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Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Financial Assistance

1001 I Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) 341-5714 • FAX (916) 341-5806 • www.waterboards.ca.gov/cwphone/usfc

REJECT



Arnold Schwarzenegger
Governor

ENVIRONMENTAL HEALTH SERVICES

Wickland Corporation
Daniel Hall
3610 American River Dr, #140
Sacramento, CA 95864

FEB - 5 2008

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), STAFF DECISION TO REJECT CLAIM: CLAIM NO. 019023; FOR SITE ADDRESS: 3875 TELEGRAPH AVE, OAKLAND

Your claim has been found to be ineligible for placement on the Priority List for the following reason:

After careful review, it has been determined that there is no evidence that the USTs removed in 1984 leaked.

In addition, UST 1,2, and 3, they are not listed on the Removal Permit dated 1984 issued by Oakland Fire Department. There is no proof of ownership for those USTs.

Pursuant to Section 25299.57(d)(1) of the Health and Safety Code (H&SC), the State Water Board may pay a claim to the Fund if "[t]here has been an unauthorized release of petroleum into the environment from an underground storage tank.

Section 25281(y)(1) of the H&SC states, in part"

"Underground storage tank means any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and that is substantially or total beneath the surface of the ground."

The Petroleum Underground Storage Tank Cleanup Fund Regulations, Section 2804 states in part:

"Owner" means a person who owns an underground storage tank..."

"Unauthorized Release" means any release that does not conform to Health and Safety Code, division 20, chapter 6.7 (commencing with section 25280)..."

NOTE: The sections cited are found in the Petroleum Underground Storage Tank Cleanup Fund Regulations, Title 23, Division 3, Chapter 18, of the California Code of Regulations, or Petroleum Underground Storage Tank Cleanup Fund Statutes, California Health and Safety Code (H&SC), Division 20, Chapter 6.75.

If you disagree with this Staff Decision, you may appeal to the Fund Manager pursuant to Section 2814 of the *Petroleum Underground Storage Tank Cleanup Fund Regulations*. If you would like review of the decision by the Fund Manager, please submit your request along with any additional documentation to:

Ronald M. Duff, Fund Manager, Claim #019023
Underground Storage Tank Cleanup Fund
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

A request to the Fund Manager must include, at a minimum: (1) a statement describing how the claimant is damaged by the prior Staff Decision; (2) a description of the remedy or outcome desired; and (3) an explanation of why the claimant believes the Staff Decision is erroneous, inappropriate or improper.

If you do not request a review by the Fund Manager within thirty (30) calendar days from the date of this letter, the Staff Decision will then become final and conclusive.

If you have any questions, please call me at (916) 341-5714.

Sincerely,

151

Shari Knieriem
Claims Review Unit
Underground Storage Tank Cleanup Fund

cc: Ms. Donna Drogos
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577

RECEIVED

FEB 1 2008

CITY OF OAKLAND

R02875



ENVIRONMENTAL HEALTH SERVICES

250 FRANK H. OGAWA PLAZA OAKLAND, CALIFORNIA 94612-2033

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 839-6451

**COMBINED NOTICE OF RELEASE AND AVAILABILITY OF THE
DRAFT ENVIRONMENTAL IMPACT REPORT AND
NOTICE OF PUBLIC HEARINGS ON THE MACARTHUR TRANSIT VILLAGE PROJECT**

PROJECT TITLE: MAC ARTHUR TRANSIT VILLAGE EIR
CASE NO. ER 0006-04
PROJECT SPONSOR: MacArthur Transit Community Partners, LLC

PROJECT LOCATION: The project site is approximately 8.2 acres and is comprised of 10 parcels, the existing BART Plaza, two unimproved roadway rights-of-way between Telegraph Avenue and Frontage Road, and Frontage Road between West MacArthur Boulevard and 40th Street. Project site addresses and APNs are shown in the table below:

| Address | Assessor Parcel Number | Current Use |
|--|------------------------|--------------------|
| 532 39 th Street | 012-0969-053-03 | BART Parking |
| 516 Apgar Street | 012-0968-055-01 | BART Parking |
| 515 Apgar Street | 012-0967-049-01 | BART Parking |
| 3921 Telegraph Avenue | 012-0969-002-00 | Braids By Betty |
| 3915 Telegraph Avenue | 012-0969-003-00 | Chef Yu Restaurant |
| 3911 Telegraph Avenue | 012-0969-053-02 | Abyssinia Market |
| 3901 Telegraph Avenue | 012-0969-004-00 | Lee's Auto |
| 3875 Telegraph Avenue | 012-0968-003-01 | Medical Offices |
| 526 W. MacArthur Boulevard | 012-0967-009-00 | Hotel |
| 544 W. MacArthur Boulevard | 012-0967-010-00 | Hotel |
| BART Plaza | -- | BART Plaza |
| 39 th Street, between Telegraph Ave. and Frontage Rd. | -- | BART Parking |
| Apgar Street, between Telegraph Ave. and Frontage Rd. | -- | BART Parking |

DESCRIPTION OF PROJECT: The proposed project consists of a new Transit Village at the MacArthur BART station. The General Plan designates the project site as Neighborhood Center Mixed Use and the Existing Zoning is Commercial Shopping, Mediated Design Review (C-28/S-18) and High Density Residential, Mediated Design Review (R-70/S-18). The proposed project includes a rezone from C-28/S-18 and R-70/S-18 to Transit Oriented Development (S-15). The proposed project would require a series of discretionary actions associated with approval of the proposed project including, but not limited to: Rezone, S-15 Zone Text Amendment, Planned Unit Development/Development Plans, Design Review, Owner Participation Agreement/Disposition and Development Agreement, Development Agreement, Subdivision Maps, and Tree Removal Permits. Parcels that comprise the project site are included in the Hazardous Waste and Substances Sites (Cortese) List.

The proposed project would involve the demolition of all existing buildings and parking lots on the project site to allow for the construction of a new mixed-use, transit village development project. The transit village includes five new buildings that will accommodate for-rent and for-sale residential units, neighborhood-serving commercial and commercial uses, live/work units and a community center or childcare use. New land uses in the project area would be consistent with the land uses prescribed in the S-15, Transit-Oriented Development Zone. The project also includes two new internal roadways, a parking garage, landscaping and other streetscape improvements (i.e., benches and street lighting), and improvements to the BART plaza. In summary the project includes the following elements:

- Demolition of existing structures and remediation of hazardous materials;
- Up to 675 dwelling units (562 market-rate units and 113 affordable rentals units);
- Up to 44,000 square feet of commercial space (includes up to 18 live/work units);
- 5,000 square feet of community center space or childcare facility;
- Approximately 1,000 parking spaces (structured), which includes 300 exclusive BART patrons parking spaces, and 30 to 45 on-street parking spaces would be provided.
- The development of pedestrian and bicycle friendly internal streets and walkways;
- Two new traffic signals at the intersections of Village Drive/Telegraph Avenue and West MacArthur Boulevard/Frontage Road;
- A Residential Parking Permit program option for the adjacent neighborhoods;
- Improvements to the BART Plaza and other public access improvements; and
- Sustainable development that meets the objectives of the US Green Building Council LEED Neighborhood Development (ND) Pilot Program goals.

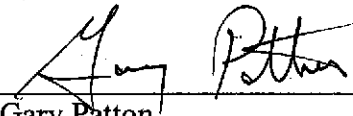
ENVIRONMENTAL REVIEW: A Draft Environmental Impact Report (DEIR) was been prepared for the project, under the requirements of the California Environmental Quality Act (CEQA), pursuant to Public Resources Code Section 21000 et. seq. The DEIR analyzes potentially significant environmental impacts in the following environmental categories: Land Use; Public Policy; Transportation, Circulation and Parking; Air Quality; Noise and Vibration; Hydrology and Water Quality; Geology, Soils and Seismicity; Public Health and Hazards; Public Services; Utilities and Infrastructure; Cultural Resources and Paleontological Resources; and Aesthetic Resources. The Draft EIR identifies two significant unavoidable environmental impacts related to Transportation, Circulation and Parking (unacceptable Level of Service at two intersections: Broadway/MacArthur Boulevard and Market Street/MacArthur Boulevard under the Cumulative Year 2030 Baseline Plus Project condition). Copies of the DEIR are available for review or distribution to interested parties at no charge at the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612, Monday through Friday, 8:30 a.m. to 5:00 p.m. The Draft EIR may also be reviewed at the following website:

<http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/macarthur.html>

PUBLIC HEARINGS: The City Planning Commission will conduct a public hearing on the Draft EIR and the project on **March 5, 2008 at 6:00 p.m.** in Hearing Room 1, City Hall, 1 Frank H. Ogawa Plaza.

The City of Oakland is hereby releasing this Draft EIR, finding it to be accurate and complete and ready for public review. Members of the public are invited to comment on the EIR and the project. There is no fee for commenting, and all comments received will be considered by the City prior to finalizing the EIR and making a decision on the project. Comments on the Draft EIR should focus on the sufficiency of the EIR in discussing possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the project in light of the EIR's purpose to provide useful and accurate information about such factors. Comments may be made at the public hearing described above or in writing. Please address all written comments to Charity Wagner, Consulting Planner RE: Case No. ER 0006-04, City of Oakland, Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612; 510-238-6538 (fax); or e-mailed to clwagner@rrmdesign.com. Comments should be received no later than 4:00 p.m. on March 17, 2008. Please reference case number ER 000604 in all correspondence. If you challenge the environmental document or project in court, you may be limited to raising only those issues raised at the Planning Commission public hearing described above, or in written correspondence received by the Community and Economic Development Agency on or prior to 4:00 p.m. on March 17, 2008. After all comments are received, a Final EIR will be prepared and the Planning Commission will consider certification of the Final EIR and render a decision/make a recommendation on the project at a later meeting date to be scheduled. For further information, please contact Charity Wagner at (415) 730-6718 at clwagner@rrmdesign.com.

January 31, 2008
File Number ER 0006-04



Gary Patton
Deputy Director of Planning & Zoning
Major Development Projects

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



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

December 18, 2007

Mr. Dan Hall
Wickland Properties
P.O. Box 13648
Sacramento, CA 95853-4648

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Hall, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site including the recently submitted document entitled, "Addendum to Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan," dated October 29, 2007 and prepared on your behalf by West Environmental Services & Technology. The Addendum presents responses to ACEH technical comments on the Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan," dated August 2007.

The "Addendum to Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan," dated October 29, 2007 does not fully address ACEH's September 6, 2007 comments. Although the proposed work does not address several issues regarding the site (see technical comments below), the work may be implemented as a first phase in order to achieve some progress on the investigation. Therefore, the proposed scope of work may be implemented provided that the technical comments below are addressed and incorporated during the proposed field investigation. Submittal of a revised Work Plan or Work Plan Addendum is not required unless an alternate scope of work outside that described in the Work Plan, Addendum, or technical comments below is proposed.

We request that you address the technical comments below, perform the proposed work and send us the reports described below.

REQUEST FOR INFORMATION

We request that you submit copies of the following reports, which are referenced in the Work Plan but are not in the ACEH case file:

- Harding Lawson Associates, 1984. *Soil Investigation, Outpatient Medical Clinic, Oakland, California*, June 28, 1984.

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Mr. Robert Petrina
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Page 2

- Harding Lawson Associates, 1992. *Phase I Preliminary Hazardous Materials Site Assessment, The Surgery Center, 3875 Telegraph Avenue, Oakland, California*, January 22.

Please submit these technical documents and other technical documents, which may be useful in the investigation and cleanup of this site in the format requested in the Electronic Submittal of Reports section of this letter.

TECHNICAL COMMENTS

1. **Potential for Vapor Intrusion.** The Work Plan currently proposes soil vapor sampling at six locations outside the existing building. The existing building is constructed above the former UST pit, former fuel islands, and a sump, which are likely sources of fuel releases. The Work Plan does not include subsurface vapor sampling inside the existing building to evaluate vapor intrusion to indoor air. During a meeting conducted on October 2, 2007, ACEH indicated that soil vapor sampling beneath the building slab is necessary and requested that you consider the potential for collection of vapor samples beneath the building slab using horizontal or slanted borings. The proposed soil vapor sampling outside the building is likely to provide some information to guide future sampling but will not provide sufficient data to evaluate potential vapor intrusion to indoor air within the existing building. Please present the results of the soil vapor sampling outside the building and recommendations for future sampling in the Site Investigation Report requested below.
2. **Soil and Groundwater Sampling in Source Areas.** Limited characterization is currently proposed in the area of and downgradient from the former UST pit, former fuel islands, and sump, most of which are beneath the existing building. Although the proposed sampling outside the building will provide some initial data, it is likely that additional investigation will be required within and downgradient of the source areas during a future phase of investigation.
3. **Soil Sampling.** The Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan Work Plan proposes laboratory analyses for soil samples in four of the proposed soil borings. No laboratory analyses for soil are proposed in two soil borings, two soil gas sampling locations, and the three monitoring well borings. For the four soil borings where laboratory analyses for soil are proposed, soil sampling is proposed at fixed intervals of five feet. We request that the fixed interval be adjusted as necessary based on field observations and screening. Soil samples are to be collected for laboratory analysis from any zones where visible staining, odor, or elevated PID readings are observed. If visible staining, odor, or elevated PID readings are observed, a sufficient number of soil samples must be collected to characterize the vertical interval over which the contamination occurs. If no visible staining, odor, or elevated PID readings are observed, the collection of soil samples at the proposed fixed interval of five feet is acceptable. However, we do not concur with holding the sample collected 15 feet bgs. We request that the 15-foot soil sample collected from proposed borings W-1, W-4, and W-5 be analyzed for TPHd and TPHg using EPA Method 8015 and BTEX and MTBE using EPA Method 8021 or 8260. For soil borings W-2, W-8, MW-1, MW-2, and MW-3, we request that soil samples be collected for laboratory analyses from any interval where visible staining, odor, or elevated PID readings are

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
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observed. Please present the soil boring results in the Site Investigation Report requested below.

4. **Groundwater Sampling.** The Work Plan proposes grab groundwater sampling from fixed intervals of 15 to 20 feet bgs and 20 to 25 feet bgs in proposed borings W-2, W-3, and W-8. We request that the shallower grab groundwater sample be collected from an interval extending approximately five feet below first encountered groundwater. In addition to the proposed collection of grab groundwater samples from borings W-2, W-3, and W-8, we request that you collect grab groundwater samples for laboratory analysis from an interval extending approximately five feet below first encountered groundwater in borings W-1, W-4, and W-5. Please present the results in the Site Investigation Report requested below.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **April 29, 2008** – Site Investigation Report

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

Submission of reports to the Alameda County ftp site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) Geotracker website. Submission of reports to the Geotracker website does not fulfill the requirement to submit documents to the Alameda County ftp site. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitor wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all necessary reports was required in Geotracker (in PDF format). Please visit the SWRCB website for more information on these requirements (http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting).

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
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PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

UNDERGROUND STORAGE TANK CLEANUP FUND

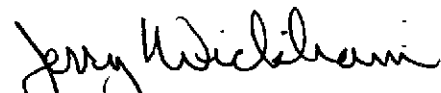
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
December 18, 2007
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Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA 94612-2032

Peter Morris, West Environmental Services & Technology, 711 Grand Avenue, Suite 220, San Rafael, CA 94901

Lori J. Gualco, 455 Capitol Mall, Suite 210, Sacramento, CA 95814

Julie Rose, Randick, O'Dea & Tooliatos, LLP, 5000 Hopyard Road, Suite 400, Pleasanton, CA 94588-3348

Gary Jensen, BART, 300 Lakeside Drive, 18th Floor, Oakland, CA 94604-2688

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-2034

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



F

ENVIRONMENTAL HEALTH SERVICES
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Alameda, CA 94502-6577
(510) 567-6700
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September 6, 2007

Mr. Dan Hall
Wickland Properties
P.O. Box 13648
Sacramento, CA 95853-4648

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Hall, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site including the recently submitted document entitled, "Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan," dated August 2007. The Work Plan proposes a scope of work that includes the collection of soil samples at four locations, soil gas samples at five locations, and grab groundwater samples at three locations. As discussed in the technical comments below, we request modifications to the proposed characterization activities in order to evaluate the site. Therefore, please address the technical comments below and submit a revised work plan **by October 29, 2007**.

REQUEST FOR INFORMATION

We request that you submit copies of the following reports, which are referenced in the Work Plan but are not in the ACEH case file:

- Harding Lawson Associates, 1984. *Soil Investigation, Outpatient Medical Clinic, Oakland, California*, June 28, 1984.
- Harding Lawson Associates, 1992. *Phase I Preliminary Hazardous Materials Site Assessment, The Surgery Center, 3875 Telegraph Avenue, Oakland, California*, January 22.

Please submit these technical documents and other technical documents, which may be useful in the investigation and cleanup of this site in the format requested in the Electronic Submittal of Reports section of this letter.

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Mr. Larry Fusch
September 6, 2007
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TECHNICAL COMMENTS

1. **Additional Responsible Parties.** Your cover letter dated August 14, 2007 requests that ACEH revisit naming additional parties. As we have previously indicated, we will revisit naming additional responsible parties if future investigation activities indicate that unauthorized releases occurred from sources in addition to the service station operated by Wickland Oil Corporation from 1971 until 1984.
2. **Geophysical Survey.** As discussed in the Work Plan, three service stations have occupied different portions of the site since the 1930s. Four USTs were removed from the northern portion of the site in 1984. No information on UST removals or locations of the former USTs is available for the other two service stations. We request that you conduct a geophysical survey of the site to identify any USTs that may have been left in place. Please include plans for a geophysical survey in the Revised Work Plan requested below.
3. **Potential for Vapor Intrusion and Proposed Soil Vapor Sampling Locations.** The Work Plan currently proposes soil vapor sampling at four locations outside the existing building. The existing building is constructed above the former UST pit and former fuel islands, which are likely sources of fuel releases. In order to evaluate potential vapor intrusion in the areas most likely to be impacted, we request that you include subslab vapor sampling inside the existing building in the Revised Work Plan requested below. In addition, we request that you propose additional soil vapor sampling to evaluate other suspected sources.
4. **Soil and Groundwater Sampling in Source Areas.** The former UST pit and former fuel islands, most of which are beneath the existing building, are likely source areas. Limited characterization is currently proposed in the area of and downgradient from these likely sources. Please propose additional activities to evaluate the likely source areas or present some rationale and justifications for not conducting soil and groundwater sampling in the likely source areas. Please include this information in the revised Work Plan requested below.
5. **Sump.** Section 3.2 of the Work Plan describes a 36-inch diameter sump that appeared to extend to 25 feet bgs in the area of the former UST excavation. Please present plans to investigate potential contamination originating from the sump in the revised Work Plan requested below. Since the sump apparently extended to a depth of 25 feet bgs, investigation of groundwater quality within the coarse-grained water-bearing layer encountered below 25 feet bgs will be required.
6. **Proposed Boring W-3.** The Work Plan proposes the installation of boring W-3 and well MW-1 at closely spaced locations upgradient of the likely source areas. These locations are also adjacent to boring B-6 in which one soil sample and one grab groundwater sample were previously collected. We recognize the value of an upgradient monitoring well; however, we do not see the added value of proposed soil boring W-3 in this upgradient location. Please review this proposal in the Revised Work Plan requested below.

7. **Site Conceptual Model and Cross Section.** We found the conceptual site model and cross section shown on Figure 4-1 to be very useful. We appreciate the presentation of the data in a clear and high quality format. The high quality of the accompanying soil and groundwater analytical figures is also appreciated.

8. **Groundwater Fate and Transport Discussion.** We concur that the detection of elevated concentrations of fuel hydrocarbons in the middle distillate range in boring B-4 north of the site in 39th Street may be related to an off-site source. However, we do not concur that the variations in TPH and BTEX concentrations and distribution of BTEX components for samples collected in the southern portion of the site, "can only reasonably be explained as having originated from multiple sources." The aromatic hydrocarbon distribution analysis is unconvincing since the analysis does not consider migration of fuel hydrocarbons as free-phase product across the site. Based on previous site observations and the highly elevated concentrations of fuel hydrocarbons that continue to be detected more than 20 years after the USTs were removed, free-phase product was likely extensive across the site. Further investigation of the source areas would be required to distinguish separate sources.

9. **Geotracker Submittals.** A review of the SWRCB Geotracker website indicates that no data or reports have been submitted to Geotracker for your site. Pursuant to CCR Sections 2729 and 2729.1, beginning September 1, 2001, all analytical data, including monitoring well samples, submitted in a report to a regulatory agency as part of the LUFT program, must be transmitted electronically to the SWRCB Geotracker website via the internet. Additionally, beginning January 1, 2002, all permanent monitoring points utilized to collect groundwater samples (i.e. monitoring wells) and submitted in a report to a regulatory agency, must be surveyed (top of casing) to mean sea level and latitude and longitude accurate to within 1-meter accuracy, using NAD 83, and transmitted electronically to the SWRCB Geotracker website. Beginning July 1, 2005, electronic submittal of a complete copy of all reports is required in Geotracker (in PDF format). In order to remain in regulatory compliance, please upload all analytical data (collected on or after September 1, 2001) and a copy, in PDF format, of all reports prepared after July 1, 2005.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **October 29, 2007** – Revised Work Plan

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
September 6, 2007
Page 4

ELECTRONIC SUBMITTAL OF REPORTS

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PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
September 6, 2007
Page 5

UNDERGROUND STORAGE TANK CLEANUP FUND

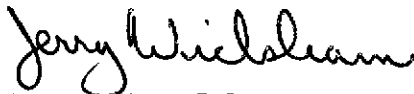
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA 94612-2032

Peter Morris, West Environmental Services & Technology, 711 Grand Avenue, Suite 220, San Rafael, CA 94901

Lori J. Gualco, 455 Capitol Mall, Suite 210, Sacramento, CA 95814

Julie Rose, Randick, O'Dea & Tooliatos, LLP, 5000 Hopyard Road, Suite 400, Pleasanton, CA 94588-3348

Gary Jensen, BART, 300 Lakeside Drive, 18th Floor, Oakland, CA 94604-2688

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-2034

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

Wickham, Jerry, Env. Health

From: Wickham, Jerry, Env. Health
Sent: Wednesday, August 15, 2007 8:58 AM
To: 'Zachary J. Blumberg'
Subject: RE: 3875 Telegraph Avenue, Oakland, CA 94609

A Work Plan was submitted on 8/14 and should be appear on the Alameda County website within two days.

Jerry Wickham
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
510-567-6791 phone
510-337-9335 fax
jerry.wickham@acgov.org

From: Zachary J. Blumberg [<mailto:zjb@tscgroup-inc.com>]
Sent: Tuesday, August 14, 2007 12:26 PM
To: Wickham, Jerry, Env. Health
Subject: 3875 Telegraph Avenue, Oakland, CA 94609

Mr. Wickham,

Good afternoon. I am investigating the following site:

Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609 - Fuel Leak Case No RO0002875 and Geotracker Global ID T06019716388

I have received the Alameda County Health Care Services Agency's file for the site from Roseanna Garcia-La Grille. The file included correspondence from you to the Wickland Corporation, The Surgery Center and EBSC c/o Bates Summit Medical Center dated August 1, 2007. In this letter you requested that a Work Plan be submitted by August 14, 2007. This letter also states that the Alameda County Environmental Cleanup Oversight Programs require submission of all reports in electronic form to the county's ftp site. I have searched the Online Local Oversight Program (LOP) Records, but have so far been unable to locate any information regarding the 3875 Telegraph Avenue site. When do you expect the Work Plan to be posted online? If the Work Plan will not be posted in the near future, would it be possible to obtain a copy via email or fax?

Thank you very much,

Zachary J Blumberg

TSC Group, Inc.
5400 Ward Road
Building V, Suite 100
Arvada, CO 80002
(303) 467-1005 x 22
(303) 467-1004 fax

8/15/2007

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

August 1, 2007

Mr. Daniel Hall
Wickland Corporation
P.O. Box 13648
Sacramento, CA 95853-4648

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Hall, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site including correspondence dated July 9, 2007 from Ms. Lori J. Gualco, Attorney at Law. In the correspondence dated July 9, 2007, Ms. Gualco requests that ConocoPhillips, Four Star Oil and Gas Company, Shell Oil Company, and San Francisco Bay Area Rapid Transit District (BART) be added as responsible parties for the above referenced site.

A petition for review of Notice of Responsibility determination by Alameda County was previously submitted for the above referenced case by Mr. Robert C. Goodman on behalf of Wickland Properties on February 7, 2007. Wickland Properties requested that the petition be held in abeyance for an unspecified period of time. In correspondence dated February 13, 2007, Ms. M. Catherine George, Senior Staff Counsel for the State Water Resources Control Board, acknowledged receipt of the petition and indicated that the petition will be held in abeyance for a period of no more than two years (SWRCB/OCC File P07-231).

We appreciate the research conducted by Ms. Gualco regarding the history of leasing and ownership at the site as well as the description of corporate history related to the involved parties. However, upon review of the case file and July 9, 2007 correspondence, we find that there is not a sufficient basis at this time to indicate that ConocoPhillips, Four Star Oil and Gas Company, Shell Oil Company, or San Francisco Bay Area Rapid Transit District (BART) meet the definition of responsible parties for the above referenced site under C.C.R. Title 23 Section 2720. The circumstances regarding each of the four entities are discussed separately below.

As described in the July 9, 2007 correspondence, Regal Petroleum Corporation is now part of ConocoPhillips Company through various mergers and acquisitions. Regal Petroleum Corporation leased the property from 1961 until the lease was assigned to Wickland Corporation in 1971. Wickland Oil Corporation operated a service station at the site from 1971 until 1984 when the tanks were removed. The earliest evidence of an unauthorized release at the site was from four geotechnical soil borings advanced at the site in 1984. We are not aware of any data that would be indicative of an unauthorized release at the site occurring during or prior to the time

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
August 1, 2007
Page 2

when Regal Petroleum Corporation was a lessee at the site. Therefore, we do not find a basis for adding ConocoPhillips as an additional responsible party at this time.

As described in the July 9, 2007 correspondence, Four Star Oil Gas Company was a tenant on the site from early 1928 until at least 1935. As discussed in the preceding paragraph, we are not aware of any data that would be indicative of an unauthorized release at the site occurring prior to leasing of the site by Wickland Corporation. Therefore, we do not find a basis for adding Four Star Oil Gas Company as an additional responsible party at this time.

Shell Oil Company is the primary responsible party for an unauthorized release that occurred from a service station at 500 40th Street. The fuel leak case at 500 40th Street remains an open case with ongoing groundwater monitoring. Dissolved fuel hydrocarbons from the former Shell service station have been detected in wells on the south side of 40th Street and in grab groundwater samples collected in the BART parking lot south of 40th Street. The groundwater flow direction from the Shell site is to the southwest as indicated by water level data from 1991 to present and plume extent. The Regal #120/East Bay Surgery Center site at 3875 Telegraph Avenue is in a cross gradient location south southwest from the former Shell station. Any impacts from dissolved phase hydrocarbons reaching the Regal #120/East Bay Surgery Center site are expected to be minimal. It is not plausible that the elevated concentrations of fuel hydrocarbons detected in soil and groundwater in the area of 3875 Telegraph Avenue were caused by unauthorized releases from the Shell station at 500 40th Street. We find no basis for adding Shell Oil Company as a responsible party.

Elevated concentrations of fuel hydrocarbons were detected in soil and groundwater on BART property immediately southwest of the Regal #120/East Bay Surgery Center site at 3875 Telegraph Avenue as reported in site investigation reports entitled, "Report of Phase II Environmental Site Assessment, The Surgery Center," dated February 7, 2006 and prepared by Gribi Associates, and "Limited Phase II Environmental Site Assessment," dated July 20, 2005 and prepared by Ninyo & Moore. Based on the information collected to date, the most likely source of the detected contamination in the BART parking lot area is migration of petroleum hydrocarbons from a former gasoline service station located at 3875 Telegraph Avenue. It is highly unlikely that contamination has traveled upgradient (northeast) from the BART parking lot to the Regal #120/East Bay Surgery Center site. We anticipate that future investigation of the Surgery Center site will involve investigation activities to define downgradient plume extent in the BART parking lot. If future investigation activities indicate that a separate unauthorized release occurred in the BART parking lot, BART would be named as a responsible party for the release in the BART parking lot but would not be named as a responsible party for a separate unauthorized release at 3875 Telegraph Avenue.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **August 14, 2007 – Work Plan**

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
August 1, 2007
Page 3

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

Submission of reports to the Alameda County ftp site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) Geotracker website. Submission of reports to the Geotracker website does not fulfill the requirement to submit documents to the Alameda County ftp site. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitor wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all necessary reports was required in Geotracker (in PDF format). Please visit the SWRCB website for more information on these requirements ([http://www.swrcb.ca.gov/ust/cleanup/electronic reporting](http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting)).

PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
August 1, 2007
Page 4

UNDERGROUND STORAGE TANK CLEANUP FUND

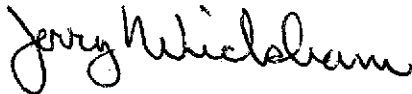
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: M. Catherine George, Office of Chief Counsel, State Water Resources Control Board, 1001 I Street, 22nd Floor, Sacramento, CA 95814

Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA 94612-2032

Lori J. Gualco, 455 Capitol Mall, Suite 210, Sacramento, CA 95814

Gary Jensen, BART, 300 Lakeside Drive, 18th Floor, Oakland, CA 94604-2688

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-2034

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

LORI J. GUALCO
Attorney at Law

July 9, 2007

Alameda County

JUL 10 2007

Environmental Health

Jerry Wickham, P.G.
Hazardous Materials Specialist
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502

**Re: 3875 Telegraph Avenue, Oakland, CA 94609
Fuel Leak Case No. RO0002875**

Dear Mr. Wickham:

I request that you add the following parties as parties responsible for investigation and clean-up of the above referenced site: ConocoPhillips, Four Star Oil and Gas Company, Shell Oil Company and San Francisco Bay Area Rapid Transit District ("BART"). These parties should be added as potential responsible parties as defined under 23 C.C.R. § 2720. Section 2720 defines a responsible party as follows:

- a. Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
- b. 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;
- c. Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
- d. Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of hazardous substance.

The reasons for adding each entity are set forth below.

Wickland Corporation ("Wickland") operated a gas station facility located at 3875 Telegraph Avenue from 1971 until 1984, at which time the existing tanks were removed in accordance with City of Oakland procedures. Previous to the Wickland lease, the property had been the site of at least three different gasoline stations dating back to 1925. Wickland's immediate predecessor was Regal Petroleum Corporation ("Regal") (See Exhibit A). They were tenants under the lease from 1961 until the assignment to Wickland in August of 1971 (See Exhibit B). Through various mergers and acquisitions and company reorganizations, Regal is now part of ConocoPhillips Company.

455 Capitol Mall, Suite 210
Sacramento, California 95814
Telephone 916.442.6660
Facsimile 916.442.0145
E-mail: ljgualco@gualcolaw.com

Jerry Wickham, P.G.
Hazardous Materials Specialist
Environmental Health Services

Re: 3875 Telegraph Avenue, Oakland, CA 94609
Fuel Leak Case No. RO0002875

July 9, 2007

Page 2

Regal was incorporated in California on January 18, 1954 as the Fourth Signal Company. On March 5, 1954, the name of the corporation was changed to Regal Petroleum Co. On December 20, 1967, Regal Petroleum Co. and several other corporations were merged into Advanced Stations, Inc. Concurrently with this merger, the name of the surviving entity was changed to Regal Stations, Inc. On September 30, 1982, the name of the corporation was again changed, this time to Aminoil Stations, Inc. On January 1, 1983, Aminoil Stations, Inc. and two other corporations were merged into Aminoil Holdings, Inc., a Nevada corporation. Immediately following this merger, Aminoil Holdings, Inc., was merged into Aminoil Incorporated, a Delaware corporation. As a part of this merger, the name of Aminoil Incorporated was changed to Aminoil Marketing, Inc. On April 30, 1986, Aminoil Marketing, Inc., was merged into Phillips Petroleum Company, a Delaware corporation. Finally, on December 12, 2002, Phillips Petroleum Company changed its name to ConocoPhillips Company. ConocoPhillips is currently a Delaware corporation in good standing with the following agent for service of process: Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

A title search was performed by Fidelity Title Company, revealing that Associated Oil Company was a tenant on the site from early 1928 until at least 1935. Through various mergers and acquisitions and company reorganizations, Associated Oil Company is now part of Four Star Oil & Gas Company, which I believe is a subsidiary of ChevronTexaco.

Associated Oil Company was incorporated in California on October 5, 1901. On November 30, 1936, the company merged into Tide Water Associated Oil Company, a Delaware corporation. The name of the company was changed to Tidewater Oil Company on May 3, 1956. On September 20, 1967, Tidewater Oil Company merged into Getty Oil Company, a Delaware corporation. On September 29, 1989, Getty Oil Company changed its name to Four Star Oil & Gas Company. Four Star Oil & Gas Company is currently a Delaware corporation in good standing with the following agent for service of process: Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

A Shell Oil Company gasoline station formerly operated at the northwest corner of 40th Street and Telegraph Avenue, and had a significant gasoline release. On July 20, 2005, a *Limited Phase II Environmental Site Assessment*, dated July 20, 2005, was issued for the MacArthur BART Transit Station located in Oakland, California. In this report, the environmental firm, Ninyo & Moore, indicated that the groundwater contamination was potentially the result of off-site groundwater contamination commingling from the former gas stations located at 500 40th Street and 3875 Telegraph Avenue. This report is contained in your file on this matter.

Jerry Wickham, P.G.
Hazardous Materials Specialist
Environmental Health Services

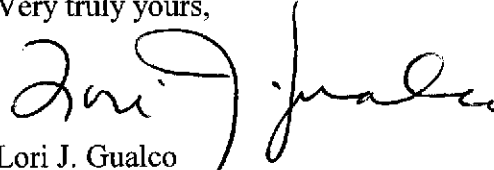
Re: *3875 Telegraph Avenue, Oakland, CA 94609*
Fuel Leak Case No. RO0002875

July 9, 2007
Page 3

In 2006, a dispute occurred between Alameda County Environmental Health and BART as to whether some of the contamination located at the MacArthur BART Transit Station came from a separate source located within the boundaries of the BART Station's parking lot. BART hypothesized that there was either an existing underground tank or a tank was ruptured in that location during construction of the parking lot in the 1960s. Letters to this effect are on file with the County as well as enclosed with this letter (See Exhibit C). There is no evidence in your file that any hard data was ever developed to reasonably dismiss this concern.

It is for the reasons set forth above that ConocoPhillips Company, Four Star Gas & Oil Company, Shell Oil Company and San Francisco Bay Area Rapid Transit District should be added as potential responsible parties. If you have any questions, please contact me.

Very truly yours,



Lori J. Gualco

LJG:jbh
Enclosures
cc: Daniel Hall, Wickland Corporation (w/o enclosures)

WHEN RECORDED RETURN TO:
WICKLAND REALTY CO.
Post Office Box 727
Orland, California 95963

720
720
SEP 23 1971

71-124417

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

253886-15

ASSIGNMENT

FOR AND IN CONSIDERATION OF THE SUM of One Dollar
(\$1.00) and other good and valuable consideration, the
receipt and adequacy of which are hereby acknowledged by

Regal Stations, Inc.,

a corporation, hereinafter called "Assignor," said Assignor
hereby sells, assigns and sets over unto

Wickland Realty Co.,

a corporation, hereinafter called "Assignee," all of
Assignor's right, title and interest in, to and under the
lease and leasehold estate covering the premises known and
designated as 3875 Telegraph Avenue

in the City of Oakland, County of Alameda,
State of California,

said lease and property being
more particularly described in Exhibit A attached hereto and
incorporated herein by reference.

Assignor represents and warrants that it is the
sole owner and holder of said lease and the leasehold estate
created thereby, that the same are in full force and effect
and that all rentals and other obligations of the lessee which
have heretofore accrued thereunder have been paid or otherwise
satisfied, and it has not placed any liens or encumbrances on
said lease and said leasehold estate except as shown on said
Exhibit A; provided, however, Assignee shall take subject to all
encumbrances of record and any encumbrances not of record
created by Assignor.

Assignor makes no representation of warranty as to
the condition of the leased premises or of any improvements
thereon; and Assignee accepts them in whatever condition they
are at the time Assignee takes possession. Assignee shall

take possession and become responsible for said premises and improvements forthwith upon acceptance of this assignment. Any prepaid rentals and tax obligations or assessments under said lease and said leasehold estate shall be prorated as of the date Assignee accepts this assignment.

Dated: August 31, 1971

REGAL STATIONS, INC.

By [Signature]
Vice President

By [Signature]
Assistant Secretary

ACCEPTANCE

The undersigned, Wickland Realty Co.

_____, a corporation, the Assignee named in the within and foregoing Assignment, does hereby accept the assignment made thereby and the terms and conditions therein set forth, does hereby assume and agree to perform the obligations of the lessee under the aforementioned lease and leasehold estate created thereby accruing on and after the date of this Acceptance, and does hereby covenant and agree to hold Assignor free and harmless from all further obligations and liability under said lease, including without by way of limitation court costs and reasonable attorneys' fees.

WICKLAND REALTY CO.

By [Signature]
President

By [Signature]
Secretary

STATE OF CALIFORNIA)
County of Los Angeles) ss.

ON THIS 31 day of August, 19 71
before me a Notary Public in and for said State, personally

appeared R. L. Beckstrom, known to me to be the
President, and G. H. Williams, known to me to be the

Assistant Secretary of Regal Stations, Inc.,
the corporation that executed the within Instrument, known to
me to be the persons who executed the within Instrument on
behalf of the corporation herein named, and acknowledged to me
that such corporation executed the within Instrument pursuant
to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



Grace M. Moore
Notary Public in and for said State

STATE OF CALIFORNIA)
County of Glenn) ss.

ON THIS 31st day of August, 19 71
before me a Notary Public in and for said State, personally

appeared J. A. Wickland, Jr., known to me to be the President,
and Mary L. Wickland, known to me to be the Secretary of

Wickland Realty Company
the corporation that executed the within Instrument, known to
me to be the persons who executed the within Instrument on
behalf of the corporation herein named, and acknowledged to me
that such corporation executed the within Instrument pursuant
to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.

Sharon L. Newman
Notary Public in and for said State

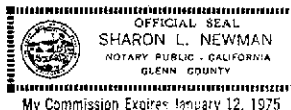


EXHIBIT A

(1) Lease dated January 31, 19 61, recorded
March 8, 19 61, in Book 279
Page 277, Official Records of Alameda
County, State of California, between
Evelyn Minowitz, formerly Evelyn R. Wank

as lessor, and Regal Petroleum Co., a California
Corporation

as lessee, covering the real property more particularly
hereinafter described.

(2) The lessee's interest in said lease is now vested in
Regal Stations, Inc.

Subject to sublease, dated _____, 19 _____,
to _____, as lessee,

All improvements and personal property, if any, owned by Assignor located upon the hereinafter described real property, excepting, however, all plexiglass Signal or Hancock I.D. sign faces and any and all right to use the names Signal or Hancock.

Description of Real Property:

PARCEL 1: Portion of Block 2071 as said block is shown on the "Map of the Evoy Plot, Oakland Township" filed April 28, 1871, in Book 3 of Maps, Page 12, in the office of the County Recorder of Alameda County described as follows: Beginning at the intersection of the southern line of 39th formerly Geary Street, with the western line of Telegraph Avenue as said Street and Avenue are shown on said map; running thence along said line of 39th street westerly 100 feet; thence parallel with said line of Telegraph Avenue southerly 50 feet; thence parallel with said line of 39th Street easterly 100 feet to said line of Telegraph Avenue; thence along said line of Telegraph Avenue northerly 50 feet to the point of beginning.

PARCEL 2: Lots 2 and 3 in Block 2071, as said lots and block are shown on the "Map of the Estate of John Evoy in Plot 36, Subdivided April 1886" filed August 12, 1886 in Book 11 of Maps page 28 in the office of the County Recorder of Alameda County.

LEASE

THIS LEASE, made and entered into at San Jose, California, by and between EVELYN MINOWITZ, formerly EVELYN R. WANK, hereinafter called "Lessor," and REGAL PETROLEUM CO., a California corporation, hereinafter called "Lessee."

W I T N E S S E T H:

The Lessor hereby leases to the Lessee, and the Lessee hereby hires from the Lessor, the following described premises in the city of Oakland, county of Alameda, state of California:

PARCEL 1: Portion of Block 2071 as said block is shown on the "Map of the Evoy Plot, Oakland Township" filed April 28, 1871, in Book 3 of Maps, Page 12, in the office of the County Recorder of Alameda County, described as follows: Beginning at the intersection of the southern line of 39th formerly Geary Street, with the western line of Telegraph Avenue as said street and avenue are shown on said map; running thence along said line of 39th street westerly 100 feet; thence parallel with said line of Telegraph avenue southerly 50 feet; thence parallel with said line of 39th street easterly 100 feet to said line of Telegraph avenue; thence along said line of Telegraph avenue northerly 50 feet to the point of beginning.

PARCEL 2: Lots 2 and 3 in Block 2071, as said lots and block are shown on the "Map of the Estate of John Evoy in Plot 36, Subdivided April 1886" filed August 12, 1886 in Book 11 of Maps page 28 in the office of the County Recorder of Alameda County.

The term of this lease shall be fifteen (15) years commencing February 1, 1961. The rental shall be the sum of five hundred dollars (\$500) per month, payable monthly, in advance.

In addition to the rental above described, the Lessee shall pay all real estate and personal property taxes which accrue during the term of this lease or any extension thereof.

During the term of this lease the Lessee agrees to

hold the Lessor free and harmless from any and all liability to person or property arising out of the use of the premises by Lessee.

Should default be made in the payment of any portion of rent when due or in the keeping of any of the covenants herein agreed to be kept by said Lessee, the Lessor may re-enter and take possession of said premises and improvements thereon, and, at Lessor's option, terminate this lease, provided Lessee has been given ten (10) days' written notice to cure said default.

The Lessee hereby reserves the right to move all fixtures, equipment, machinery, and any and all other property belonging to Lessee, attached to the realty or otherwise, at the expiration of the lease, or sooner termination thereof, except as herein otherwise provided.

Lessee agrees faithfully to comply with any and all laws or regulations which may relate to the occupancy and use of the demised premises by the Lessee.

This agreement shall extend to and bind the heirs, assigns and personal representatives of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed these premises this 31st day of January, 1961.

Evelyn R. Wank
Evelyn Minowitz

Evelyn R. Wank
"LESSOR"

REGAL PETROLEUM CO.

By *John W. Craig*

President
By *[Signature]*

Assistant Secretary

Seal Affixed

AS28201

"LESSEE"

1/31/61

STATE OF CALIFORNIA }
County of Colorado } ss.

ON THIS 27th day of February, 1961, before me, Emily M. Davis, a Notary Public in and for said County and State, personally appeared EVELYN MINOWITZ, who acquired title as EVELYN R. WANK, known to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Emily M. Davis

Notary Public in and for said County and State.

Seal Affixed

My Commission expires March 16, 1963

STATE OF CALIFORNIA }
County of Los Angeles } ss.

ON THIS 16th day of February, 1961, before me, Catherine M. Bigelow, a Notary Public in and for said County and State, personally appeared John W. Craig, known to me to be the President, and A. E. Stebbings, known to me to be the Assistant Secretary, of REGAL PETROLEUM CO., the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Catherine M. Bigelow
Catherine M. Bigelow
Notary Public in and for said County and State.

Seal Affixed

AS28201

RECORDED at REQUEST OF
California Pacific Title Ins. Co.
AT 8:30 A.M.

MAR - 8 1961

OFFICIAL RECORDS OF
ALAMEDA COUNTY, CALIFORNIA
Thomas W. Fitzsimmons
COUNTY RECORDER

360

Wickham, Jerry, Env. Health

To: Lori J. Gualco
Cc: Julie Rose; Daniel Hall
Subject: RE: Request for Extension of Time to submit Work Plan regarding 3875 Telegraph Avenue, Oakland, California

Ms. Gualco,

Based upon your request on behalf of Wickland Corporation and the current owners of the site for a schedule extension for the reasons cited below, the schedule for submittal of a Work Plan on case RO2875 is extended to August 14, 2007.

Regards,
Jerry Wickham
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
510-567-6791 phone
510-337-9335 fax
jerry.wickham@acgov.org

From: Lori J. Gualco [<mailto:ljgualco@gualcolaw.com>]
Sent: Monday, June 25, 2007 9:47 AM
To: Wickham, Jerry, Env. Health
Cc: Daniel Hall; Julie Rose
Subject: Request for Extension of Time to submit Work Plan regarding 3875 Telegraph Avenue, Oakland, California

Dear Mr. Wickham-

This email will confirm my telephone conference with you regarding the above referenced site. I have been retained by Wickland Corporation to represent its interests relative to this site. On behalf of Wickland Corporation and the current owners of the site, we request a 60 day extension to submit a work plan from the previously granted extension date of June 14, 2007. We are scheduling a meeting with the current owner and its consultant and our consultant so we can coordinate our efforts at the site. We have gathered information regarding previous facility operators and will be forwarding that information to you for consideration so they can be included on your list as potentially responsible parties. Thank you for your courtesy in this matter.

Regards,
Lori

Lori J. Gualco
Attorney at Law
455 Capitol Mall, Suite 210
Sacramento, California 95814
Telephone: (916) 442-6660
Facsimile: (916) 442-0145
E-mail: ljgualco@gualcolaw.com

CONFIDENTIALITY NOTICE: This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any

6/26/2007

RECEIVED

JUN 13 2007

ENVIRONMENTAL HEALTH SERVICES

CITY OF OAKLAND



R02875

250 FRANK H. OGAWA PLAZA OAKLAND, CALIFORNIA 94612-2033

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 839-6451

**REVISED NOTICE OF PREPARATION (NOP)
OF A DRAFT ENVIRONMENTAL IMPACT REPORT
MacARTHUR TRANSIT VILLAGE PROJECT**

The Oakland Community and Economic Development Agency, Planning and Zoning Division, is preparing a Draft Environmental Impact Report (EIR) for the project identified below, and is requesting comments on the scope and content of the EIR. The EIR will include a discussion of potential environmental effects for each of the environmental topics included in Appendix G of the California Environmental Quality Act (CEQA) Guidelines, thus the City has not prepared an Initial Study. The City of Oakland is the Lead Agency for the project and is the public agency with the greatest responsibility for either approving the project or carrying it out. This notice is being sent to Responsible Agencies and other interested parties. Responsible Agencies are those public agencies, besides the City of Oakland, that also have a role in approving or carrying out the project. Responsible Agencies will receive a copy and use this EIR when considering approvals related to the project. Responsible Agencies include the San Francisco Bay Area Rapid Transit District (BART), as well as other public agencies. Response to this NOP and any additional questions or comments should be directed in writing to: Charity Wagner, Contract Planner, Community and Economic Development Agency, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612; 510-672-5886 (phone); 510-238-6538 (fax); Charity.Wagner@lsa-assoc.com. Comments on the NOP must be received at the above mailing or email address on or before July 13, 2007. Please reference case number ER060004 in all correspondence.

PROJECT TITLE: MacArthur Transit Village Project

PROJECT LOCATION: The project site is located in North Oakland, within the block that is bound by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and Highway 24, as shown in Figure 1. The project site includes the BART parking lot, the BART Plaza, Frontage Road between West MacArthur Boulevard and 40th Street, and seven privately owned parcels. These seven parcels are anticipated to be acquired as part of the project. It is also noted that several parcels on the block are not included in the project area, as shown in Figure 2, including the parcel on the southwest corner of 40th Street and Telegraph Avenue, parcels that front on Telegraph Avenue (between Apgar Street and West MacArthur Boulevard), and three parcels on West MacArthur Boulevard. The project would also include access improvements to the MacArthur BART station.

EXISTING CONDITIONS: The project site is approximately 8.4 acres and is comprised of the MacArthur BART parking lot, the MacArthur BART plaza, Frontage Road, and seven privately owned parcels. The BART parking lot, a surface parking lot with approximately 600 parking spaces, occupies the majority of the project site. There are several structures included in the project site that front on Telegraph Avenue and West MacArthur Boulevard. These structures vary in height, and contain residential and commercial uses. Parcels that comprise the project site are not included in the Hazardous Waste and Substances Sites (Cortese) List; however, other hazards or hazardous waste, not included in the Cortese List, may be located on the project site.

PROJECT SPONSOR: MacArthur Transit Community Partners, LLC

PROJECT DESCRIPTION: The proposed MacArthur Transit Village project would include five buildings with up to 675 high-density multi-family housing units. These units would include below market rate rental units equal to 20 percent of the market rate units constructed as part of the project. For example, if 562 market rate units are constructed, 113 below market rate units would be included in the project, for a total of 675 units. Additionally, the project would include up to 34,000 square feet of ground-floor neighborhood serving retail and 5,000 square feet of community space.

All buildings would be between 55 to 65 feet above ground depending on the location of the building within the project site. Commercial square footage would be dispersed throughout the project site, including ground floor space fronting on West MacArthur Boulevard, Telegraph Avenue, and 40th Street. The BART parking lot would be set back against the freeway along West MacArthur Boulevard. Figure 3 shows a conceptual site plan and drawing of the proposed project.

The project would include 700 to 775 residential, retail and community use parking spaces and 300 BART parking spaces. BART currently has approximately 600 spaces dedicated for exclusive BART parking purposes. The project would reduce exclusive BART parking by approximately 50 percent. Full replacement of BART commuter parking will also be analyzed as part of the EIR.

The proposed project also includes several public infrastructure upgrades, including a new public street through the site off of Telegraph Avenue, a proposed traffic light at West MacArthur Boulevard and the Garage Entry Drive, the renovation of the existing BART entry plaza, intermodal improvements, a new intermodal area, and a new public plaza adjacent to the retail space. The potential impact of a Residential Parking Permit Program, as proposed by the project sponsor, will also be evaluated within the EIR.

This project has been revised and changed since the original NOP was circulated in February/March 2006. The table below outlines the differences between the 2006 project and the currently proposed project (2007 Project).

Table 1: Comparison of 2006 Project to Current Project (2007 Project)

| | 2006 Project | 2007 Project |
|---|--------------------|--------------------------|
| Number of Units | 800 Units | Up to 675 Units |
| Commercial/Community Space | 30,000 square feet | Up to 39,000 square feet |
| Total Parking Spaces | 1,330 spaces | 1,000 – 1,075 spaces |
| Exclusive BART Parking Spaces | 300 spaces | 300 spaces |
| Maximum Height | 22 Stories | 6 Stories |
| Residential Parking Permit Program | YES | YES |

Actions/approvals by the City or Redevelopment Agency that may be necessary for this project include without limitation: rezoning; design review, conditional use permit; development agreement; tree removal; grading; and an owner participation agreement.

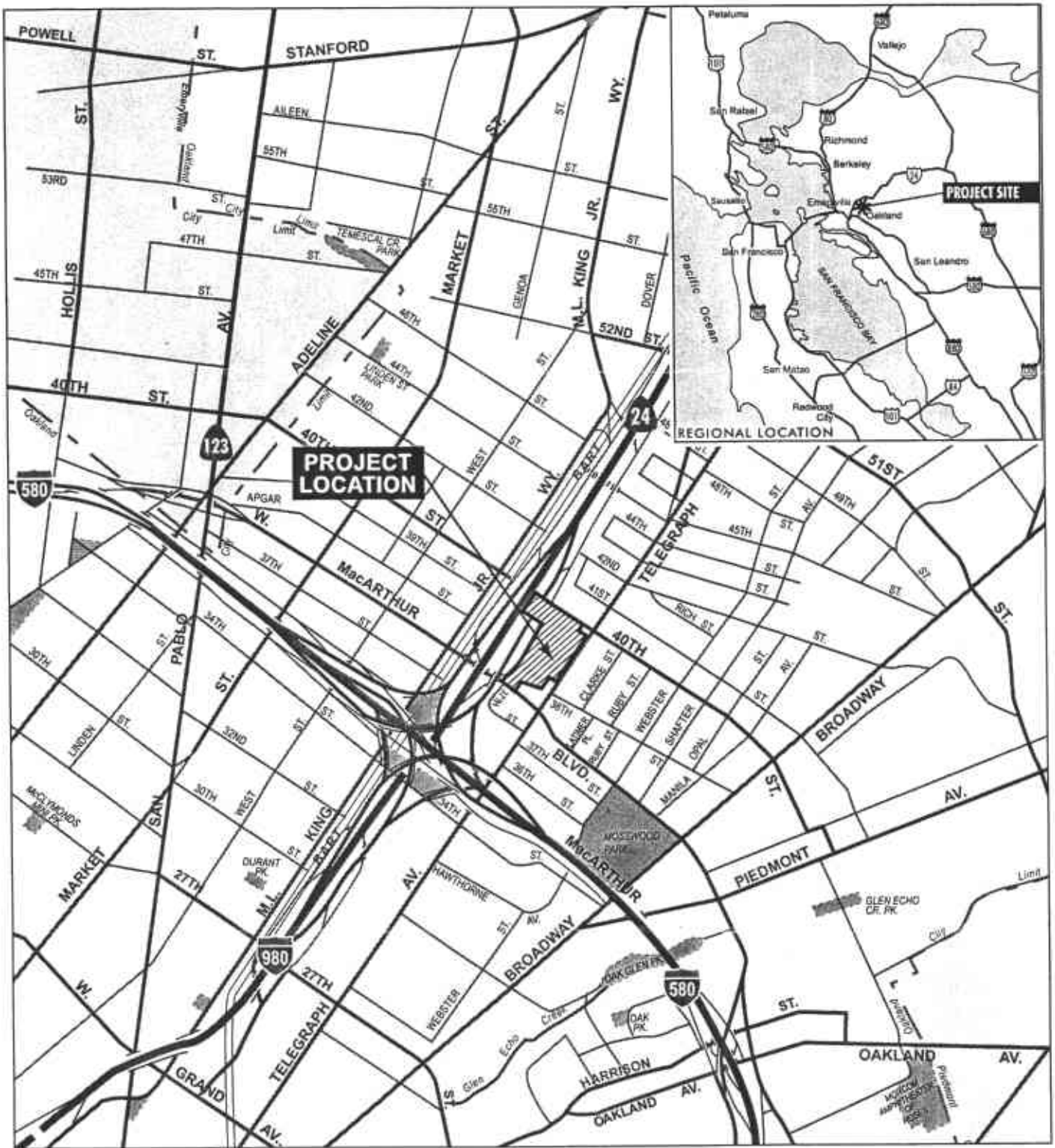
The Draft EIR will also examine a reasonable range of alternatives to the project, including the CEQA-mandated No Project Alternative and other potential alternatives that may be capable of reducing or avoiding potential environmental effects.

Information for the proposed project can be found at the following website:
<http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/macarthur.html>

June 13, 2007
 File Number ER060004

Gary Patton
 Environmental Review Officer


Attachments
 Figure 1: Project Location and Regional Vicinity Map
 Figure 2: Project Site Map
 Figure 3: Conceptual Site Plan and Drawing



LSA

FIGURE 1



LEGEND
 PROJECT AREA

0 1000 2000
 FEET

*MacArthur Transit Village Project
 Project Location and
 Regional Vicinity Map*

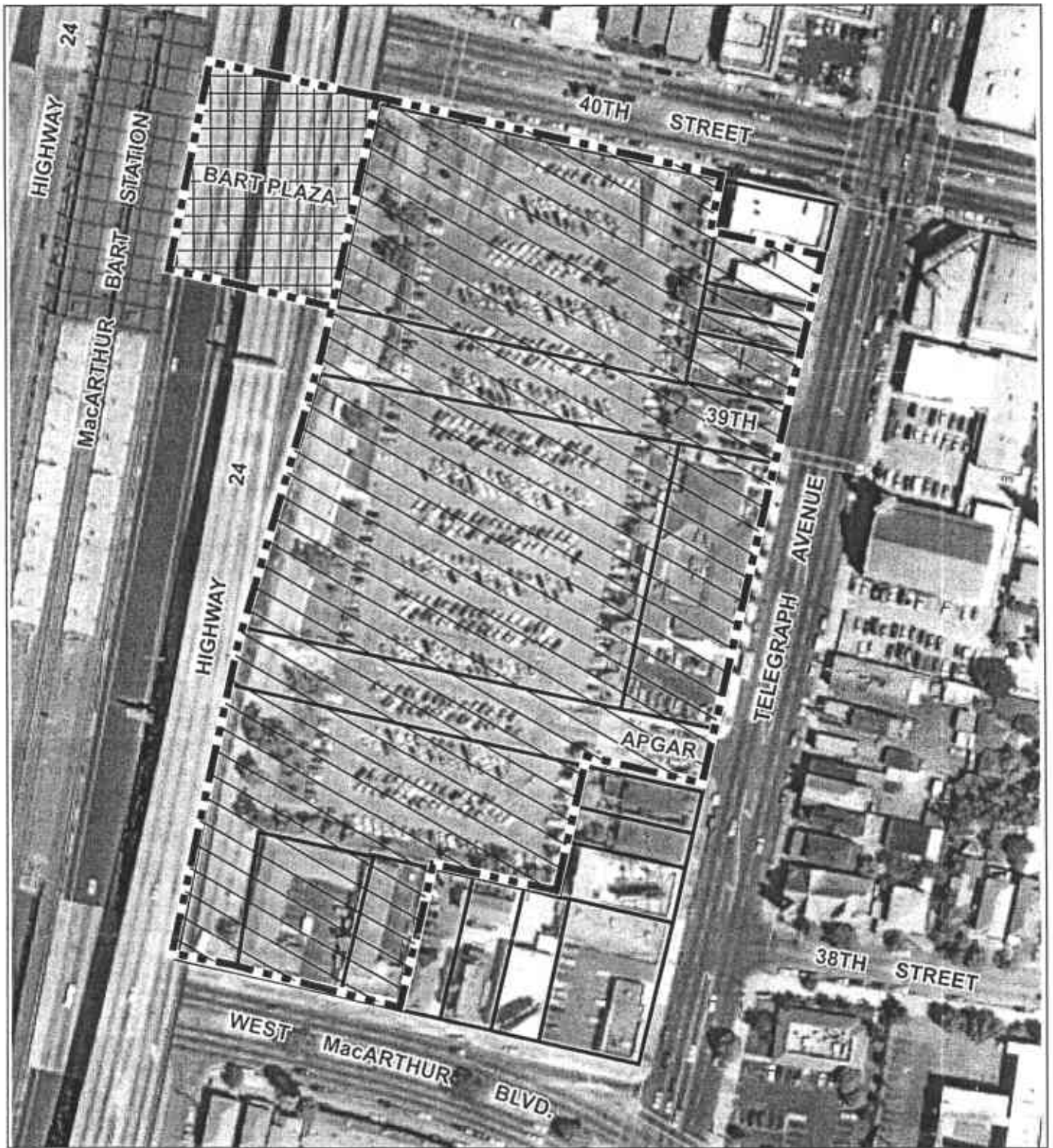
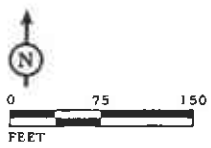





FIGURE 2

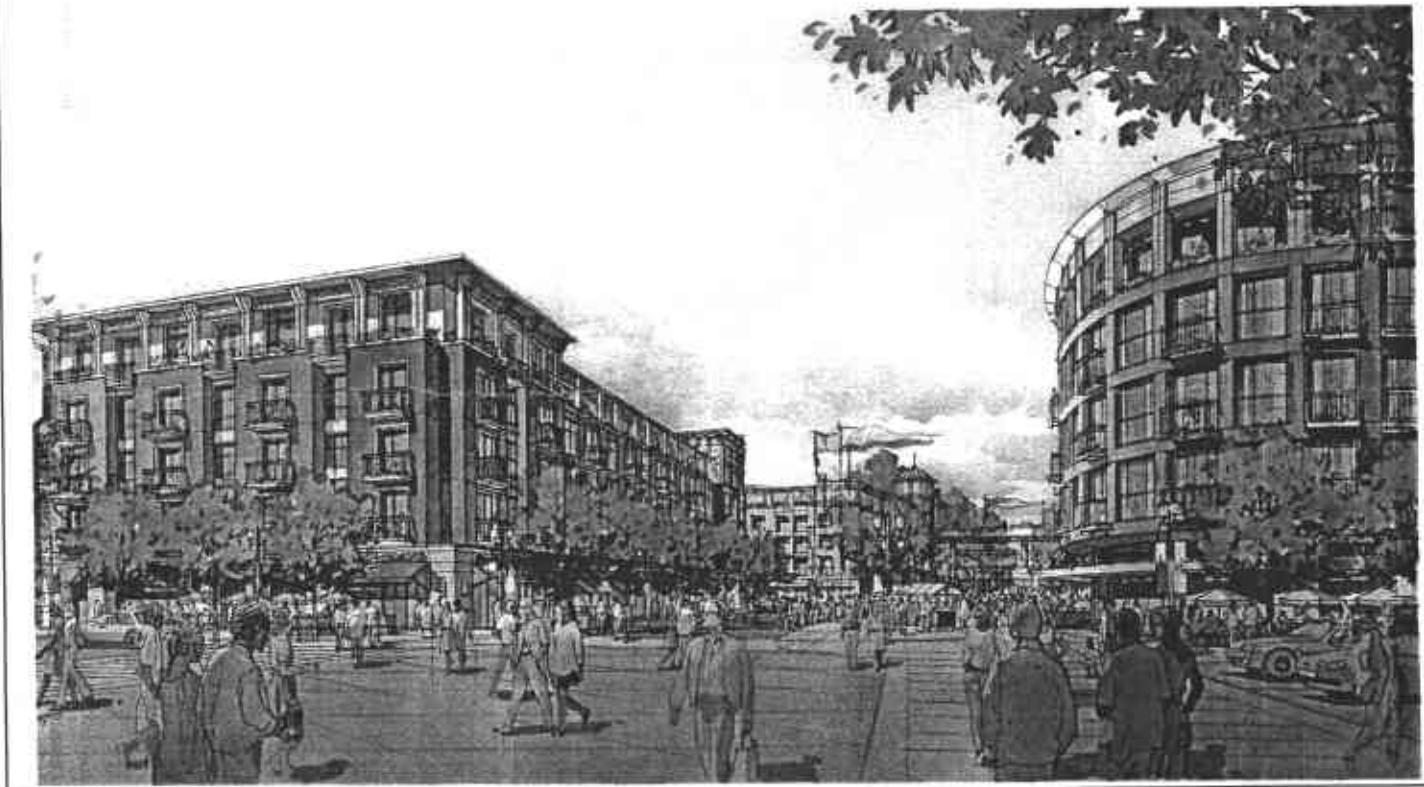
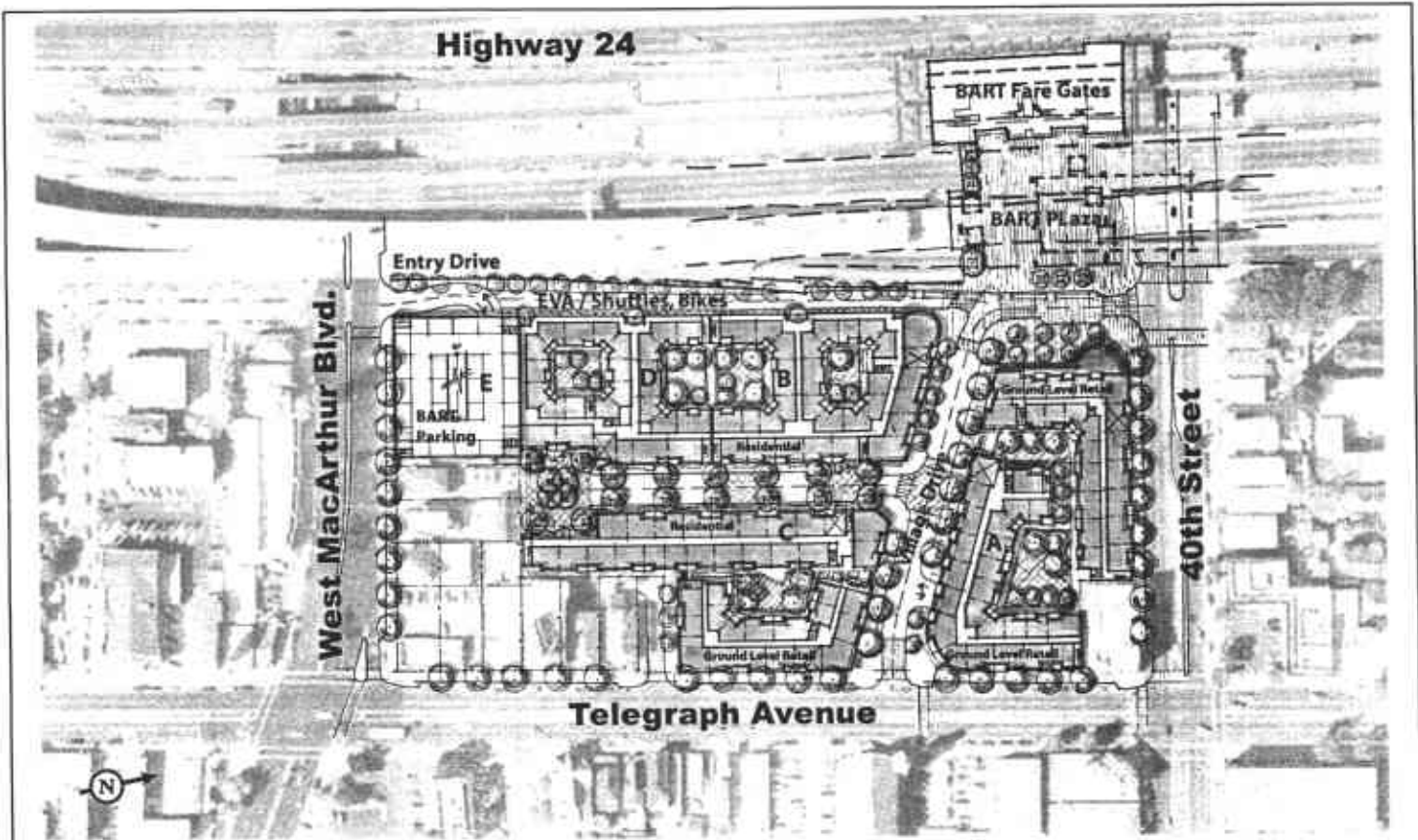
LSA



- LEGEND
-  PROJECT AREA
 -  BART PLAZA
 -  PARCEL LINES

MacArthur Transit Village Project
Project Site Map

SOURCE: CITY OF OAKLAND, 2006.
I:\MGB0701 macarthur bart\NOP\figures\Fig_2.ai (06/12/07)



LSA

FIGURE 3

*MacArthur Transit Village Project
Conceptual Site Plan
and Drawing*

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



F

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

March 14, 2007

Mr. Daniel Hall
Wickland Corporation
P.O. Box 13648
Sacramento, CA 95853-4648

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Hall, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site including recent correspondence from Wickland Corporation dated March 12, 2007. The Wickland correspondence dated March 12, 2007 requests that the schedule for submitting a Work Plan be extended from March 14, 2007 to June 14, 2007 so that Wickland can complete their research on the site. Based on your request, the schedule for Work Plan submittal is extended to June 14, 2007.

As previously discussed in our January 30, 2007 correspondence, an investigation is required to assess the extent of soil and groundwater contamination both on site and extending off-site. The investigation must also address the potential for indoor vapor intrusion. We recommend that your investigation incorporate expedited site assessment techniques to collect soil vapor samples, soil samples, and depth-discrete groundwater samples prior to the installation of groundwater monitoring wells. Other options for additional investigation or remediation may also be appropriate at your site. We request that you immediately pursue any off-site access agreements that you may need to complete your investigation activities.

Please submit a work plan detailing your proposal to define the extent of soil and groundwater contamination by **June 14, 2007**.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **June 14, 2007 – Work Plan**

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
March 14, 2007
Page 2

responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

Submission of reports to the Alameda County ftp site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) Geotracker website. Submission of reports to the Geotracker website does not fulfill the requirement to submit documents to the Alameda County ftp site. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitor wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all necessary reports was required in Geotracker (in PDF format). Please visit the SWRCB website for more information on these requirements (http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting).

PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
March 14, 2007
Page 3

UNDERGROUND STORAGE TANK CLEANUP FUND

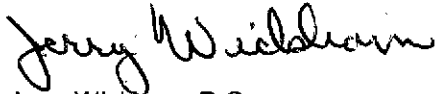
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Gary Jensen
BART
300 Lakeside Drive, 18th Floor
Oakland, CA 94604-2688

Mark Gomez
City of Oakland
250 Frank H. Ogawa Plaza, Ste. 5301
Oakland, CA 94612-2034

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

RO2875

George A. Pugh, M.D.
East Bay Orthopaedic Specialists Medical Corporation
Diplomate, American Board of Orthopaedic Surgeons
Member, American Academy of Orthopaedic Surgeons
Certificate of Added Qualification in Hand Surgery
Qualified Medical Examiner

Alameda County

MAR 20 2007

Environmental Health

3100 Telegraph Avenue, Suite 1000
Oakland, California 94609-3210
Email: gapmd@eastbayortho.com

(510) 444-2756 Fax: (510) 839-3796
Appointments: Extension 301
Practice Assistant: Extension 308

March 13, 2007

Jerry Wickham, PG
Hazardous Materials Specialist
Alameda County Health Care Services
Environmental Health Services
Environmental Protection
1131 Harbor Bay Pkwy. Ste 250
Alameda, CA 94502-6577

Re: 3875 Telegraph Ave.
Oakland, CA 94609
Fuel Leak Case #RO0002875
Geo Tracker Global ID# T0619716388

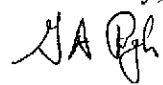
Dear Mr. Wickham:

My name is Dr. George Arthur Pugh. I am the Managing Partner of the East Bay Outpatient Surgery General Partnership, who is the actual landlord of 3875 Telegraph Avenue.

The documents have referenced Dr. Larry Fusch as the responsible party for the current land owner. Dr. Fusch is almost always actually on site. This actually works rather well. However, for formal legal matters, he is not actually a signatory. It is my signature which is required.

I have met today with Mr. Dan Hall of Wickland Oil with his attorney, Mr. Robert C. Goodman, Esq. We had quite a cordial meeting. We are very much trying to respond to your requests.

I would support and reiterate Mr. Hall's request for a 90-day extension so that we can make an appropriate response to your request.

Sincerely,

George A. Pugh, MD

2007 MAR 20 11:16

GAP/lak
Cc: Dan E. Hall
Wickland Corporation
PO Box 13648
Sacramento, CA 95853

Robert C. Goodman, Esq.
177 Post St. Ste 250
San Francisco, CA 94108



**WICKLAND
Corporation**

RECEIVED

MAR 13 2007

ENVIRONMENTAL HEALTH SERVICES

March 12, 2007

Jerry Wickham, P.G.
Hazardous Materials Specialist
Alameda County Health Care Services
Environmental Health Services
Environmental Protection
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388
3875 Telegraph Avenue, Oakland, California

Dear Mr. Wickham:

On January 22, 2007, I received via U.S. Mail a Notice of Responsibility ("NOR") issued to Wickland Properties for the above referenced site. Wickland's tenancy on the property terminated over 22 years ago, and we were not contacted regarding this matter prior to the issuance of the NOR.

Wickland is still in the process of gathering information respecting the site. Specifically, we are involved in the following ongoing activities:

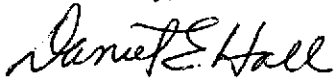
1. Locating and reviewing Wickland's archived files for this location.
2. Conducting a chain of title search to identify other companies that in the past conducted service station operations on the site.
3. Acquiring and reviewing all available technical data on the site.
4. Investigating whether the site is eligible for state UST remediation funding.
5. Meeting with representatives of the East Bay Surgery Center to discuss this matter.

It is my understanding that your agency has requested that a work plan to delineate and define the extent of soil and groundwater contamination be filed by March 14, 2007. Our research regarding the site is still in progress, and I am hereby asking that the response date for your request be extended for a period of 90 days (i.e., to and including June 12, 2007). It is my understanding that East Bay Surgery Center joins in this request.

Mr. Jerry Wickham
Alameda County Health Care Services
March 12, 2007
Page 2

If you have any questions regarding this matter, I can be reached at (916) 978-2460.

Yours truly,



Daniel E. Hall

Cc: Dr Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, California 94609

Robert C. Goodman, Esq.
177 Post Street, Suite 750
San Francisco, California 94108

R02875



State Water Resources Control Board



Linda S. Adams
*Secretary for
Environmental
Protection*

Office of Chief Counsel
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ <http://www.waterboards.ca.gov>

**Arnold
Schwarzenegger**
Governor

February 13, 2007

CERTIFIED MAIL

Robert C. Goodman, Esq.
Law Offices of Robert C. Goodman
177 Post Street, Suite 750
San Francisco, CA 94108

Dear Mr. Goodman:

**PETITION OF WICKLAND PROPERTIES FOR REVIEW OF NOTICE OF RESPONSIBILITY DETERMINATION BY ALAMEDA COUNTY CONCERNING 3875 TELEGRAPH AVENUE, OAKLAND, CALIFORNIA; ACKNOWLEDGEMENT OF RECEIPT OF PETITION AND APPROVAL OF REQUEST TO HOLD PETITION IN ABEYANCE
SWRCB/OCC FILE P07-231**

This will acknowledge receipt on February 7, 2007, of the above-referenced petition for review filed on behalf of Wickland Properties. Your petition requests that the State Water Resources Control Board (State Water Board) hold the petition in abeyance for an unspecified period of time. The State Water Board will hold the matter in abeyance for no more than two years from the date the petition was filed. If, by that time, no resolution of the matter has taken place or the matter has not become the subject of an active dispute, the petition will be dismissed without prejudice.

Please note the significance of the phrase "without prejudice." If, after the petition is dismissed, an actual dispute arises between you and the County of Alameda (County), you may file a new petition with the State Water Board within 30 days of the date of the dispute. Any issues relevant to that dispute, including but not limited to those raised in this petition, will be considered at that time in the same manner as if the petition were filed for the first time.

While the petition is held in abeyance, you may reactivate your petition by sending a request to reactivate your petition in writing to my attention. Unless and until you reactivate the petition, the State Water Board will not request responses to the petition. We do, however, ask that the County submit the local agency record in this matter within 20 days, as you have requested.

If you have any questions or wish to discuss this matter, you may contact me at (858) 467-2958 or cgeorge@waterboards.ca.gov. **In correspondence, please refer to SWRCB/OCC File P07-231.**

Sincerely,



M. Catherine George
Senior Staff Counsel

cc: Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Ms. Terry Brazell [via email only]
Division of Water Quality
State Water Resources Control Board
1001 I Street, 17th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

✓ Jerry Wickham
Alameda County Health Care
Services Agency
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Robert Petrina
EBSC LP
c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

David J. Kears, Agency Director
Alameda County Health Care
Services Agency
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Bruce H. Wolfe, Executive Officer [email only]
San Francisco Bay Regional Water Quality
Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



F

ENVIRONMENTAL HEALTH SERVICES

ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 387-9825

January 30, 2007

Revised Address for Wickland Properties for Letter Previously Sent December 20, 2006

Mr. Dan Hall
Wickland Properties
P.O. Box 13648
Sacramento, CA 95853-4648

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear *Mr. Hall*, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site including the report entitled, "Report of Phase II Environmental Site Assessment," dated February 7, 2005, prepared on behalf of The Surgery Center by Gribi Associates. The report summarizes results from five soil borings advanced at the site on January 8, 2005. Three of the soil borings were located on the BART parking lot property west of the site. Petroleum hydrocarbons were detected in soil and groundwater samples collected from each of the five soil borings. Total petroleum hydrocarbons (TPH) as gasoline and benzene were detected in soil at concentrations up to 670 milligrams per kilogram (mg/kg) and 1.4 mg/kg, respectively. TPH as gasoline and benzene were detected in groundwater at concentrations up to 140,000 micrograms per liter ($\mu\text{g/L}$) and 21,000 micrograms per liter ($\mu\text{g/L}$), respectively. A Phase II Environmental Site Assessment that was conducted in the surrounding area detected TPH as gasoline and diesel in groundwater extending over a large area downgradient from the Surgery Center. A former gasoline service station that was demolished in 1985 on The Surgery Center site is the most likely source of the groundwater contamination.

Due to the fact that The Surgery Center building covers a large area of the 3875 Telegraph Avenue property, the January 2005 investigation did not collect soil or groundwater samples from the northern or central portions of the site where the former gasoline service station was located. Therefore, the former UST and dispenser areas where the highest concentrations and mass of petroleum hydrocarbons may be present, have not been investigated.

Based on the concentrations of TPH detected to date in soil and groundwater, an investigation is required to assess the extent of soil and groundwater contamination both on site and extending off-site. The investigation must also address the potential for indoor vapor intrusion. We recommend that your investigation incorporate expedited site assessment techniques to collect soil vapor samples, soil samples, and depth-discrete groundwater samples prior to the installation of groundwater monitoring wells. Other options for additional investigation or remediation may also be appropriate at your site. We request that you immediately pursue any off-site access agreements that you may need to complete your investigation activities.

Mr. Dan Hall
Mr. Robert Petrina
Mr. Larry Fusch
January 30, 2007
Page 2

Please submit a work plan detailing your proposal to define the extent of soil and groundwater contamination by **March 14, 2007**.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **March 14, 2007** – Work Plan

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

Submission of reports to the Alameda County ftp site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) Geotracker website. Submission of reports to the Geotracker website does not fulfill the requirement to submit documents to the Alameda County ftp site. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitor wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all necessary reports was required in Geotracker (in PDF format). Please visit the SWRCB website for more information on these requirements (http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting).

PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

Mr. Dan Hall
Mr. Robert Petrina
Mr. Larry Fusch
January 30, 2007
Page 3

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

LANDOWNER NOTIFICATION REQUIREMENTS

Pursuant to California Health & Safety Code Section 25297.15, the active or primary responsible party for a fuel leak case must inform all current property owners of the site of cleanup actions or requests for closure. Furthermore, ACEH may not consider any cleanup proposals or requests for case closure without assurance that this notification requirement has been met. Additionally, the active or primary responsible party is required to forward to ACEH a complete mailing list of all record fee title holders to the site.

In the future, for you to meet these requirements when submitting cleanup proposals or requests for case closure, ACEH requires that you:

1. Notify all current record owners of fee title to the site of any cleanup proposals or requests for case closure;
2. Submit a letter to ACEH which certifies that the notification requirement in 25297.15(a) of the Health and Safety Code has been met;
3. Forward to ACEH a copy of your complete mailing list of all record fee title holders to the site; and
4. Update your mailing list of all record fee title holders, and repeat the process outlined above prior to submittal of any additional *Corrective Action Plan* or your *Request for Case Closure*.

Your written certification to ACEH (Item 2 above) must state, at a minimum, the following:

A. *In accordance with Section 25297.15(a) of the Health & Safety Code, I, (name of primary responsible party), certify that I have notified all responsible landowners of the enclosed proposed action. (Check space for applicable proposed action(s)):*

- cleanup proposal (Corrective Action Plan)*
- request for case closure*
- local agency intention to make a determination that no further action is required*
- local agency intention to issue a closure letter*

- OR -

Mr. Dan Hall
Mr. Robert Petrina
Mr. Larry Fusch
January 30, 2007
Page 4

B. In accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, (name of primary responsible party), certify that I am the sole landowner for the above site.

(Note: Complete item A if there are multiple site landowners. If you are the sole site landowner, skip item A and complete item B.)

UNDERGROUND STORAGE TANK CLEANUP FUND

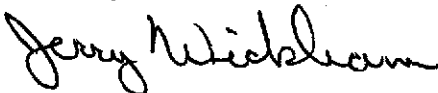
Please be aware that you may be eligible for reimbursement of the costs of investigation from the California Underground Storage Tank Cleanup Fund (Fund). In some cases, a deductible amount may apply. If you believe you meet the eligibility requirements, we strongly encourage you to call the Fund for an application.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Gary Jensen, BART, 300 Lakeside Drive, 18th Floor, Oakland, CA 94604-2688

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-2034

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



F

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

January 12, 2007

Mr. Gary C. Jensen
BART
300 Lakeside Drive, 18th Floor
Oakland, CA 94604-2688

Subject: Fuel Leak Case No. RO0002875, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Jensen:

Soil and groundwater contamination was discovered in the San Francisco Bay Area Rapid Transit (BART) parking lot located east of the MacArthur BART station between 39th Street and Apgar Street in Oakland, CA during site investigation activities. Detections of petroleum hydrocarbons in soil and groundwater on BART property between 39th Street and Apgar Street are reported in site investigation reports entitled, "Report of Phase II Environmental Site Assessment, The Surgery Center," dated February 7, 2006 and prepared by Gribi Associates, and "Limited Phase II Environmental Site Assessment," dated July 20, 2005 and prepared by Ninyo & Moore.

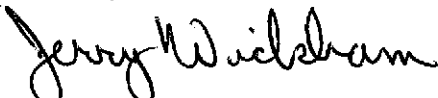
During a meeting held on December 7, 2006 between BART, the City of Oakland, and Alameda County Environmental Health (ACEH), BART requested clarification from ACEH regarding future investigation and cleanup of the contamination. Based on the information collected to date, we conclude that the most likely source of the detected contamination in the BART parking lot area is migration of petroleum hydrocarbons from a former gasoline service station located at 3875 Telegraph Avenue. Therefore, we do not plan to identify the soil and groundwater contamination detected in the BART parking lot between 39th Street and Apgar Street as a separate fuel release. In general, ACEH does not pursue enforcement actions against a property owner for contamination that is solely the result of migration of groundwater contamination from an off-site source or sources. Accordingly, ACEH will not name current or future owners of the BART parking lot area as dischargers with respect to the soil and groundwater contamination detected downgradient from 3875 Telegraph Avenue unless future site investigation provides evidence of a separate release.

In order for the responsible parties for the fuel leak case at 3875 Telegraph Avenue to investigate the off-site extent of soil and groundwater contamination, it is highly likely that the responsible parties will request an access agreement to conduct investigation on the BART parking lot. Although we generally do not hold property owners liable for contamination originating solely from an off-site source, we may hold such a property owner responsible for investigation or cleanup tasks if he or she refuses to provide reasonable access to an upgradient discharger attempting to investigate and cleanup off-site groundwater contamination. We encourage BART to expeditiously work with the responsible parties, as necessary, to obtain an access agreement for investigation and/or cleanup of the BART parking lot area.

Mr. Gary C. Jensen
January 12, 2007
Page 2

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA
94612-2032

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-
2034

Kathy Kleinbaum, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5315, Oakland, CA
94612-2034

Jeffrey Ordway, BART, 300 Lakeside Drive, Ste. 1639, Oakland, CA 94612

Yvette McCoy, BART, 300 Lakeside Drive, Ste. 1639, Oakland, CA 94612

Norman Carlin, Pillsbury, Winthrop, Shaw, Pittman, LLP, 50 Fremont Street, San Francisco,
CA 94105-2228

Diane Lewis, Oakland City Attorney, City Hall, 6th Floor, 1 Frank H. Ogawa Plaza, Oakland,
CA 94612

Rita Chan, Pillsbury, Winthrop, Shaw, Pittman, LLP, 50 Fremont Street, San Francisco, CA
94105-2228

Ariu Levi, ACEH
Donna Drogos, ACEH
Jerry Wickham, ACEH
File

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



F

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

January 10, 2007

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Subject: Fuel Leak Case No. RO0002875, Regal #120/East Bay Surgery Center, 3875
Telegraph Avenue, Oakland, CA 94609 – Updated Address for Primary Responsible Party

Dear Mr. Fusch and Mr. Petrina:

The purpose of this correspondence is to provide a more recent address for the primary or active responsible party for the above referenced case. Please see Attachment A – Responsible Parties Data Sheet, which identifies all Responsible Parties and provides background on the unauthorized release and Responsible Party Identification.

If you have any questions, please call me at (510) 567-6791.

Sincerely,

Jerry Wickham, P.G.
Hazardous Materials Specialist

Attachment A – Responsible Parties Data Sheet

cc: Donna Drogos, ACEH
Jerry Wickham, ACEH
File

ALAMEDA COUNTY ENVIRONMENTAL HEALTH
LUFT LOCAL OVERSIGHT PROGRAM

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET

January 10, 2007

Site Name & Address:

**REGAL #120 / EAST BAY SURGERY CENTER
3875 TELEGRAPH AVE
OAKLAND, CA 94609**

Local ID: RO0002875

Related ID: NA

RWQCB ID:

Global ID: T06019716388

All Responsible Parties

**RP has been named a Primary RP - DAN HALL
WICKLAND PROPERTIES
PO BOX 13648 | SACRAMENTO, CA 95853-4648**

**RP has been named a RP - LARRY FUSCH
THE SURGERY CENTER
3875 TELEGRAPH AVENUE | OAKLAND, CA 94609 | Phone (510) 547-2244**

**RP has been named a RP - ROBERT PETRINA
EBSC LP C/O ALTA BATES SUMMIT MED CTR
350 HAWTHORNE AVE, SUITE G100 | OAKLAND, CA 94609-3108**

Responsible Party Identification Background

Alameda County Environmental Health (ACEH) names a "Responsible Party," as defined under 23 C.C.R. Sec. 2720. Section 2720 defines a responsible party 4 ways. An RP can be:

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."
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."

ACEH has named the responsible parties for this site as detailed below.

Existence of Unauthorized Release

On February 7, 2005, an Underground Storage Tank Unauthorized Release/Contamination Site Report was submitted for The Surgery Center site at 3875 Telegraph Avenue. During a Phase II Environmental Site Assessment, total petroleum hydrocarbons as gasoline were detected in soil at concentrations up to 670 milligrams per kilogram and were detected in groundwater at concentrations up to 130,000 micrograms per liter. The petroleum contamination is within and downgradient of the area occupied until 1985 by Regal gas station #102.

Responsible Party Identification

Wickland Oil owned the USTs and property and operated the USTs until the service station was demolished and the site sold in 1985. Wickland Properties, which is a successor to Wickland Oil, is the primary responsible party because the unauthorized release occurred during the time that Wickland Oil was the owner of property where an unauthorized release occurred (Definition 3) and had control of USTs at the time of or following an unauthorized release (Definition 4).

East Bay Surgery Center LP c/o Alta Bates Summit Medical Center is a responsible party because they are the current owner of the property where an unauthorized release has occurred (Definition 3).

The Surgery Center is a responsible party because they were the former owner of the property (from 1984 to 1992) where an unauthorized release has occurred (Definition 3).

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



F

ENVIRONMENTAL HEALTH SERVICES

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

December 20, 2006

Mr. John Margowski
Wickland Oil
3640 American River Drive
Sacramento, CA 95864-5901

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Margowski, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site including the report entitled, "Report of Phase II Environmental Site Assessment," dated February 7, 2005, prepared on behalf of The Surgery Center by Gribi Associates. The report summarizes results from five soil borings advanced at the site on January 8, 2005. Three of the soil borings were located on the BART parking lot property west of the site. Petroleum hydrocarbons were detected in soil and groundwater samples collected from each of the five soil borings. Total petroleum hydrocarbons (TPH) as gasoline and benzene were detected in soil at concentrations up to 670 milligrams per kilogram (mg/kg) and 1.4 mg/kg, respectively. TPH as gasoline and benzene were detected in groundwater at concentrations up to 140,000 micrograms per liter ($\mu\text{g/L}$) and 21,000 micrograms per liter ($\mu\text{g/L}$), respectively. A Phase II Environmental Site Assessment that was conducted in the surrounding area detected TPH as gasoline and diesel in groundwater extending over a large area downgradient from the Surgery Center. A former gasoline service station that was demolished in 1985 on The Surgery Center site is the most likely source of the groundwater contamination.

Due to the fact that The Surgery Center building covers a large area of the 3875 Telegraph Avenue property, the January 2005 investigation did not collect soil or groundwater samples from the northern or central portions of the site where the former gasoline service station was located. Therefore, the former UST and dispenser areas where the highest concentrations and mass of petroleum hydrocarbons may be present, have not been investigated.

Based on the concentrations of TPH detected to date in soil and groundwater, an investigation is required to assess the extent of soil and groundwater contamination both on site and extending off-site. The investigation must also address the potential for indoor vapor intrusion. We recommend that your investigation incorporate expedited site assessment techniques to collect soil vapor samples, soil samples, and depth-discrete groundwater samples prior to the installation of groundwater monitoring wells. Other options for additional investigation or remediation may also be appropriate at your site. We request that you immediately pursue any off-site access agreements that you may need to complete your investigation activities.

Mr. John Margowski
Mr. Robert Petrina
Mr. Larry Fusch
December 20, 2006
Page 2

Please submit a work plan detailing your proposal to define the extent of soil and groundwater contamination by **March 14, 2007**.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **March 14, 2007** – Work Plan

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

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PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

Mr. John Margowski
Mr. Robert Petrina
Mr. Larry Fusch
December 20, 2006
Page 3

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

LANDOWNER NOTIFICATION REQUIREMENTS

Pursuant to California Health & Safety Code Section 25297.15, the active or primary responsible party for a fuel leak case must inform all current property owners of the site of cleanup actions or requests for closure. Furthermore, ACEH may not consider any cleanup proposals or requests for case closure without assurance that this notification requirement has been met. Additionally, the active or primary responsible party is required to forward to ACEH a complete mailing list of all record fee title holders to the site.

In the future, for you to meet these requirements when submitting cleanup proposals or requests for case closure, ACEH requires that you:

1. Notify all current record owners of fee title to the site of any cleanup proposals or requests for case closure;
2. Submit a letter to ACEH which certifies that the notification requirement in 25297.15(a) of the Health and Safety Code has been met;
3. Forward to ACEH a copy of your complete mailing list of all record fee title holders to the site; and
4. Update your mailing list of all record fee title holders, and repeat the process outlined above prior to submittal of any additional *Corrective Action Plan* or your *Request for Case Closure*.

Your written certification to ACEH (Item 2 above) must state, at a minimum, the following:

A. *In accordance with Section 25297.15(a) of the Health & Safety Code, I, (name of primary responsible party), certify that I have notified all responsible landowners of the enclosed proposed action. (Check space for applicable proposed action(s)):*

cleanup proposal (Corrective Action Plan)

request for case closure

local agency intention to make a determination that no further action is required

local agency intention to issue a closure letter

- OR -

Mr. John Margowski
Mr. Robert Petrina
Mr. Larry Fusch
December 20, 2006
Page 4

B. In accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, (name of primary responsible party), certify that I am the sole landowner for the above site.

(Note: Complete item A if there are multiple site landowners. If you are the sole site landowner, skip item A and complete item B.)

UNDERGROUND STORAGE TANK CLEANUP FUND

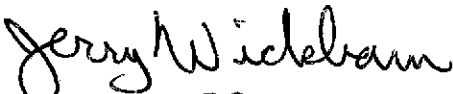
Please be aware that you may be eligible for reimbursement of the costs of investigation from the California Underground Storage Tank Cleanup Fund (Fund). In some cases, a deductible amount may apply. If you believe you meet the eligibility requirements, we strongly encourage you to call the Fund for an application.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 567-6791.

Sincerely,



Jerry Wickham, P.G.
Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Gary Jensen, BART, 300 Lakeside Drive, 18th Floor, Oakland, CA 94604-2688

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-2034

Donna Drogos, ACEH
~~Jerry Wickham, ACEH~~
File

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



F

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

December 19, 2006

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875, Regal #120/East Bay Surgery Center, 3875
Telegraph Avenue, Oakland, CA 94609 – Change in Responsible Parties

Dear Mr. Fusch:

In a Notice of Responsibility dated September 12, 2005, you were previously notified that the above referenced site had been placed in the Local Oversight Program and that you were named as the responsible party contact for the Surgery Center. At that time, the Surgery Center was identified as the primary or active Responsible Party for the investigation and cleanup of the above referenced site. Subsequent to the issuance of the September 12, 2005 Notice of Responsibility, we have discovered that additional parties are also Responsible Parties for this fuel leak case as defined under 23 C.C.R Sec. 2720. Please see Attachment A – Responsible Parties Data Sheet, which identifies all Responsible Parties and provides background on the unauthorized release and Responsible Party Identification.

If you have any questions, please call me at (510) 567-6791.

Sincerely,


Jerry Wickham, P.G.
Hazardous Materials Specialist

Attachment A – Responsible Parties Data Sheet

cc: Donna Drogos, ACEH
Jerry Wickham, ACEH
File

ALAMEDA COUNTY ENVIRONMENTAL HEALTH
LUFT LOCAL OVERSIGHT PROGRAM

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET

December 19, 2006

Site Name & Address:

**REGAL #120 / EAST BAY SURGERY CENTER
3875 TELEGRAPH AVE
OAKLAND, CA 94609**

Local ID: RO0002875

Related ID: NA

RWQCB ID:

Global ID: T06019716388

All Responsible Parties

**RP has been named a Primary RP - JOHN MARGOWSKI
WICKLAND OIL
3640 AMERICAN RIVER DRIVE | SACRAMENTO, CA 95864-5901**

**RP has been named a RP - LARRY FUSCH
THE SURGERY CENTER
3875 TELEGRAPH AVENUE | OAKLAND, CA 94609 | Phone (510) 547-2244**

**RP has been named a RP - ROBERT PETRINA
EBSC LP C/O ALTA BATES SUMMIT MED CTR
350 HAWTHORNE AVE, SUITE G100 | OAKLAND, CA 94609-3108**

Responsible Party Identification Background

Alameda County Environmental Health (ACEH) names a "Responsible Party," as defined under 23 C.C.R Sec. 2720. Section 2720 defines a responsible party 4 ways. An RP can be:

"Any person who owns or operates an underground storage tank used for the storage of any hazardous substance."

"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."

"Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred."

"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."

ACEH has named the responsible parties for this site as detailed below.

Existence of Unauthorized Release

On February 7, 2005, an Underground Storage Tank Unauthorized Release/Contamination Site Report was submitted for The Surgery Center site at 3875 Telegraph Avenue. During a Phase II Environmental Site Assessment, total petroleum hydrocarbons as gasoline were detected in soil at concentrations up to 670 milligrams per kilogram and were detected in groundwater at concentrations up to 130,000 micrograms per liter. The petroleum contamination is within and downgradient of the area occupied until 1985 by Regal gas station #102.

Responsible Party Identification

Wickland Oil owned the USTs and property and operated the USTs until the service station was demolished and the site sold in 1985. Wickland Oil is the primary responsible party because the unauthorized release occurred during the time that Wickland Oil was the owner of property where an unauthorized release occurred (Definition 3) and had control of USTs at the time of or following an unauthorized release (Definition 4).

East Bay Surgery Center LP c/o Alta Bates Summit Medical Center is a responsible party because they are the current owner of the property where an unauthorized release has occurred (Definition 3).

The Surgery Center is a responsible party because they were the former owner of the property (from 1984 to 1992) where an unauthorized release has occurred (Definition 3).

ALAMEDA COUNTY ENVIRONMENTAL HEALTH
LUFT LOCAL OVERSIGHT PROGRAM

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET

December 19, 2006

Site Name & Address:

REGAL #120 / EAST BAY SURGERY CENTER
3875 TELEGRAPH AVE
OAKLAND, CA 94609

Local ID: RO0002875

Related ID: NA

RWQCB ID:

Global ID: T06019716388

All Responsible Parties

RP has been named a Primary RP - JOHN MARGOWSKI
WICKLAND OIL
3640 AMERICAN RIVER DRIVE | SACRAMENTO, CA 95864-5901

RP has been named a RP - LARRY FUSCH
THE SURGERY CENTER
3875 TELEGRAPH AVENUE | OAKLAND, CA 94609 | Phone (510) 547-2244

RP has been named a RP - ROBERT PETRINA
EBSC LP C/O ALTA BATES SUMMIT MED CTR
350 HAWTHORNE AVE, SUITE G100 | OAKLAND, CA 94609-3108

Responsible Party Identification Background

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"Any person who owns or operates an underground storage tank used for the storage of any hazardous substance."

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ACEH has named the responsible parties for this site as detailed below.

Existence of Unauthorized Release

On February 7, 2005, an Underground Storage Tank Unauthorized Release/Contamination Site Report was submitted for The Surgery Center site at 3875 Telegraph Avenue. During a Phase II Environmental Site Assessment, total petroleum hydrocarbons as gasoline were detected in soil at concentrations up to 670 milligrams per kilogram and were detected in groundwater at concentrations up to 130,000 micrograms per liter. The petroleum contamination is within and downgradient of the area occupied until 1985 by Regal gas station #102.

Responsible Party Identification

Wickland Oil owned the USTs and property and operated the USTs until the service station was demolished and the site sold in 1985. Wickland Oil is the primary responsible party because the unauthorized release occurred during the time that Wickland Oil was the owner of property where an unauthorized release occurred (Definition 3) and had control of USTs at the time of or following an unauthorized release (Definition 4).

East Bay Surgery Center LP c/o Alta Bates Summit Medical Center is a responsible party because they are the current owner of the property where an unauthorized release has occurred (Definition 3).

The Surgery Center is a responsible party because they were the former owner of the property (from 1984 to 1992) where an unauthorized release has occurred (Definition 3).

R02875



**City of Oakland
Oakland Fire Department
Fire Prevention Bureau**

250 Frank Ogawa Plaza, Suite 3341
Oakland, CA 94612
(510) 238-3851 - VOICE
(510) 238-6739 - FAX
(510) 238-6384 - TTY/TDD

FACSIMILE

| | |
|--------------------------------|-------------------------------------|
| To: <u>Jenny Wickham</u> | From: <u>Vibhor Jain (238-7491)</u> |
| Fax: <u>337-9385</u> | Phone: _____ |
| Date: <u>12/13/06</u> | Pages: (including cover) |
| Re: <u>3875 Telegraph Ave.</u> | CC: _____ |

- Urgent
 For Review
 Please Comment
 Please Reply

Comments:

No documents/files for 3801 Telegraph on 3901 Telegraph Ave.

This facsimile is intended to be viewed solely by the person to whom it is addressed. Please deliver immediately. If any portion of this facsimile did not transmit clearly, please call our office to re-send.

STATE ID NUMBER 00000012476003

APPLICATION FOR PERMIT TO OPERATE UNDERGROUND STORAGE TANK

| | | | |
|--|--|---|---|
| <input type="checkbox"/> 01 NEW PERMIT | <input type="checkbox"/> 05 RENCHED PERMIT | <input type="checkbox"/> 07 TANK CLOSED | <input type="checkbox"/> 09 DELETE FROM FILE (NO FEE) |
| <input type="checkbox"/> 02 CONDITIONAL PERMIT | <input type="checkbox"/> 06 AMENDED PERMIT | <input type="checkbox"/> 08 MINOR CHANGE (NO SURCHARGE) | |

I OWNER

| | | | |
|---|--------------------|---|--------------|
| NAME (CORPORATION, INDIVIDUAL OR PUBLIC AGENCY) WICKLAND OIL CO. | | PUBLIC AGENCY ONLY <input type="checkbox"/> 01 FED <input type="checkbox"/> 02 STATE <input type="checkbox"/> 03 LOCAL | |
| STREET ADDRESS 1765 CHALLENGE WAY | CITY SACRAMENTO | STATE CA | ZIP 95815 |

II FACILITY

| | | | |
|--|---|--|-------------|
| FACILITY NAME REGAL STATION #102 <i>702</i> | | DEALER/FOREMAN/SUPERVISOR WALT SNELLING | |
| STREET ADDRESS 3875 TELEGRAPH AVE | | NEAREST CROSS STREET 39TH ST. | |
| CITY OAKLAND | COUNTY ALAMEDA | ZIP 95807 94609 | |
| MAILING ADDRESS 1765 CHALLENGE WAY | | CITY SACRAMENTO | STATE CA |
| PHONE W/AREA CODE 916-921-1100 | TYPE OF BUSINESS <input checked="" type="checkbox"/> 01 GASOLINE STATION <input type="checkbox"/> 02 OTHER | | |
| NUMBER OF CONTAINERS 3 | PURCHASER'S NAME | TOWNSHIP | SECTION |

III 24 HOUR EMERGENCY CONTACT PERSON

| | |
|--|--|
| DAYS: NAME (LAST NAME FIRST) AND PHONE W/AREA CODE STEVEN K. LEWIS 916-921-1100 | NIGHTS: NAME (LAST NAME FIRST) AND PHONE W/AREA CODE STEVEN K. LEWIS 916-921-1100 |
|--|--|

COMPLETE THE FOLLOWING ON A SEPARATE FORM FOR EACH CONTAINER

IV DESCRIPTION

| | |
|--|---|
| A. <input checked="" type="checkbox"/> 01 TANK <input type="checkbox"/> 04 OTHER: | CONTAINER NUMBER 402 - P1 |
| B. MANUFACTURER (IF APPROPRIATE): UN | YEAR MFG: C. YEAR INSTALLED <input checked="" type="checkbox"/> UNKNOWN |
| D. CONTAINER CAPACITY: 5000 GALLONS <input type="checkbox"/> UNKNOWN | E. DOES THE CONTAINER STORE: <input type="checkbox"/> 01 WASTE <input checked="" type="checkbox"/> 02 PRODUCT |
| F. DOES THE CONTAINER STORE MOTOR VEHICLE FUEL OR WASTE OIL? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 01 UNLEADED <input type="checkbox"/> 02 REGULAR <input checked="" type="checkbox"/> 03 PREMIUM <input type="checkbox"/> 04 DIESEL <input type="checkbox"/> 05 WASTE OIL <input type="checkbox"/> 06 OTHER | |

V CONTAINER CONSTRUCTION

| | |
|--|--|
| A. THICKNESS OF PRIMARY CONTAINMENT: | <input type="checkbox"/> GAUGE <input type="checkbox"/> INCHES <input type="checkbox"/> CM <input checked="" type="checkbox"/> UNKNOWN |
| B. <input type="checkbox"/> 01 VAULTED (LOCATED IN AN UNDERGROUND VAULT) <input type="checkbox"/> 02 NON-VAULTED <input checked="" type="checkbox"/> 03 UNKNOWN | |
| C. <input type="checkbox"/> 01 DOUBLE WALLED <input type="checkbox"/> 02 SINGLE WALLED <input type="checkbox"/> 03 LINED | |
| D. <input type="checkbox"/> 01 CARBON STEEL <input type="checkbox"/> 02 STAINLESS STEEL <input type="checkbox"/> 03 FIBERGLASS <input type="checkbox"/> 04 POLYVINYL CHLORIDE <input type="checkbox"/> 05 CONCRETE <input type="checkbox"/> 06 ALUMINUM <input type="checkbox"/> 07 STEEL CLAD <input type="checkbox"/> 08 BRONZE <input type="checkbox"/> 09 COMPOSITE <input type="checkbox"/> 10 NON-METALLIC <input checked="" type="checkbox"/> 12 UNKNOWN <input type="checkbox"/> 13 OTHER: | |

SOLD

11/84

SEE SHT. ATAC.

STATE ID NUMBER 00000012476003

CONTAINER CONSTRUCTION

E. () 01 RUBBER LINED () 02 ALKYD LINING () 03 EPOXY LINING () 04 PHENOLIC LINING () 05 GLASS LINING () 07 UNLINED (X) 08 UNKNOWN () 09 OTHER:

F. () 01 POLYETHYLENE WRAP () 02 VINYL WRAPPING () 03 CATHODIC PROTECTION (X) 04 UNKNOWN () 05 NONE () 06 TAR OR ASPHALT () 09 OTHER:

VI PIPING

A. ABOVEGROUND PIPING: () 01 DOUBLE-WALLED PIPE () 02 CONCRETE-LINED TRENCH () 03 GRAVITY (CHECK APPROPRIATE BOX(ES) () 04 PRESSURE () 05 SUCTION () 06 UNKNOWN () 07 NONE

B. UNDERGROUND PIPING: () 01 DOUBLE-WALLED PIPE () 02 CONCRETE-LINED TRENCH () 03 GRAVITY (CHECK APPROPRIATE BOX(ES) () 04 PRESSURE (X) 05 SUCTION () 06 UNKNOWN () 07 NONE

VII LEAK DETECTION

() 01 VISUAL (X) 02 STOCK INVENTORY () 04 VAPOR SNIFF WELLS () 05 SENSOR INSTRUMENT () 06 GROUND WATER MONITORING WELLS () 07 PRESSURE TEST () 09 NONE () 10 OTHER:

VIII CHEMICAL COMPOSITION OF MATERIALS STORED IN UNDERGROUND CONTAINERS IF YOU CHECKED YES TO IV-F YOU ARE NOT REQUIRED TO COMPLETE THIS SECTION

Table with columns: CURRENTLY STORED, PREVIOUSLY STORED, DELETE, CASH (IF KNOWN), CHEMICAL (DO NOT USE COMMERCIAL NAME). Multiple rows for data entry.

* CHECK STATE BOARD CHEMICAL CODE LISTING FOR POSSIBLE SYNONYMS

IS CONTAINER LOCATED ON AN AGRICULTURAL FARM? () 01 YES (X) 02 NO

THIS FORM HAS BEEN COMPLETED UNDER THE PENALTY OF PERJURY AND, TO THE BEST OF MY KNOWLEDGE, IS TRUE AND CORRECT.

PERSON FILING (SIGNATURE) PHONE W/AREA CODE

FOR LOCAL AGENCY USE ONLY

Administrating Agency, City Code, County Code, Contact Person, Phone W/Area Code, Date of Last Inspection, In Compliance, Permit Approval Date, Transaction Date, Local Permit ID #

STATE ID NUMBER 0000012476001

APPLICATION FOR PERMIT TO OPERATE UNDERGROUND STORAGE TANK

01 NEW PERMIT 05 RENEWED PERMIT 07 TANK CLOSED 09 DELETE FROM FILE (NO FEE)
 02 CONDITIONAL PERMIT 06 AMENDED PERMIT 08 MINOR CHANGE (NO SURCHARGE)

I OWNER

| | | | |
|---|--------------------|---|--------------|
| NAME (CORPORATION, INDIVIDUAL OR PUBLIC AGENCY) WICKLAND OIL CO. | | PUBLIC AGENCY ONLY <input type="checkbox"/> 01 FED <input type="checkbox"/> 02 STATE <input type="checkbox"/> 03 LOCAL | |
| STREET ADDRESS 1765 CHALLENGE WAY | CITY SACRAMENTO | STATE CA | ZIP 95815 |

II FACILITY

| | | | |
|---------------------------------------|---|--|-------------------------------|
| FACILITY NAME REGAL STATION #102 | | DEALER/FOREMAN/SUPERVISOR WALT SNELLING | |
| STREET ADDRESS 3875 TELEGRAPH AVE | | NEAREST CROSS STREET 39TH ST. | |
| CITY OAKLAND | | COUNTY ALAMEDA | ZIP 95607 |
| MAILING ADDRESS 1765 CHALLENGE WAY | | CITY SACRAMENTO | STATE CA ZIP 95815 |
| PHONE W/AREA CODE 916-921-1100 | TYPE OF BUSINESS <input checked="" type="checkbox"/> 01 GASOLINE STATION <input type="checkbox"/> 02 OTHER | | |
| NUMBER OF CONTAINERS 3 | RURAL AREAS ONLY : | TOWNSHIP | RANGE SECTION |

III 24 HOUR EMERGENCY CONTACT PERSON

| | |
|---|---|
| DAYS: NAME (LAST NAME FIRST) AND PHONE W/AREA CODE STEVEN K. LEWIS 916-921-1100 | NIGHTS: NAME (LAST NAME FIRST) AND PHONE W/AREA CODE STEVEN K. LEWIS 916-921-1100 |
|---|---|

COMPLETE THE FOLLOWING ON A SEPARATE FORM FOR EACH CONTAINER

IV DESCRIPTION

| | |
|--|---|
| A. <input checked="" type="checkbox"/> 01 TANK <input type="checkbox"/> 04 OTHER: | CONTAINER NUMBER 402 - U1 |
| B. MANUFACTURER (IF APPROPRIATE): UN | YEAR MFG: C. YEAR INSTALLED 1978 <input type="checkbox"/> UNKNOWN |
| D. CONTAINER CAPACITY: 10000 GALLONS <input type="checkbox"/> UNKNOWN | E. DOES THE CONTAINER STORE: <input type="checkbox"/> 01 WASTE <input checked="" type="checkbox"/> 02 PRODUCT |
| F. DOES THE CONTAINER STORE MOTOR VEHICLE FUEL OR WASTE OIL ? <input checked="" type="checkbox"/> 01 YES <input type="checkbox"/> 02 NO IF YES CHECK APPROPRIATE BOX(ES): <input checked="" type="checkbox"/> 01 UNLEADED <input type="checkbox"/> 02 REGULAR <input type="checkbox"/> 03 PREMIUM <input type="checkbox"/> 04 DIESEL <input type="checkbox"/> 05 WASTE OIL <input type="checkbox"/> 06 OTHER | |

V CONTAINER CONSTRUCTION

| |
|--|
| A. THICKNESS OF PRIMARY CONTAINMENT: 1/4 <input type="checkbox"/> GAUGE <input checked="" type="checkbox"/> INCHES <input type="checkbox"/> CM <input type="checkbox"/> UNKNOWN |
| B. <input type="checkbox"/> 01 VAULTED (LOCATED IN AN UNDERGROUND VAULT) <input checked="" type="checkbox"/> 02 NON-VAULTED <input type="checkbox"/> 03 UNKNOWN |
| C. <input type="checkbox"/> 01 DOUBLE WALLED <input checked="" type="checkbox"/> 02 SINGLE WALLED <input type="checkbox"/> 03 LINED |
| D. <input checked="" type="checkbox"/> 01 CARBON STEEL <input type="checkbox"/> 02 STAINLESS STEEL <input type="checkbox"/> 03 FIBERGLASS <input type="checkbox"/> 04 POLYVINYL CHLORIDE <input type="checkbox"/> 05 CONCRETE <input type="checkbox"/> 06 ALUMINUM <input type="checkbox"/> 07 STEEL CLAD <input type="checkbox"/> 08 BRONZE <input type="checkbox"/> 09 COMPOSITE <input type="checkbox"/> 10 NON-METALLIC <input type="checkbox"/> 12 UNKNOWN <input type="checkbox"/> 13 OTHER: |

STATE ID NUMBER 00000012476001

CONTAINER CONSTRUCTION

E. () 01 RUBBER LINED () 02 ALKYD LINING () 03 EPOXY LINING () 04 PHENOLIC LINING () 05 GLASS LINING (X) 07 UNLINED () 08 UNKNOWN () 09 OTHER:

F. () 01 POLYETHYLENE WRAP () 02 VINYL WRAPPING () 03 CATHODIC PROTECTION () 04 UNKNOWN (X) 05 NONE () 06 TAR OR ASPHALT () 09 OTHER:

VI PIPING

A. ABOVEGROUND PIPING: () 01 DOUBLE-WALLED PIPE () 02 CONCRETE-LINED TRENCH () 03 GRAVITY (CHECK APPROPRIATE BOX(ES)) () 04 PRESSURE () 05 SUCTION () 06 UNKNOWN () 07 NONE

B. UNDERGROUND PIPING: () 01 DOUBLE-WALLED PIPE () 02 CONCRETE-LINED TRENCH () 03 GRAVITY (CHECK APPROPRIATE BOX(ES)) () 04 PRESSURE (X) 05 SUCTION () 06 UNKNOWN () 07 NONE

VII LEAK DETECTION

() 01 VISUAL (X) 02 STOCK INVENTORY () 04 VAPOR SNIFF WELLS () 05 SENSOR INSTRUMENT () 06 GROUND WATER MONITORING WELLS () 07 PRESSURE TEST () 09 NONE () 10 OTHER:

VIII CHEMICAL COMPOSITION OF MATERIALS STORED IN UNDERGROUND CONTAINERS IF YOU CHECKED YES TO IV-F YOU ARE NOT REQUIRED TO COMPLETE THIS SECTION

Table with columns: CURRENTLY STORED, PREVIOUSLY STORED, DELETE CASE (IF KNOWN), CHEMICAL (DO NOT USE COMMERCIAL NAME). Contains 10 rows of checkboxes for storage and deletion status.

* CHECK STATE BOARD CHEMICAL CODE LISTING FOR POSSIBLE SYNONYMS

IS CONTAINER LOCATED ON AN AGRICULTURAL FARM? () 01 YES (X) 02 NO

THIS FORM HAS BEEN COMPLETED UNDER THE PENALTY OF PERJURY AND, TO THE BEST OF MY KNOWLEDGE, IS TRUE AND CORRECT.

PERSON FILING (SIGNATURE) and PHONE W/AREA CODE fields.

FOR LOCAL AGENCY USE ONLY

Administrating Agency, City Code, County Code, Contact Person, Phone W/Area Code, Date of Last Inspection, In Compliance, Permit Approval Date, Transaction Date, Local Permit ID #.

STATE ID NUMBER 0000012476002

APPLICATION FOR PERMIT TO OPERATE UNDERGROUND STORAGE TANK

| | | | |
|--|--|---|---|
| <input type="checkbox"/> 01 NEW PERMIT | <input type="checkbox"/> 05 RENEWED PERMIT | <input type="checkbox"/> 07 TANK CLOSED | <input type="checkbox"/> 09 DELETE FROM FILE (NO FEE) |
| <input type="checkbox"/> 02 CONDITIONAL PERMIT | <input type="checkbox"/> 06 AMENDED PERMIT | <input type="checkbox"/> 08 MINOR CHANGE (NO SURCHARGE) | |

I OWNER

| | | | |
|---|--------------------|---|--------------|
| NAME (CORPORATION, INDIVIDUAL OR PUBLIC AGENCY) NICKLAND OIL CO. | | PUBLIC AGENCY ONLY <input type="checkbox"/> 01 FED <input type="checkbox"/> 02 STATE <input type="checkbox"/> 03 LOCAL | |
| STREET ADDRESS 1765 CHALLENGE WAY | CITY SACRAMENTO | STATE CA | ZIP 95815 |

II FACILITY

| | | | |
|---------------------------------------|--------------------|---|--------------|
| FACILITY NAME REGAL STATION #102 | | DEALER/FOREMAN/SUPERVISOR HALT SNELLING | |
| STREET ADDRESS 3875 TELEGRAPH AVE | | NEAREST CROSS STREET 39TH ST. | |
| CITY OAKLAND | | COUNTY ALAMEDA | ZIP 95607 |
| MAILING ADDRESS 1765 CHALLENGE WAY | | CITY SACRAMENTO | STATE CA |
| PHONE W/AREA CODE 916-921-1100 | | TYPE OF BUSINESS <input checked="" type="checkbox"/> 01 GASOLINE STATION <input type="checkbox"/> 02 OTHER | |
| NUMBER OF CONTAINERS 3 | RURAL AREAS ONLY : | TOWNSHIP | RANGE |
| | | | SECTION |

III 24 HOUR EMERGENCY CONTACT PERSON

| | |
|--|--|
| DAYS: NAME (LAST NAME FIRST) AND PHONE W/AREA CODE STEVEN K. LEWIS 916-921-1100 | NIGHTS: NAME (LAST NAME FIRST) AND PHONE W/AREA CODE STEVEN K. LEWIS 916-921-1100 |
|--|--|

COMPLETE THE FOLLOWING ON A SEPARATE FORM FOR EACH CONTAINER

IV DESCRIPTION

| | | |
|---|---|---|
| A. <input checked="" type="checkbox"/> 01 TANK <input type="checkbox"/> 04 OTHER: | | CONTAINER NUMBER 402 - R1 |
| B. MANUFACTURER (IF APPROPRIATE): UN | YEAR MFG: | C. YEAR INSTALLED <input checked="" type="checkbox"/> UNKNOWN |
| D. CONTAINER CAPACITY: 8000 GALLONS <input type="checkbox"/> UNKNOWN | E. DOES THE CONTAINER STORE: <input type="checkbox"/> 01 WASTE <input checked="" type="checkbox"/> 02 PRODUCT | |
| F. DOES THE CONTAINER STORE MOTOR VEHICLE FUEL OR WASTE OIL ? <input checked="" type="checkbox"/> 01 YES <input type="checkbox"/> 02 NO IF YES CHECK APPROPRIATE BOX(ES): <input type="checkbox"/> 01 UNLEADED <input checked="" type="checkbox"/> 02 REGULAR <input type="checkbox"/> 03 PREMIUM <input type="checkbox"/> 04 DIESEL <input type="checkbox"/> 05 WASTE OIL <input type="checkbox"/> 06 OTHER | | |

V CONTAINER CONSTRUCTION

| | |
|--|--|
| A. THICKNESS OF PRIMARY CONTAINMENT: | <input type="checkbox"/> GAUGE <input type="checkbox"/> INCHES <input type="checkbox"/> CM <input checked="" type="checkbox"/> UNKNOWN |
| B. <input type="checkbox"/> 01 VAULTED (LOCATED IN AN UNDERGROUND VAULT) <input type="checkbox"/> 02 NON-VAULTED <input checked="" type="checkbox"/> 03 UNKNOWN | |
| C. <input type="checkbox"/> 01 DOUBLE WALLED <input type="checkbox"/> 02 SINGLE WALLED <input type="checkbox"/> 03 LINED | |
| D. <input type="checkbox"/> 01 CARBON STEEL <input type="checkbox"/> 02 STAINLESS STEEL <input type="checkbox"/> 03 FIBERGLASS <input type="checkbox"/> 04 POLYVINYL CHLORIDE <input type="checkbox"/> 05 CONCRETE <input type="checkbox"/> 06 ALUMINUM <input type="checkbox"/> 07 STEEL CLAD <input type="checkbox"/> 08 BRONZE <input type="checkbox"/> 09 COMPOSITE <input type="checkbox"/> 10 NON-METALLIC <input checked="" type="checkbox"/> 12 UNKNOWN <input type="checkbox"/> 13 OTHER: | |

CONTAINER CONSTRUCTION

E. () 01 RUBBER LINED () 02 ALKYO LINING () 03 EPOXY LINING () 04 PHENOLIC LINING () 05 GLASS LINING () 07 UNLINED (X) 08 UNKNOWN () 09 OTHER:

F. () 01 POLYETHYLENE WRAP () 02 VINYL WRAPPING () 03 CATHODIC PROTECTION (X) 04 UNKNOWN () 05 NONE () 06 TAR OR ASPHALT () 09 OTHER:

VI PIPING

A. ABOVEGROUND PIPING: () 01 DOUBLE-WALLED PIPE () 02 CONCRETE-LINED TRENCH () 03 GRAVITY (CHECK APPROPRIATE BOX(ES)) () 04 PRESSURE () 05 SUCTION () 06 UNKNOWN () 07 NONE

B. UNDERGROUND PIPING: () 01 DOUBLE-WALLED PIPE () 02 CONCRETE-LINED TRENCH () 03 GRAVITY (CHECK APPROPRIATE BOX(ES)) () 04 PRESSURE (X) 05 SUCTION () 06 UNKNOWN () 07 NONE

VII LEAK DETECTION

() 01 VISUAL (X) 02 STOCK INVENTORY () 04 VAPOR SNIFF WELLS () 05 SENSOR INSTRUMENT () 06 GROUND WATER MONITORING WELLS () 07 PRESSURE TEST () 09 NONE () 10 OTHER:

VIII CHEMICAL COMPOSITION OF MATERIALS STORED IN UNDERGROUND CONTAINERS IF YOU CHECKED YES TO IV-F YOU ARE NOT REQUIRED TO COMPLETE THIS SECTION

Table with columns: CURRENTLY STORED, PREVIOUSLY STORED, DELETE, CASH (IF KNOWN), CHEMICAL (DO NOT USE COMMERCIAL NAME). Multiple rows for data entry.

* CHECK STATE BOARD CHEMICAL CODE LISTING FOR POSSIBLE SYNONYMS

IS CONTAINER LOCATED ON AN AGRICULTURAL FARM? () 01 YES (X) 02 NO

THIS FORM HAS BEEN COMPLETED UNDER THE PENALTY OF PERJURY AND, TO THE BEST OF MY KNOWLEDGE, IS TRUE AND CORRECT.

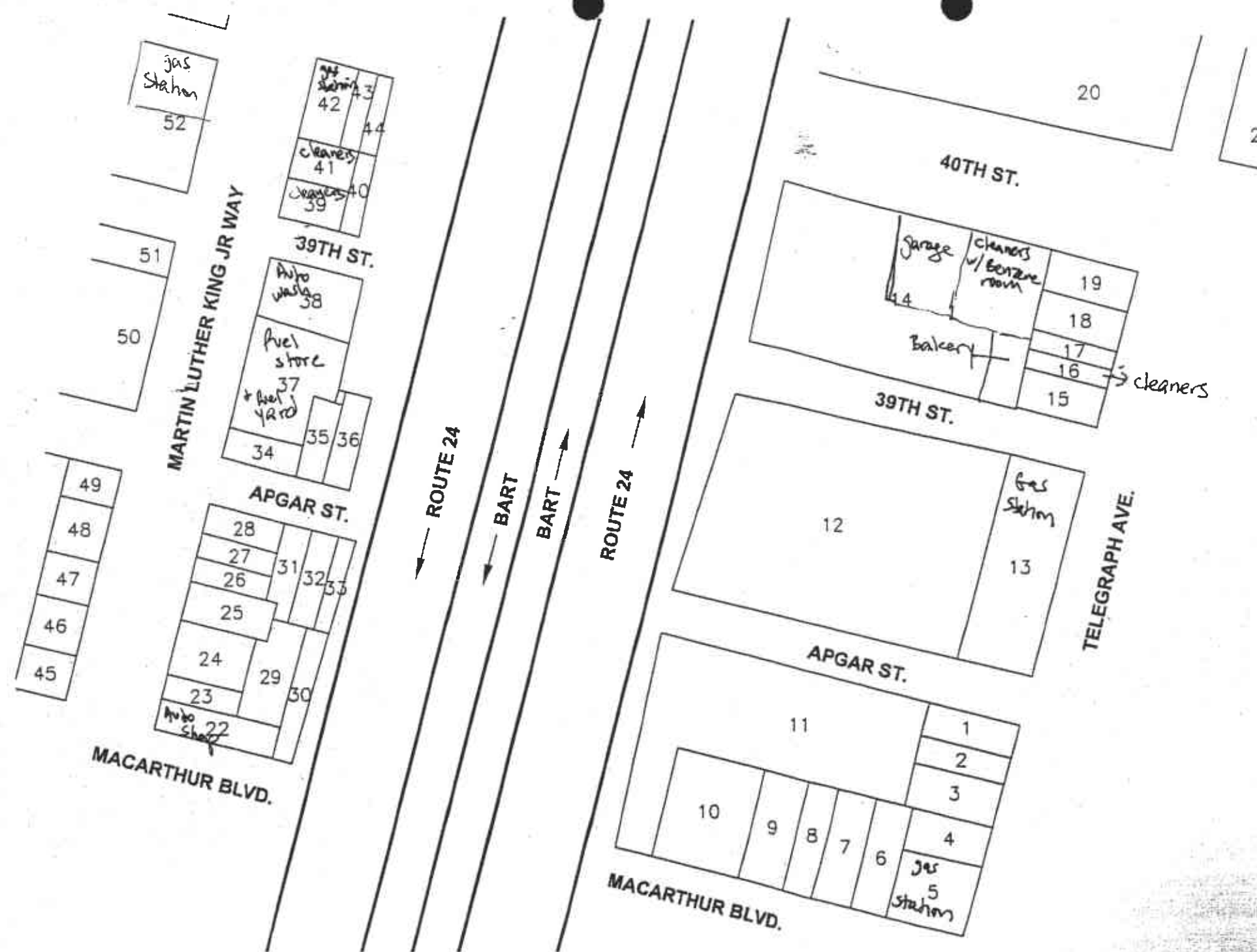
PERSON FILING (SIGNATURE) PHONE W/AREA CODE

FOR LOCAL AGENCY USE ONLY

Administrating Agency, City Code, County Code, Contact Person, Phone W/Area Code, Date of Last Inspection, In Compliance, Permit Approval Date, Transaction Date, Local Permit ID #

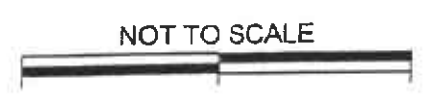
LEGEND:

1. RESIDENTIAL (3845-3847 TELEGRAPH)
2. RESIDENTIAL (3837-3843 TELEGRAPH)
3. RESIDENTIAL (3833 TELEGRAPH)
4. LEARNING CENTER (3815 TELEGRAPH)
5. KOREAN RESTAURANT (3801 TELEGRAPH)
6. FISHING SUPPLY (508-510 MACARTHUR)
7. RESIDENTIAL (514 MACARTHUR)
8. RESIDENTIAL (518 MACARTHUR)
9. RIO MOTEL (524-526 MACARTHUR)
10. SLEEPY HOLLOW MOTEL (544 38TH ST.)
11. BART LOT
12. BART LOT
13. 3875 - THE SURGERY CENTER (3875 TELEGRAPH)
14. BART LOT
15. LEE'S AUTO DETAILING (3901-3911 TELEGRAPH)
16. 3915 - COSTUME SHOP (3915 TELEGRAPH)
17. 3917 - DORIS' 21 CLUB (3917 TELEGRAPH)
18. RETAIL (3927-3929 TELEGRAPH)
19. RETAIL (3931-3933 TELEGRAPH)
20. PAYLESS
21. IMPORT MOTORS
22. QUALITY TUNE-UP (640 MACARTHUR)
23. RESIDENTIAL (3810-3812 MLK)
24. ABANDONED RETAIL (3820-3826 MLK)
25. BIBLE WAY CHURCH
26. RESIDENTIAL (3828-3834 MLK)
27. RESIDENTIAL (3836-3838 MLK)
28. RESIDENTIAL (3840 MLK)
29. EMPTY LOT (3848 MLK)
30. CAR RENTAL (UNKNOWN)
31. RESIDENTIAL (UNKNOWN)
32. RESIDENTIAL (UNKNOWN)
33. RESIDENTIAL (UNKNOWN)
34. RETAIL (3852-3856 MLK)
35. RESIDENTIAL (630 APGAR)
36. RESIDENTIAL (626 APGAR)
37. EMPTY LOT (3858-3866 MLK)
38. AUTO REPAIR/CAR WASH (3874-3884 MLK)
39. MARCUS BOOKS (3900 MLK)
40. EMPTY LOT (624-632 39TH ST.)
41. RETAIL (3906-3910 MLK)
42. EMPTY LOT (3924-3928 MLK)
43. EMPTY LOT (645 40TH ST.)
44. EMPTY LOT (643 40TH ST.)
45. RETAIL (UNKNOWN)
46. EMPTY LOT (UNKNOWN)
47. RESIDENTIAL (UNKNOWN)
48. RESIDENTIAL (UNKNOWN)
49. GALLAGHERS LIQUORS (UNKNOWN)
50. RESIDENTIAL (UNKNOWN)
51. EMPTY LOT (UNKNOWN)
52. RETAIL (UNKNOWN)



G:\projects\372\372.089\drawings\372.089.01.dwg 7-19-02 03:21:15 PM mBillegan

Reference:
THIS SITE PLAN IS ADAPTED FROM A DRAWING PROVIDED BY THE CITY OF OAKLAND,
COMMUNITY ECONOMIC AND DEVELOPMENT ASSOCIATION, UNTITLED, UNDATED.



| | |
|---|--------------------------------|
| SITE PLAN | |
| MACARTHUR BART TRANSIT VILLAGE PROJECT OAKLAND, CALIFORNIA | |
| DRAWN BY: CFY | DATE: 5/22/02 |
| JOB NUMBER: 272.089 | PROJECT NUMBER: B272.089.01 |
| | |
| 2 | |

Wickham, Jerry, Env. Health

From: Drogos, Donna, Env. Health
Sent: Monday, November 20, 2006 4:17 PM
To: Wickham, Jerry, Env. Health
Subject: FW: BART MacArthur Station/Surgery Center Meeting

-----Original Message-----

From: gjensen@bart.gov [mailto:gjensen@bart.gov]
Sent: Monday, November 20, 2006 4:03 PM
To: Drogos, Donna, Env. Health
Subject: RE: BART MacArthur Station/Surgery Center Meeting

Attendees are as follows:

City of Oakland

Mark Gomez, manager of the Environmental Services Division of Public Works Diane Lewis,
City Attorney Leroy Griffin, Fire Department, Hazardous Materials Program Kathy Kleinbaum,
Redevelopment Division

BART

Gary Jensen, Environmental Health and Safety Jeff Ordway, Joint Development Ester Low,
BART Attorney Norman Carlin, Outside Counsel

As far as an agenda, I want to put the information in the City's report in front of you and get your determination as to whether there is a problem there that needs to be pursued independent of the Surgery Center. If there is something that needs to be addressed, we would like a direction to that effect.

I anticipate that I will point out those things that tend to indicate a separate source, followed by the City telling you why they disagree (which I believe they have already sent Don a letter about). I can give you something more formal next Monday.

Gary C. Jensen, REA
Principal Engineer
Environmental, Health, and Safety Division
(510) 464-7659 (voice)
(510) 464-7552 (fax)

"Drogos, Donna,
Env. Health"
<donna.drogos@acg
ov.org>

11/20/2006 02:58
PM

<gjensen@bart.gov>

<lgriffin@oaklandnet.com>,
"Wickham, Jerry, Env. Health"
<jerry.wickham@acgov.org>

To

cc

Subject

RE: BART MacArthur Station/Surgery
Center Meeting

Hi Gary,

Thanks for getting back to me. I have Room 201, at out offices reserved for this meeting. Please send me a list of attendees and also a proposed agenda. Thanks, Donna

Donna L. Drogos, PE
LOP Program Manager
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502

510-567-6721
donna.drogos@acgov.org

-----Original Message-----

From: gjensen@bart.gov [mailto:gjensen@bart.gov]
Sent: Monday, November 20, 2006 2:44 PM
To: Drogos, Donna, Env. Health
Cc: lgriffin@oaklandnet.com
Subject: RE: BART MacArthur Station/Surgery Center Meeting

OK, I've finally heard back from all parties. We'd like to have the meeting on December 7 at 2PM.

Thank you,

Gary C. Jensen, REA
Principal Engineer
Environmental, Health, and Safety Division
(510) 464-7659 (voice)
(510) 464-7552 (fax)

"Drogos, Donna,

Env. Health"

To <donna.drogos@acgov.org>

<gjensen@bart.gov>

cc 11/13/2006 02:47

<lgriffin@oaklandnet.com>

PM

Subject

RE: BART MacArthur Station/Surgery
Center Meeting

Hi Gary,

It was nice to talk to you last Friday about this project. We can have the meeting at our offices in Alameda. Per our discussion, I talked to LeRoy Griffin of Oakland Fire CUPA & confirmed that he also wishes to attend the meeting. I am cc'ing him on this e-mail so you can include him.

Below are times that work for us. Let me know what will work for your group.

Thanks, Donna

| | |
|-------|---------------------|
| 11/30 | 10-12, between 2-5p |
| 12/05 | 10-12 |
| 12/07 | 10-12, between 2-5p |
| 12/13 | 10-12 |
| 12/14 | between 2-5p |

Donna L. Drogos, PE
LOP Program Manager
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502

510-567-6721
donna.drogos@acgov.org

-----Original Message-----

From: gjensen@bart.gov [mailto:gjensen@bart.gov]
Sent: Tuesday, November 07, 2006 9:30 AM
To: Hwang, Don, Env. Health
Subject: BART MacArthur Station/Surgery Center Meeting

I got your voice mail. Sorry, I didn't get back to you sooner, I was out sick the end of last week.

We would like to set up a meeting to discuss the site. The City of Oakland would also like to attend. The following is a list of the people who would attend:

Kathy Kleinbaum, City of Oakland Redevelopment Mark Gomez, City of Oakland Environmental Gopal Nair, City of Oakland Environmental Unknown, City of Oakland Attorney Jeff Ordway, BART Property Development Ester Low, BART Attorney Norman Carlin, BART Counsel Gary Jensen, BART Environmental

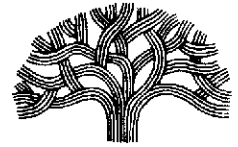
Sorry about the crowd, but when multiple agencies get involved, these things tend to grow exponentially. We'd be happy to come to your office or host it in our offices at 300 Lakeside Drive in Oakland. Perhaps you could give me several times over the next couple weeks that would work for you and I'll see what works for everyone.

Thanks,

Gary C. Jensen, REA
Principal Engineer
Environmental, Health, and Safety Division
(510) 464-7659 (voice)
(510) 464-7552 (fax)



CITY OF OAKLAND



2006 NOV -6 PM 4:28

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5301 • OAKLAND, CALIFORNIA 94612-2034

Public Works Agency
Environmental Services

FAX (510) 238-7286
TDD (510) 238-7644

Alameda County

NOV 07 2006

Environmental Health

November 2, 2006

Don Hwang
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

RE: October 4, 2006 BART letter on 3875 Telegraph Avenue, Oakland, California

Dear Mr. Hwang:

This correspondence is in response to the suggestion made by Gary Jensen of the Bay Area Rapid Transit District ("BART") in his October 4, 2006 letter to your office that data collected by the Oakland Redevelopment Agency ("Agency") in 2005 indicate the potential existence, within the boundaries of the MacArthur Station parking lot, of a "separate source of contamination" of the groundwater below.

Background

The Agency collected data in 2005 to characterize subsurface conditions at the MacArthur Station parking lot, where a "transit village" redevelopment has been proposed. High concentrations of petroleum products in the soil were discovered in one location beneath the parking lot (SB-16 at 5 ft). In separate communications with the Agency, BART has hypothesized that there is either an existing underground tank or that a tank was ruptured in that location during construction of the parking lot in the 1960s. To place this assertion in context, BART has stated that it believes the terms of the Agency's access agreement to perform the 2005 testing currently hold the Agency liable for any resultant cleanup ordered by an environmental regulatory agency.

Analysis of BART's Hypothesis

Although there is insufficient evidence to rule out the BART hypothesis at this time, we believe that the available historical and analytical data strongly point to another more likely explanation for the groundwater contamination below SB-16. Specifically, we believe that the groundwater contamination below the parking lot is attributable to the documented off-site source located directly up-gradient at 3875 Telegraph Avenue, which is an open case with your office.

The BART hypothesis described above is unlikely for several reasons:

1. Site History – Prior to construction of the parking lot, the area around SB-16 was reportedly residential. Laboratory data indicate that the petroleum products found at this location are primarily gasoline. The only tanks typically associated with residential neighborhoods are heating oil tanks, the use of which does not involve gasoline.
2. Parking Lot Construction – When the parking lot was constructed, BART reportedly graded down the site ten feet. It is highly unlikely that there now exists a tank since it would have to have been buried more than ten feet below ground surface prior to grading work. It would be highly unusual for a tank to be placed that deep.
3. Geophysical Survey Results – Although a parked car and metallic light standard prevented the Agency's consultant from conclusively surveying the entire suspect area with ground-penetrating radar (GPR), Ninyo & Moore did conclude that "GPR signatures indicative of a buried UST were not recorded within our surveyed area."
4. Known Off-site Sources – Underground storage tanks previously located at 3875 Telegraph Avenue, adjacent to and directly up-gradient of the highest groundwater concentrations, are known to have leaked significant amounts of petroleum products consistent in composition with those found beneath the parking lot.

Given the Agency's potential financial stake in this matter, we respectfully request that the Agency be copied on all hard and electronic correspondence with BART relating to this property and that the Agency be participatory in all meetings, phone conversations, etc. Please do not hesitate to contact me at (510) 238-7314 or mmgomez@oaklandnet.com if you require further clarification on our position.

Sincerely,



Mark Gomez
Environmental Program Supervisor

c: Jonelyn Weed, Environmental Services Manager
Gopal Nair, Environmental Program Specialist
Patrick Lane, Urban Economic Analyst IV
Kathy Kleinbaum, Urban Economic Analyst II
Diane Lewis, City Attorney
Gary Jensen, BART Principal Engineer, System Safety
Jeff Ordway, BART Manager of Property Development
Donna Drogos, Alameda County



SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
 300 Lakeside Drive, P.O. Box 12688
 Oakland, CA 94604-2688
 (510) 464-6000

RE 2866
 2875

RECEIVED

OCT 05 2006

ENVIRONMENTAL HEALTH SERVICES

October 4, 2006

Carole Ward Allen
 PRESIDENT

Lynette Sweet
 VICE PRESIDENT

Thomas E. Margro
 GENERAL MANAGER

Don Hwang
 Alameda County Environmental Health
 1131 Harbor Bay Parkway
 Alameda, California 94502-6577

Alameda County
 OCT 05 2006
Environmental Health

DIRECTORS

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 1ST DISTRICT

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Thomas M. Blalock
 6TH DISTRICT

Lynette Sweet
 7TH DISTRICT

James Fang
 8TH DISTRICT

Tom Radulovich
 9TH DISTRICT

Subject: Surgery Center Site at 3875 Telegraph Avenue, Oakland, California

Dear Mr. Hwang,

The San Francisco Bay Area Rapid Transit District ("BART") is the current property owner of the MacArthur Station at 555 40th Street in Oakland. BART's property is located adjacent to the Surgery Center at 3875 Telegraph Avenue. We understand that the Surgery Center is the site of an active leaking underground storage tank case under the oversight of the Alameda County Environmental Health department ("ACEH") and that a notice of responsibility was issued to the current Surgery Center property owner in September 2005.

BART and the City of Oakland Redevelopment Agency ("City") are working jointly on proposed redevelopment of BART's surface parking lot at the MacArthur Station and other properties in the vicinity. The proposed redevelopment area is adjacent to, and may include, the Surgery Center property. In 2005, in preparation for the redevelopment project, the City hired a consultant to perform an environmental investigation at BART's property. Soil and groundwater samples were collected and found to contain petroleum compounds. These results are documented in a July 20, 2005 report prepared by Ninyo & Moore, the City's consultant. We enclose a copy of this report for ACEH's file and review.

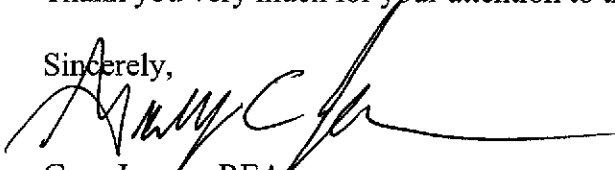
As documented in the Ninyo & Moore report, petroleum compounds were detected in some of the samples collected close to the Surgery Center property line, which may indicate contamination migrating from the Surgery Center property onto BART's property. For this reason, BART wishes to inform ACEH of conditions at BART's property which should be taken into account in determining the scope of remedial action by the responsible parties for the Surgery Center. In addition, however, some of the samples collected in the station parking lot contained higher concentrations of petroleum compounds than samples previously collected at the Surgery Center site, as reported in a February 7, 2005 investigation report prepared by GRIBI Associates for the Surgery Center site. (We believe that the ACEH has a copy of this report in its Surgery Center file, but please let us know if that is not the case and we will provide a copy.) It therefore appears that there may also be a separate source of contamination within the station parking lot.

Don Hwang
Alameda County Environmental Health
October 4, 2006
Page 2

BART would like to meet with ACEH to discuss whether action may be required, and by whom, to address the elevated levels of petroleum compounds detected in the MacArthur Station parking lot. We would expect any such meeting to include City staff. I will contact you in the next week to schedule a convenient time to meet.

Thank you very much for your attention to this matter.

Sincerely,



Gary Jensen, REA
Principal Engineer
System Safety Department

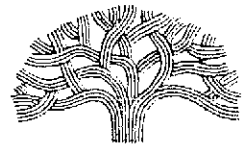
Enclosure

cc: Donna Drogos w/o enclosure
Mark Gomez
Jeff Ordway w/o enclosure

Alameda County
OCT 05 2006
Environmental Health



CITY OF OAKLAND



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Public Works Agency
Environmental Services

FAX (510) 238-7286
TDD (510) 238-7644

Septemeber 7, 2006

Jeffrey P. Ordway
Manager of Property Development
Bay Area Rapid Transit District
300 Lakeside Drive, Ste. 1639
Oakland, CA 94604-2688

Dear Mr. Ordway:

This letter is in response to assertions made by the Bay Area Rapid Transit District ("BART") at our August 29th meeting that data collected on behalf of the Oakland Redevelopment Agency ("Agency") in 2005 indicate the likelihood of a discrete, significant and "on-going" contaminant source within the boundaries of the MacArthur Station parking lot.

Background

Very high concentrations of petroleum products in the soil were discovered in one location beneath the parking lot (SB-16 at 5 ft). BART has communicated that it believes this to be a discrete, significant and "on-going" source of contaminants reaching the groundwater. BART has further hypothesized that there is either an existing underground tank or that a tank was ruptured in that location during construction of the parking lot in the 1960s.

Analysis of BART Assertions

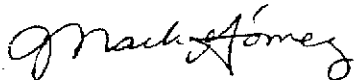
Although there is insufficient evidence to rule out the BART hypothesis at this time, we believe that the available historical and analytical data point to other more likely explanations for the soil and groundwater contamination in and around SB-16. The BART hypothesis described above is unlikely for several reasons:

1. Site History – Prior to construction of the parking lot, the area around SB-16 was reportedly residential. Laboratory data indicate that the petroleum products found at this location are primarily gasoline. The only tanks typically associated with residential neighborhoods are heating oil tanks, the use of which does not involve gasoline.
2. Parking Lot Construction – When the parking lot was constructed, BART reportedly graded down the site ten feet. It is highly unlikely that there now exists a tank since it would have to have been buried more than ten feet below ground surface prior to grading work. It would be highly unusual for a tank to be placed that deep.

2. We interpret the phrase "requires remediation" to mean issuance of a cleanup order.
3. We believe the phrase "beyond a harmful level, given the existing land use" excludes remediation required to protect groundwater as a potential "resource" rather than to protect BART customers and employees (i.e., the Agency has no liability for cleanup costs if the sole justification for the cleanup is protection of groundwater as a potential resource).

As communicated to BART representatives at our August 29th meeting, the Agency should be copied on all hard and electronic correspondence with environmental regulatory agencies relating to this property and should be participatory in all meetings, phone conversations, etc. Please do not hesitate to contact me at (510) 238-7314 or mmgomez@oaklandnet.com if you require further clarification on our position.

Sincerely,



Mark Gomez
Environmental Program Supervisor

- c: Jonelyn Weed, Environmental Services Manager
Gopal Nair, Environmental Program Specialist
Patrick Lane, Urban Economic Analyst IV
Kathy Kleinbaum, Urban Economic Analyst II
Diane Lewis, City Attorney
Gary Jensen, BART Principal Engineer, System Safety



250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3941
FAX (510) 238-6538
TDD (510) 839-6451

**NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT
MacARTHUR TRANSIT VILLAGE PROJECT**

The Oakland Community and Economic Development Agency, Planning and Zoning Division, is preparing a Draft Environmental Impact Report (EIR) for the project identified below, and is requesting comments on the scope and content of the EIR. The EIR will include a discussion of potential environmental effects for each of the environmental topics included in Appendix G of the California Environmental Quality Act (CEQA) Guidelines, thus the City has not prepared an Initial Study. The City of Oakland is the Lead Agency for the project and is the public agency with the greatest responsibility for either approving the project or carrying it out. This notice is being sent to Responsible Agencies and other interested parties. Responsible Agencies are those public agencies, besides the City of Oakland, that also have a role in approving or carrying out the project. Responsible Agencies will receive a copy and use this EIR when considering approvals related to the project. Responsible Agencies include the San Francisco Bay Area Rapid Transit (BART), as well as other public agencies. Response to this NOP and any additional questions or comments should be directed in writing to: Natalie Fay, Senior Transportation Planner, Community and Economic Development Agency, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612; 510-238-2129 (phone); 510-238-6538 (fax); nfay@oaklandnet.com. Comments on the NOP must be received at the above mailing or email address **on or before March 16, 2006**. Please reference case number ER060004 in all correspondence. Additionally, comments may be provided at the scoping sessions.

PUBLIC AGENCY EIR SCOPING MEETING
Tuesday, February 28, 2006
3:30 p.m.
Fox Conference Room
5th Floor, 250 Frank Ogawa Plaza
and
EIR SCOPING MEETING – CITY PLANNING COMMISSION
Wednesday, March 15, 2006
6:30 p.m.
City Hall, 1 Frank H. Ogawa Plaza
Hearing Room 1 or Council Chambers

PROJECT TITLE: MacArthur Transit Village Project

PROJECT LOCATION: The project site is located in North Oakland, within the block that is bound by 40th Street, Telegraph Avenue, West MacArthur Boulevard, and Highway 24, as shown in Figure 1. The project site includes the BART parking lot and four privately owned parcels. These four parcels are anticipated to be acquired as part of the project. It is also noted that several parcels on the block are not included in the project area, as shown in Figure 2, including the parcel on the southwest corner of 40th Street and Telegraph Avenue, parcels that front on Telegraph Avenue (between Apgar Street and West MacArthur Boulevard) and West MacArthur Boulevard. The project would also include access improvements to the MacArthur BART station, which is located west of the project site.

EXISTING CONDITIONS: The project site is approximately 7 acres. The majority of the project site is currently occupied by the MacArthur BART parking lot, a surface parking lot with approximately 600 parking

spaces. There are several structures included in the project site that front on Telegraph Avenue. These structures vary in height, and contain both residential and commercial uses. Parcels that comprise the project site are not included in the Hazardous Waste and Substances Sites (Cortese) List; however, other hazards or hazardous waste, not included in the Cortese List, may be located on the project site.

PROJECT SPONSOR: MacArthur Transit Community Partners, LLC

PROJECT DESCRIPTION: The proposed MacArthur Transit Village project would include six buildings with approximately 800 units of high-density multi-family housing and 30,000 square feet of ground-floor neighborhood serving retail and community space. Approximately 20 percent of the units would be below market rate, with the remainder of the units being for-sale condominiums.

The residential buildings along Telegraph Avenue and 40th Street would be five stories tall, and would include four stories of housing above ground-floor retail. Set back against the freeway in the rear of the BART parking lot are two residential towers, one 20-story and one 22-story in height. Figure 3 shows a conceptual site plan and drawing of the proposed project.

The project includes approximately 1,030 residential, retail and community use parking spaces and 300 BART parking spaces. BART currently has approximately 600 spaces dedicated for exclusive BART parking purposes. The project would reduce exclusive BART parking by approximately 50 percent. Full replacement of BART commuter parking will also be analyzed as part of the EIR.

As part of the proposed project, a Residential Parking Permit Program, covering a ¼ mile radius around the project site, would be implemented to minimize potential adverse BART parking effects on the surrounding neighborhood.

The proposed project also includes several public infrastructure upgrades, including a new public street through the site off of Telegraph Avenue, the renovation of the existing BART entry plaza, intermodal improvements, a new intermodal area, and a new public plaza adjacent to the retail space.

Actions/approvals by the City that may be necessary for this project include without limitation: rezoning; design review, conditional use permit; development agreement; tree removal; grading; and a disposition and development agreement

The Draft EIR will also examine a reasonable range of alternatives to the project, including the CEQA-mandated No Project Alternative and other potential alternatives that may be capable of reducing or avoiding potential environmental effects.

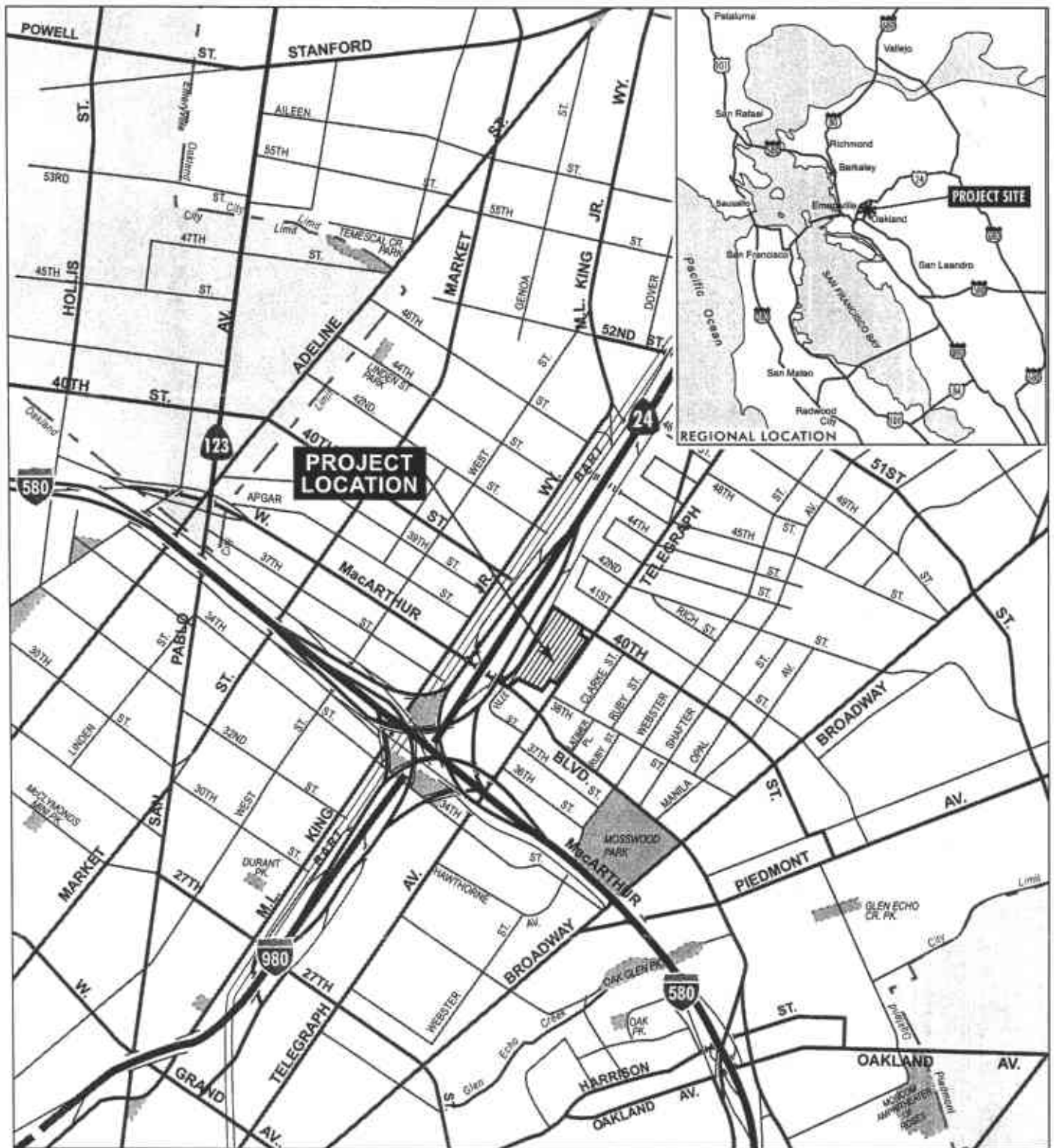
Information for the proposed project can be found at the following website:
<http://www.oaklandnet.com/government/ceda/revised/planningzoning/MajorProjectsSection/macarthur.html>

February 15, 2006
File Number ER060004

Gary Patton
Environmental Review Officer

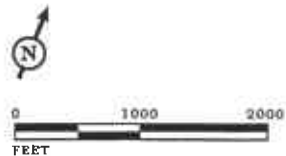
Attachments

- Figure 1: Project Location and Regional Vicinity Map
- Figure 2: Project Site Map
- Figure 3: Conceptual Site Plan and Drawing



LSA

FIGURE 1



LEGEND

 PROJECT AREA

MacArthur Transit Village Project EIR
 Project Location and
 Regional Vicinity Map

SOURCE: CALIFORNIA STATE AUTOMOBILE ASSOCIATION, 2000.

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LSA

FIGURE 2



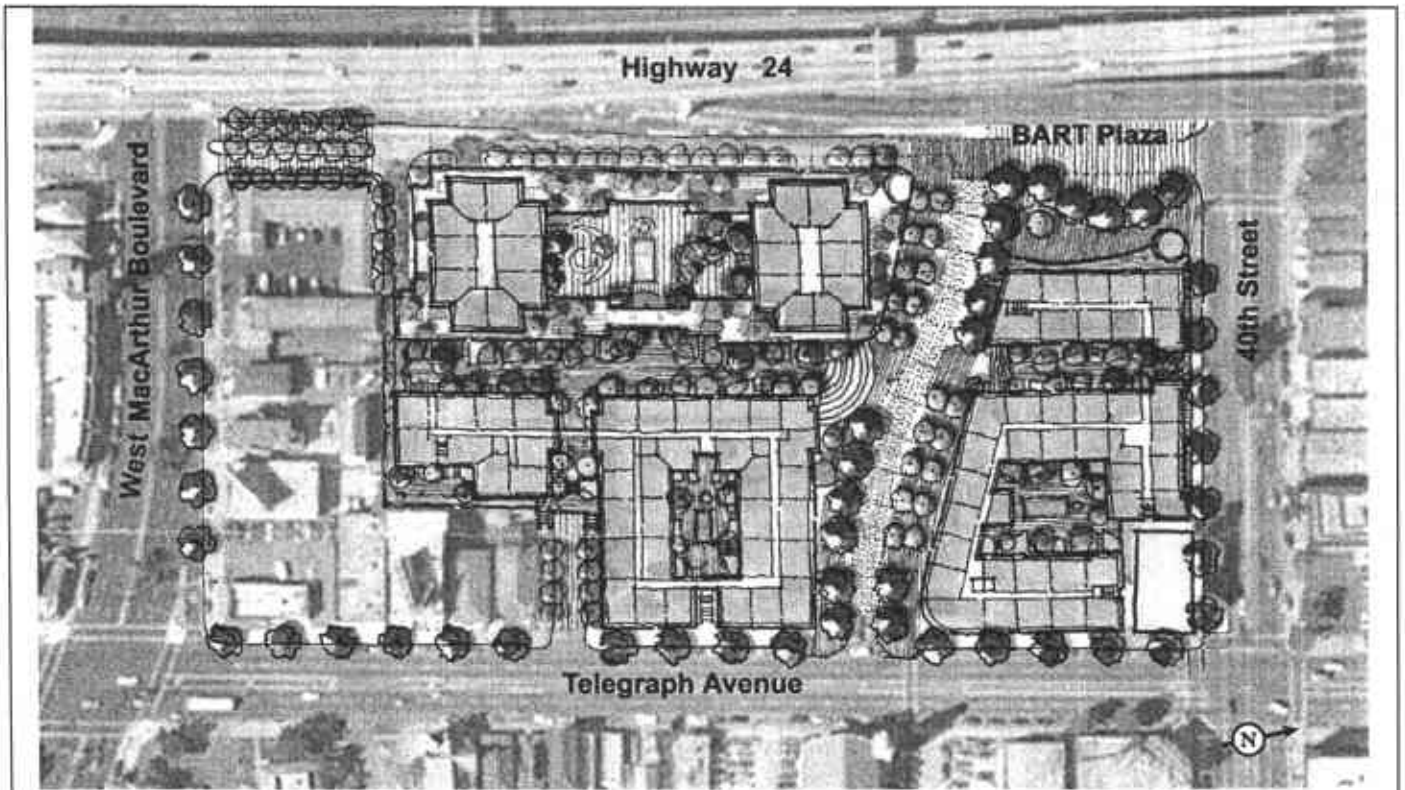
LEGEND



PROJECT AREA

PARCEL LINES

MacArthur Transit Village Project EIR
Project Site Map



LSA

FIGURE 3

*MacArthur Transit Village Project EIR
Conceptual Site Plan
and Drawing*

SOURCE: CITY OF OAKLAND, 2006.

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SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
300 Lakeside Drive, P.O. Box 12688
Oakland, CA 94604-2688
(510) 464-6000

February 2, 2006

Carole Ward Allen
PRESIDENT

Lynette Sweet
VICE PRESIDENT

Thomas E. Margro
GENERAL MANAGER

Ms. Kathy Kleinbaum
City of Oakland
CEDA, Redevelopment Division
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612

DIRECTORS

Gail Murray
1ST DISTRICT

Joel Keller
2ND DISTRICT

Bob Franklin
3RD DISTRICT

Carole Ward Allen
4TH DISTRICT

Zoyd Luce
5TH DISTRICT

Thomas M. Blalock
6TH DISTRICT

Lynette Sweet
7TH DISTRICT

James Fang
8TH DISTRICT

Tom Radulovich
9TH DISTRICT

SUBJECT: Request for Additional Investigation at MacArthur BART Station

Dear Kathy:

We have reviewed the July 20, 2005 Phase II environmental site investigation report for the MacArthur BART station site by Ninyo & Moore, together with the February 7, 2005 report by GRIBI on investigation of the adjacent Surgery Center property. We understand the City of Oakland believes that contamination Ninyo and Moore reported at the BART property originates from an offsite source at the Surgery Center. However, as explained below, uncertainties remain which preclude a definitive conclusion about the origin of contamination at the BART property. Therefore, we request that the City perform additional investigation pursuant to the Permit to Enter issued to the City by BART.

According to the Ninyo and Moore report, during the initial sampling at the BART property in February 2005, over thirty borings were installed and soil and groundwater samples were collected. Hydrocarbon contamination was found at much higher levels in the soil than in the groundwater at boring B-16. Specifically, total petroleum hydrocarbons as gasoline (TPHG) and total petroleum hydrocarbons as diesel (TPHD) were detected in the soil sample at 2,700 parts per million (ppm) and 240 ppm respectively, while TPHG and TPHD concentrations in the groundwater sample were 280 ppm and 210 ppm respectively. Moreover, the levels of contamination found at B-16 on the BART property were higher than those reported by GRIBI on the adjacent Surgery Center property. For example, TPHG and benzene were reported at 280,000 parts per billion (ppb) and 47,000 ppb, respectively, in the groundwater sample collected at B-16 on the BART property. In contrast, only 140,000 ppb TPHG and 21,000 ppb benzene were reported in groundwater samples from the Surgery Center property at borings B-4 and TB-1. These results suggested that the contamination at the BART property originates from an on-site source, in whole or in part, rather than migrating through groundwater from the Surgery Center. In addition, the soil sample for B-16 was collected at 5 feet below ground surface (bgs), while groundwater was not encountered until 8.5 feet bgs. Since the soil

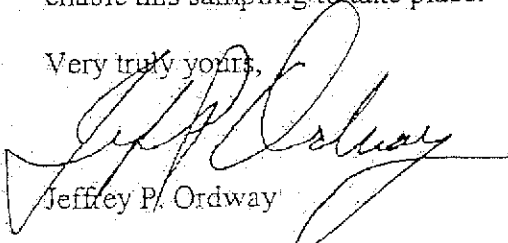
samples were taken several feet above the groundwater level, it is not likely that smearing of contaminants in groundwater contributed to the higher level of contamination in the soil.

Ninyo and Moore also report a second sampling episode at the BART property in June 2005 which yielded apparently inconsistent results. Samples collected from two additional borings (B-16A and B-16B) showed higher levels of contamination in the groundwater compared to the levels detected in the soil. Specifically, at B-16A, neither TPHG nor benzene were detected above their detection limits, whereas 4,100 ppb TPHG and 49 ppb benzene were detected in the groundwater. Moreover, at B-16B, only low levels of benzene (9.7 ppb) were detected in the soil, with 20,000 ppb TPHG and 560 ppb benzene detected in the groundwater. These results appear to suggest migration through groundwater rather than a local source. However, the figures provided in the Ninyo & Moore report do not indicate the locations of borings B-16A and B-16B. In particular, it is not clear whether these two borings were located close to B-16 (as implied by their numbering) or elsewhere.

Even if B-16A and B-16B were located close to B-16, the June 2005 sampling results do not explain the reason for the inconsistent results obtained in February 2005. It remains possible that there is a separate source of contamination in this area that was not captured by the sampling at B-16A and B-16B. In addition, the results of a June 2005 geophysical survey for abandoned underground storage tanks (USTs) at the BART property were not definitive. Although no USTs were found, the survey detected two anomalies that could have masked any anomalies caused by a UST in these two locations. Thus, some uncertainties remain as to potential sources of contamination underneath the property.

Accordingly, additional focused sampling in the immediate vicinity of B-16 and at intermediate points downgradient from the Surgery Center is needed to resolve the discrepancy between the two sets of results, ~~and we request that the City perform such additional investigation pursuant to the Permit to Enter.~~ Please contact me at your earliest convenience so that we can coordinate as necessary to enable this sampling to take place.

Very truly yours,



Jeffrey P. Ordway

Manager of Property Development

Drogos, Donna, Env. Health

From: Drogos, Donna, Env. Health
Sent: Friday, July 22, 2005 11:47 AM
To: 'Griffin, Leroy'
Subject: 3875 Telegraph Ave

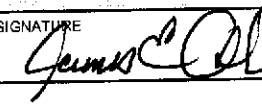
Hi Leroy, Can you send me a copy of the UST file records for the address above? I am looking for UST installation & removal permits & any information on the UST removal(s) to identify UST owners & operators.
thanks, Donna

Donna L. Drogos, P.E.
LOP Program Manager
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502

510-567-6721
donna.drogos@acgov.org

7/22/2005

UNDERGROUND STORAGE TANK AUTHORIZED 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 AM A DESIGNATED GOVERNMENT EMPLOYEE AND THAT I HAVE REPORTED THIS INFORMATION TO LOCAL OFFICIALS PERSUANT TO SECTION 25190.7 OF THE HEALTH AND SAFETY CODE. | |
| REPORT DATE 2-7-05 | | CASE # | | SIGNED _____ DATE _____ | |
| REPORTED BY | NAME OF INDIVIDUAL FILING REPORT Jim Gribi / Gribi Associates | | PHONE 707-748-7743 | | SIGNATURE  |
| | REPRESENTING <input type="checkbox"/> LOCAL AGENCY <input type="checkbox"/> REGIONAL BOARD <input checked="" type="checkbox"/> OWNER/OPERATOR <input type="checkbox"/> OTHER... | | COMPANY OR AGENCY NAME | | |
| ADDRESS 1090 Adams ST, Ste K Benicia CA 94510 | | | | | |
| RESPONSIBLE PARTY | NAME The Surgery Center <input type="checkbox"/> Unknown | | | PHONE 510-547-2244 | |
| | ADDRESS 3875 Telegraph Ave, OAKLAND CA 94609 | | | | |
| SITE LOCATION | FACILITY NAME (IF APPLICABLE) The Surgery Center | | | OPERATOR DR. LARRY Fusch | |
| | ADDRESS 3875 Telegraph Ave, OAKLAND CA 94609 | | | | |
| | CROSS STREET 39th Street | | | | |
| IMPLEMENTING AGENCIES | LOCAL AGENCY AGENCY NAME Alameda County Dept of Env. Health | | | PHONE 510-567-6700 | |
| | REGIONAL BOARD SAN FRANCISCO BAY RWQCB | | | PHONE 510-622-2300 | |
| SUBSTANCES INVOLVED | (1) NAME Gasoline | | | QUANTITY LOST (GALLONS) _____ <input type="checkbox"/> Unknown | |
| | (2) | | | _____ <input type="checkbox"/> Unknown | |
| DISCOVERY/ABATEMENT | DATE DISCOVERED 1-27-05 | | HOW DISCOVERED <input type="checkbox"/> Tank Test <input type="checkbox"/> Tank Removal <input type="checkbox"/> Nuisance Conditions <input type="checkbox"/> Inventory Control <input checked="" type="checkbox"/> Subsurface Monitoring <input type="checkbox"/> Other... | | |
| | DATE DISCHARGE BEGAN Unknown | | METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) <input type="checkbox"/> Remove Contents <input type="checkbox"/> Close Tank <input type="checkbox"/> Repair Tank <input type="checkbox"/> Change Procedure <input type="checkbox"/> Replace Tank <input type="checkbox"/> Other... <input type="checkbox"/> Repair Piping | | |
| | HAS DISCHARGE BEEN STOPPED? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | IF YES, DATE | | |
| SOURCE/ CAUSE | SOURCE OF DISCHARGE <input checked="" type="checkbox"/> Tank Leak <input checked="" type="checkbox"/> Piping Leak <input type="checkbox"/> Unknown <input type="checkbox"/> Other... | | CAUSE(S) <input type="checkbox"/> Overfill <input type="checkbox"/> Corrosion <input type="checkbox"/> Rupture/Failure <input checked="" type="checkbox"/> Unknown <input type="checkbox"/> Spill <input type="checkbox"/> Other... | | |
| | CASE TYPE CHECK ONE ONLY <input type="checkbox"/> Undetermined <input type="checkbox"/> Soil Only <input checked="" 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"/> Case Closed (Cleanup Completed or Unnecessary) <input checked="" type="checkbox"/> Leak Being Confirmed <input type="checkbox"/> Pollution Characterization <input type="checkbox"/> Remediation Plan <input type="checkbox"/> Post Cleanup Monitoring in Progress <input type="checkbox"/> Preliminary Site Assessment Workplan Submitted <input type="checkbox"/> Cleanup Underway <input type="checkbox"/> Preliminary Site Assessment Underway | | | | |
| | REMEDIAL ACTION CHECK APPROPRIATE ACTION(S) <input type="checkbox"/> Cap Site (CD) <input type="checkbox"/> Excavate & Treat (ET) <input type="checkbox"/> Treatment at Hookup (HU) <input type="checkbox"/> Other... <input type="checkbox"/> Contamination Barrier (CB) <input type="checkbox"/> No Action Required (NA) <input type="checkbox"/> Enhanced Bio Degradation (IT) <input type="checkbox"/> Vacuum Extract (VE) <input type="checkbox"/> Remove Free Product (FP) <input type="checkbox"/> Replace Supply (RS) <input type="checkbox"/> Excavate & Dispose (ED) <input type="checkbox"/> Pump & Treat Groundwater (GT) <input type="checkbox"/> Vent Soil (VS) | | | | |
| COMMENTS | Gas Stations present on the site from the 1930s until approx. 1984. | | | | |
| | A medical facility currently occupies site. (Leak) Contamination discovered during Phase II ESA. | | | | |

Alameda County
 FEB 15 2005
 Environmental Health

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
DAVID J. KLARS, Agency Director



November 30, 1989

Regal Station #102
3875 Telegraph Ave.
Oakland, CA 94609

RE: 3875 Telegraph Ave.

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94612
(415)

*Janis removed
Jan 84
Jm*

NOTICE OF LEGAL OBLIGATION

Dear owner/operator:

Our records indicate that there are underground tank(s) at your site at the above facility.

In accordance with the California Code of Regulations, Title 23, Chapter 3, Subchapter 16 Underground Tank Regulations you must perform one of the following actions:

1. Submit a tank closure plan to this Department as required by Article 7, 2670, or
2. Apply for a permit as required by Article 10, 2710.

Notify this Department within 10 days of your intentions and to obtain the necessary instructions and forms.

Please note that section 25299 of the California Health and Safety Code states that any operator or owner of an underground storage tank is liable for a civil penalty of not less than five hundred dollars or more than five thousand dollars per day for failure to obtain a permit, or failing to properly close an underground storage tank, as required by section 25298.

If you have any questions concerning this matter, please contact this office at 271-4320.

Sincerely,

Thomas F. Peacock, Senior HMS
Hazardous Materials Division

TFP:tfp

cc: Gil Jensen, Alameda County District Attorney, Consumer and
Environmental Protection Agency
Lester Feldman, RWQCB