

LAWLER, BONHAM & WALSH

BYRON J. LAWLER  
TERRENCE J. BONHAM  
HENRY J. WALSH  
CAROL A. WOO  
KORMAN DORSEY ELLIS  
RICHARD A. SHIMMEL  
MAUREEN M. HOUSKA

ATTORNEYS AT LAW

300 ESPLANADE DRIVE, SUITE 1900  
POST OFFICE BOX 5527  
OXNARD, CALIFORNIA 93031  
TELEPHONE (805) 485-8921  
(800) 350-8921  
FAX (805) 485-3768

February 4, 1998

PLEASE REFER TO:  
GOLD.01

EXPRESS MAIL

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

Re: City of Oakland v. Keep On Trucking Company, Inc., et al.  
Our clients: Joseph J. Hare/East Bay Oil Company/Gold

Dear Mr. Chan:

We represent Gold Shield Distributors in matters regarding the Port of Oakland's Ninth Avenue Terminal located in Oakland, California. We received a letter from the Alameda County Health Care Services Agency ("ACHCSA") dated January 6, 1998 naming Gold Shield Distributors as a responsible party for Site ID No. 6894.

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

Carol A. Woo  
Lawler, Bonham & Walsh  
300 Esplanade Drive  
Suite 1900  
Oxnard, CA 93030

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

Mr. Barney Chan

Re: Port of Oakland vs. Keep On Trucking, et al.

February 4, 1998

Page 2

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

Very truly yours,

LAWLER, BONHAM & WALSH

*Maura Haskin for*

Carol A. Woo

CAW:cam

1 LAWLER, BONHAM & WALSH  
Attorneys at Law  
2 Carol A. Woo, State Bar No.: 127046  
Maureen Houska, State Bar No: 151371  
3 300 Esplanade Drive, Suite 1900  
P. O. Box 5527  
4 Oxnard, California 93031  
Telephone (805) 485-8921

5 Attorney for JOSEPH J. HARE  
6 and GOLD SHIELD DISTRIBUTORS

7  
8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD

10  
11 IN THE MATTER OF THE )

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PETITION FOR REVIEW

1. Name and Address of Petitioner:

Gold Shield Distributors: c/o Ms. Carol Woo, Esq. 300  
Esplanade Drive, Suite 1900, Oxnard, CA 93031

2. Specific Action of the Alameda County Health Care Services  
Agency (hereinafter the "Agency")

Petitioner requests review of the Agency's decision to name  
Gold Shield Distributors as a responsible party for the  
investigation and cleanup of Site ID# 6894. Please see "Notice  
Of Responsibility" attached hereto as Exhibit "A."

1 3. Date On Which Agency Acted:

2 January 6, 1998

3  
4 4. Reasons The Action Was Inappropriate:

5 There is no evidence cited to support a finding that Gold  
6 Shield Distributors is a responsible party.<sup>1</sup> Joseph Hare, who  
7 leased certain Port property in 1963, vacated the site in 1970  
8 and there is no evidence of a release during his tenancy of the  
9 site.

10  
11 5. The Manner in Which the Petitioner is Aggrieved:

12 Petitioner is aggrieved by the Agency's decision to name  
13 Gold Shield Distributors as a responsible party for site  
14 investigation and cleanup of Site ID # 6894 because they would be  
15 obligated to incur investigation and cleanup costs associated  
16 with alleged releases for which Gold Shield Distributors is not  
17 responsible.

18  
19 6. Specific Action by the Agency Which Petitioner Requests:

20 Petitioners request that the State Board reverse the  
21 Agency's decision and find that Gold Shield Distributors is not a  
22 responsible party.

23  
24 <sup>1</sup> In 1963, Joseph J. Hare leased certain Port property  
25 doing business as East Bay Oil Company. He independently  
26 formed Bay City Fuel Oil Company, Inc. which did not at  
27 any time conduct business during the time Hare occupied  
28 the Port property. Hare vacated the Port property in  
1970. In April of 1994, Bay City Fuel Oil Company, Inc.  
was amended to Gold Shield Distributors.

1 7. **Points and Authorities in Support of Legal Issue Raised in**  
2 **the Petition:**

3 Since there is no allegation as to why Gold Shield  
4 Distributors is a responsible party, Gold Shield Distributors  
5 contends that it is denied its constitutional requirement of due  
6 process of law. As noted elsewhere in this petition, Gold Shield  
7 Distributors has had no connection with the site. It is the  
8 amendment to Bay City Fuel Oil Company which did not conduct  
9 business at the site. Joseph Hare, dba East Bay Oil Company has  
10 had no connection with the site since 1970. There is no evidence  
11 of a release associated with Gold Shield Distributors. Prior to  
12 the Notice of Responsibility attached hereto a Exhibit "A", the  
13 Agency had not contacted Gold Shield Distributors regarding this  
14 site nor presented Gold Shield Distributors with any evidence it  
15 may have regarding Gold Shield's alleged liability. Absent any  
16 such evidence, no basis exists to support the Agency's decision  
17 to name Gold Shield Distributors as a responsible party.

18  
19 8. **List of Persons Other Than the Petitioner Known by the**  
20 **Agency to Have an Interest in the Subject Matter of the**  
21 **Petition.**

22 The Agency does not possess a list of person who have an  
23 interest in the subject matter of this petition other than the  
24 List of Responsible Parties served with the Notice of  
25 Responsibility (see Exhibit "A"). Therefore, Gold Shield can  
26 provide no further list.

27 ///

28 ///

1 **9. Statement of Service of Petition**

2 Gold Shield Distributors has sent copies of this petition to  
3 the Agency, the Regional Board and to any responsible parties  
4 known to Gold Shield. Specifically, Gold Shield has delivered  
5 copies of this petition to the following:

6 Gordon Coleman (Chief Contract Project Director of the  
7 Agency), Barney Chan (Hazardous Materials Specialist), Leroy  
8 Griffin (City of Oakland), Lori Casias (State Water Resources  
9 Control Board), Kevin Braves (Regional Water Quality Control  
10 Board - San Francisco Bay Region), Jonathan Redding (counsel to  
11 the Port of Oakland), Jim Reid (counsel for Groeniger and Co.).

12 Please see attached proof of Service.

13  
14 **10. Copy of Request to the Agency for Preparation of the Record:**

15 A copy of Petitioners' request to the Agency for preparation  
16 of the record is attached hereto as Exhibit "B."

17  
18 **11. Additional Evidence**

19 The Agency did not present any evidence to Gold Shield  
20 Distributors alleging a release during any tenancy of the site.  
21 If such evidence is alleged, Gold Shield would like an  
22 opportunity to respond to it.

23  
24 **CONCLUSION**

25 For the foregoing reasons, Petitioners respectfully submit  
26 that the Agency's decision to name Gold Shield Distributors as a  
27 responsible party for site investigation and cleanup at Site ID #  
28 6894 was improper, inappropriate and not supported by any

1 evidence. Petitioners respectfully request that the State Board  
2 grant this petition and find that Gold Shield Distributors is not  
3 a responsible party.

4  
5 DATED: February 4, 1998

6  
7 LAWLER, BONHAM & WALSH

8  
9 By: Maureen Houska  
10 Carol A. Woo  
11 Maureen Houska  
12 Attorneys for Defendants and  
13 Cross-Defendants,  
14 JOSEPH J. HARE and GOLD SHIELD  
15 DISTRIBUTORS  
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28

LAWLER, BONHAM & WALSH  
ATTORNEYS AT LAW

## SERVICE LIST

- 1
- 2
- 3 Gordon Coleman  
Chief Contract Project Director
- 4 Alameda County Health Care Services Agency  
Environmental Health Services
- 5 Environmental Protection (LOP)  
1131 Harbor Bay Parkway, Suite 250
- 6 Alameda, CA 94502-6577
- 7 Barney Chan  
Hazardous Materials Specialist
- 8 Alameda County Health Care Services Agency  
Environmental Health Services
- 9 Environmental Protection (LOP)  
1131 Harbor Bay Parkway, Suite 250
- 10 Alameda, CA 94502-6577
- 11 Leroy Griffin  
Supervisor, Hazardous Materials Inspections
- 12 City of Oakland  
Office of Emergency Services
- 13 Hazardous Materials Management Program  
505 14th Street, Suite 702
- 14 Oakland, CA 94612
- 15 Lori Casias  
State Water Resources Control Board
- 16 UST Program  
2014 "T" Street, Suite 130
- 17 Sacramento, CA 95814
- 18 Kevin Braves  
Regional Water Quality Control Board
- 19 San Francisco Bay Region  
2101 Webster Street, Suite 500
- 20 Oakland, CA 94612
- 21 Port of Oakland  
c/o Jonathan Redding
- 22 FITZGERALD, ABBOTT & BEARDSLEY LLP  
1221 Broadway, 21st Floor
- 23 Oakland, CA 94612-1837
- 24 Groeniger & Co.  
c/o Mr. Jim Reed, Esq.
- 25 3 Altarinda Road, Suite 201  
Orinda, CA 94563
- 26
- 27
- 28



JAN 12 1998

ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY  
DAVID J. KEARS, Agency Director

Certified Mail # P 143 588 403  
01/06/98

ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION (LOP)  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6677  
(510) 567-6700  
FAX (510) 637-9335

**Notice of Responsibility**

StID#: 6894  
Card Lock Former Bldg H-204  
79 8th Ave  
Oakland, CA 94606

**SITE**

Date First Reported 02/05/97  
Substance: Gasoline  
Funding (Federal or State): F  
Multiple RPs?: Y

Gold Schield Distc/o  
Ms. Carol Woo, Esq.  
300 Esplande Dr, St 1900  
Oxnard, C A 93031

**Responsible Party (RP)**  
Property Owner

You are hereby notified that pursuant to Section 25297.1 of the Health and Safety Code, the above site has been placed in the Local Oversight Program. The above individual(s) or entity(ies) has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 227-4349 or telephone (916) 227-4408.

Pursuant to Section 25299.37(c)(7) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact this office for further information about the site designation process.

Please contact Barney Chan, Hazardous Materials Specialist at this office at (510) 567-6700 if you have any further questions.  
507-6765 direct #

Richard A. Pantages, Chief  
Contract Project Director

Please Circle One Add Delete **Change**

Reason: Correct Information

C: Lori Casias, SWRCB  
Barney Chan, Hazardous Materials Specialist

Exhibit "A"

LAWLER, BONHAM & WALSH

BYRON J. LAWLER  
TERRENCE J. BONHAM  
HENRY J. WALSH  
CAROL A. WOO  
KORMAN DORSEY ELLIS  
RICHARD A. SHIMMEL  
MAUREEN M. HOUSKA

ATTORNEYS AT LAW

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(800) 350-8921  
FAX (805) 485-3788

February 4, 1998

PLEASE REFER TO:  
GOLD.01

EXPRESS MAIL

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

Re: City of Oakland v. Keep On Trucking Company, Inc., et al.  
Our clients: Joseph J. Hare/East Bay Oil Company/Gold

Dear Mr. Chan:

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

Carol A. Woo  
Lawler, Bonham & Walsh  
300 Esplanade Drive  
Suite 1900  
Oxnard, CA 93030

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

Exhibit "B" - Page 1 of 2

Mr. Barney Chan

Re: Port of Oakland vs. Keep On Trucking, et al.

February 4, 1998

Page 2

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

Very truly yours,

LAWLER, BONHAM & WALSH

*Maura Hask* for  
Carol A. Woo

CAW:cam

Exhibit "B" - Page 2 of 2

LAWLER, BONHAM & WALSH  
ATTORNEYS AT LAW

1 LAWLER, BONHAM & WALSH  
Attorneys at Law  
2 Carol A. Woo, State Bar No.: 127046  
Maureen Houska, State Bar No: 151371  
3 300 Esplanade Drive, Suite 1900  
P. O. Box 5527  
4 Oxnard, California 93031  
Telephone (805) 485-8921  
5  
6 Attorney for JOSEPH J. HARE  
and GOLD SHIELD DISTRIBUTORS

7  
8 STATE OF CALIFORNIA

9 STATE WATER RESOURCES CONTROL BOARD

10  
11 IN THE MATTER OF THE )

12 )  
13 )  
14 Petition of Gold Shield Distributors )  
for Review of Action of Alameda )  
15 County Health Care Services Agency )  
Identifying Gold Shield Distributors )  
as a Responsible Party for a Site )  
16 Investigation and Cleanup at Site ID )  
# 6894 )

PETITION FOR REVIEW

17 )  
18 )  
19 1. Name and Address of Petitioner:

20 Gold Shield Distributors: c/o Ms. Carol Woo, Esq. 300  
21 Esplanade Drive, Suite 1900, Oxnard, CA 93031

22  
23 2. Specific Action of the Alameda County Health Care Services  
24 Agency (hereinafter the "Agency")

25 Petitioner requests review of the Agency's decision to name  
26 Gold Shield Distributors as a responsible party for the  
27 investigation and cleanup of Site ID# 6894. Please see "Notice  
28 Of Responsibility" attached hereto as Exhibit "A."

1 3. Date On Which Agency Acted:

2 January 6, 1998

3  
4 4. Reasons The Action Was Inappropriate:

5 There is no evidence cited to support a finding that Gold  
6 Shield Distributors is a responsible party.<sup>1</sup> Joseph Hare, who  
7 leased certain Port property in 1963, vacated the site in 1970  
8 and there is no evidence of a release during his tenancy of the  
9 site.

10

11 5. The Manner in Which the Petitioner is Aggrieved:

12 Petitioner is aggrieved by the Agency's decision to name  
13 Gold Shield Distributors as a responsible party for site  
14 investigation and cleanup of Site ID # 6894 because they would be  
15 obligated to incur investigation and cleanup costs associated  
16 with alleged releases for which Gold Shield Distributors is not  
17 responsible.

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19 6. Specific Action by the Agency Which Petitioner Requests:

20 Petitioners request that the State Board reverse the  
21 Agency's decision and find that Gold Shield Distributors is not a  
22 responsible party.

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24 <sup>1</sup> In 1963, Joseph J. Hare leased certain Port property  
25 doing business as East Bay Oil Company. He independently  
26 formed Bay City Fuel Oil Company, Inc. which did not at  
27 any time conduct business during the time Hare occupied  
28 the Port property. Hare vacated the Port property in  
1970. In April of 1994, Bay City Fuel Oil Company, Inc.  
was amended to Gold Shield Distributors.

1 7. Points and Authorities in Support of Legal Issue Raised in  
2 the Petition:

3 Since there is no allegation as to why Gold Shield  
4 Distributors is a responsible party, Gold Shield Distributors  
5 contends that it is denied its constitutional requirement of due  
6 process of law. As noted elsewhere in this petition, Gold Shield  
7 Distributors has had no connection with the site. It is the  
8 amendment to Bay City Fuel Oil Company which did not conduct  
9 business at the site. Joseph Hare, dba East Bay Oil Company has  
10 had no connection with the site since 1970. There is no evidence  
11 of a release associated with Gold Shield Distributors. Prior to  
12 the Notice of Responsibility attached hereto a Exhibit "A", the  
13 Agency had not contacted Gold Shield Distributors regarding this  
14 site nor presented Gold Shield Distributors with any evidence it  
15 may have regarding Gold Shield's alleged liability. Absent any  
16 such evidence, no basis exists to support the Agency's decision  
17 to name Gold Shield Distributors as a responsible party.

18  
19 8. List of Persons Other Than the Petitioner Known by the  
20 Agency to Have an Interest in the Subject Matter of the  
21 Petition.

22 The Agency does not possess a list of person who have an  
23 interest in the subject matter of this petition other than the  
24 List of Responsible Parties served with the Notice of  
25 Responsibility (see Exhibit "A"). Therefore, Gold Shield can  
26 provide no further list.

27 ///

28 ///

1 **9. Statement of Service of Petition**

2 Gold Shield Distributors has sent copies of this petition to  
3 the Agency, the Regional Board and to any responsible parties  
4 known to Gold Shield. Specifically, Gold Shield has delivered  
5 copies of this petition to the following:

6 Gordon Coleman (Chief Contract Project Director of the  
7 Agency), Barney Chan (Hazardous Materials Specialist), Leroy  
8 Griffin (City of Oakland), Lori Casias (State Water Resources  
9 Control Board), Kevin Braves (Regional Water Quality Control  
10 Board - San Francisco Bay Region), Jonathan Redding (counsel to  
11 the Port of Oakland), Jim Reid (counsel for Groeniger and Co.).  
12 Please see attached proof of Service.

13  
14 **10. Copy of Request to the Agency for Preparation of the Record:**

15 A copy of Petitioners' request to the Agency for preparation  
16 of the record is attached hereto as Exhibit "B."

17  
18 **11. Additional Evidence**

19 The Agency did not present any evidence to Gold Shield  
20 Distributors alleging a release during any tenancy of the site.  
21 If such evidence is alleged, Gold Shield would like an  
22 opportunity to respond to it.

23  
24 **CONCLUSION**

25 For the foregoing reasons, Petitioners respectfully submit  
26 that the Agency's decision to name Gold Shield Distributors as a  
27 responsible party for site investigation and cleanup at Site ID #  
28 6894 was improper, inappropriate and not supported by any

1 evidence. Petitioners respectfully request that the State Board  
2 grant this petition and find that Gold Shield Distributors is not  
3 a responsible party.

4  
5 DATED: February 4, 1998

6  
7 LAWLER, BONHAM & WALSH

8 By: Maureen Houska  
9 Carol A. Woo  
10 Maureen Houska  
11 Attorneys for Defendants and  
12 Cross-Defendants,  
13 JOSEPH J. HARE and GOLD SHIELD  
14 DISTRIBUTORS  
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LAWLER, BONHAM & WALSH  
ATTORNEYS AT LAW



## SERVICE LIST

- 1
- 2
- 3 Gordon Coleman  
Chief Contract Project Director
- 4 Alameda County Health Care Services Agency  
Environmental Health Services
- 5 Environmental Protection (LOP)  
1131 Harbor Bay Parkway, Suite 250
- 6 Alameda, CA 94502-6577
- 7 Barney Chan  
Hazardous Materials Specialist
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Supervisor, Hazardous Materials Inspections
- 12 City of Oakland  
Office of Emergency Services
- 13 Hazardous Materials Management Program  
505 14th Street, Suite 702
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State Water Resources Control Board
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- 17 Sacramento, CA 95814
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Regional Water Quality Control Board
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c/o Jonathan Redding
- 22 FITZGERALD, ABBOTT & BEARDSLEY LLP  
1221 Broadway, 21st Floor
- 23 Oakland, CA 94612-1837
- 24 Groeniger & Co.  
c/o Mr. Jim Reed, Esq.
- 25 3 Altarinda Road, Suite 201  
Orinda, CA 94563
- 26
- 27
- 28

JAN 12 1998

ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY  
DAVID J. WEARS, Agency Director

Certified Mail # P 143 588 403  
01/06/98

ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION (LOP)  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94602-6577  
(510) 567-6700  
FAX (510) 337-9635

**Notice of Responsibility**

StID#: 6894  
Card Lock Former Bldg H-204  
79 8th Ave  
Oakland, CA 94606

**SITE**

Date First Reported 02/05/97  
Substance: Gasoline  
Funding (Federal or State): F  
Multiple RPs?: Y

Gold Schield Distc/o  
Ms. Carol Woo, Esq.  
300 Esplande Dr, St 1900  
Oxnard, C A 93031

**Responsible Party (RP)  
Property Owner**

You are hereby notified that pursuant to Section 25297.1 of the Health and Safety Code, the above site has been placed in the Local Oversight Program. The above individual(s) or entity(ies) has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site.

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Please contact Barney Chan, Hazardous Materials Specialist at this office at (510) 567-6700 if you have any further questions.  
*567-6765 direct #*

*Richard A. Pantages*

Richard A. Pantages, Chief  
Contract Project Director

Please Circle One Add Delete **Change**

Reason: Correct Information

C: Lori Casias, SWRCB  
Barney Chan, Hazardous Materials Specialist

Report: ReImb97 1/97

*Exhibit "A"*

LAWLER, BONHAM & WALSH

BYRON J. LAWLER  
TERRENCE J. BONHAM  
HENRY J. WALSH  
CAROL A. WOO  
KORMAN DORSEY ELLIS  
RICHARD A. SHIMMEL  
MAUREEN M. HOUSKA

ATTORNEYS AT LAW

300 ESPLANADE DRIVE, SUITE 1900  
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OXNARD, CALIFORNIA 93031  
TELEPHONE (805) 485-8921  
(800) 350-8921  
FAX (805) 485-3788

February 4, 1998

PLEASE REFER TO:  
GOLD.01

EXPRESS MAIL

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

Re: City of Oakland v. Keep On Trucking Company, Inc., et al.  
Our clients: Joseph J. Hare/East Bay Oil Company/Gold

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300 Esplanade Drive  
Suite 1900  
Oxnard, CA 93030

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

Exhibit "B" - Page 1 of 2

Mr. Barney Chan  
Re: Port of Oakland vs. Keep On Trucking, et al.  
February 4, 1998  
Page 2

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

Very truly yours,

LAWLER, BONHAM & WALSH

*Maverick Haskins for*  
Carol A. Woo

CAW:cam

Exhibit "B" - Page 2 of 2

Re 35  
485

1 **LAWLER, BONHAM & WALSH**  
Attorneys at Law  
2 Carol A. Woo, State Bar No.: 127046  
Maureen Houska, State Bar No: 151371  
3 300 Esplanade Drive, Suite 1900  
P. O. Box 5527  
4 Oxnard, California 93031  
Telephone (805) 485-8921

5 Attorney for JOSEPH J. HARE  
6 and GOLD SHIELD DISTRIBUTORS

7  
8

**STATE OF CALIFORNIA**

9

**STATE WATER RESOURCES CONTROL BOARD**

10  
11

IN THE MATTER OF THE )  
12 )

**PETITION FOR REVIEW**

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17

Petition of Gold Shield Distributors )  
for Review of Action of Alameda )  
County Health Care Services Agency )  
Identifying Gold Shield Distributors )  
as a Responsible Party for a Site )  
Investigation and Cleanup at Site ID )  
# 6894 )

18

19 **1. Name and Address of Petitioner:**

20 Gold Shield Distributors: c/o Ms. Carol Woo, Esq. 300  
21 Esplanade Drive, Suite 1900, Oxnard, CA 93031

22

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24 **Agency (hereinafter the "Agency")**

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LAWLER, BONHAM & WALSH  
ATTORNEYS AT LAW

1 3. Date On Which Agency Acted:

2 January 6, 1998

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4 4. Reasons The Action Was Inappropriate:

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12 Petitioner is aggrieved by the Agency's decision to name  
13 Gold Shield Distributors as a responsible party for site  
14 investigation and cleanup of Site ID # 6894 because they would be  
15 obligated to incur investigation and cleanup costs associated  
16 with alleged releases for which Gold Shield Distributors is not  
17 responsible.

18

19 6. Specific Action by the Agency Which Petitioner Requests:

20 Petitioners request that the State Board reverse the  
21 Agency's decision and find that Gold Shield Distributors is not a  
22 responsible party.

23

24 <sup>1</sup> In 1963, Joseph J. Hare leased certain Port property  
25 doing business as East Bay Oil Company. He independently  
26 formed Bay City Fuel Oil Company, Inc. which did not at  
27 any time conduct business during the time Hare occupied  
28 the Port property. Hare vacated the Port property in  
1970. In April of 1994, Bay City Fuel Oil Company, Inc.  
was amended to Gold Shield Distributors.

27

28

LAWLER, BONHAM & WALSH  
ATTORNEYS AT LAW

1 7. **Points and Authorities in Support of Legal Issue Raised in**  
2 **the Petition:**

3 Since there is no allegation as to why Gold Shield  
4 Distributors is a responsible party, Gold Shield Distributors  
5 contends that it is denied its constitutional requirement of due  
6 process of law. As noted elsewhere in this petition, Gold Shield  
7 Distributors has had no connection with the site. It is the  
8 amendment to Bay City Fuel Oil Company which did not conduct  
9 business at the site. Joseph Hare, dba East Bay Oil Company has  
10 had no connection with the site since 1970. There is no evidence  
11 of a release associated with Gold Shield Distributors. Prior to  
12 the Notice of Responsibility attached hereto a Exhibit "A", the  
13 Agency had not contacted Gold Shield Distributors regarding this  
14 site nor presented Gold Shield Distributors with any evidence it  
15 may have regarding Gold Shield's alleged liability. Absent any  
16 such evidence, no basis exists to support the Agency's decision  
17 to name Gold Shield Distributors as a responsible party.

18  
19 8. **List of Persons Other Than the Petitioner Known by the**  
20 **Agency to Have an Interest in the Subject Matter of the**  
21 **Petition.**

22 The Agency does not possess a list of person who have an  
23 interest in the subject matter of this petition other than the  
24 List of Responsible Parties served with the Notice of  
25 Responsibility (see Exhibit "A"). Therefore, Gold Shield can  
26 provide no further list.

27 ///  
28 ///

1 **9. Statement of Service of Petition**

2 Gold Shield Distributors has sent copies of this petition to  
3 the Agency, the Regional Board and to any responsible parties  
4 known to Gold Shield. Specifically, Gold Shield has delivered  
5 copies of this petition to the following:

6 Gordon Coleman (Chief Contract Project Director of the  
7 Agency), Barney Chan (Hazardous Materials Specialist), Leroy  
8 Griffin (City of Oakland), Lori Casias (State Water Resources  
9 Control Board), Kevin Braves (Regional Water Quality Control  
10 Board - San Francisco Bay Region), Jonathan Redding (counsel to  
11 the Port of Oakland), Jim Reid (counsel for Groeniger and Co.).  
12 Please see attached proof of Service.

13  
14 **10. Copy of Request to the Agency for Preparation of the Record:**

15 A copy of Petitioners' request to the Agency for preparation  
16 of the record is attached hereto as Exhibit "B."

17  
18 **11. Additional Evidence**

19 The Agency did not present any evidence to Gold Shield  
20 Distributors alleging a release during any tenancy of the site.  
21 If such evidence is alleged, Gold Shield would like an  
22 opportunity to respond to it.

23  
24 **CONCLUSION**

25 For the foregoing reasons, Petitioners respectfully submit  
26 that the Agency's decision to name Gold Shield Distributors as a  
27 responsible party for site investigation and cleanup at Site ID #  
28 6894 was improper, inappropriate and not supported by any



1 evidence. Petitioners respectfully request that the State Board  
2 grant this petition and find that Gold Shield Distributors is not  
3 a responsible party.

4  
5 DATED: February 4, 1998

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LAWLER, BONHAM & WALSH

By: Maureen Houska  
Carol A. Woo  
Maureen Houska  
Attorneys for Defendants and  
Cross-Defendants,  
JOSEPH J. HARE and GOLD SHIELD  
DISTRIBUTORS

LAWLER, BONHAM & WALSH  
ATTORNEYS AT LAW

## SERVICE LIST

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Gordon Coleman  
Chief Contract Project Director  
Alameda County Health Care Services Agency  
Environmental Health Services  
Environmental Protection (LOP)  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577

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

Leroy Griffin  
Supervisor, Hazardous Materials Inspections  
City of Oakland  
Office of Emergency Services  
Hazardous Materials Management Program  
505 14th Street, Suite 702  
Oakland, CA 94612

Lori Casias  
State Water Resources Control Board  
UST Program  
2014 "T" Street, Suite 130  
Sacramento, CA 95814

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

Port of Oakland  
c/o Jonathan Redding  
**FITZGERALD, ABBOTT & BEARDSLEY LLP**  
1221 Broadway, 21st Floor  
Oakland, CA 94612-1837

Groeniger & Co.  
c/o Mr. Jim Reed, Esq.  
3 Altarinda Road, Suite 201  
Orinda, CA 94563

JAN 12 1998 Ed.

ALAMEDA COUNTY  
HEALTH CARE SERVICES



AGENCY  
DAVID J. NEARS, Agency Director

Certified Mail # P 143 588 403  
01/06/98

ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION (LOP)  
1181 Harbor Bay Parkway, Suite 250  
Alameda, CA 94602-8677  
(510) 567-6700  
FAX (510) 667-9035

**Notice of Responsibility**

StID#: 6894  
Card Lock Former Bldg H-204  
79 8th Ave  
Oakland, CA 94606

**SITE**

Date First Reported 02/05/97  
Substance: Gasoline  
Funding (Federal or State): F  
Multiple RPs?: Y

Gold Schield Distc/o  
Ms. Carol Woo, Esq.  
300 Esplande Dr, St 1900  
Oxnard, C A 93031

**Responsible Party (RP)  
Property Owner**

You are hereby notified that pursuant to Section 25297.1 of the Health and Safety Code, the above site has been placed in the Local Oversight Program. The above individual(s) or entity(ies) has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 227-4349 or telephone (916) 227-4408.

Pursuant to Section 25299.37(c)(7) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact this office for further information about the site designation process.

Please contact Barney Chan, Hazardous Materials Specialist at this office at (510) 567-6700 if you have any further questions.  
567-6765 direct #

Richard A. Pantages, Chief  
Contract Project Director

Please Circle One Add Delete **Change**

Reason: Correct Information

C: Lori Casias, SWRCB  
Barney Chan, Hazardous Materials Specialist

Report: Reimb97 1/97

Exhibit "A"

LAWLER, BONHAM & WALSH

BYRON J. LAWLER  
TERRENCE J. BONHAM  
HENRY J. WALSH  
CAROL A. WOO  
KORMAN DORSEY ELLIS  
RICHARD A. SHIMMEL  
MAUREEN M. HOUSKA

ATTORNEYS AT LAW

300 ESPLANADE DRIVE, SUITE 1900  
POST OFFICE BOX 5527  
OXNARD, CALIFORNIA 93031  
TELEPHONE (805) 485-8921  
(800) 350-8921  
FAX (805) 485-3766

February 4, 1998

PLEASE REFER TO:  
GOLD.01

EXPRESS MAIL

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

Re: City of Oakland v. Keep On Trucking Company, Inc., et al.  
Our clients: Joseph J. Hare/East Bay Oil Company/Gold

Dear Mr. Chan:

We represent Gold Shield Distributors in matters regarding the Port of Oakland's Ninth Avenue Terminal located in Oakland, California. We received a letter from the Alameda County Health Care Services Agency ("ACHCSA") dated January 6, 1998 naming Gold Shield Distributors as a responsible party for Site ID No. 6894.

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

Carol A. Woo  
Lawler, Bonham & Walsh  
300 Esplanade Drive  
Suite 1900  
Oxnard, CA 93030

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

Exhibit "B" - Page 1 of 2

Mr. Barney Chan  
Re: Port of Oakland vs. Keep On Trucking, et al.  
February 4, 1998  
Page 2

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

Very truly yours,

LAWLER, BONHAM & WALSH

*Maver Walsh for*  
Carol A. Woo

CAW:cam

Exhibit "B" - Page 2 of 2