

ITO AND JOHNSON
ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

(415) 362-3503
(415) 989-1137 FAX

August 27, 1993

Alameda County Health Care Services Agency
Division of Hazardous Materials,
Attn: Mr. Scott Seery
80 Swan Way, Room 200
Oakland, CA 94621

Re: 16035 East 14th Street, San Leandro, CA
Opposition to the Addendum Protesting the Naming of Petitioners Garcia and Gallegos as Responsible Parties

Dear Mr. Seery:

This letter is written, on behalf of Mr. and Mrs. Jerry Petsas, in opposition to the Addendum to the Petition for Review of the Decision by the Alameda County Health Care Services Agency Naming Petitioners, Mr. Garcia and Mrs. Gallegos, as Responsible Parties.

Mr. and Mrs. Jerry Petsas are the current owners of the property (the "Property") located at 16035 E. 14th Street, San Leandro, California. The Property is the site of a former service station which operated three underground petroleum storage tanks (the "tanks").

Petitioners Beatrice S. Gallegos and Gregory Joseph Garcia are the former owners of the Property. While the Petitioners owned the Property, the use of the tanks was discontinued. Because the Petitioners were the owners of the tanks when the use of the tanks was discontinued, Mr. and Mrs. Petsas request the Alameda County Health Care Services Agency confirm its decision naming Petitioners as responsible parties.

Petitioners Are Responsible Parties

In 1962, Beatrice S. Garcia obtained title to the Property. (Exhibit A, Judgment Settling First Account.) Petitioners admit that Seaside Oil Company operated the service station on the Property between 1965 and 1970. [Exhibit B,

operated the service station on the Property between 1965 and 1970. [Exhibit B, Petition For Review of Decision By Alameda County Health Care Services Agency Naming Petitioners As Responsible Parties, pp. 1-2]

In 1971, Petitioner Beatrice S. Gallegos, formerly Beatrice S. Garcia, granted a one-half interest in the Property and the service station to Petitioner Gregory Joseph Garcia. (Exhibit C, Grant Deed; and Exhibit D, Order Approving Guardian's Petition.) Petitioners admit that between 1972 and 1979 the Property and the service station was leased for use. [Exhibit B, p. 2]

The Petitioners sold the Property to Mr. and Mrs. Petsas in 1979. (Exhibit E, Grant Deed.) Mr. and Mrs. Petsas first learned that the tanks were located on the Property during a 1985 fire inspection. They immediately decommissioned the tanks causing them to become inoperable. Since Mr. and Mrs. Petsas have owned the Property, the tanks have never been used or operated.

In 1992, Mr. and Mrs. Petsas removed the tanks and discovered that the tanks had leaked petroleum. Upon discovering the leak, Mr. and Mrs. Petsas reported the leak to the Alameda County Health Care Services Agency. Because Mrs. Gallegos and Mr. Garcia owned the tanks immediately before the use of the tanks was discontinued, Mr. and Mrs. Petsas request the Alameda County Health Care Services Agency confirm its decision naming the Petitioners as responsible parties.

Petitioners Are Responsible Parties
Under 23 California Code of Regulations §2720

The Petitioners owned the Property between 1962 and 1979. They admit that while they owned the Property the tanks were operated. In 1979, when Mr. and Mrs. Petsas purchased the Property, the use of the tanks had been discontinued. The tanks have not been used since 1979.

A responsible party is defined as follows:

"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" [23 Cal Code of Regulations §2720 (Responsible Party) (2)]

Because Mrs. Gallegos and Mr. Garcia were the persons who owned the

Mr. Scott Seery
August 27, 1993

Page 3

underground storage tanks immediately before the use of the tanks was discontinued, they are, by definition, responsible parties.

The Petitioners' Claim that Seaside Is The Owner of the Tanks is False

* In their Addendum to their Petition, Mrs. Gallegos and Mr. Garcia claim that Seaside Oil Company is the owner of the tanks located on the Property.

"From the information presently available to the Petitioners, it appears that the underground storage tanks were owned last by the Seaside Oil Company." [Exhibit F, Addendum to the Petition For Review of Decision By Alameda County Health Care Services Agency Naming Petitioners As Responsible Parties, p. 3]

This claim is false. Unless otherwise specified, a conveyance of realty transfers all fixtures and appurtenances to the buyer even though they are not specifically mentioned in the contract or deed. [Civ. Code §1084; Trask v. Moore (1944) 24 Cal.2d 365, 370, 149 P.2d 854] When the Petitioners granted the Property to Mr. and Mrs. Petsas, the Petitioners either granted Mr. and Mrs. Petsas all the rights in the Property with no exceptions, or the grant deed was a fraudulent transfer and Mr. and Mrs. Petsas have a basis on which to rescind the sale of the Property.

Conclusion

In light of the above, the Alameda County Health Care Services Agency is requested to confirm its decision naming Petitioners Beatrice S. Gallegos and Gregory Joseph Garcia as responsible parties for the investigation and possible cleanup of the unauthorized petroleum spill which has occurred at 16035 E. 14th Street, San Leandro, California.

* * * * *

Thank you for your consideration of this request. If you have any questions,

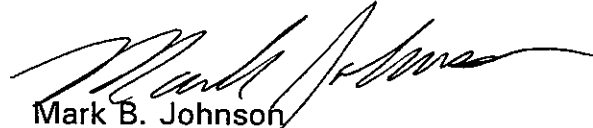
Mr. Scott Seery
August 27, 1993

Page 4

please contact me.

Very truly yours,

ITO AND JOHNSON



Mark B. Johnson

cc: Mr. Gil Jenson, Esq., Alameda County District Attorney's Office
Mr. Hans Herb, Esq., Counsel for Petitioners
Mr. and Mrs. Petsas

Enclosures: 6

- A. Judgment Settling First Account and Report of Administration For Allowance on Account of Statutory Compensation and of Preliminary Distribution
- B. Petition For Review of Decision By Alameda County Health Care Services Agency naming Petitioners as Responsible Parties, p. 3
- C. Grant Deed From Beatrice S. Gallegos, Formerly Beatrice S. Garcia, to Gregory Joseph Garcia
- D. Order Approving Guardian's Petition For Final Discharge and Consent of Minor To Waiver of Accounting
- E. Grant Deed From Beatrice S. Gallegos and Gregory Joseph Garcia to Jerry and Mary Petsas
- F. Addendum to the Petition For Review of Decision By Alameda County Health Care Services Agency Naming Petitioners As Responsible Parties, p. 3

Mr. Scott Seery
August 27, 1993

Page 5

Exhibit A

755

545

RE: 755 M:545

AT176171

1 GARCIA & BRUZZONE
2 Attorneys at Law
3 16101 East 14th St.
4 San Leandro, California
5 351-6161
6
7 Attorneys for Petitioner

(Endorsed)
FILED
CLERK'S OFFICE
JACK G. BLUE, County Clerk
By S.J. MCGIBBEN

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ALAMEDA

10
11 Estate of

12 JOSEPH R. GARCIA, also
13 known as JOSEPH GARCIA,
14 also known as JOE GARCIA,
15 Deceased.

NO. MAY 229

JUDGMENT SETTLING FIRST
ACCOUNT AND REPORT OF
ADMINISTRATRIX FOR ALLOW-
ANCE ON ACCOUNT OF
STATUTORY COMPENSATION
AND OF PRELIMINARY DISTRI-
BUTION.

16
17 BEATRICE L. GARCIA, as administratrix of the estate of
18 the above named decedent, having filed herein a first account
19 and report and petition for settlement thereof and for allowance
20 on account of statutory compensation and a petition for preliminary
21 distribution, and the petition coming on this day regularly for
22 hearing, the Court finds:

23 Due and legal notice of the hearing of the petition
24 and of the settlement of the account has been regularly given for
25 the period and in the manner required by law.

26 The account and report of the administratrix is full,
27 true, and correct, and all of the allegations of the petition
28 for its settlement are true. The account should be settled,
29 allowed, and approved as filed and all the acts and transactions
30 of the administratrix relating to the actions set forth in it
31 should be ratified, confirmed, and approved.

32 Notice to creditors has been published for the period

755

546

RE: 755 IN:546

1 and in the manner prescribed by law. Within thirty days after
2 completion of publication of notice to creditors there was filed
3 with the clerk of this Court an affidavit showing due publication
4 of notice to creditors in the manner and form required by law.

5 More than six months have elapsed since the issuance
6 of letters of administration in this estate and since the first
7 publication of notice to creditors, and the time for filing or
8 presenting claims has expired.

9 All claims against the estate have been paid.
10 The estate is but little indebted.

11 A written report of the inheritance tax appraiser
12 appointed herein is on file herein and an order fixing the in-
13 heritance tax has been made by this Court. The receipt of the
14 Treasurer of the County of Alameda, State of California, is on
15 file herein showing that the tax has been paid in full.

16 A federal estate tax return has not been filed for this
17 estate, and no federal estate tax is due or payable.

18 All federal and California State income taxes due and
19 payable by the estate have been paid.

20 Although the estate is not now in a condition to be
21 closed, there may be distributed at this time, without loss to
22 the creditors or injury to the estate or any person interested
23 in it, the property described below in accordance with the
24 laws of succession, and allowances may be made on account of
25 statutory compensation as hereafter set forth.

26 The petitioner, as administratrix of said estate, has
27 waived her statutory commission for her services.

28 The distribution may be made without requiring any
29 distributees herein named to execute a bond payable to the adminis-
30 tratrix.

31 IF IT IS THEREFORE ORDERED AND DECREED THAT
32 the Court should of LEONARD S. GARCIA, Clerk of the Court.

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RE: 755 IM:547

1 settled, allowed, and approved as filed, and all acts and trans-
 2 actions relating to the matters in that account and report set
 3 forth are ratified, confirmed, and approved; there is allowed
 4 to GARCIA & BRUZZONE, attorneys, on account of statutory compensa-
 5 tion, the sum of \$1037.94; and there is distributed to the
 6 following persons, in accordance with the laws of succession,
 7 the property described below:

SEPARATE PROPERTY

8
 9 To BEATRICE S. GARCIA, as guardian of the person
 10 and estate of GREGORY JOSEPH GARCIA, an undivided
 11 one-half (1/2) interest in the following described
 property; and

12 To BEATRICE S. GARCIA, as surviving spouse of said
 13 decedent, an undivided one-half (1/2) interest in
 the following described property:

14 1. Real Estate as follows:

15 All that certain real property situated in the
 16 Township of Eden, County of Alameda, described
 as follows:

17 Parcel 1: Beginning at the intersection of the
 18 eastern line of County Road Number 2552, known
 as Ashland Avenue, with the southwestern line of
 19 East 14th Street, as the said street is now laid
 out and improved, and running thence along said
 20 southwestern line south 48° 56' East 109.07 feet
 (the bearing of the southwestern line of East
 21 14th Street being taken as South 48° 56' East
 for the purpose of making this description);
 22 thence leaving said southwestern line of East
 14th Street South 33° 04' West 111.22 feet;
 23 thence north 89° 38' West 22.60 feet; to the
 24 said eastern line of Ashland Avenue; thence
 along the last named line north 0° 22' East
 164.72 feet to the point of beginning.

25 Said premises are subject to a lease agreement
 26 with Seaside Oil Company, a California corpora-
 27 tion, which lease terminates on December 31,
 1955 at a monthly rental of \$250.00.

28 Said premises are commonly known and designated
 as 16035 East 14th Street, San Leandro, California.

29 2. * Service station equipment located at 16035 East
 30 14th Street, San Leandro, California.

COMMUNITY PROPERTY

31 To BEATRICE S. GARCIA, as surviving spouse of
 32 said decedent:

755

548

RE: 755 IM:548

1 1 Miscellaneous jewelry, silver, books, pictures,
2 paintings, works of art, clothing and personal
3 effects at 18200 Via Arriba, San Lorenzo,
4 California;

5 2. Furniture and furnishings at 18200 Via Arriba,
6 San Lorenzo, California.

7 IT IS FURTHER ORDERED AND ADJUDGED that the requirement
8 of a bond from any distributee above named is dispensed with.

9 DATED: DEC 18 1962

10 A. J. Woolsey
11 JUDGE OF THE SUPERIOR COURT

12 The foregoing instrument is a
13 correct copy of the original
14 or file in this office.

15 ATTEST: DEC 21 1962
16 JACK G. BLUE, County Clerk
17 County Clerk of Alameda County, California
18 *[Signature]*

19 RECORDED at REQUEST OF
20 ATTORNEY
21 11/17/6171
22 Mr. Past M.

23 DEC 21 1962
24 OFFICIAL RECORDS OF
25 ALAMEDA COUNTY, CALIFORNIA
26 JACK G. BLUE
27 COUNTY RECORDER

28 Seal
29 Affixed

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31
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[Faint circular stamp]

Mr. Scott Seery
August 27, 1993

Page 6

Exhibit B

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition
of Gregory J. Garcia and
Beatrice S. Gallegos

_____ /

SWRCB No: _____

PETITION FOR REVIEW
OF DECISION BY ALAMEDA COUNTY
HEALTH CARE SERVICES AGENCY
NAMING PETITIONERS AS RESPONSIBLE PARTIES

Hans W. Herb, Esq.
LAW OFFICES OF HANS W. HERB
50 Santa Rosa Ave., 5th Fl.
Santa Rosa, CA 95404
(707) 576-0757
(800) 757-9562

Attorneys for
Gregory J. Garcia and
Beatrice S. Gallegos

INTRODUCTION

On April 6, 1993, Petitioners received notice from the Alameda County Health Care Services Agency ("Alameda County") that they had been named as responsible parties for the underground storage tank investigation at the property located at 16035 E. 14th Street in San Leandro, California. Petitioners had, at one time more than a dozen years ago, an ownership interest in the property, but never had any involvement with the operation of the underground storage tanks on the property. Petitioners are unaware of any unauthorized discharges from the underground storage tanks during the period of their ownership. Because petitioner's believe none of this Board's previous order's would require, or even authorize petitioners to be named as responsible parties, they respectfully bring this petition requesting that the State Board instruct Alameda County Health Care Services Agency to remove petitioners from the list of responsible parties.

BACKGROUND

In 1961, Joseph Raymond Garcia died and left the property located at 16035 E.14th Street in San Leandro, California, to the petitioners herein, Gregory J. Garcia and Beatrice S. Gallegos. At the time petitioners obtained the property, Seaside Oil Company, a Santa Barbara based oil jobber, had a lease on the premises. From information petitioners have discovered in historical documents, it appears that Seaside Oil

Company had leased the premises from the decedent and his predecessor owners for some period of time before 1940.

Seaside Oil Company continued its lease agreement on the property through December 21, 1965, and it continued operations on the station for several years after that. Specifically, after 1965, Seaside subleased the premises to a number of sub-operators, before finally leaving the property in the late 1960's. For a while thereafter (several months in early 1970), the station remained vacant. Later, it was leased by William and Peggy Gritzuk. The Gritzuks written lease indicates they leased the station from September of 1972 until at least March of 1979, but they are believed to have occupied the site for several years before that. The petitioners sold their interest in the subject property to the current owners, Jerry and Mary Petsas in March of 1979.

At no time did petitioners ever operate any of the underground storage tanks on the premises, nor did they operate any business on the site. Instead, all storage tank operations at the site were conducted by Seaside Oil Company and/or one of its subtenants and the Gritzuks.

Although petitioners have not yet been able to locate a copy of the written lease agreement between Seaside Oil Company and the late Joseph Raymond Garcia, they have located the 1972 lease between petitioners and the Gritzuks. Under the express terms of the lease, the Gritzuks were responsible to; at their own cost and expense, maintain the premises, "including the

Mr. Scott Seery
August 27, 1993

Page 7

Exhibit C

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Garcia, Bruzzone & Dunn
16101 E. 14th Street
San Leandro, California 94578

AND THE STATEMENTS TO

Beatrice S. Gallegos & Gregory
Joseph Garcia
16115 E. 14th Street
San Leandro, California 94578

RE: 2847 IM.620

71-55813 001

DOCUMENTARY TRANSFER TAX
NONE

GARCIA, BRUZZONE & DUNN

By Anthony J. Garcia

RECORDED at REQUEST OF
ATTORNEY

At Min. Past 10:30 A

MAY 11 1971

OFFICIAL RECORDS OF
ALAMEDA COUNTY, CALIFORNIA
JACK G. BLUE
COUNTY RECORDER

Grant Deed

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

BEATRICE S. GALLEGOS, formerly known as BEATRICE S. GARCIA,
Guardian of the Estate of GREGORY JOSEPH GARCIA,
hereby GRANT(S) to

GREGORY JOSEPH GARCIA, a single person,

an undivided one-half interest in and to
the following described real property in the Township of Eden
County of Alameda, State of California:

Parcel 1: Beginning at the intersection of the eastern line of County Road Number 2552, known as Ashland Avenue, with the southwestern line of East 14th Street, as the said street is now laid out and improved, and running thence along said southwestern line south 48°56' East 109.07 feet (the bearing of the southwestern line of East 14th Street being taken as South 48°56' East for the purpose of making this description); thence leaving said Southwestern line of East 14th Street South 33°04' West 111.22 feet; thence north 89°38' West 22.60 feet; to the said Eastern line of Ashland Avenue; thence along the last named line north 0°22' East 164.72 feet to the point of beginning.

Dated APR 30 1971

Beatrice S. Gallegos

STATE OF CALIFORNIA
COUNTY OF ALAMEDA } ss

On April 29, 1971 before me, the undersigned, a Notary Public in and for said State, personally appeared BEATRICE S. GALLEGOS

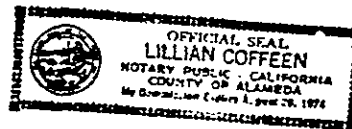
known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

WITNESS my hand and official seal.

Signature Lillian Coffeen

Lillian Coffeen

Name (Typed or Printed)



(This area for official notarial seal)

Title Order No. _____

Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

Mr. Scott Seery
August 27, 1993

Page 8

Exhibit D

49334

After recording return to:

(ENDORSED)
FILED

APR 26 1971

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GARCIA, BRUZZONE & DUNN
ATTORNEYS AT LAW
1810 EAST FOURTEENTH STREET
SAN LEANDRO, CALIF. 94578
381-8161 OR 378-1172

RECORDED at REQUEST OF
ATTORNEY

JACK G. BLUE, County Clerk

At _____ Min. Post _____ By: Peter Chinn, Deputy

ATTORNEYS FOR GUARDIAN

APR 28 1971

OFFICIAL RECORDS OF
ALAMEDA COUNTY, CALIFORNIA
JACK C. BLUE
COUNTY RECORDER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

Guardianship of the Estate of

NO. 157701

GREGORY JOSEPH GARCIA,

ORDER APPROVING GUARDIAN'S
PETITION FOR FINAL DISCHARGE
AND CONSENT OF MINOR TO
WAIVER OF ACCOUNTING

A Minor

BEATRICE S. GALLEGOS, formerly known as BEATRICES. GARCIA,

as guardian of the estate of the above named minor, having heretofore filed with the Clerk of this Court a Waiver of Accounting, Petition for Discharge and Consent of Minor, and the matter coming on regularly for hearing this day and it appearing to the Court that due and legal notice of said hearing has been given in all respects as required by law, the minor having consented in writing to the guardian's petition for discharge and waiving the rendition of an accounting by his said guardian, and no one appearing to except to said petition or to contest the same, the Court, after hearing the evidence, approves said notice and finds said petition to be true and correct.

IT IS ORDERED that the petition of said guardian be, and the same is hereby approved, allowed and settled.

IT IS FURTHER ORDERED that said guardian be allowed from the estate of said ward a reasonable sum in the amount of \$ 700 for the services of her attorneys, GARCIA, BRUZZONE & DUNN, as ordinary fees for their services to the guardian and the guardianship estate during this accounting period.

IT IS FURTHER ORDERED that due to the fact the minor of this guardianship has reached the age of majority a guardianship of his estate is

H- 49334

1 no longer necessary and that the estate of said minor in possession of the
 2 guardian remaining after the payment of attorney fees be turned over to the
 3 former ward of the guardian, GREGORY JOSEPH GARCIA, and the guardian
 4 discharged one year from the date of this order. Said property of the ward
 5 remaining for distribution after payment of the attorney fees consists of the
 6 following:

- 7 1. Cash in the approximate amount of \$5,187.53
- 8 * 2. An undivided one-half interest in service station equipment
 9 located at 16035 East 14th Street, San Leandro, California;
- 10 3. An undivided one-half interest in the following described real
 11 property:

12 All that certain real property situated in the Township of Eden,
 13 County of Alameda, State of California, described as:

14 Parcel 1: Beginning at the intersection of the eastern line of
 15 County Road Number 2552, known as Ashland Avenue, with the
 16 southwestern line of East 14th Street, as the said street is now
 17 laid out and improved, and running thence along said south-
 18 western line south 48°56' East 109.07 feet (the bearing of the
 19 southwestern line of East 14th Street being taken as South 48°56'
 20 East for the purpose of making this description); thence leaving
 21 said Southwestern line of East 14th Street South 33°04' West
 22 111.22 feet; thence north 89°38' West 22.60 feet; to the said
 23 Eastern line of Ashland Avenue; thence along the last named
 24 line north 0°22' East 164.72 feet to the point of beginning.

25 DATED APR 26 1971

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 28
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 32
 DONALD K. QUAYLE

 JUDGE OF THE SUPERIOR COURT

26
 27
 28
 29
 30
 31
 32

The foregoing instrument is a
 correct copy of the original
 on file in this office

ATTEST APR 26 1971

JACK G. SLUE, County Clerk
 County Clerk and ex-officio Clerk of the
 Superior Court of the State of California in
 and for the County of Alameda
 DEPUTY

Mr. Scott Seery
August 27, 1993

Page 9

Exhibit E

79-061446

Sm-10.00

RECORDING REQUESTED BY

RECORDED at REQUEST OF
Western Title Guaranty Co.

At 10:30 A.M.

APR - 3 1979

OFFICIAL RECORDS OF
ALAMEDA COUNTY, CALIFORNIA

RENE C. DAVIDSON
COUNTY RECORDER

TRANSFER
TAX PAID
ALAMEDA COUNTY

AND WHEN RECORDED MAIL TO

NAME [JERRY PETSAS]
ADDRESS [16515 TOLEDO ST]
CITY & STATE [SAN LEANORO, CAL 94578]

Title Order No. _____ Escrow No. 591609-JR

5.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO
NAME []
ADDRESS []
CITY & STATE []

Documentary transfer tax \$ 132.⁰⁰
 Computed on full value of property conveyed, or
 Computed on full value less liens and encumbrances
remaining thereon at time of sale.

Western Title Guaranty Co.
Signature of declarant or agent determining tax - firm name

Individual Grant Deed

850539 PV

WESTERN TITLE FORM NO. 104

FOR VALUE RECEIVED, BEATRICE S. GALLEGOS formerly known as Beatrice S. Garcia under which name she acquired title, and GREGORY JOSEPH GARCIA

GRANT to JERRY PETSAS and MARY PETSAS, his wife as joint tenants

all that real property situate in the Township of Eden
County of Alameda, State of California, described as follows:

SEE EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREOF

Dated March 21 1979

Beatrice S. Gallegos
Beatrice S. Gallegos
Beatrice S. Gallegos
Gregory Joseph Garcia
Gregory Joseph Garcia

STATE OF CALIFORNIA }
County of Fresno } ss.
On March 28, 1979 before me, the undersigned,

a Notary Public, in and for said State, personally appeared
Beatrice S. Gallegos
known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to me that
she executed the same.

Ruth A. Kusamura
Notary Public

79-061446

FOR NOTARY SEAL OR STAMP
OFFICIAL SEAL
RUTH A. KUSAMURA
Notary Public, California
Principal Office in
Fresno County
My Com. Expires Oct. 4, 1981

MAIL TAX STATEMENTS AS DIRECTED ABOVE

STATE OF CALIFORNIA

City of San Francisco County of San Francisco

79-061446 1/2

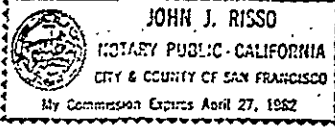
On March 30, 74 before me, Remond

a Notary Public, in and for said State, personally appeared

Donald H. Boudge Gregory J. Gray

Erica known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

My commission expires _____
John J. Rizzo
Notary Public



at this time I have not seen the original of the document and the copy of the document is not a true and correct copy of the original.

John J. Rizzo
Notary Public

Mr. Scott Seery
August 27, 1993

Page 10

Exhibit F

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition
of Gregory J. Garcia and
Beatrice S. Gallegos

SWRCB No: _____

ADDENDUM TO THE
PETITION FOR REVIEW
OF DECISION BY ALAMEDA COUNTY
HEALTH CARE SERVICES AGENCY
NAMING PETITIONERS AS RESPONSIBLE PARTIES

Hans W. Herb, Esq.
LAW OFFICES OF HANS W. HERB
50 Santa Rosa Ave., 5th Fl.
Santa Rosa, CA 95404
(707) 576-0757
(800) 767-9562

Attorneys for
Gregory J. Garcia and
Beatrice S. Gallegos

**THERE IS NO "EVIDENCE" LET ALONE
"SUBSTANTIAL EVIDENCE" THAT PETITIONERS
WERE EVER THE "OWNERS" OF THE
UNDERGROUND STORAGE TANKS**

After submission of the original Petition, Sandra L. Malos, Chief of the Local Oversight Program, wrote a letter to Petitioners, claiming that Petitioners were responsible parties for the investigation at the site in San Leandro because they met the definition of "owners" under RCRA. Petitioners challenge this assertion, factually and legally.

First, as was noted in the original Petition, Petitioners were owners of the property. Owners of the property are not necessarily owners of fixtures placed thereon by third parties.

While Petitioners are aware that the State Underground Storage Tank Cleanup Fund ("Fund") has allowed claims for "de facto" tank owners, neither federal nor state law recognizes any such basis for imposing liability.

By analogy, if a gasoline tanker truck was to crash into your home spilling gasoline, the responsibility for the cleanup would be solely on the trucking company and the driver. There would be no good legal reason, nor would it foster sound public policy, to require the owner of the property to clean it up simply because he or she owned the property.

From the information presently available to the Petitioners, it appears that the underground storage tanks were owned last by the Seaside Oil Company. Petitioners are not affiliated in any way with the Seaside Oil Company. Under these