: Not pertinent 12.16 Heat of Polymerization: Not pertinent 12.25 Heat of Fusion: Data not available 12.26 Limiting Value: Data not available 12.27 Reid Vapor Pressure: 7.4 psia</p>																																				
NOTES																																				

BENZENE

BNZ

<p>Common Synonyms Benzol Benzole</p>	<p>Watery liquid Colorless</p>	<p>Gasoline-like odor</p>	<p>Floats on water. Flammable, irritating vapor is produced. Freezing point is 42°F.</p>
<p>Avoid contact with liquid and vapor. Keep people away. Wear goggles and self contained breathing apparatus. Shut off ignition sources and call fire department. Stop re-charge if possible. Stay upwind and use water spray to knock down vapor. Isolate and remove discharged material. Notify local health and pollution control agencies.</p>			
Fire	<p>FLAMMABLE Flashback along vapor trail may occur. Vapor may explode if ignited in an enclosed area. Wear goggles and self contained breathing apparatus. Extinguish with dry chemical, foam or carbon dioxide. Water may be ineffective on fire. Cool exposed containers with water.</p>		
Exposure	<p>CALL FOR MEDICAL AID VAPOR Irritating to eyes, nose and throat. If inhaled, will cause headache, difficult breathing, or loss of consciousness. Move to fresh air. If breathing has stopped give artificial respiration. If breathing is difficult, give oxygen. LIQUID Irritating to skin and eyes. Harmful if swallowed. Remove contaminated clothing and shoes. Flush affected areas with plenty of water. IF IN EYES, hold eyelids open and flush with plenty of water. IF SWALLOWED and victim is CONSCIOUS, have victim drink water or milk.</p>		
Water Pollution	<p>HARMFUL TO AQUATIC LIFE IN VERY LOW CONCENTRATIONS. May be dangerous if it enters water intakes. Notify local health and wildlife officials. Notify operators of nearby water intakes.</p>		
<p>1. RESPONSE TO DISCHARGE (See Response Methods Handbook) Issue warning high flammability. Restrict access.</p>		<p>2. LABEL 2.1 Category: Flammable liquid 2.2 Class: 3</p>	
<p>3. CHEMICAL DESIGNATIONS 3.1 CG Compatibility Class: Aromatic Hydrocarbon 3.2 Formula: C₆H₆ 3.3 IMO/UN Designation: 3.2/1114 3.4 DOT ID No.: 1114 3.5 CAS Registry No.: 71-43-2</p>		<p>4. OBSERVABLE CHARACTERISTICS 4.1 Physical State (as shipped): Liquid 4.2 Color: Colorless 4.3 Odor: Aromatic; rather pleasant aromatic odor; characteristic odor</p>	
<p>5. HEALTH HAZARDS 5.1 Personal Protective Equipment: Hydrocarbon vapor canister, supplied air or a hose mask; hydrocarbon-insoluble rubber or plastic gloves; chemical goggles or face splash shield; hydrocarbon-insoluble apron such as neoprene. 5.2 Symptoms Following Exposure: Dizziness, excitation, pallor, followed by flushing, weakness, headache, breathlessness, chest constriction. Coma and possible death. 5.3 Treatment of Exposure: SKIN: flush with water followed by soap and water, remove contaminated clothing and wash skin. EYES: flush with plenty of water until irritation subsides. INHALATION: remove from exposure immediately. Call a physician. IF breathing is irregular or stopped, start resuscitation. administer oxygen. 5.4 Threshold Limit Value: 10 ppm 5.5 Short Term Inhalation Limit: 75 ppm for 30 min 5.6 Toxicity by Ingestion: Grade 3. LD₅₀ - 50 to 500 mg/kg 5.7 Late Toxicity: Leukemia 5.8 Vapor (Gas) Irritant Characteristics: If present in high concentrations, vapors may cause irritation of eyes or respiratory system. The effect is temporary. 5.9 Liquid or Solid Irritant Characteristics: Minimum hazard. If spilled on clothing and allowed to remain, may cause smacking and reddening of the skin. 5.10 Odor Threshold: 4.68 ppm 5.11 IDLH Value: 2,000 ppm</p>			

<p>6. FIRE HAZARDS 6.1 Flash Point: 12°F C.C. 6.2 Flammable Limits in Air: 1.3%-7.9% 6.3 Fire Extinguishing Agents: Dry chemical, foam, or carbon dioxide. 6.4 Fire Extinguishing Agents Not to be Used: Water may be ineffective. 6.5 Special Hazards of Combustion Products: Not pertinent. 6.6 Behavior in Fire: Vapor is heavier than air and may travel considerable distance to a source of ignition and flash back. 6.7 Ignition Temperature: 1097°F 6.8 Electrical Hazard: Class 1, Group D 6.9 Burning Rate: 6.0 mm/min. 6.10 Adiabatic Flame Temperature: Data not available. 6.11 Stoichiometric Air to Fuel Ratio: Data not available. 6.12 Flame Temperature: Data not available.</p>	<p>7. CHEMICAL REACTIVITY 7.1 Reactivity With Water: No reaction 7.2 Reactivity with Common Materials: No reaction 7.3 Stability During Transport: Stable 7.4 Neutralizing Agents for Acids and Caustics: Not pertinent 7.5 Polymerization: Not pertinent 7.6 Inhibitor of Polymerization: Not pertinent 7.7 Molar Ratio (Reactant to Product): Data not available 7.8 Reactivity Group: 32</p>
<p>8. WATER POLLUTION 8.1 Aquatic Toxicity: 5 ppm/6 hr/minnow/lethal/distilled water 20 ppm/24 hr/sunfish/TL₅₀/tap water 8.2 Waterfowl Toxicity: Data not available 8.3 Biological Oxygen Demand (BOD): 1.2 lb/lb, 10 days 8.4 Food Chain Concentration Potential: None</p>	
<p>9. SHIPPING INFORMATION 9.1 Grades of Purity: Industrial pure . . . 99+% Triophene free . . . 99+% Nitration 99+% Industrial 80% 85+% Reagent 99+% 9.2 Storage Temperature: Open 9.3 Inert Atmosphere: No requirement 9.4 Venting: Pressure vacuum</p>	

<p>10. HAZARD ASSESSMENT CODE (See Hazard Assessment Handbook) A-T-U-U-V-W</p>																																				
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<p>12. PHYSICAL AND CHEMICAL PROPERTIES 12.1 Physical State at 15°C and 1 atm: Liquid 12.2 Molecular Weight: 78.11 12.3 Boiling Point at 1 atm: 176°F = 80.1°C = 353.3°K 12.4 Freezing Point: 42.0°F = 5.5°C = 278.7°K 12.5 Critical Temperature: 552.0°F = 288.9°C = 562.1°K 12.6 Critical Pressure: 710 psia = 48.3 atm = 4.89 MN/m² 12.7 Specific Gravity: 0.879 at 20°C (liquid) 12.8 Liquid Surface Tension: 28.9 dynes/cm = 0.0299 N/m at 20°C 12.9 Liquid Water Interfacial Tension: 35.0 dynes/cm = 0.035 N/m at 20°C 12.10 Vapor (Gas) Specific Gravity: 2.7 12.11 Ratio of Specific Heats of Vapor (Gas): 1.061 12.12 Latent Heat of Vaporization: 169 Btu/lb = 94.1 cal/g = 3.94 X 10⁴ J/kg 12.13 Heat of Combustion: -17,460 Btu/lb = -9698 cal/g = -406.0 X 10⁴ J/kg 12.14 Heat of Decomposition: Not pertinent 12.15 Heat of Solution: Not pertinent 12.16 Heat of Polymerization: Not pertinent 12.25 Heat of Fusion: 30.45 cal/g 12.26 Limiting Value: Data not available 12.27 Reid Vapor Pressure: 3.22 psia</p>																																				
<p>NOTES</p>																																				

TOLUENE

TOL

<p>Common Synonyms Toluol Methylbenzene Methylbenzol</p>	<p>Wetly liquid Colorless Pleasant odor</p>	<p>Floats on water Flammable, irritating vapor is produced.</p>
<p>Stop discharge if possible. Keep people away. Shut off ignition sources and call fire department. Stay upwind and use water spray to "knock down" vapor. Avoid contact with liquid and vapor. Isolate and remove discharged material. Notify local health and pollution control agencies.</p>		
<p>Fire</p>	<p>FLAMMABLE. Flashback along vapor trail may occur. Vapor may explode if ignited in an enclosed area. Wear goggles and self contained breathing apparatus if working with dry chemical, foam, or carbon dioxide. Water may be ineffective on fire. Cool exposed containers with water.</p>	
<p>Exposure</p>	<p>CALL FOR MEDICAL AID</p> <p>VAPOR Irritating to eyes, nose and throat. If inhaled, will cause nausea, vomiting, headache, dizziness, difficult breathing, or loss of consciousness. Move to fresh air. If breathing has stopped give artificial respiration. If breathing difficult give oxygen.</p> <p>LIQUID Irritating to skin and eyes. If swallowed, will cause nausea, vomiting or loss of consciousness. Remove contaminated clothing and shoes. Flush affected areas with plenty of water. If IN EYES, hold eyelids open and flush with plenty of water. If SWALLOWED and victim is CONSCIOUS, have victim drink water or milk. DO NOT INDUCE VOMITING.</p>	
<p>Water Pollution</p>	<p>Dangerous to aquatic life in high concentrations. Fouling to shoreline. May be dangerous if it enters water intakes. Notify local health and wildlife officials. Notify operators of nearby water intakes.</p>	
<p>1. RESPONSE TO DISCHARGE (See Response Methods Handbook) Issue warning-high flammability Evacuate area</p>	<p>2. LABEL 2.1 Category: Flammable liquid 2.2 Class: 3</p>	
<p>3. CHEMICAL DESIGNATIONS 3.1 CG Compatibility Class: Aromatic Hydrocarbon 3.2 Formula: C₇H₈ 3.3 IMO/IH Designation: 3.2/1284 3.4 DOT ID No.: 1234 3.5 CAS Registry No.: 108-88-3</p>	<p>4. OBSERVABLE CHARACTERISTICS 4.1 Physical State (as shipped): Liquid 4.2 Color: Colorless 4.3 Odor: Pungent; aromatic, benzene-like; distinct, pleasant</p>	
<p>5. HEALTH HAZARDS</p> <p>5.1 Personal Protective Equipment: Air-supplied mask, goggles or face shield; plastic gloves. 5.2 Symptoms Following Exposure: Vapors irritate eyes and upper respiratory tract; cause dizziness, headache, anesthesia, respiratory arrest. Liquid irritates eyes and causes drying of skin. If aspirated, causes coughing, gagging, distress, and rapidly developing pulmonary edema. If ingested causes vomiting, griping, diarrhea, depressed respiration. 5.3 Treatment of Exposure: INHALATION: remove to fresh air, give artificial respiration and oxygen if needed; call a doctor. INGESTION: do NOT induce vomiting; call a doctor. EYES: flush with water for at least 15 min. SKIN: wipe off; wash with soap and water. 5.4 Threshold Limit Value: 100 ppm 5.5 Short Term Inhalation Limit: 500 ppm for 30 min 5.6 Toxicity by Ingestion: Grade 2 LD₅₀ = 0.5 to 5 g/kg 5.7 Late Toxicity: Kidney and liver damage may follow ingestion. 5.8 Vapor (Gas) Irritant Characteristics: Vapors cause a slight smarting of the eyes or respiratory system if present in high concentrations. The effect is temporary. 5.9 Liquid or Solid Irritant Characteristics: Minimum hazard. If spilled on clothing and allowed to remain, may cause smarting and reddening of the skin. 5.10 Odor Threshold: 0.17 ppm 5.11 IDLH Value: 2,000 ppm</p>		

6. FIRE HAZARDS

6.1 Flash Point: 40°F C.C., 55°F O.C.
6.2 Flammable Limits in Air: 1.27%-7%
6.3 Fire Extinguishing Agents: Carbon dioxide or dry chemical for small fires, ordinary foam for large fires.
6.4 Fire Extinguishing Agents Not to be Used: Water may be ineffective.
6.5 Special Hazards of Combustion Products: Not pertinent.
6.6 Behavior in Fire: Vapor is heavier than air and may travel a considerable distance to a source of ignition and flash back.
6.7 Ignition Temperature: 597°F
6.8 Electrical Hazard: Class I, Group D
6.9 Burning Rate: 5.7 mm/min
6.10 Adiabatic Flame Temperature: Data not available

(Continued)

7. CHEMICAL REACTIVITY

7.1 Reactivity With Water: No reaction
7.2 Reactivity with Common Materials: No reaction
7.3 Stability During Transport: Stable
7.4 Neutralizing Agents for Acids and Caustics: Not pertinent
7.5 Polymerization: Not pertinent
7.6 Inhibitor of Polymerization: Not pertinent
7.7 Molar Ratio (Reactant to Product): Data not available
7.8 Reactivity Group: 32

8. WATER POLLUTION

8.1 Aquatic Toxicity: 1180 mg/l/96 hr/sunfish/TL₅₀/fresh water
8.2 Waterfowl Toxicity: Data not available
8.3 Biological Oxygen Demand (BOD): 0%, 5 days; 38% (theor), 8 days
8.4 Food Chain Concentration Potential: None

9. SHIPPING INFORMATION

9.1 Grades of Purity: Research, reagent, nitrogen-free 99.8-4%; industrial contains 94-4%, with 5% xylene and small amounts of benzene and nonaromatic hydrocarbons; 90/120: less pure than industrial.
9.2 Storage Temperature: Ambient
9.3 Inert Atmosphere: No requirement
9.4 Venting: Open (flame arrester) or pressure vacuum

6 FIRE HAZARDS (Continued)

6.11 Stoichiometric Air to Fuel Ratio: Data not available
6.12 Flame Temperature: Data not available

10. HAZARD ASSESSMENT CODE
(See Hazard Assessment Handbook)
A-T-U

11. HAZARD CLASSIFICATIONS

11.1 Code of Federal Regulations: Flammable liquid
11.2 NAS Hazard Rating for Bulk Water Transportation:

Category	Rating
Fire	3
Health	
Vapor Irritant	1
Liquid or Solid Irritant	1
Poisons	2
Water Pollution	
Human Toxicity	1
Aquatic Toxicity	3
Aesthetic Effect	2
Reactivity	
Other Chemicals	1
Water	0
Self Reaction	0

11.3 NFPA Hazard Classification:

Category	Classification
Health Hazard (Blue)	2
Flammability (Red)	3
Reactivity (Yellow)	0

12. PHYSICAL AND CHEMICAL PROPERTIES

12.1 Physical State at 15°C and 1 atm: Liquid
12.2 Molecular Weight: 92.14
12.3 Boiling Point at 1 atm: 231.1°F = 110.6°C = 393.8°K
12.4 Freezing Point: -139°F = -95.0°C = 178.2°K
12.5 Critical Temperature: 605.4°F = 318.8°C = 591.8°K
12.6 Critical Pressure: 596.1 psia = 40.55 atm = 4,108 MN/m²
12.7 Specific Gravity: 0.867 at 20°C (liquid)
12.8 Liquid Surface Tension: 29.0 dynes/cm = 0.0290 N/m at 20°C
12.9 Liquid Water Interfacial Tension: 36.1 dynes/cm = 0.0361 N/m at 25°C
12.10 Vapor (Gas) Specific Gravity: Not pertinent
12.11 Ratio of Specific Heats of Vapor (Gas): 1.089
12.12 Latent Heat of Vaporization: 155 Btu/lb = 86.1 cal/g = 361 X 10³ J/kg
12.13 Heat of Combustion: -17,430 Btu/lb = -9686 cal/g = -405.5 X 10³ J/kg
12.14 Heat of Decomposition: Not pertinent
12.15 Heat of Solution: Not pertinent
12.16 Heat of Polymerization: Not pertinent
12.25 Heat of Fusion: 17.17 cal/g
12.26 Limiting Value: Data not available
12.27 Reid Vapor Pressure: 1.1 psia

ETHYLBENZENE

ETB

<p>Common Synonyms Phenylethane EB</p>		<p>Liquid</p>	<p>Colorless</p>	<p>Sweet, gasoline-like odor</p>
<p>Floats on water. Flammable, irritating vapor is produced.</p>				
<p>Avoid contact with liquid and vapor. Keep people away. Wear goggles, self-contained breathing apparatus, and rubber overclothing (including gloves). Shut off ignition sources and call fire department. Stop discharge if possible. Stay upwind and use water spray to "knock down" vapor. Isolate and remove discharged material. Notify local health and pollution control agencies.</p>				
<p>Fire</p>	<p>FLAMMABLE Flashback along vapor trail may occur. Vapor may explode if ignited in an enclosed area. Wear goggles, self-contained breathing apparatus, and rubber overclothing (including gloves). Extinguish with dry chemical, foam, or carbon dioxide. Water may be ineffective on fire. Cool exposed containers with water.</p>			
<p>Exposure</p>	<p>CALL FOR MEDICAL AID</p> <p>VAPOR Irritating to eyes, nose and throat. If inhaled, will cause dizziness or difficult breathing. Move to fresh air. If breathing has stopped, give artificial respiration. If breathing is difficult, give oxygen.</p> <p>LIQUID Will burn skin and eyes. Harmful if swallowed. Remove contaminated clothing and shoes. Flush affected areas with plenty of water. IF IN EYES, hold eyelids open and flush with plenty of water. IF SWALLOWED and victim is CONSCIOUS, have victim drink water or milk. DO NOT INDUCE VOMITING</p>			
<p>Water Pollution</p>	<p>HARMFUL TO AQUATIC LIFE IN VERY LOW CONCENTRATIONS. Fouling to shoreline. May be dangerous if it enters water intakes. Notify local health and wildlife officials. Notify operators of nearby water intakes.</p>			
<p>1. RESPONSE TO DISCHARGE (See Response Methods Handbook) Mechanical containment. Should be removed. Chemical and physical treatment.</p>		<p>2. LABEL 2.1 Category: Flammable liquid 2.2 Class: 3</p>		
<p>3. CHEMICAL DESIGNATIONS 3.1 CG Compatibility Class: Aromatic hydrocarbon 3.2 Formula: C₈H₁₀ 3.3 HMO/UN Designation: 3.3/1175 3.4 DOT ID No.: 1175 3.5 CAS Registry No.: 100-41-4</p>		<p>4. OBSERVABLE CHARACTERISTICS 4.1 Physical State (as shipped): Liquid 4.2 Color: Colorless 4.3 Odor: Aromatic</p>		
<p>5. HEALTH HAZARDS</p> <p>5.1 Personal Protective Equipment: Self-contained breathing apparatus; safety goggles. 5.2 Symptoms Following Exposure: Inhalation may cause irritation of nose, dizziness, depression. Moderate irritation of eye with corneal injury possible. Irritates skin and may cause blisters. 5.3 Treatment of Exposure: INHALATION: If ill effects occur, remove victim to fresh air, keep him warm and quiet, and get medical help promptly; if breathing stops, give artificial respiration. INGESTION: Induce vomiting only upon physician's approval; material in lung may cause chemical pneumonitis. SKIN AND EYES: promptly flush with plenty of water (15 min. for eyes) and get medical attention; remove and wash contaminated clothing before reuse. 5.4 Threshold Limit Value: 100 ppm 5.5 Short Term Inhalation Limits: 200 ppm for 30 min 5.6 Toxicity by Ingestion: Grade 2 LD₅₀ = 0.5 to 5 g/kg (rat) 5.7 Late Toxicity: Data not available 5.8 Vapor (Gas) Irritant Characteristics: Vapors cause moderate irritation such that personnel will find high concentrations unpleasant. The effect is temporary. 5.9 Liquid or Solid Irritant Characteristics: Causes smarting of the skin and first-degree burns on short exposure may cause secondary burns on long exposure. 5.10 Odor Threshold: 140 ppm 5.11 IDLH Value: 2,000 ppm</p>				

<p>6. FIRE HAZARDS</p> <p>6.1 Flash Point: 80°F O.C.; 56°F C.C. 6.2 Flammable Limits in Air: 1.0%-6.7% 6.3 Fire Extinguishing Agents: Foam (most effective), water fog, carbon dioxide or dry chemical. 6.4 Fire Extinguishing Agents Not to be Used: Not pertinent 6.5 Special Hazards of Combustion: Products: Irritating vapors are generated when heated. 6.6 Behavior in Fire: Vapor is heavier than air and may travel considerable distance to the source of ignition and flash back. 6.7 Ignition Temperature: 860°F 6.8 Electrical Hazard: Not pertinent 6.9 Burning Rate: 5.8 mm/min. 6.10 Adiabatic Flame Temperature: Data Not Available</p> <p style="text-align: right;">(Continued)</p>	<p>10. HAZARD ASSESSMENT CODE (See Hazard Assessment Handbook) A-T-U</p> <p>11. HAZARD CLASSIFICATIONS</p> <p>11.1 Code of Federal Regulations: Flammable liquid</p> <p>11.2 NAS Hazard Rating for Bulk Water Transportation:</p> <table border="1"> <thead> <tr> <th>Category</th> <th>Rating</th> </tr> </thead> <tbody> <tr> <td>Fire</td> <td>3</td> </tr> <tr> <td>Health</td> <td></td> </tr> <tr> <td>Vapor Irritant</td> <td>2</td> </tr> <tr> <td>Liquid or Solid Irritant</td> <td>2</td> </tr> <tr> <td>Poisons</td> <td>2</td> </tr> <tr> <td>Water Pollution</td> <td></td> </tr> <tr> <td>Human Toxicity</td> <td>1</td> </tr> <tr> <td>Aquatic Toxicity</td> <td>3</td> </tr> <tr> <td>Aesthetic Effect</td> <td>2</td> </tr> <tr> <td>Reactivity</td> <td></td> </tr> <tr> <td>Other Chemicals</td> <td>1</td> </tr> <tr> <td>Water</td> <td>0</td> </tr> <tr> <td>Salt Reaction</td> <td>0</td> </tr> </tbody> </table> <p>11.3 NFPA Hazard Classification:</p> <table border="1"> <thead> <tr> <th>Category</th> <th>Classification</th> </tr> </thead> <tbody> <tr> <td>Health Hazard (Blue)</td> <td>2</td> </tr> <tr> <td>Flammability (Red)</td> <td>3</td> </tr> <tr> <td>Reactivity (Yellow)</td> <td>0</td> </tr> </tbody> </table>	Category	Rating	Fire	3	Health		Vapor Irritant	2	Liquid or Solid Irritant	2	Poisons	2	Water Pollution		Human Toxicity	1	Aquatic Toxicity	3	Aesthetic Effect	2	Reactivity		Other Chemicals	1	Water	0	Salt Reaction	0	Category	Classification	Health Hazard (Blue)	2	Flammability (Red)	3	Reactivity (Yellow)	0
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<p>7. CHEMICAL REACTIVITY</p> <p>7.1 Reactivity With Water: No reaction 7.2 Reactivity with Common Materials: No reaction 7.3 Stability During Transport: Stable 7.4 Neutralizing Agents for Acids and Caustics: Not pertinent 7.5 Polymerization: Not pertinent 7.6 Inhibitor of Polymerization: Not pertinent 7.7 Molar Ratio (Reactant to Product): Data Not Available 7.8 Reactivity Group: 32</p>	<p>12. PHYSICAL AND CHEMICAL PROPERTIES</p> <p>12.1 Physical State at 15°C and 1 atm: Liquid 12.2 Molecular Weight: 106.17 12.3 Boiling Point at 1 atm: 277.2°F = 136.2°C = 409.4°K 12.4 Freezing Point: -139°F = -95°C = 178°K 12.5 Critical Temperature: 851.0°F = 343.9°C = 817.1°K 12.6 Critical Pressure: 523 psia = 35.8 atm = 3.61 MN/m² 12.7 Specific Gravity: 0.867 at 20°C (liquid) 12.8 Liquid Surface Tension: 29.2 dynes/cm = 0.0292 N/m at 20°C 12.9 Liquid Water Interfacial Tension: 35.48 dynes/cm = 0.03548 N/m at 20°C 12.10 Vapor (Gas) Specific Gravity: Not pertinent 12.11 Ratio of Specific Heats of Vapor (Gas): 1.071 12.12 Latent Heat of Vaporization: 144 Btu/lb = 80.1 cal/g = 3.35 X 10⁴ J/kg 12.13 Heat of Combustion: -17,780 Btu/lb = -9877 cal/g = -413.5 X 10⁴ J/kg 12.14 Heat of Decomposition: Not pertinent 12.15 Heat of Solution: Not pertinent 12.16 Heat of Polymerization: Not pertinent 12.25 Heat of Fusion: Data Not Available 12.26 Limiting Value: Data Not Available 12.27 Reid Vapor Pressure: 0.4 psia</p>																																				
<p>8. WATER POLLUTION</p> <p>8.1 Aquatic Toxicity: 29 ppm/96 hr/bluegill/TL₅₀/fresh water 8.2 Waterfowl Toxicity: Data not available 8.3 Biological Oxygen Demand (BOD): 2.6% (theor.), 5 days 8.4 Food Chain Concentration Potential: None</p>	<p>9. SHIPPING INFORMATION</p> <p>9.1 Grade of Purity: Research grade: 99.98%, pure grade: 99.5%; technical grade: 99.0% 9.2 Storage Temperature: Ambient 9.3 Inert Atmosphere: No requirement 9.4 Venting: Open (flame arrester) or pressure-vacuum</p>																																				
<p>6. FIRE HAZARDS (Continued)</p> <p>6.11 Stoichiometric Air to Fuel Ratio: Data Not Available 6.12 Flame Temperature: Data Not Available</p>																																					

m-XYLENE

XLM

<p>Common Synonyms 1,3-Dimethylbenzene Xylol</p>	<p>Watery liquid Colorless Sweet odor</p> <p>Floats on water Flammable, irritating vapor is produced</p>
<p>Stop discharge if possible. Keep people away. Call fire department. Avoid contact with liquid and vapor. Isolate and remove discharged material. Notify local health and pollution control agencies.</p>	
Fire	<p>FLAMMABLE. Flashback along vapor trail may occur. Vapor may explode if ignited in an enclosed area. Wear self contained breathing apparatus. Extinguish with foam, dry chemical, or carbon dioxide. Water may be ineffective on fire. Cool exposed containers with water.</p>
Exposure	<p>CALL FOR MEDICAL AID</p> <p>VAPOR Irritating in eyes, nose, and throat. If inhaled, will cause headache, difficult breathing, or loss of consciousness. Move to fresh air. If breathing has stopped, give artificial respiration. If breathing is difficult, give oxygen.</p> <p>LIQUID Irritating to skin and eyes. If swallowed, will cause nausea, vomiting, or loss of consciousness. Remove contaminated clothing and shoes. Flush affected areas with plenty of water. IF IN EYES, hold eyelids open and flush with plenty of water. IF SWALLOWED and victim is CONSCIOUS, have victim drink water or milk. DO NOT INDUCE VOMITING</p>
Water Pollution	<p>HARMFUL TO AQUATIC LIFE IN VERY LOW CONCENTRATIONS Fouling to shoreline. May be dangerous if it enters water intakes. Notify local health and welfare officials. Notify operators of nearby water intakes.</p>
<p>1. RESPONSE TO DISCHARGE (See Response Methods Handbook) Issue warning high flammability Evacuate area Should be removed Chemical and physical treatment</p>	<p>2. LABEL</p> <p>2.1 Category: Flammable liquid 2.2 Class: 3</p>
<p>3. CHEMICAL DESIGNATIONS</p> <p>3.1 CG Compatibility Class: Aromatic Hydrocarbon 3.2 Formula: m-C₈H₁₀(CH₃)₂ 3.3 IMO/UN Designation: 3 2/1307 3.4 DOT ID No.: 1307 3.5 CAS Registry No.: 108-38-3</p>	<p>4. OBSERVABLE CHARACTERISTICS</p> <p>4.1 Physical State (as shipped): Liquid 4.2 Color: Colorless 4.3 Odor: Like benzene; characteristic aromatic</p>
<p>5. HEALTH HAZARDS</p>	
<p>5.1 Personal Protective Equipment: Approved canister or air-supplied mask; goggles or face shield; plastic gloves and boots.</p> <p>5.2 Symptoms Following Exposure: Vapors cause headache and dizziness. Liquid irritates eyes and skin. If taken into lungs, causes severe coughing, distress, and rapidly developing pulmonary edema. If ingested, causes nausea, vomiting, cramps, headache, and coma; can be fatal. Kidney and liver damage can occur.</p> <p>5.3 Treatment of Exposure: INHALATION: remove to fresh air; administer artificial respiration and oxygen if required; call a doctor. INGESTION: do NOT induce vomiting; call a doctor. EYES: flush with water for at least 15 min. SKIN: wipe off; wash with soap and water.</p> <p>5.4 Threshold Limit Value: 100 ppm</p> <p>5.5 Short Term Inhalation Limits: 300 ppm for 30 min</p> <p>5.6 Toxicity by Ingestion: Grade 3 LD₅₀ = 50 to 500 g/kg</p> <p>5.7 Late Toxicity: Kidney and liver damage</p> <p>5.8 Vapor (Gas) Irritant Characteristics: Vapors cause a slight smarting of the eyes or respiratory system if present in high concentrations. The effect is temporary.</p> <p>5.9 Liquid or Solid Irritant Characteristics: Minimum hazard. If spilled on clothing and allowed to remain, may cause smarting and reddening of the skin.</p> <p>5.10 Odor Threshold: 0.05 ppm</p> <p>5.11 IDLH Value: 10,000 ppm</p>	

6. FIRE HAZARDS

6.1 Flash Point: 94°F C.C.

6.2 Flammable Limits in Air: 1.1% to 8.4%

6.3 Fire Extinguishing Agents: Foam, dry chemical, or carbon dioxide

6.4 Fire Extinguishing Agents Not to be Used: Water may be ineffective

6.5 Special Hazards of Combustion Product: Not pertinent

6.6 Behavior in Fire: Vapor is heavier than air and may travel considerable distance to a source of ignition and flash back.

6.7 Ignition Temperature: 966°F

6.8 Electrical Hazard: Class I, Group D

6.9 Burning Rate: 5.8 mm/min.

6.10 Adiabatic Flame Temperature: Data not available

6.11 Stoichiometric Air to Fuel Ratio: Data not available

6.12 Flame Temperature: Data not available

7. CHEMICAL REACTIVITY

7.1 Reactivity With Water: No reaction

7.2 Reactivity with Common Materials: No reaction

7.3 Stability During Transport: Stable

7.4 Neutralizing Agents for Acids and Caustics: Not pertinent

7.5 Polymerization: Not pertinent

7.6 Inhibitor of Polymerization: Not pertinent

7.7 Molar Ratio (Reactant to Product): Data not available

7.8 Reactivity Group: 32

8. WATER POLLUTION

8.1 Aquatic Toxicity: 22 ppm/96 hr/bluegill/TL₅₀/fresh water

8.2 Waterfowl Toxicity: Data not available

8.3 Biological Oxygen Demand (BOD): 0 lb/lb, 5 days; 0% (linear), 8 days

8.4 Food Chain Concentration Potential: Data not available

9. SHIPPING INFORMATION

9.1 Grades of Purity: Research: 99.99%; Pure: 99.9%; Technical: 99.2%

9.2 Storage Temperature: Ambient

9.3 Inert Atmosphere: No requirement

9.4 Venting: Open (flame arrester) or pressure-vacuum

10. HAZARD ASSESSMENT CODE
(See Hazard Assessment Handbook)
A-T-U

11. HAZARD CLASSIFICATIONS

11.1 Code of Federal Regulations: Flammable liquid

11.2 NAS Hazard Rating for Bulk Water Transportation:

Category	Rating
Fire	3
Health	1
Vapor Irritant	1
Liquid or Solid Irritant	1
Poisons	2
Water Pollution	1
Human Toxicity	1
Aquatic Toxicity	3
Aesthetic Effect	2
Reactivity	1
Other Chemicals	0
Water	0
Sol Reaction	0

11.3 NFPA Hazard Classification:

Category	Classification
Health Hazard (Blue)	2
Flammability (Red)	3
Reactivity (Yellow)	0

12. PHYSICAL AND CHEMICAL PROPERTIES

12.1 Physical State at 15°C and 1 atm: Liquid

12.2 Molecular Weight: 106.16

12.3 Boiling Point at 1 atm: 209.4°F = 131.9°C = 405.1°K

12.4 Freezing Point: -54.2°F = -47.9°C = 225.3°K

12.5 Critical Temperature: 650.8°F = 343.8°C = 617.0°K

12.6 Critical Pressure: 513.9 atm = 34.95 psia = 3 540 MN/m²

12.7 Specific Gravity: 0.864 at 20°C (liquid)

12.8 Liquid Surface Tension: 28.6 dynes/cm = 0.0286 N/m at 20°C

12.9 Liquid Water Interfacial Tension: 36.4 dynes/cm = 0.0364 N/m at 30°C

12.10 Vapor (Gas) Specific Gravity: Not pertinent

12.11 Ratio of Specific Heats of Vapor (Gas): 1.071

12.12 Latent Heat of Vaporization: 147 Btu/lb = 81.9 cal/g = 3.43 X 10⁶ J/kg

12.13 Heat of Combustion: -17,554 Btu/lb = -9752.4 cal/g = -406.31 X 10⁶ J/kg

12.14 Heat of Decomposition: Not pertinent

12.15 Heat of Solution: Not pertinent

12.16 Heat of Polymerization: Not pertinent

12.25 Heat of Fusion: 26.01 cal/g

12.26 Limiting Value: Data not available

12.27 Reid Vapor Pressure: 0.34 psia

NOTES

SIGNATURE PAGE



Building Quality

**HAZARDOUS SUBSTANCES REMOVAL AND REMEDIAL
 ACTIONS CERTIFICATION**

Pursuant to the provisions of Section 7058.7 of the Business and Professions Code, the Registrar of Contractors does hereby certify that the following qualifying person has successfully completed the hazardous substances removal and remedial actions examination.



Qualifier: JAMES JACOB HOBLITZELL IV
 License No.: 584524
 Namestyle: FALCON ENERGY ASSOCIATES

*exp date
 1/31/94*

WITNESS my hand and official seal this
 12TH day of JULY, 1990
Dennis R. Phillips
 Registrar of Contractors

13L-36 (7-88)

This certification is the property of the Registrar of Contractors, is not transferable, and shall be returned to the Registrar upon demand when suspended, revoked, or invalidated for any reason.

A3516

**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
 NON-TRANSFERABLE LICENSE**

LICENSEE NAME AND ADDRESS (ONLY IF DIFFERENT FROM BELOW)

Falcon Energy Associates
 6540 S. Austin Road
 Stockton, CA 95205

LICENSEE NAME AND MAILING ADDRESS

83263 Falcon Energy Associates
 P. O. Box 30356
 Stockton, CA 95213

LICENSE NUMBER	ISSUE DATE	EFFECTIVE DATE	EXPIRATION DATE
76333	7/10/90	-----	7/31/91
CHP CARRIER NUMBER	LOCATION		
CA- 47308		<input type="checkbox"/> Initial <input checked="" type="checkbox"/> Renewal	

The person or firm named has been licensed pursuant to the California Vehicle Code for:

OPERATION OF

emergency ambulances Armored Cars (IMS) Inspection and Maintenance Station

HAZARDOUS MATERIALS TRANSPORTATION

(HMX) Explosives subject to Division 14, Vehicle Code, Materials subject to Section 31302, Vehicle Code, and other hazardous materials

(HMO) Other Hazardous Materials

(HMW) Hazardous materials in certified waste hauler vehicles only (see exempt registration number)

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

400 P Street, 4th Floor
P O Box 806
Sacramento, CA 95812 0806



(916) 324-2430

*** HAZARDOUS WASTE TRANSPORTER REGISTRATION ***

NAME AND ADDRESS OF REGISTERED TRANSPORTER:

Falcon Energy Associates
P.O. Box 1257
Stockton, California 95201


TRANSPORTER REGISTRATION NO: 2463

EXPIRATION DATE: June 30, 1994

THIS IS TO CERTIFY THAT THE FIRM NAMED ABOVE IS DULY REGISTERED TO TRANSPORT HAZARDOUS WASTE IN THE STATE OF CALIFORNIA IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 6.5, DIVISION 20 OF THE HEALTH AND SAFETY CODE AND DIVISION 4.5, TITLE 22 OF THE CALIFORNIA CODE OF REGULATIONS.

THIS REGISTRATION CERTIFICATE MUST BE USED IN CONJUNCTION WITH VEHICLES AND/OR CONTAINERS WHICH HAVE BEEN CERTIFIED PURSUANT TO SECTION 256169.1, HEALTH AND SAFETY CODE, OR A VARIANCE ISSUED BY THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL FOR HIGHWAY TRANSPORT WITH THE EXCEPTIONS OF TRANSPORT SOLELY BY WATER, RAIL OR AIR.

THIS REGISTRATION CERTIFICATE MUST BE CARRIED IN THE VEHICLE USED TO TRANSPORT HAZARDOUS WASTE.



(AUTHORIZED SIGNATURE)

JUN 25 1993

(DATE)

cc: California Highway Patrol

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

FEBRUARY 22, 1993

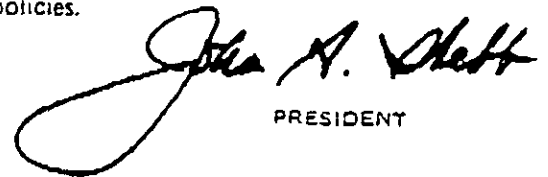
POLICY NUMBER: 1338012-92
CERTIFICATE EXPIRES: 11-30-93

This is to certify that we have issued a valid Workers' Compensation insurance policy in a form approved by the California Insurance Commissioner to the employer named below for the policy period indicated.

This policy is not subject to cancellation by the Fund except upon ~~ten~~³⁰ days' advance written notice to the employer

We will also give you ~~TEN~~³⁰ days' advance notice should this policy be cancelled prior to its normal expiration.

This certificate of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.


PRESIDENT

ENDORSEMENT #2065 ENTITLED CERTIFICATE HOLDERS' NOTICE EFFECTIVE 12-31-92 IS ATTACHED TO AND FORMS A PART OF THIS POLICY.

EMPLOYER

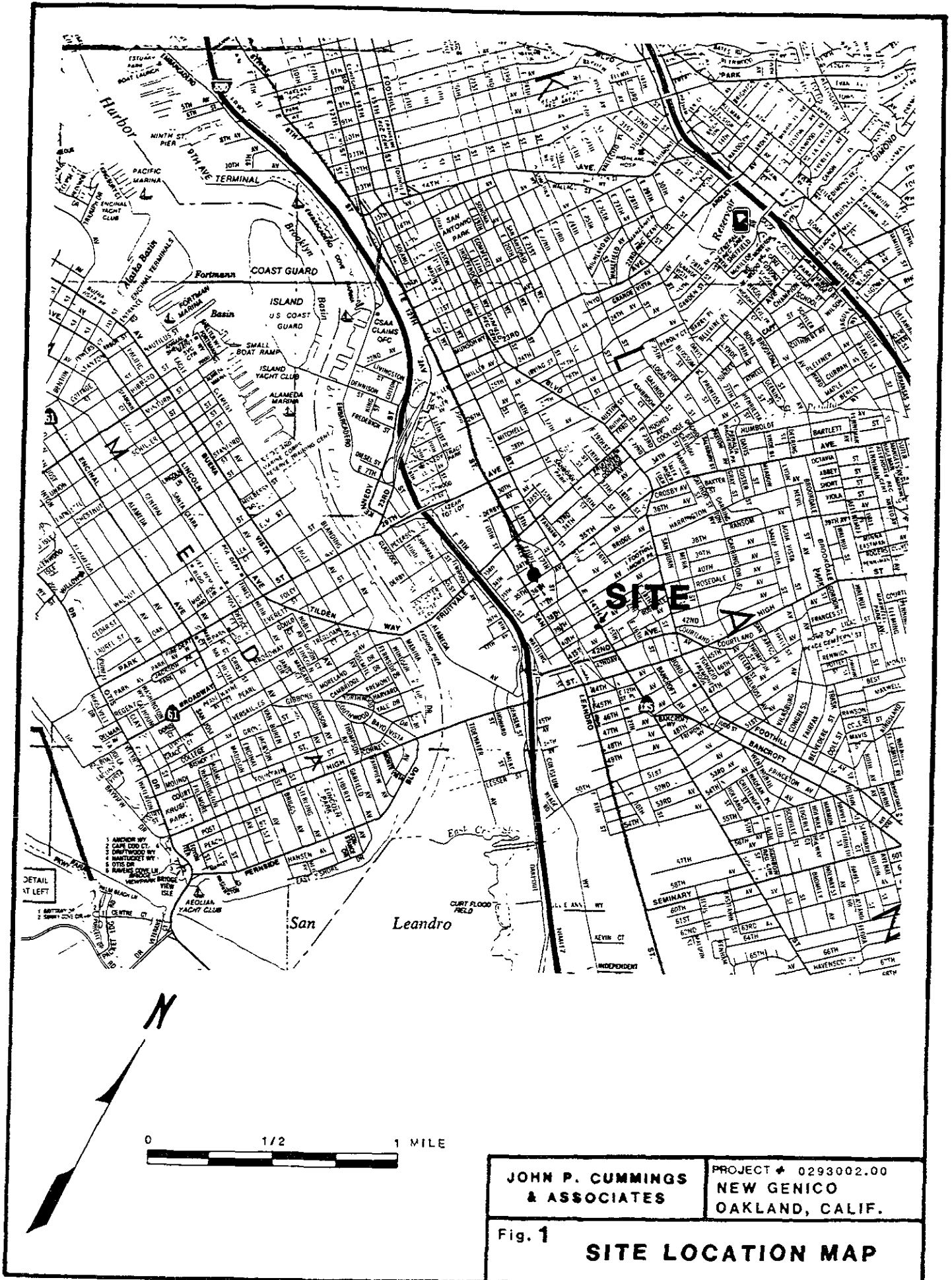


Fig. 1 **SITE LOCATION MAP**

SITE PLAN

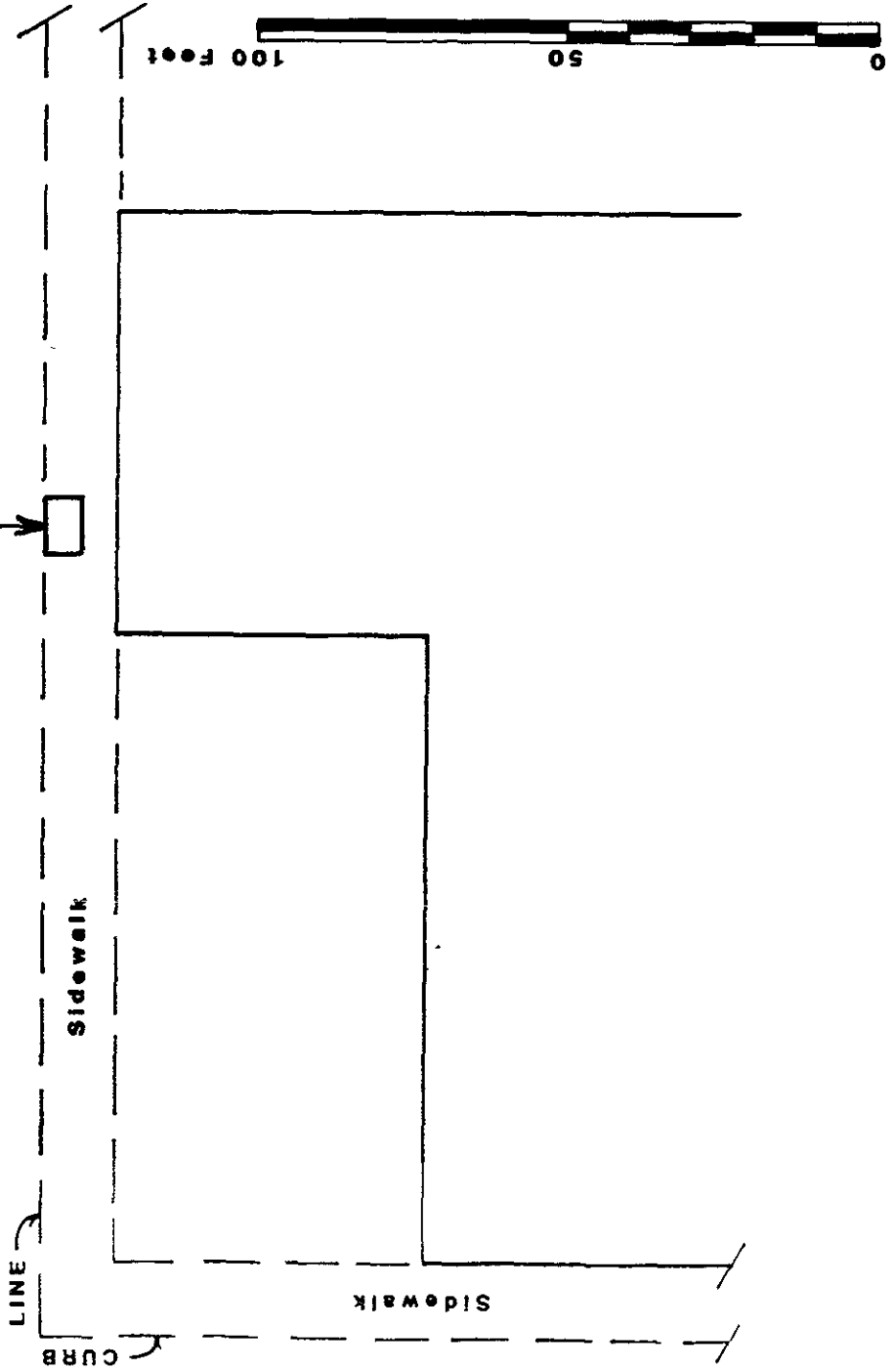
FIG. 2

PROJECT # 0293002.00
NEW GENICO
OAKLAND, CALIF.

JOHN P. CUMMINGS
& ASSOCIATES

TANK
LOCATION

40th Avenue



E 14th Street

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK PERMIT APPLICATION - FORM A



COMPLETE THIS FORM FOR EACH FACILITY/SITE

MARK ONLY ONE ITEM	<input type="checkbox"/> 1 NEW PERMIT	<input type="checkbox"/> 3 RENEWAL PERMIT	<input type="checkbox"/> 5 CHANGE OF INFORMATION	<input checked="" type="checkbox"/> 7 PERMANENTLY CLOSED SITE
	<input type="checkbox"/> 2 INTERIM PERMIT	<input type="checkbox"/> 4 AMENDED PERMIT	<input type="checkbox"/> 6 TEMPORARY SITE CLOSURE	

I. FACILITY/SITE INFORMATION & ADDRESS - (MUST BE COMPLETED)

DBA OR FACILITY NAME NEW GENICO		NAME OF OPERATOR William Sull		
ADDRESS 3927 E 14TH ST		NEAREST CROSS STREET 40th Ave	PARCEL # (OPTIONAL)	
CITY NAME OAKLAND		STATE CA	ZIP CODE 94601	SITE PHONE # WITH AREA CODE (510) 532 0960
<input checked="" type="checkbox"/> BOX TO INDICATE <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> LOCAL-AGENCY DISTRICTS <input type="checkbox"/> COUNTY-AGENCY <input type="checkbox"/> STATE-AGENCY <input type="checkbox"/> FEDERAL-AGENCY				
TYPE OF BUSINESS		IF INDIAN RESERVATION OR TRUST LANDS		E. P. A. I D. # (optional)
<input type="checkbox"/> 1 GAS STATION <input type="checkbox"/> 2 DISTRIBUTOR <input type="checkbox"/> 3 FARM <input type="checkbox"/> 4 PROCESSOR <input checked="" type="checkbox"/> 5 OTHER		<input type="checkbox"/> IF INDIAN RESERVATION OR TRUST LANDS		<input type="checkbox"/> # OF TANKS AT SITE 1 <input type="checkbox"/> E. P. A. I D. # (optional) CAC000870752

EMERGENCY CONTACT PERSON (PRIMARY)

EMERGENCY CONTACT PERSON (SECONDARY) - optional

DAYS: NAME (LAST, FIRST) CUMMINGS, JOHN		PHONE # WITH AREA CODE (510) 505 0722		DAYS: NAME (LAST, FIRST)		PHONE # WITH AREA CODE	
NIGHTS: NAME (LAST, FIRST) CUMMINGS, JOHN		PHONE # WITH AREA CODE (510) 505 0722		NIGHTS: NAME (LAST, FIRST)		PHONE # WITH AREA CODE	

II. PROPERTY OWNER INFORMATION - (MUST BE COMPLETED)

NAME RUBEN HAUSAUER		CARE OF ADDRESS INFORMATION		
MAILING OR STREET ADDRESS 6017 E 14TH ST		<input checked="" type="checkbox"/> box to indicate <input checked="" type="checkbox"/> INDIVIDUAL <input type="checkbox"/> LOCAL-AGENCY <input type="checkbox"/> STATE-AGENCY <input type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> COUNTY-AGENCY <input type="checkbox"/> FEDERAL-AGENCY		
CITY NAME OAKLAND		STATE CA	ZIP CODE 94601	PHONE # WITH AREA CODE (510) 638 7501

III. TANK OWNER INFORMATION - (MUST BE COMPLETED)

NAME OF OWNER RUBEN HAUSAUER		CARE OF ADDRESS INFORMATION		
MAILING OR STREET ADDRESS 6017 E 14TH ST		<input checked="" type="checkbox"/> box to indicate <input checked="" type="checkbox"/> INDIVIDUAL <input type="checkbox"/> LOCAL-AGENCY <input type="checkbox"/> STATE-AGENCY <input type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> COUNTY-AGENCY <input type="checkbox"/> FEDERAL-AGENCY		
CITY NAME OAKLAND		STATE CA	ZIP CODE 94601	PHONE # WITH AREA CODE (510) 638-7501

IV. BOARD OF EQUALIZATION UST STORAGE FEE ACCOUNT NUMBER - Call (916) 323-9555 if questions arise.

TY (TK) HQ **44-035326**

V. PETROLEUM UST FINANCIAL RESPONSIBILITY - (MUST BE COMPLETED) - IDENTIFY THE METHOD(S) USED

<input checked="" type="checkbox"/> box to indicate	<input type="checkbox"/> 1 SELF-INSURED	<input type="checkbox"/> 2 GUARANTEE	<input checked="" type="checkbox"/> 3 INSURANCE	<input type="checkbox"/> 4 SURETY BOND
	<input type="checkbox"/> 5 LETTER OF CREDIT	<input type="checkbox"/> 6 EXEMPTION	<input type="checkbox"/> 99 OTHER	

VI. LEGAL NOTIFICATION AND BILLING ADDRESS Legal notification and billing will be sent to the tank owner unless box I or II is checked.

CHECK ONE BOX INDICATING WHICH ABOVE ADDRESS SHOULD BE USED FOR LEGAL NOTIFICATIONS AND BILLING: I. II. III.

THIS FORM HAS BEEN COMPLETED UNDER PENALTY OF PERJURY AND TO THE BEST OF MY KNOWLEDGE IS TRUE AND CORRECT

APPLICANT NAME AND SIGNATURE JOHN P CUMMINGS	APPLICANT TITLE Agent for Ruben Hausauer	DATE MONTH DAY YEAR July 19 1993
LOCAL AGENCY USE ONLY		

COUNTY #	JURISDICTION #	FACILITY #
OPTIONAL	CENSUS TRACT # - OPTIONAL	SUPERVISOR DISTRICT CODE - OPTIONAL

THIS FORM MUST BE ACCOMPANIED BY AT LEAST (1) OR MORE PERMIT APPLICATION - FORM B, UNLESS THIS IS A CHANGE OF SITE INFORMATION ONLY

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK PERMIT APPLICATION - FORM B



COMPLETE A SEPARATE FORM FOR EACH TANK SYSTEM.

MARK ONLY ONE ITEM	<input type="checkbox"/> 1 NEW PERMIT	<input type="checkbox"/> 3 RENEWAL PERMIT	<input type="checkbox"/> 5 CHANGE OF INFORMATION	<input type="checkbox"/> 7 PERMANENTLY CLOSED ON SITE
	<input type="checkbox"/> 2 INTERIM PERMIT	<input type="checkbox"/> 4 AMENDED PERMIT	<input type="checkbox"/> 6 TEMPORARY TANK CLOSURE	<input checked="" type="checkbox"/> 8 TANK REMOVED

DBA OR FACILITY NAME WHERE TANK IS INSTALLED: _____

I. TANK DESCRIPTION COMPLETE ALL ITEMS -- SPECIFY IF UNKNOWN

A. OWNER'S TANK I.D. # <u>UNK</u>	B. MANUFACTURED BY: <u>UNK</u>
C. DATE INSTALLED (MO/DAY/YEAR) <u>UNK</u>	D. TANK CAPACITY IN GALLONS: <u>550 gallons</u>

II. TANK CONTENTS IF A-1 IS MARKED, COMPLETE ITEM C.

A. <input type="checkbox"/> 1 MOTOR VEHICLE FUEL <input type="checkbox"/> 2 PETROLEUM <input type="checkbox"/> 3 CHEMICAL PRODUCT	<input checked="" type="checkbox"/> 4 OIL <input type="checkbox"/> 80 EMPTY <input type="checkbox"/> 95 UNKNOWN	B. <input type="checkbox"/> 1 PRODUCT <input checked="" type="checkbox"/> 2 WASTE
C. <input type="checkbox"/> 1a REGULAR UNLEADED <input type="checkbox"/> 1b PREMIUM UNLEADED <input type="checkbox"/> 2 LEADED		<input type="checkbox"/> 3 DIESEL <input type="checkbox"/> 4 GASAHOL <input type="checkbox"/> 5 JET FUEL <input type="checkbox"/> 6 AVIATION GAS <input type="checkbox"/> 7 METHANOL <input type="checkbox"/> 99 OTHER (DESCRIBE IN ITEM D. BELOW)
D. IF (A.1) IS NOT MARKED, ENTER NAME OF SUBSTANCE STORED <u>WASTE OIL</u> C. A. S. #: _____		

III. TANK CONSTRUCTION MARK ONE ITEM ONLY IN BOXES A, B, AND C, AND ALL THAT APPLIES IN BOX D AND E

A. TYPE OF SYSTEM <input type="checkbox"/> 1 DOUBLE WALL <input type="checkbox"/> 2 SINGLE WALL	<input type="checkbox"/> 3 SINGLE WALL WITH EXTERIOR LINER <input type="checkbox"/> 4 SECONDARY CONTAINMENT (VAULTED TANK)	<input checked="" type="checkbox"/> 95 UNKNOWN <input type="checkbox"/> 99 OTHER
B. TANK MATERIAL (Primary Tank) <input type="checkbox"/> 1 BARE STEEL <input type="checkbox"/> 5 CONCRETE <input type="checkbox"/> 9 BRONZE	<input type="checkbox"/> 2 STAINLESS STEEL <input type="checkbox"/> 6 POLYVINYL CHLORIDE <input type="checkbox"/> 10 GALVANIZED STEEL	<input type="checkbox"/> 3 FIBERGLASS <input type="checkbox"/> 7 ALUMINUM <input checked="" type="checkbox"/> 95 UNKNOWN <input type="checkbox"/> 99 OTHER
C. INTERIOR LINING <input type="checkbox"/> 1 RUBBER LINED <input type="checkbox"/> 5 GLASS LINING	<input type="checkbox"/> 2 ALKYD LINING <input type="checkbox"/> 6 UNLINED	<input type="checkbox"/> 3 EPOXY LINING <input checked="" type="checkbox"/> 95 UNKNOWN <input type="checkbox"/> 99 OTHER
IS LINING MATERIAL COMPATIBLE WITH 100% METHANOL? YES ___ NO ___		
D. CORROSION PROTECTION <input type="checkbox"/> 1 POLYETHYLENE WRAP <input type="checkbox"/> 5 CATHODIC PROTECTION	<input type="checkbox"/> 2 COATING <input type="checkbox"/> 91 NONE	<input type="checkbox"/> 3 VINYL WRAP <input checked="" type="checkbox"/> 95 UNKNOWN <input type="checkbox"/> 99 OTHER
E. SPILL AND OVERFILL SPILL CONTAINMENT INSTALLED (YEAR) <u>UNK</u> OVERFILL PREVENTION EQUIPMENT INSTALLED (YEAR) <u>UNK</u>		

IV. PIPING INFORMATION CIRCLE A IF ABOVE GROUND OR U IF UNDERGROUND, BOTH IF APPLICABLE

A. SYSTEM TYPE	A U 1 SUCTION	A U 2 PRESSURE	A U 3 GRAVITY	A U 99 OTHER
B. CONSTRUCTION	A U 1 SINGLE WALL	A U 2 DOUBLE WALL	A U 3 LINED TRENCH	A U 95 UNKNOWN A U 99 OTHER
C. MATERIAL AND CORROSION PROTECTION	A U 1 BARE STEEL	A U 2 STAINLESS STEEL	A U 3 POLYVINYL CHLORIDE (PVC)	A U 4 FIBERGLASS PIPE
	A U 5 ALUMINUM	A U 6 CONCRETE	A U 7 STEEL W/ COATING	A U 8 100% METHANOL COMPATIBLE W/FRP
	A U 9 GALVANIZED STEEL	A U 10 CATHODIC PROTECTION	A U 95 UNKNOWN	A U 99 OTHER
D. LEAK DETECTION	<input type="checkbox"/> 1 AUTOMATIC LINE LEAK DETECTOR	<input type="checkbox"/> 2 LINE TIGHTNESS TESTING	<input type="checkbox"/> 3 INTERSTITIAL MONITORING	<input checked="" type="checkbox"/> 99 OTHER <u>UNK</u>

V. TANK LEAK DETECTION

<input type="checkbox"/> 1 VISUAL CHECK	<input type="checkbox"/> 2 INVENTORY RECONCILIATION	<input type="checkbox"/> 3 VADOZE MONITORING	<input type="checkbox"/> 4 AUTOMATIC TANK GAUGING	<input type="checkbox"/> 5 GROUND WATER MONITORING
<input type="checkbox"/> 6 TANK TESTING	<input type="checkbox"/> 7 INTERSTITIAL MONITORING	<input type="checkbox"/> 91 NONE	<input checked="" type="checkbox"/> 95 UNKNOWN	<input type="checkbox"/> 99 OTHER

VI. TANK CLOSURE INFORMATION

1. ESTIMATED DATE LAST USED (MO DAY YR): <u>1981</u>	2. ESTIMATED QUANTITY OF SUBSTANCE REMAINING: <u>0</u> GALLONS	3. WAS TANK FILLED WITH INERT MATERIAL? YES ___ NO <u>X</u>
--	--	---

THIS FORM HAS BEEN COMPLETED UNDER PENALTY OF PERJURY, AND TO THE BEST OF MY KNOWLEDGE, IS TRUE AND CORRECT

APPLICANT'S NAME AND SIGNATURE: JOHN P. CUMMINGS DATE: 7/19/92

LOCAL AGENCY USE ONLY THE STATE I.D. NUMBER IS COMPOSED OF THE FOUR NUMBERS BELOW

STATE ID #	COUNTY #	JURISDICTION #	FACILITY #
PERMIT NUMBER	PERMIT APPROVED BY DATE	PERMIT EXPIRATION DATE	

THIS FORM MUST BE ACCOMPANIED BY A PERMIT APPLICATION - FORM A, UNLESS A CURRENT FORM A HAS BEEN FILED.
FILE THIS FORM WITH THE LOCAL AGENCY IMPLEMENTING THE UNDERGROUND STORAGE TANK REGULATIONS

INSTRUCTIONS FOR COMPLETING FORM "B"

GENERAL INSTRUCTIONS:

1. One FORM "B" shall be completed for each tank for all **NEW PERMITS, PERMIT CHANGES, REMOVALS** and/or any other **TANK INFORMATION CHANGE**.
2. This form should be completed by either the **PERMIT APPLICANT** or the **LOCAL AGENCY UNDERGROUND TANK INSPECTOR**.
3. Please type or print clearly all requested information.
4. Use a hard point writing instrument, you are making 3 copies.

TOP OF FORM: "MARK ONLY ONE ITEM"

1. Mark an (X) in the box next to the item that best describes the reason the form is being completed.
2. Indicate the DBA or Facility name where the tank is installed.

I. TANK DESCRIPTION - COMPLETE ALL ITEMS - IF UNKNOWN - SO SPECIFY

- A. Indicate owners tank ID # - If there is a tank number that is used by the owner to identify the tank (ex. AB70789).
- B. Indicate the name of the company that manufactured the tank (ex. ACME TANK MFG.).
- C. Indicate the year the tank was installed (ex. 1987).
- D. Indicate the tank capacity in gallons (ex. 25,000 or 10,000 etc.).

II. TANK CONTENTS

- A. 1. If **MOTOR VEHICLE FUEL**, check box 1 and complete items B & C.
2. If not **MOTOR VEHICLE FUEL**, check the appropriate box in section A and complete items B & D.
- B. Check the appropriate box.
- C. Check the type of **MOTOR VEHICLE FUEL** (if box 1 is checked in A).
- D. Print the chemical name of the hazardous substance stored in the tank and the C.A.S.#. (Chemical Abstract Service number), if box 1 is NOT checked in A.

III. TANK CONSTRUCTION - MARK ONE ITEM ONLY IN BOX A, B, C & D

1. Check only one item in **TYPE OF SYSTEM, TANK MATERIAL, INTERIOR LINING** and **CORROSION PROTECTION**
2. If **OTHER**, print in the space provided.

IV. PIPING INFORMATION

1. Circle **A** if above ground; circle **U** if underground; and circle both if applicable.
2. If **UNKNOWN**, circle; or if **OTHER**, print in space provided.
3. Indicate the **LEAK DETECTION** system(s) used to comply with the monitoring requirement for the piping.

V. TANK LEAK DETECTION

1. Indicate the **LEAK DETECTION** system(s) used to comply with the monitoring requirements for the tank.

VI. INFORMATION ON TANK PERMANENTLY CLOSED IN PLACE

1. **ESTIMATED DATE LAST USED - MONTH/YEAR** (January, 1988 or 01/88).
2. **ESTIMATED QUANTITY** of **HAZARDOUS SUBSTANCE** remaining in the tank (in Gallons).
3. **WAS TANK FILLED WITH INERT MATERIAL?** Check 'Yes' or 'NO'.

APPLICANT MUST SIGN AND DATE THE FORM AS INDICATED.

INSTRUCTION FOR THE LOCAL AGENCIES

The state underground storage tank identification number is composed of the two digit county number, the three digit jurisdiction number, the six digit facility number and the six digit tank number. The county and jurisdiction numbers are predetermined and can be obtained by calling the State Board (916)739-2421. The facility number must be the same as shown in form "A". The tank number may be assigned by the local agency; however, this number must be numerical and cannot contain an alphabet. If the local agency prefers the State Board to assign the tank number, please leave it blank.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK PERMIT APPLICATION - FORM B



COMPLETE A SEPARATE FORM FOR EACH TANK SYSTEM.

MARK ONLY ONE ITEM	<input type="checkbox"/> 1 NEW PERMIT	<input type="checkbox"/> 3 RENEWAL PERMIT	<input type="checkbox"/> 5 CHANGE OF INFORMATION	<input type="checkbox"/> 7 PERMANENTLY CLOSED ON SITE
	<input type="checkbox"/> 2 INTERIM PERMIT	<input type="checkbox"/> 4 AMENDED PERMIT	<input type="checkbox"/> 6 TEMPORARY TANK CLOSURE	<input checked="" type="checkbox"/> 8 TANK REMOVED

DBA OR FACILITY NAME WHERE TANK IS INSTALLED: _____

I. TANK DESCRIPTION COMPLETE ALL ITEMS -- SPECIFY IF UNKNOWN

A. OWNER'S TANK I.D.# <u>UNK</u>	B. MANUFACTURED BY: <u>UNK</u>
C. DATE INSTALLED (MO/DAY/YEAR) <u>UNK</u>	D. TANK CAPACITY IN GALLONS: <u>550 gallons</u>

II. TANK CONTENTS IF A-1 IS MARKED, COMPLETE ITEM C.

A. <input type="checkbox"/> 1 MOTOR VEHICLE FUEL	<input checked="" type="checkbox"/> 4 OIL	B. <input type="checkbox"/> 1 PRODUCT	C. <input type="checkbox"/> 1a REGULAR UNLEADED	<input type="checkbox"/> 3 DIESEL	<input type="checkbox"/> 6 AVIATION GAS
<input type="checkbox"/> 2 PETROLEUM	<input type="checkbox"/> 80 EMPTY	<input checked="" type="checkbox"/> 2 WASTE	<input type="checkbox"/> 1b PREMIUM UNLEADED	<input type="checkbox"/> 4 GASAHOL	<input type="checkbox"/> 7 METHANOL
<input type="checkbox"/> 3 CHEMICAL PRODUCT	<input type="checkbox"/> 95 UNKNOWN		<input type="checkbox"/> 2 LEADED	<input type="checkbox"/> 5 JET FUEL	<input type="checkbox"/> 99 OTHER (DESCRIBE IN ITEM D. BELOW)

D. IF (A.1) IS NOT MARKED, ENTER NAME OF SUBSTANCE STORED WASTE OIL C. A. S. #: _____

III. TANK CONSTRUCTION MARK ONE ITEM ONLY IN BOXES A, B, AND C, AND ALL THAT APPLIES IN BOX D AND E

A. TYPE OF SYSTEM	B. TANK MATERIAL (Primary Tank)	C. INTERIOR LINING
<input type="checkbox"/> 1 DOUBLE WALL	<input type="checkbox"/> 1 BARE STEEL	<input type="checkbox"/> 1 RUBBER LINED
<input type="checkbox"/> 2 SINGLE WALL	<input type="checkbox"/> 2 STAINLESS STEEL	<input type="checkbox"/> 2 ALKYD LINING
<input type="checkbox"/> 3 SINGLE WALL WITH EXTERIOR LINER	<input type="checkbox"/> 3 FIBERGLASS	<input type="checkbox"/> 3 EPOXY LINING
<input type="checkbox"/> 4 SECONDARY CONTAINMENT (VAULTED TANK)	<input type="checkbox"/> 4 STEEL CLAD W/ FIBERGLASS REINFORCED PLASTIC	<input type="checkbox"/> 4 PHENOLIC LINING
<input checked="" type="checkbox"/> 95 UNKNOWN	<input type="checkbox"/> 5 CONCRETE	<input checked="" type="checkbox"/> 95 UNKNOWN
<input type="checkbox"/> 99 OTHER	<input type="checkbox"/> 6 POLYVINYL CHLORIDE	<input type="checkbox"/> 99 OTHER
	<input type="checkbox"/> 7 ALUMINUM	
	<input type="checkbox"/> 8 100% METHANOL COMPATIBLE W/FRP	
	<input type="checkbox"/> 9 BRONZE	
	<input type="checkbox"/> 10 GALVANIZED STEEL	
	<input checked="" type="checkbox"/> 95 UNKNOWN	
	<input type="checkbox"/> 99 OTHER	
		<input type="checkbox"/> 5 GLASS LINING
		<input type="checkbox"/> 6 UNLINED
		<input checked="" type="checkbox"/> 95 UNKNOWN
		<input type="checkbox"/> 99 OTHER

IS LINING MATERIAL COMPATIBLE WITH 100% METHANOL? YES ___ NO ___

D. CORROSION PROTECTION	E. SPILL AND OVERFILL
<input type="checkbox"/> 1 POLYETHYLENE WRAP	SPILL CONTAINMENT INSTALLED (YEAR) <u>UNK</u>
<input type="checkbox"/> 2 COATING	OVERFILL PREVENTION EQUIPMENT INSTALLED (YEAR) <u>UNK</u>
<input type="checkbox"/> 3 VINYL WRAP	
<input type="checkbox"/> 4 FIBERGLASS REINFORCED PLASTIC	
<input checked="" type="checkbox"/> 95 UNKNOWN	
<input type="checkbox"/> 99 OTHER	

IV. PIPING INFORMATION CIRCLE A IF ABOVE GROUND OR U IF UNDERGROUND, BOTH IF APPLICABLE

A. SYSTEM TYPE	B. CONSTRUCTION	C. MATERIAL AND CORROSION PROTECTION	D. LEAK DETECTION
<input checked="" type="checkbox"/> A <input checked="" type="checkbox"/> U 1 SUCTION	<input checked="" type="checkbox"/> A <input checked="" type="checkbox"/> U 1 SINGLE WALL	<input checked="" type="checkbox"/> A <input checked="" type="checkbox"/> U 1 BARE STEEL	<input type="checkbox"/> 1 AUTOMATIC LINE LEAK DETECTOR
<input type="checkbox"/> 2 PRESSURE	<input type="checkbox"/> 2 DOUBLE WALL	<input type="checkbox"/> 2 STAINLESS STEEL	<input type="checkbox"/> 2 LINE TIGHTNESS TESTING
<input type="checkbox"/> 3 GRAVITY	<input type="checkbox"/> 3 LINED TRENCH	<input type="checkbox"/> 3 POLYVINYL CHLORIDE (PVC)	<input type="checkbox"/> 3 INTERSTITIAL MONITORING
<input checked="" type="checkbox"/> 99 OTHER	<input checked="" type="checkbox"/> 95 UNKNOWN	<input type="checkbox"/> 4 FIBERGLASS PIPE	<input checked="" type="checkbox"/> 99 OTHER <u>UNK</u>
	<input type="checkbox"/> 99 OTHER	<input type="checkbox"/> 5 ALUMINUM	
		<input type="checkbox"/> 6 CONCRETE	
		<input type="checkbox"/> 7 STEEL W/ COATING	
		<input checked="" type="checkbox"/> 95 UNKNOWN	
		<input type="checkbox"/> 8 100% METHANOL COMPATIBLE W/FRP	
		<input type="checkbox"/> 9 GALVANIZED STEEL	
		<input type="checkbox"/> 10 CATHODIC PROTECTION	
		<input type="checkbox"/> 99 OTHER	

V. TANK LEAK DETECTION

<input type="checkbox"/> 1 VISUAL CHECK	<input type="checkbox"/> 2 INVENTORY RECONCILIATION	<input type="checkbox"/> 3 VADOZE MONITORING	<input type="checkbox"/> 4 AUTOMATIC TANK GAUGING	<input type="checkbox"/> 5 GROUND WATER MONITORING
<input type="checkbox"/> 6 TANK TESTING	<input type="checkbox"/> 7 INTERSTITIAL MONITORING	<input type="checkbox"/> 91 NONE	<input checked="" type="checkbox"/> 95 UNKNOWN	<input type="checkbox"/> 99 OTHER

VI. TANK CLOSURE INFORMATION

1 ESTIMATED DATE LAST USED (MO/DAY/YR)	2 ESTIMATED QUANTITY OF SUBSTANCE REMAINING _____ GALLONS	3 WAS TANK FILLED WITH INERT MATERIAL? YES ___ NO ___
--	---	---

THIS FORM HAS BEEN COMPLETED UNDER PENALTY OF PERJURY AND TO THE BEST OF MY KNOWLEDGE, IS TRUE AND CORRECT

APPLICANT'S NAME (PRINTED & SIGNATURE)	DATE
--	------

LOCAL AGENCY USE ONLY THE STATE I.D. NUMBER IS COMPOSED OF THE FOUR NUMBERS BELOW

STATE I.D.#	COUNTY #	JURISDICTION #	FACILITY #
PERMIT NUMBER	PERMIT APPROVED BY DATE	PERMIT EXPIRATION DATE	

THIS FORM MUST BE ACCOMPANIED BY A PERMIT APPLICATION - FORM A, UNLESS A CURRENT FORM A HAS BEEN FILED
FILE THIS FORM WITH THE LOCAL AGENCY IMPLEMENTING THE UNDERGROUND STORAGE TANK REGULATIONS

INSTRUCTIONS FOR COMPLETING FORM "B"

GENERAL INSTRUCTIONS:

1. One FORM "B" shall be completed for each tank for all **NEW PERMITS, PERMIT CHANGES, REMOVALS** and/or any other **TANK INFORMATION CHANGE**.
2. This form should be completed by either the **PERMIT APPLICANT** or the **LOCAL AGENCY UNDERGROUND TANK INSPECTOR**.
3. Please type or print clearly all requested information.
4. Use a hard point writing instrument, you are making 3 copies.

TOP OF FORM: "MARK ONLY ONE ITEM"

1. Mark an (X) in the box next to the item that best describes the reason the form is being completed.
2. Indicate the DBA or Facility name where the tank is installed.

I. TANK DESCRIPTION - COMPLETE ALL ITEMS - IF UNKNOWN - SO SPECIFY

- A. Indicate owners tank ID # - If there is a tank number that is used by the owner to identify the tank (ex. AB70789).
- B. Indicate the name of the company that manufactured the tank (ex. ACME TANK MFG.).
- C. Indicate the year the tank was installed (ex. 1987).
- D. Indicate the tank capacity in gallons (ex. 25,000 or 10,000 etc.).

II. TANK CONTENTS

- A. 1. If **MOTOR VEHICLE FUEL**, check box 1 and complete items B & C.
2. If **not MOTOR VEHICLE FUEL**, check the appropriate box in section A and complete items B & D.
- B. Check the appropriate box.
- C. Check the type of **MOTOR VEHICLE FUEL** (if box 1 is checked in A).
- D. Print the chemical name of the hazardous substance stored in the tank and the C.A.S.#. (Chemical Abstract Service number), if box 1 is **NOT** checked in A.

III. TANK CONSTRUCTION - MARK ONE ITEM ONLY IN BOX A, B, C & D

1. Check only one item in **TYPE OF SYSTEM, TANK MATERIAL, INTERIOR LINING** and **CORROSION PROTECTION**.
2. If **OTHER**, print in the space provided.

IV. PIPING INFORMATION

1. Circle **A** if above ground; circle **U** if underground; and circle both if applicable.
2. If **UNKNOWN**, circle; or if **OTHER**, print in space provided.
3. Indicate the **LEAK DETECTION** system(s) used to comply with the monitoring requirement for the piping.

V. TANK LEAK DETECTION

1. Indicate the **LEAK DETECTION** system(s) used to comply with the monitoring requirements for the tank.

VI. INFORMATION ON TANK PERMANENTLY CLOSED IN PLACE

1. **ESTIMATED DATE LAST USED** - MONTH/YEAR (January, 1988 or 01/88).
2. **ESTIMATED QUANTITY** of **HAZARDOUS SUBSTANCE** remaining in the tank (in Gallons).
3. **WAS TANK FILLED WITH INERT MATERIAL?** Check 'Yes' or 'NO'.

APPLICANT MUST SIGN AND DATE THE FORM AS INDICATED.

INSTRUCTION FOR THE LOCAL AGENCIES

The state underground storage tank identification number is composed of the two digit county number, the three digit jurisdiction number, the six digit facility number and the six digit tank number. The county and jurisdiction numbers are predetermined and can be obtained by calling the State Board (916)739-2421. The facility number must be the same as shown in form "A". The tank number may be assigned by the local agency; however, this number must be numerical and cannot contain an alphabet. If the local agency prefers the State Board to assign the tank number, please leave it blank.

