

ALAMEDA COUNTY  
HEALTH CARE SERVICES



F

AGENCY  
DAVID J. KEARS, Agency Director

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

July 19, 2007

Mr. John Gibson      460 Grand Avenue Oakland LLC  
Falaschi Brothes      1800 Sutter Street, #500  
1534 5<sup>th</sup> Avenue, #4      Concord, CA 94502-2587  
San Rafael, CA 94901

Mr. James Burns  
D & B Bellevue LLC  
165 10<sup>th</sup> Street  
San Francisco, CA 94103-2604

Subject: Spills, Leaks, Investigations and Cleanup (SLIC) case file #RO0002467 (Global ID # T06019779893, Gulf #0006, 460 Grand Ave, Oakland, Ca

Dear Mr. Gibson and Mr. Burns:

The above-referenced site is a Spills, Leaks, Investigations, and Cleanup (SLIC) case due to the presence of soil and groundwater contamination detected at your property. Alameda County Environmental Health is the agency providing regulatory oversight for this case. In order for Alameda County Environmental Health (ACEH) to review SLIC cases, we require an oversight account to cover our costs. Please send a check in the amount of \$6,000.00 payable to Alameda County Environmental Health. Please send your check to the attention of our Finance Department.

This additional deposit may or may not be sufficient to provide all necessary regulatory oversight. ACEH will deduct actual costs incurred based upon the hourly rate specified below. If these funds are insufficient, additional deposit will be requested. Otherwise, any unused monies will be refunded to you or your designee.

The deposit is authorized in Section 6.92.040L of the Alameda County Ordinance Code. Work on this project is being debited at the Ordinance specified rate, currently \$166.00 per hour.

Please write "SLIC" (the type of project), the site address, and the number AR0303140 on your check.

If you have any questions, please contact Steven Plunkett at (510) 383-1767.

Sincerely,

Ariu Levi  
Division Chief

cc: D. Drogos, S. Plunkett, File

1-05-04

Mr. Don Hwang  
Hazardous Materials Specialist  
Alameda County Health Care Services  
Environmental Health Services  
Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577



Re: Former Gulf Service Station #0006 460 Grand Avenue, Oakland, California

Dear Mr. Hwang:

On November 18<sup>th</sup>, I sent you a letter stating our position in the above referenced property. We spoke on the phone on that same day at 9:55 AM.

In reiteration of the referenced letter and phone conversation: "On October 11<sup>th</sup>, 2001, you wrote a letter to Mr. John Gibson, Attorney for the owner, that you concurred that "It is now appropriate to allow unrestricted land use" with respect to environmental conditions on the referenced property."

In our phone conversation and again in my letter of 11-18-03, I requested a letter addressed to me, buyer and member of D & B Bellevue LLC, for our due diligence closures prior to our deposit monies going non refundable. You stated on the phone that you felt that your original statement of closure to the current owners was sufficient. However, given some time to review you felt that a written confirmation to me would be provided.

Due to our conversation and your assurance that your position as previously stated was sufficient for the "unrestricted land use" with respect to environmental conditions, we allowed our monies to go non-refundable. On or about January 30<sup>th</sup> 2004, we will close escrow on the property.

Due to the nature of our current position in the property, i.e. that we are currently under contract and are closing escrow on or about January 30<sup>th</sup>, I am requesting a letter from you, addressed to me, **James R. Burns II. Member of D & B Bellevue LLC**, reiterating your concurrence of the October 11<sup>th</sup>, 2001 letter.

In lieu of a letter, we will conclude that your original statement of position to Mr. John Gibson is current and valid (ie. that no restrictions with respect to the environmental conditions exist and that unrestricted land use is allowed). D & B Bellevue LLC will be closing on the property as stated.

Once again, your prompt attention to this request would be very much appreciated.

Sincerely,

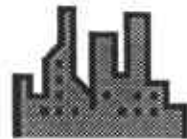
D & B Bellevue LLC



James R. Burns II

11-18-03

Mr. Don Hwang  
Hazardous Materials Specialist  
Alameda County Health Care Services  
Environmental Health Services  
Environmental Protection  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577



**D & B**  
**BELLEVUE**  
**LLC**

Alameda County  
JAN 08 2004  
Environmental Health

Re: Former Gulf Service Station #0006 460 Grand Avenue, Oakland, California

Dear Mr. Hwang:

I currently have the above referenced property in escrow for purchase. We are conducting our due diligence on the property and have until December 9<sup>th</sup> to remove contingencies with respect to the soil conditions of the property.

I have a copy of a report from Geomatrix Consultants, Inc. (of Oakland, California). Inclusive in this report are the following documents:

- "Case Closure Summary" dated November 19<sup>th</sup>, 1996
- "Well Abandonment Report" dated November 17<sup>th</sup>, 1996
- "Remedial Action Completion Certificate" dated December 3, 1998
- "Geomatrix Consultants, Inc. Report" dated July 19, 2001
- "Geomatrix Consultants, Inc., Letter" dated September 24, 2001
- "ACDHS letter" dated October 11, 2001 (**Confirms No Restrictions**)
- "Chevron Products Company letter" dated December 13, 1998

The two letter/reports by Geomatrix were written to you summarizing their findings and requesting unrestricted use due to their findings. On October 11, 2001, you responded to Mr. John Gibson, Attorney for the owners, that you concurred that ***"it is now appropriate to allow unrestricted land use"***.

Do to the nature of our current position in the property, i.e. that we are currently under contract and are actively engaged in "due diligence", I am requesting a letter from you, addressed to me, **James R. Burns II, Member of D & B Bellevue LLC**, reiterating your concurrence of the October 11<sup>th</sup>, 2001 letter.

Our release of contingencies due to the soil condition history of this project hinges on our confidence that the Alameda County Health Care Services is satisfied that the property, in it's current condition, has unrestricted use with respect to the soil contamination issues.

As per our telephone conversation this morning, your prompt attention to this request would be very much appreciated.

Sincerely,

D & B Bellevue LLC

  
James R. Burns II

ALAMEDA COUNTY  
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



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

October 11, 2001

Falaschi Brothers  
c/o John C. Gibson, Esq., Receiver  
Gibson & MacPhce, Attorneys at Law  
1534-5<sup>th</sup> Ave. Suite 4  
San Rafael, CA 94901

Dear Mr. Gibson:

Subject: Former Gulf Service Station #0006 460 Grand Avenue, Oakland, California

Your letter of February 23, 2001, requested a reexamination and reevaluation of the Leaking Underground Fuel Storage Tank Program closure conditions dated November 19, 1996 at the aforementioned site. The Case Closure Summary includes a property use restriction, as follows: Residential site development would be acceptable, provided that either 1) the development should include a 15' setback distance from Grand Ave., or 2) soil will be excavated within the 15' setback zone, soil samples collected under the purview of this Agency, and laboratory analysis indicates the samples are either non-detect or within acceptable concentrations (as per additional calculations and another revised Risk Evaluation).

Additional soil sampling was performed on June 29, 2001 to evaluate current conditions in soil at the location where an elevated concentration of benzene was detected in 1992 (13 milligrams per kilogram [mg/kg], 5 feet below ground surface [bgs] at former monitoring well C-2). In June 2001, two soil samples were collected from soil boring B-1 (one at 2.0 feet bgs and one at 4.3 feet bgs) immediately adjacent to former monitoring well C-2. The chemical analytical results for these samples indicated that benzene was not detected in vadose-zone soil above the laboratory reporting limit of 0.0050 mg/kg. In addition, during the final year of monitoring at monitoring well C-2 in 1995, benzene was detected in groundwater at less than the Maximum Contaminant Level (MCL) for one quarter but was not detected for three quarters. Comparison with the 1992 soil data for the former monitoring well C-2 (13 mg/kg at 5 feet bgs) suggests that benzene in soil has biodegraded over time or is very limited in extent as defined by the boundaries of the excavation and the additional samples. The 1992 boring log for monitoring well C-2 indicated sandy silt from 0 to 7 feet bgs, clay from 7 to 11 feet bgs, and groundwater at approximately 6 feet bgs. For these site conditions, the applicable Oakland Tier 2 site-specific target level (SSTL) for benzene in shallow soil (less than 3 feet bgs) is 27 mg/kg and in subsurface soil is 1.4 mg/kg. Both SSTLs are well above the benzene analytical results for site vadose zone soil with the exception of the one 1992 sample at Well C-2. As stated above, the

Mr. Gibson  
October 11, 2001  
Page 2 of 2

1992 soil sample result (13 mg/kg at 5 feet bgs) is not likely to represent current conditions or an extensive area of soil at that location.

Based on a review of these findings by Roger Brewer, Regional Water Quality Control Board (RWQCB), the property use restrictions of a setback or soil excavation included in the 1996 Case Closure Summary no longer appears to be warranted and that it is now appropriate to allow unrestricted land use. Please feel free to contact me if you have any questions or wish to discuss this matter further at (510) 567-6746.

Sincerely,



Don Hwang  
Hazardous Materials Specialist

C: Roger Brewer, RWQCB

Margaret K. (Peggy) Peischl, Ann M. Holbrow, Geomatrix Consultants, Inc.,  
2101 Webster St., 12th Floor, Oakland, CA 94612

file



MARIN MUNICIPAL  
WATER DISTRICT

415.945.1449  
FAX 415.927.4953

John C. (Jack) Gibson  
Board of Directors  
Division I

220 Nellen Avenue  
Corte Madera, CA 94925-1169  
www.marinwater.org



THE LEGAL SOLUTIONS GROUP, L.L.P.

JACK  
John C. Gibson  
Attorney at Law

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