RECEIVED

By dehloptoxic at 1:38 pm, Dec 28, 2006

Mr. Barney Chan December 13, 2006

December 13, 2006

Mr. Barney Chan

Alameda County EHS 1131 Harbor Bay Parkway Alameda, California 94502

SUBJECT: 15595 Washington Avenue, San Lorenzo, California

Dear Mr. Chan:

Enviro Soil Tech Consultants would like to inform you that we are currently analyzing the data that were obtained during the field work that was done in October and early November and have begun to prepare a report for your review. The preliminary results indicate that there are three water-bearing zones between the surface and the maximum drilled depth of 60 feet, and that only groundwater in the upper zone has been impacted by the release of gasoline from the site. MTBE and/or TPHg were detected in several soil samples, and we are currently studying soil data from previous phases of investigation in an attempt to understand the distribution of these hydrocarbons.

We anticipate sampling the monitoring wells early next week and receiving the laboratory results in early January. Our analysis should be complete in time to submit our report by January 27, 2007.

Mr. Barney Chan December 13, 2006 If you have any questions or require additional information, please feel free to contact our office 408-297-1500. Respectfully yours, ENVIRO SOIL TECH CONSULTANTS VICTOR B. CHERVEN, PH.D. GENERAL MANAGER R. G. #3475 ce: Mehdi Mohammadian, 15595 Washington Avenue, San Lorenzo ENVIRO SOIL TECH CONSULTANTS

RECEIVED

By dehloptoxic at 8:32 am, Dec 27, 2006

Mr. Barney Chan December 13, 2006

December 13, 2006

Mr. Barney Chan

Alameda County EHS 1131 Harbor Bay Parkway Alameda, California 94502

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1

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CAMBRIA

May 11, 2006

Mr. Barney Chan Alameda County Environmental Health 1311 Harbor Bay Parkway, Suite 250 Alameda, California 94502-6577

RECEIVED

By lopprojectop at 8:44 am, May 16, 2006

Re: Request for Amended Work Plan for Plume Definition for Fuel Leak Case No. R0374

> Cal Gas Station Site 211285 15595 Washington Avenue San Lorenzo, California



Dear Mr. Chan:

We have received the May 4, 2006 Request for Amended Work Plan for Plume Definition for Fuel Leak Case No. R0374 from Alameda County Environmental Health (ACEH) for the site referenced above. The ACEH letter was in response to a September 20, 2004 work plan submitted on behalf of the current property owner (the Primary Responsible Party). We appreciate the fact that this project is moving forward and look forward to helping as needed.

As we discussed on the telephone on May 26, 2005, Chevron is a Secondary Responsible Party at this site. The ACEH expects the Primary Responsible Party (the current property owner) to take the lead role investigating and remediating this site. We also discussed that Chevron will not be issued a Notice of Violation without prior notice from the ACEH if the Primary Responsible Party fails to meet regulatory requirements. Please let us know if these positions have changed.

Based on these discussions, we have not planned on attending the May 19, 2006 on-site meeting requested to finalize the scope of the September 20, 2004 work plan. Please notify us if this is not in alignment with your expectations.

We appreciate your assistance with this project. Please contact me at (510) 420-3301 if you have any questions or comments.

Sincerely,

Cambria Environmental Technology, Inc.

amman favaucht Fen

Cambria Environmental Technology, Inc.

5900 Hollis Street Suite A Emeryville, CA 94608 Tel (510) 420-0700 Fax (510) 420-9170 N. Scott MacLeod, RG Principal Geologist

CAMBRIA

cc: Mark Inglis, Chevron Environmental Management Company, 6001 Bollinger Canyon

Road, San Ramon, CA 94583

Jon Robbins, Chevron

Jeff Podawiltz, Glynn Finley, 100 Pringle Avenue, Suite 500, Walnut Creek, CA 94596

I:\211285 San Lorenzo\211285 Letter to ACEH Regarding Work Plan May 2006.doc





Environmental & Geotechnical Consultants

131 TULLY ROAD, SAN JOSE, CALIFORNIA 95111

Tel: (408) 297-1500 Fax: (408) 292-2116

April 30, 2007

Mr. Barney Chan Alameda County EHSA 1131 Harbor Bay Parkway Alameda. California 94502

SUBJECT: 15595 WASHINGTON AVENUE, SAN LORENZO, CA

Dear Mr. Chan:

Enviro Soil Tech Consultants is aware that you set a deadline of March 30, 2007 for receipt of a Site Conceptual Model, Feasibility Study, and Corrective Action Plan for the Cal Gas station located at 15595 Washington Avenue in San Lorenzo. Due to our recent heavy work load and unexpected oversea travel of Mr. Mohammadian, ESTC has been unable to complete these items in time to meet that deadline. We will need an additional time to review the information that we are gathering and develop the requested documents. We ask that the deadline be extended to June 15, 2007. Thank you for your consideration.

Respectfully yours,

ENVIRO SOIL TECH CONSULTANTS

ÁFRANK HAMEDI-FARD GENERAL MANAGER

ee: Mr. Mehdi Mohammadian

State Vater Resources Contol 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/cwphome/ustcf



FEB 2 2007

MEHDI MOHAMMADIAN 15595 WASHINGTON AVE SAN LORENZO, CA 94580

UNDERGROUND STORAGE TANK (UST) CLEANUP FUND (FUND), CLAIM NO. 015058, FOR SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

The State Water Resources Control Board (State Water Board) is able to issue, pursuant to applicable regulations, the enclosed Letter of Commitment (LOC) in an amount not to exceed \$50,000. This LOC is based upon our review of the corrective action costs you reported to have incurred to date. The LOC may be modified by the State Water Board.

All invoices must be billed in claimants name and checks paying for invoices must come from the claimant as listed on the application. Any other invoicing and payment arrangements must be received and approved by the Fund or cost may not be reimbursed.

The Fund will only pay for costs incurred that have been approved by Alameda County Environmental Health (ACEH). Previous work that was conducted by Enviro Soil Tech Consultants was not approved by ACEH. Fund's letter dated March 15, 2004, stated the Fund will not reimburse those costs that were incurred for noncompliance with the written or oral directives from the regulatory agency.

On July 14, 2006, ACEH approved the June 8, 2006, Work Plan Addendum prepared by Enviro Soil Tech Consultants.

It is very important that you read the terms and conditions listed in the enclosed LOC. Claims filed with the Fund far exceed the funding available and it is very important that you make use of the funding that has been committed to your cleanup in a timely manner.

You are reminded that you must comply with all regulatory agency time schedules and requirements and you must obtain three bids for any required corrective action. Only corrective action costs *required* by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. If you have any questions about obtaining preapproval of your costs or the three bid requirement, please call Sunil Ramdass, our Technical Reviewer assigned to claims in your Region, at (916) 341-5757. Failure to obtain preapproval of your future costs may result in the costs not being reimbursed.

The following documents needed to submit your reimbursement request are enclosed:

Reimbursement Request Instructions and Information packages. Retain these packages for future reimbursement requests. These instructions must be followed when seeking reimbursement for corrective action costs incurred after January 1, 1988.

"Reimbursement Request" forms which you must use to request reimbursement of costs incurred.

"Spreadsheet" forms which you must use in conjunction with your reimbursement request.

THIS IS IMPORTANT TO YOU, PLEASE NOTE:
Signature(s) on the application will be the signature(s) required for all future Fund documents.

You have 90 calendar days from the date of this letter to submit your first reimbursement request for incurred corrective action costs. If you fail to do so, your LOC funds will automatically be reduced to zero (deobligated). Once this occurs, any future funds for this site are subject to availability when you submit your first reimbursement request. We continuously review the status of all active claims. You must continue to remain in compliance and submit a reimbursement request every 6 months. Failure to do so will result in the Fund taking steps to withdraw your LOC.

If you have any questions regarding the enclosed documents, please contact Ginny Lagomarsino at (916) 341-5722.

FEB 0 6 2007

Environmental Health

Sincerely,

Ronald M. Duff, Fund Manager

Underground Storage Tank Cleanup Fund

Enclosures

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

2007 JAN 36 Fil 2: 29

AGENCY





ENVIRONMENTAL HEALTH SERVICES

ENVIRONMENTAL PROTECTION

Alameda, CA 94502-6577

(510) 567-6700

FAX (510) 337-9335

1131 Harbor Bay Parkway, Suite 250

DAVID J. KEARS, Agency Director

March 2, 2007

Mr.Mehdi Mohammadian

Cal Gas

15595 Washington Avenue San Lorenzo, CA 94580

Mr. Satya Sinha ChevronTexaco

6011 Bollinger Canyon Rd., K-

2256

San Ramon CA 94583

Ms. Mariorie Kanyer Bert Kubo Trust

20321 Via Espana Salinas, CA 93908 Mr. Denis Brown

Shell Oil Products 20945 S. Wilmington Ave.

Carson, CA 90810

Ms. Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

Subject:

Fuel Leak Case RO0000374, Cal Gas Station (Former Chevron #21-1285),

15595 Washington Avenue, San Lorenzo, CA, 94580

Attn: Ladies and Gentleman:

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the subject site including the February 14, 2007 Work Plan Addendum for off-site wells by Enviro Soil Tech Consultants (ESTC). This work plan responds to the agency February 2, 2007 letter request revision of monitoring well locations and construction based upon the results of the November 2006 investigation. Four monitoring wells, one on-site and three off-site are proposed in the work plan. The proposed wells will be screened from 15-20' bgs. We have the following technical comments we request you address when performing the proposed work.

TECHNICAL COMMENTS

- 1. Number and Location of Monitoring Wells- We believe that the proposed on-site well MW-6 is not necessary, however, we request that two additional wells be installed approximately 50' north and 50' south of proposed well, MW-8. This transect of wells will provide monitoring for the variable gradient and sources observed at the site. See the revised Figure 1 for recommended well locations.
- 2. Screen Interval for Proposed Wells- We have reviewed the boring logs from the November 2006 investigation and feel that a screen interval from 15-25' bgs will capture the variable depths of the deeper water bearing zone described as the principal zone of interest. We recommend you pursue any off-site access agreements necessary to complete your investigation and notify our office if you require our assistance in obtaining access.

TECHNICAL REPORT REQUEST

Please submit the following technical reports according to the following schedule:

- 60 days after installation of monitoring wells- Well Construction Report
- March 30, 2007- Site Conceptual Model
- March 30, 2007- Feasibility Study and Corrective Action Plan

March 2, 2007 RO0000374 Page 2 of 3

ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) now request submission of reports in electronic form. The electronic copy is intended to replace the need for a paper copy and is expected to be used for all public information requests, regulatory review, and compliance/enforcement activities. 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. 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 monitoring wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all reports is required in Geotracker (in PDF format). Please visit the State Water Resources Control Board at http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting for more information on these requirements.

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) 567-6765.

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

Barrey M dhe

March 2, 2007 RO0000374 Page 3 of 3

Enclosure: revised Figure 1

cc: files, Donna Drogos

Mr. Adam Harris, Ms. Shari Knieriem, SWRCB, P. O. Box 944212, Sacramento,

CA 94244-2120

Frank Hamedi-Fard, Enviro Soil Tech Consultants, 131 Tully Road, San Jose,

CA 95112

Ms. Cherie McCaulou, SFRWQCB

3_2_07 15595 Washington Ave

Revised

Enviro Soil Tech Consultants

131 Tully Road San Jose, CA 95112

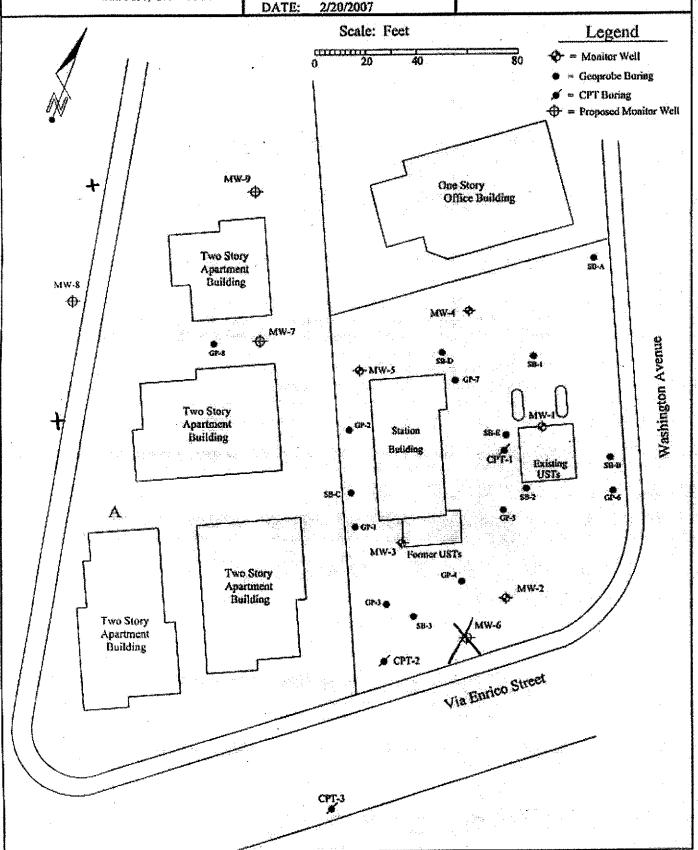
PROJECT

15595 Washington Avenue San Lorenzo, California

PROJECT # 12-99-702-SI DATE: 2/20/2007

Figure

Proposed Monitor Wells



ALAMEDA COUNTY

HEALTH CARE SERVICES







DAVID J. KEARS, Agency Director

February 2, 2007

Ms. Agnes Calleri

10901 Cliffland Avenue

Oakland, CA 94605

Mr.Mehdi Mohammadian Cal Gas

15595 Washington Avenue San Lorenzo, CA 94580

Mr. Satya Sinha ChevronTexaco 6011 Bollinger Canyon Rd., K-2256

San Ramon CA 94583

Ms. Marjorie Kanyer Bert Kubo Trust

20321 Via Espana Salinas, CA 93908 ENVIRONMENTAL PROTECTION 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577 (510) 567-6700 FAX (510) 337-9335

ENVIRONMENTAL HEALTH SERVICES

Mr. Denis Brown Shell Oil Products 20945 S. Wilmington Ave. Carson, CA 90810

Subject:

Fuel Leak Case RO0000374, Cal Gas Station (Former Chevron #21-1285),

15595 Washington Avenue, San Lorenzo, CA, 94580

Attn: Ladies and Gentleman:

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the subject site including the January 15, 2007 Additional Off-Site Soil and Groundwater Investigation and Fourth Quarter of 2006 Groundwater Monitoring and Sampling for the site by Enviro Soil Tech Consultants (ESTC). This work responds to the agency request for further lateral and vertical site characterization and evaluation of potential off-site impacts to receptors. Though originally a total of ten geoprobe borings, three CPT borings and three monitoring wells were proposed, field conditions and other considerations modified the actual work performed. Eight geoprobe borings and three CPT borings were drilled. We agreed that the number, location and construction of monitoring wells would be based upon this investigation's data. We have the following technical comments and request you submit the technical reports below.

TECHNICAL COMMENTS

- 1. The presence of multiple water bearing zones was investigated while advancing CPT borings to an approximate depth of 60 feet. Multiple thin permeable sand layers were identified and sampled. The existing wells are screened through the first sand layer, which yielded water so slowly that only one sample from the CPT borings was sampled. Your future well construction should incorporate these observations in the work plan requested below.
- 2. The location of proposed multi-level monitoring wells, MW-6, MW-7 and MW-8 were previously approved when the current data was not available. In addition, a number of the proposed borings were unable to be drilled due to off-site access issues. We request that you use the new data and information to revise the location, construction and number of wells and submit a revised monitoring well work plan as requested below.
- 3. We agree that site conditions will not likely improve without active remediation. We, therefore, concur with the recommendation to, at this time, change to semi-annual monitoring until site remediation is implemented or until groundwater data indicates significant change in current conditions.
- 4. The threat to the irrigation well located at 15600 Lorenzo Ave. has been appropriately evaluated. Based upon the results of this investigation there does not appear to be threat to this inactive irrigation well from petroleum releases from this site.

February 2, 2007 RO 374, 15595 Washington Ave. Page 2 of 3

- 5. It appears that the extent of the plume may be delineated, although, not enough off-site borings were advanced to be sure. Permanent off-site monitoring wells are needed for actual plume delineation. As previously requested, please submit your site conceptual model (SCM) incorporating the current data as requested below.
- 6. We concur that you should submit a Feasibility Study (FS) and Corrective Action Plan (CAP) to reduce the identified residual contamination at the site. We do not believe that the source of the release has been solely identified as being from the former USTs and do not believe this is necessary to determine for your FS and CAP. Please submit these reports as requested below.
- We believe that a soil vapor survey is necessary before site closure can be considered. We would recommend this work be held in abeyance until at least after site remediation is initiated.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health according to the following schedule:

- February 28, 2007- Work Plan for Monitoring Well Installation
- March 30, 2007- Site Conceptual Model
- March 30, 2007- Feasibility Study and Corrective Action Plan
- June 15, 2007- 1st 2007 Semi-Annual Monitoring 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

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February 2, 2007 RO 374, 15595 Washington Ave. Page 3 of 3

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If you have any questions, please call me at (510) 567-6765.

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

James MCh

cc:

files, Donna Drogos

Mr. Adam Harris, Ms. Shari Knieriem, SWRCB, P. O. Box 944212, Sacramento,

CA 94244-2120

Frank Hamedi-Fard, Enviro Soil Tech Consultants, 131 Tully Road, San Jose,

CA 95112

Ms. Cherie McCaulou, SFRWQCB

1_31_07 15595 Washington Ave

ENCIMERING

VIRO SOIL TECH CONSUL PANTS

Environmental & Geotechnical Consultants

131 TULLY ROAD, SAN JOSE, CALIFORNIA 95111

Tel: (408) 297-1500 Fax: (408) 292-2116

DK DEC 19 MI 9:06:

December 13, 2006

Mr. Barney Chan Alameda County EHS 1131 Harbor Bay Parkway Alameda, California 94502

SUBJECT: 15595 Washington Avenue, San Lorenzo, California

Dear Mr. Chan:

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Mr. Barney Chan December 13, 2006

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Respectfully yours,

ENVIRO SOIL TECH CONSULTANTS

Viela B. Chur

FRANK HAMEDI-FARD

GENERAL MANAGER

VICTOR B. CHERVEN, PH.D.

R. G. #3475

cc: Mehdi Mohammadian, 15595 Washington Avenue, San Lorenzo

Seng, John, Env. Health

From:

Chan, Barney, Env. Health

Sent:

Tuesday, December 12, 2006 2:17 PM

To:

Seng, John, Env. Health

Subject:

FW: Resubmittal of 1st & 2nd QGW 2006 and work plan addendum for 15595 Washington

Ave., San Lorenzo - RO #0000374

John: can you tell me the status of Enviro Soil Tech submittals to this site? I think they have submitted the reports mentioned plus another, but they do not appear on Envision or Geotracker.

Please advise. Thanks Barney

----Original Message----

From: Enviro Soil Tech [mailto:info@envirosoiltech.com]

Sent: Friday, September 15, 2006 4:43 PM

To: Chan, Barney, Env. Health

Subject: Resubmittal of 1st & 2nd QGW 2006 and work plan addendum for 15595 Washington

Ave., San Lorenzo - RO #0000374

Good Afternoon Mr. Chan:

This letter is to inform you that we, at ESTC, have resubmitted the 1st and 2nd quarter of 2006 and June 2006 work plan addendum reports for the above-mentioned property at 15595 Washington Avenue to the FTP Site. I also emailed to Mr. John Seng above new resubmittal uploads. Could you please confirm with our office by either email (info@envirosoiltech.com) or by phone (408-297-1500) that you have received the uploads. Thank-you for your help.

Sincerely, Dianna Nguyen ESTC 408-297-1500 9163415806



Acting Secretary



Division of Financial Assistance

1001 I Street • Sacramento, California 95814
P.O. Bex 944212 • Sacramento, California • 94244-2120 (916) [sphone] + FAX (916) 341-5806 + www.swrcb.ca.gov/ewphome/ustcf



Ro374

FAX TRANSMITTAL

DAT	TE: NOV - 1 2006	43		
TO:	Bobert Westen			
FAX	1#: 510 357 - 9335			
FRO	M: Shari Knieuem		28	
	UST CLEANUP FUND FAX #: (916) 341-5806 PHONE #: (916) 341-5714			
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CLAIM NO .: 15058 CLAIMANT NAME: Met Muhdi Mohammadian				
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	until advised MTBE			
3-12-01	Quarterly Groundwater Monitoring and Sampling Report			
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-	for Mehdi Mohammadian by Enviro Soil			
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dehloptoxic, Env. Health

From:

dehloptoxic, Env. Health

Sent:

Monday, September 18, 2006 10:28 AM

To:

'info@envirosoiltech.com'

Subject:

RE: Resubmittal 1st & 2nd QGW 2006 and June 2006 WP Addendum for 15595 Washington

Ave., San Lorenzo - RO #0000374

Good Morning Ms. Nguyen,

I received the three reports for R00000374. Unfortunately, I an unable to process the two groundwater monitoring reports because they do not have the Professional Certification stamps. Every report uploaded to the FTP site must have their own stamp to be processed. Please verify before each report is uploaded that there is a Professional Certification stamp within each document. We also realize that the geologist's registration number and expiration date can legally be used in place of the stamp but due to the volume of reports uploaded to the FTP site we ask that only the stamp be used. This expedites the process since there is no technical staff that reviews the documents before it reaches the caseworkers. Sorry for any inconvenience this may cause but it is our goal to create the most efficient and effective process for all the consultants. Thank you for your understanding and cooperation.

----Original Message----

From: Enviro Soil Tech [mailto:info@envirosoiltech.com]

Sent: Friday, September 15, 2006 4:37 PM

To: dehloptoxic, Env. Health

Subject: Resubmittal 1st & 2nd QGW 2006 and June 2006 WP Addendum for 15595 Washington

Ave., San Lorenzo - RO #0000374

Good Afternoon Mr. Seng:

This letter is to inform you that we, at ESTC, have resubmitted 1st and 2nd quarter of 2006 groundwater monitoring events and June 2006 work plan addendum reports to the FTP Site for the above-mentioned subject property located at 15595 Washington Ave., San Lorenzo. Our caseworker is Mr. Barney Chan, and his email adress is barney.chan@acgov.org, and our RO number is #0000374. Could you please confirm with our office either by email (info@envirosoiltech.com) or by phone (408-297-1500) regarding the uploads? Thank-you for your help.

Sincerely, Dianna Nguyen ESTC 408-297-1500

dehloptoxic, Env. Health

From:

Enviro Soil Tech [info@envirosoiltech.com]

Sent:

Friday, September 15, 2006 4:37 PM

To:

dehloptoxic, Env. Health

Subject:

Resubmittal 1st & 2nd QGW 2006 and June 2006 WP Addendum for 15595 Washington

Ave., San Lorenzo - RO #0000374

Good Afternoon Mr. Seng:

This letter is to inform you that we, at ESTC, have resubmitted 1st and 2nd quarter of 2006 groundwater monitoring events and June 2006 work plan addendum reports to the FTP Site for the above-mentioned subject property located at 15595 Washington Ave., San Lorenzo. Our caseworker is Mr. Barney Chan, and his email address is barney.chan@acgov.org, and our RO number is #0000374. Could you please confirm with our office either by email (info@envirosoiltech.com) or by phone (408-297-1500) regarding the uploads? Thank-you for your help.

Sincerely, Dianna Nguyen ESTC 408-297-1500

ALAMEDA COUNTY HEALTH CARE SERVICES







DAVID J. KEARS, Agency Director

August 9, 2006

Mr.Mehdi Mohammadian

Cal Gas

15595 Washington Avenue 6011 Bollinger Canyon Rd., K-2256

San Lorenzo, CA 94580

Ms. Agnes Calleri 10901 Cliffland Avenue

Oakland, CA 94605

Ms. Marjorie Kanyer Bert Kubo Trust

San Ramon CA 94583

Mr. Satya Sinha

ChevronTexaco

20321 Via Espana

Salinas, CA 93908

ENVIRONMENTAL HEALTH SERVICES

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

FAX (510) 337-9335

Mr. Denis Brown Shell Oil Products 20945 S. Wilmington Ave. Carson, CA 90810

Subject:

Request for Off-Site Investigation for Plume Delineation for Fuel Leak

Cal Gas Station (Former Chevron #21-1285), 15595

Washington Avenue, San Lorenzo, CA, 94580

Attn: Ladies and Gentleman:

An off-site investigation was requested by Alameda County Environmental Health (ACEH) in response to groundwater contamination from the subject site. The June 8, 2006 Work Plan Addendum by Enviro Soil Tech Consultants (ESTC) was conditionally approved in You were requested to complete the necessary the County's July 14, 2006 letter. access agreement with potentially affected off-site property owners to perform the approved work. Any delay is allowing continued migration of polluted groundwater, to the We request that you complete an access agreement by detriment of water quality. September 8, 2006 with property owners, which is sufficient to allow the necessary work.

Petroleum contamination has migrated from the subject site and has likely affected the Temporary borings and subsurface soil and groundwater of adjacent properties. permanent monitoring wells are requested to investigate the lateral and vertical extent of the contamination. A human health risk evaluation will be performed to determine if remediation is necessary.

It is imperative that your access agreements be completed quickly and any disputes, resolved promptly.

This request for a technical report is made pursuant to Water Code Section 13267, which allows the Board to require technical reports from persons (dischargers or property owners) whose activities may have an impact on water quality. You may be subject to administrative civil liability of up to \$1,000 per day pursuant to Water Code Section 13268 if you fail to respond, respond late, or submit an inadequate response. Any extension in the above deadline must be confirmed in writing by Board staff.

Please contact me at 510-567-6765 if you have any questions.

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

cc: files, D. Drogos

Mr. Adam Harris, Ms. Shari Knieriem, SWRCB, P. O. Box 944212, Sacramento, CA 94244-2120

Frank Hamedi-Fard, Enviro Soil Tech Consultants, 131 Tully Road, San Jose, CA 95112

Ms. Cherie McCaulou, SFRWQCB

8_9_06 15595 Washington Ave Access

ALAMEDA COUNTY **HEALTH CARE SERVICES**



DAVID J. KEARS, Agency Director





ENVIRONMENTAL HEALTH SERVICES

ENVIRONMENTAL PROTECTION

Alameda, CA 94502-6577

1131 Harbor Bay Parkway, Suite 250

July 14, 2006

Mr.Mehdi Mohammadian

Cal Gas

Mr. Satya Sinha ChevronTexaco

15595 Washington Avenue 6011 Bollinger Canyon Rd.,

San Lorenzo, CA 94580

K-2256

San Ramon CA 94583

Ms. Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

Ms. Marjorie Kanyer Bert Kubo Trust 20321 Via Espana Salinas, CA 93908

Moreonia Brown Shell Oil Products 20945 S. Wilmington Ave. Carson, CA 90810

(510) 567-6700

FAX (510) 337-9335

Subject:

Fuel Leak Case. Cal Gas Station (Former Chevron #21-

1285), 15595 Washington Avenue, San Lorenzo, CA, 94580

Attn: Ladies and Gentleman:

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the subject site including the June 8, 2006 Work Plan Addendum by Enviro Soil Tech Consultants (ESTC). The work plan is a result of Water Board and County input and a site visit by representatives of our offices along with Mr. Mohammadian and ESTC representatives. Specific observations were noted during the field visit are reflected in the revised work plan addendum. A total of ten geoprobe borings, three CPT borings and three monitoring wells are proposed. We approve of the work plan addendum with the condition that the following technical comments are observed when performing the proposed work.

TECHNICAL COMMENTS

- 1. The number and locations of the proposed borings is accepted. The presence of multiple water bearing zones beneath the site will be investigated by advancing CPT borings to an approximate depth of 50 feet. The presence of petroleum contamination in deeper soils should also be investigated using MIP (membrane interface probe) or similar technology. We request that one additional boring, the one northwest of MW-5, be advanced as a CPT boring prior to geoprobe boring. Should access for the CPT rig be an issue, we recommend this boring be located as close to the western property boundary as possible. We believe the four CPT borings will identify the presence of multiple water bearing zones as well as identify if these zones have been impacted by petroleum contamination. This will also identify the depths to be sampled in the Geoprobe borings, which should be drilled after the CPT borings.
- 2. Upon inspection of the irrigation well located at 15600 Lorenzo Ave., we concur that the well appears not to been in any type of recent use and that sampling groundwater in CPT borings in line with the well and former USTs would be an

Mr. Mohammadian et July 14, 2006
Page 2 of 3

acceptable alternate to sampling the non-operational well. Please sample soil and groundwater from all identified impacted or water bearing zones.

- 3. The locations of the proposed multi-level monitoring wells, MW-6, MW-7 and MW-8 are acceptable and appear appropriate to monitor both the lateral and vertical extent of the plume.
- 4. You are reminded of the Future Action Items previously requested. Upon completion of this plume delineation investigation, the following is requested:
 - Site conceptual model to be completed after this investigation
 - Feasibility Study
 - □ Corrective Action Plan
 - □ Soil vapor survey, if needed
 - Health Risk assessment
 - Aquifer Testing, if needed

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health according to the following schedule:

- List of contacts to send access request letter.
- October 14, 2006- SWI Report with SCM

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

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) now request submission of reports in electronic form. The electronic copy is intended to replace the need for a paper copy and is expected to be used for all public information requests, regulatory review, and compliance/enforcement activities. 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. 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 monitoring wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all reports is required in Geotracker (in PDF format). Please visit the State Water Resources Control Board 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

Mr. Mohammadian et July 14, 2006 Page 3 of 3

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) 567-6765.

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

Banes M Chi

CC:

files, Donna Drogos

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Ms. Cherie McCaulou, SFRWQCB

7 14 06 15595 Washington Ave

ALAMEDA COUNTY HEALTH CARE SERVICES









May 4, 2006

ENVIRONMENTAL HEALTH SERVICES

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

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Ms. Marjorie Kanyer Bert Kubo Trust 20321 Via Espana

Mr. Denis Brown Shell Oil Products 20945 S. Wilmington Ave.

Carson, CA 90810

Salinas, CA 93908

Subject:

Request for Amended Work Plan for Plume Delineation for Fuel Leak Case No. Cas

Washington Avenue, San Lorenzo, CA, 94580

Attn: Ladies and Gentleman:

This letter is a collaborative effort to provide you with a unified regulatory directive by the Alameda County Environmental Health (ACEH) and the Regional Water Quality Control Board, San Francisco Bay (Water Board) in an effort to expedite site characterization and cleanup actions at the subject site. The ACEH is the regulatory lead agency for this case, but Water Board staff has been asked to provide assistance in technical matters regarding the case. Please contact our office to arrange an on-site meeting to address the comments and concerns presented herein.

This letter requests that you submit a revised or amended work plan no later than June 5, 2006, to fully delineate soil and groundwater pollution onsite and offsite, resulting from spills and underground storage tank (UST) leaks at the site, and to lead to the development of a comprehensive corrective action plan. As discussed below, this information will help the ACEH and Water Board staff to assess the potential threat to human health and the environment.

SUMMARY OF PROPOSED WORK PLAN

The ACEH and the Water Board staff reviewed the case file, including a Work Plan for Proposed Soil and Groundwater Investigation dated September 20, 2004, prepared by Environmental Soil Tech Consultants (ESTC). The scope of work is intended to address ACEH concerns:

- Offsite impacts to sensitive receptors (i.e., nearby irrigation well(s), adjacent residential properties, potential for vapor intrusion impacts to indoor air, etc.)
- Source(s) of contamination

Mr. Mohammadian et a May 4, 2006 Page 2 of 6

> Lateral and vertical extent of contamination (i.e., requires detailed lithologic mapping to identify shallow and deeper water bearing zones, high and low permeable zones, aquitard competency)

Hydrogeology of the site and surrounding properties (i.e., mapping of

groundwater flow and hydraulic gradients)

Potential migration pathways (i.e., mapping of underground utility lines)

Delineation of Pollution

Groundwater monitoring data indicates that a dissolved-phase plume emanating from the site has migrated offsite, the extent of which is unknown at this time. Potential impacts to adjacent properties, including apartment complexes located immediately west and north of the site, need to be assessed. Figure 5 from the 9/20/04 ESTC work plans needs to be revised to show the proposed borings and well locations with respect to buildings, landscaping, underground and overhead utility lines. For offsite plume delineation, ESTC has proposed eight additional monitoring wells (seven offsite and one onsite) in addition to the five existing wells. The work plan specifies that three of the new wells (two offsite and one onsite) will be "nested", constructed in a manner that accesses two water-bearing zones, and allows for water level measurement of the deeper zone to determine hydraulic gradient and groundwater flow direction.

The work plan proposed seven additional onsite soil borings, continuous core sampling, and submittal of at least two soil samples per boring, to delineate the extent of soil pollution. The plan also indicates that offsite soil impacts will be assessed, although it's not anticipated to be encountered. All soil and groundwater samples will be analyzed for site contaminants, including total petroleum hydrocarbons as gasoline, diesel and waste oil (by EPA modified 8015), and volatile organic compounds and fuel oxygenates (by EPA Method 8260).

Based on our review of the case file, the revised work plan needs to address the following technical comments.

TECHNICAL COMMENTS

1. Soil and Groundwater Investigation- Although the number of the proposed borings and collection of groundwater and soil samples at 5 and 10 feet below grade (fbg) may be adequate to define the extent of the pollution, it is suggested that the revised work plan allow for additional borings, if needed, to adequately define the extent of soil and groundwater pollution. The use of "expedited site assessment tools" should be considered, including the use of cone penetrometer testing (CPT) or membrane interface probe (MIP) direct-push technology, to obtain more accurate data on soil types, identification of saturated and unsaturated zones, and contaminant plume mapping to fully characterize source areas, plume delineation, and the need for future data gap investigations. A phased approach should be considered and monitoring well locations and construction should be based upon the CPT or MIP data to monitor the plume. We request that you analyze both soil and groundwater samples from all borings for TPHg, BTEX, MTBE, fuel oxygenates and lead scavengers by EPA Method 8260, which will detect gasoline and fuel oxygenates in one run, rather then GC method 8015.

Mr. Mohammadian et ar May 4, 2006 Page 3 of 6

- 2. Offsite Sensitive Receptor Survey- Access and sampling of an irrigation well located at 15600 Lorenzo Avenue (330 feet down-gradient of the site), and submittal of a completed Department of Water Resources (DWR) request form is requested. The DWR form is needed to obtain the well design and construction details. If needed, the ACEH can assist you in obtaining an access agreement with the owner of this well to gain permission for sampling. Sampling of the well must be performed under the supervision of ACEH. The water sample must be analyzed for site contaminants, including TPH as gasoline and volatile organic compounds (VOCs) by EPA Method 8260. The analytical results and DWR well construction details must be documented in the investigation report.
- 3. Revised Site Plan- Please submit of a revised site plan showing proposed boring locations for the soil and groundwater investigation, and show adjacent properties contiguous with the subject site. It is recommended that the ACEH be present to attend an onsite, pre-drilling field meeting to agree on the number and locations of the proposed sampling points. At this time, all exploratory boring location should be clearly marked and verified to be viable drilling locations (free of overhead and underground utilities).
- 4. Construction of Multi-level Wells- As stated above, we recommend the use of CPT or MIP data to determine the most appropriate locations and construction design for the wells. To assess the vertical extent of groundwater pollution, ESTC has proposed one onsite nested well (MW6/MW6A) and two offsite (locations yet to be determined). Our agencies concur that if multiple water bearing zones are identified, then a minimum of three wells will be needed to obtain accurate groundwater gradient and flow data. We request well clusters or multi-channeled wells for multi-level sampling. Our agencies will be available to discuss the location and construction of these wells based upon real time results from your investigation. We request you submit cross-sections and rose diagrams for groundwater gradient to support your decision-making.
- 5. Procurement of Access Agreements. ACEH and Water Board staff will assist you, if needed, in procuring signed access agreements to complete offsite soil and ground water investigations and long-term groundwater monitoring, and if needed, soil gas or data gap investigations. Additionally, a signed access agreement is needed to obtain permission to sample any nearby well (irrigation, municipal or private) that may be potentially impacted by site contaminants. Please provide contact names and addresses so our office can send them an access request letter.
- 6. Permeability testing At least two soil samples from each boring are proposed to be collected for hydraulic conductivity testing to provide data on the permeability and flow barriers. The work plan did not specify the sampling interval, or the intent of the testing. As stated above, permeability data can be obtained from the CPT investingation, so physical testing may not be warranted. Aquifer testing (not proposed) can provide valuable data on the competence of the aquitard, and potential communication between overlying and underlying aquifers. Please discuss this matter in more detail with the ACEH.

Mr. Mohammadian et ar May 4, 2006 Page 4 of 6

- 7. Project Schedule- The Project Schedule shall be incorporated into a revised work plan that addresses these inter-agency concerns. The State Board UST Cleanup Fund policy recommends solicitation of multiple bids at each major milestone. Failure to obtain at least three bids may jeopardize the RP's eligibility to receive reimbursement of cleanup funds.
- 8. Future Action Items. Upon completion of this plume delineation investigation, the following is requested:
 - Site conceptual model to be completed after this investigation
 - Feasibility Study
 - Corrective Action Plan
 - □ Soil vapor survey, if needed
 - □ Health Risk assessment
 - Aquifer Testing, if needed

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health according to the following schedule:

- □ May 19, 2006 Onsite meeting to finalize scope of work plan
- □ June 9, 2006 Submittal of Plume Delineation Work Plan
- June 16, 2006 Submittal of completed DWR request form, water well sampling results from 15600 Lorenzo Avenue, or written denial of sampling request from property owner. List of contacts to send access request letter.
- 90 days after Work Plan Approval- SWI Report with SCM

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

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) now request submission of reports in electronic form. The electronic copy is intended to replace the need for a paper copy and is expected to 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 Instructions." 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. 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 monitoring wells, and other data to the Geotracker database over

Mr. Mohammadian et an May 4, 2006 Page 5 of 6

the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all reports is required in Geotracker (in PDF format). Please visit the State Water Resources Control Board for more information on these requirements (http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting).

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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) 567-6765.

Sincerely, Banes M Cha

Barney M. Chan

Hazardous Materials Specialist

Mr. Mohammadian et ar May 4, 2006 Page 6 of 6

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: files, Donna Drogos

Mr. Adam Harris, Ms. Shari Knieriem, SWRCB, P. O. Box 944212, Sacramento,

CA 94244-2120

Frank Hamedi-Fard, Enviro Soil Tech Consultants, 131 Tully Road, San Jose,

CA 95112

Ms. Cherie McCaulou, SFRWQCB

Rev Joint let RO374 5_4_06

ALAMEDA COUNTY

HEALTH CARE SERVICES









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

November 3, 2005

Mr. Mehdi Mohammadian

Cal Gas

15595 Washington Avenue

San Lorenzo, CA 94580

Mr. Mark Inglis ChevronTexaco

6011 Bollinger Canyon Rd.,

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Ms. Marjorie Kanyer Bert Kubo Trust 20321 Via Espana Salinas, CA 93908

Mr. Denis Brown Shell Oil Products 20945 S. Wilmington Ave. Carson, CA 90810

Ladies and Gentleman:

Subject: Fuel Leak Case N

Chevron #21-1285 / Cal Gas, 15595 Washington Avenue,

San Lorenzo, CA 4580

We have reviewed the fuel leak case file for the subject site, including the July 8, 2005 Groundwater Monitoring Report, the September 20, 2004 Proposed Work Plan for Soil and Groundwater Investigation and the June 8, 2005 Response Letter, prepared by Environ Soil Tech Consultants (ESTC).

ACEH staff met with Mr. Frank Hamedi-Fard and Mr. Victor Cherven of Enviro Soil Tech on October 13, 2005 to discuss issues related to these referenced documents. Although the Response Letter has several inadequacies, the most significant of which are discussed in the technical comments below, we are not requesting that these reports be revised again at this time. In the interest of moving the project forward, we request that a revised work plan be submitted that incorporates responses to the technical comments below. We request that you address the following technical comments, perform the proposed work, and send us the reports described below.

TECHNICAL COMMENTS

- 1. Regional Geologic and Hydrogeologic Study- The June 8, 2005 letter stated due to the short deadline for the response, this study could not be done. During our meeting, it was shown the importance of this information. Your study should minimally include a review of geologic data from nearby sites and construction diagrams from DWR for nearby wells. This information is necessary to design your investigation.
- 2. Preferential Pathway Study- The June 8, 2005 letter stated that utility maps and other data related to near-surface receptors will be included in the Site Conceptual Model (SCM). The evaluation of utilities and wells is necessary to design your investigation and determine if the release from the site has impacted receptors. An active water supply well located 330' down-gradient of your site at 15600 Lorenzo Avenue was previously identified and our August 6, 2004 letter requested that this well be sampled for TPHG and by EPA Method 8260 for BTEX, BTEX, MTBE, TAME, ETBE, DIPE, TBA, EtOH, EDB, and EDC. We requested

Mr. Mohammadian, et al November 3, 2005 Page 2 of 4

that you immediately pursue any off-site access agreements that you may need and sample this well by August 20, 2004, however, this has yet to be done. Please sample this well and report your results as requested below.

- 3. Soil and Groundwater Investigation. The June 8, 2005 Response Letter reiterates the September 20, 2004 work plan where eight borings and eight new monitoring wells are proposed. In our meeting, we discussed the randomness of the proposed borings and wells. We believe a better approach would be the drilling of borings along transects aligned perpendicular to groundwater flow direction, down-gradient of the source areas and then determining locations of wells based on these results. We support the Expedited Site Assessment approach, which could incorporate an on-site mobile lab or 24 hour turn-around time, etc to obtain immediate results. However, it appears that access agreements would need to already in place to expedite the investigation. We also discussed the use of CPT borings to identify the presence of multiple water bearing zones in lieu of assuming the existence of multiple zones at certain depths based upon borings from nearby sites. We request that you either well clusters or multi-channel wells to accomplish multi-level groundwater sampling. Please modify your work plan to incorporate these approaches and submit as requested below.
- 4. Hydrogeology and Groundwater Flow Conditions- The June 8, 2005 letter proposes to send a minimum of two samples per boring to a materials testing lab for measurement of hydraulic conductivity to address this item. At this time, we request that you gather detailed lithologic information by continuously coring borings or cone penetrometer to understand the hydrogeology at your site. We request that you prepare detailed cross sections and rose diagrams for groundwater gradient to address this item and submit in the SWI report requested below.
- 5. Site Conceptual Model- During our meeting with ESTC, we explained the need for a site conceptual model (SCM) in order to understand and test hypotheses on how the release occurred, how it migrated and what receptors may be impacted. The SCM would be used to identify data gaps and design an appropriate investigation to test the hypotheses. Thus a SCM should exist from the start of the investigation as opposed to developing after acquiring large amounts of data, which may or may not be needed. We offered to present an example of a SCM used on a site in our jurisdiction. Please provide your preliminary SCM based upon your responses to Technical Comments 1,2 & 3 as requested below.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health according to the following schedule:

- December 5, 2005- Sampling results from 15600 Lorenzo Ave.
- January 5, 2006 Revised Work Plan and Preliminary SCM
- 90 days after Work Plan Approval- SWI Report and Updated SCM

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. Mohammadian, et al November 3, 2005 Page 3 of 4

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

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) now request submission of reports in electronic form. The electronic copy is intended to replace the need for a paper copy and is expected to 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 Instructions." 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. 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 monitoring wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all reports is required in Geotracker (in PDF format). Please visit the State Water Resources Control Board for more information on these requirements (http://www.swrcb.ca.gov/ust/cleanup/electronic reporting).

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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.

Mr. Mohammadian, et al November 3, 2005 Page 4 of 4

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) 567-6765.

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

Darney M Che

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: files, Donna Drogos

Mr. Adam Harris, Ms. Shari Knieriem, SWRCB, P. O. Box 944212, Sacramento, CA 94244-2120

Frank Hamedi-Fard, Enviro Soil Tech Consultants, 131 Tully Road, San Jose, CA 95112 R00374 15595 Washington Ave 10_25_05

ALAMEDA COUNTY **HEALTH CARE SERVICES**



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

March 24, 2005

Mr. Mehdi Mohammadian

Cal Gas

15595 Washington Avenue

San Lorenzo, CA 94580

Mr. Mark Inglis ChevronTexaco

6011 Bollinger Canyon Rd.,

K-2256

San Ramon CA 94583

Ms. Agnes Calleri 10901 Cliffland Avenue

Oakland, CA 94605

Ms. Marjorie Kanyer Bert Kubo Trust

20321 Via Espana

Salinas, CA 93908

Ms. Karen Petryna Shell Oil Products

20945 S. Wilmington Ave.

Carson, CA 90810

Ladies and Gentleman:

Subject: Fuel Leak Case No. Chevron #21-1285 / Cal Gas, 15595 Washington Avenue,

San Lorenzo, CA 94580

We have reviewed the fuel leak case file for the subject site, including the most recent Groundwater Monitoring Reports from August 5, 2003 to July 20, 2004 and the September 20, 2004 Proposed Work Plan for Soil and Groundwater Investigation, prepared by Environ Soil Tech Consultants (ESTC) and the September 17, 2004 Investigation Workplan from ChevronTexaco. We are concerned with quality of the data presented in the monitoring reports and the incompleteness and technical errors within the proposed work plan. We therefore, reject the work plans as being incomplete and lacking the technical detail requested in our previous August 6, 2004 Technical Directive letter.

The following technical comments are meant to illustrate the deficiencies of the technical report submittals and their inability to meet requested due dates.

TECHNICAL COMMENTS

- 1. The above referenced ETSC reports were delivered to our office on October 14, 2004. All of these submittals were received beyond their requested due dates. Even the most recent requested report, the work plan, was to be submitted by September 22, 2004.
- 2. The Regional Geologic and Hydrogeologic Study request was addressed in ChevronTexaco's September 17, 2004 Investigation Workplan, however, the references recommended in the County letter were not used and it is deemed incomplete. Only prior shallow borings from prior investigations were referenced for this study.
- 3. The Sensitive Receptor Survey requested was also addressed in CT's work plan. However, utility lines and trenches, cross-section maps, a study of historical land use of the site and neighboring properties, aerial photos and Sanborn maps were not used. Again, we find this survey incomplete.

March 24, 2005 RO374, 15595 Washington Ave., San Lorenzo Page 2

- 4. As part of the requested soil and groundwater investigation, you were requested to supply our office with the names and addresses of those individuals where off-site investigations are proposed to expedite this work. We have not received a list of these individuals.
- 5. The Site Conceptual Model (SCM) requested is be submitted after completing the proposed work. This suggestion reflects a lack of understanding of what the SCM is and how it is used. In fact, the theories from CT that the presence of impermeable soils and the lack of preferential pathways have prevented significant contaminant migration are part of your current SCM, which will be tested in the proposed work plan. The results of your investigation serve to either support, refute or modify your SCM and help to determine what additional information is necessary to validate the SCM.
- 6. Our office has received work plans by ESTC and ChevronTexaco (CT). The work plan from CT addresses only the areas associated with the 1986 Texaco investigation, essentially proposing to duplicate the original investigation, however, expanding the investigation to 40' bgs. The work plan by ESTC is different from that of CT. In addition, not all areas with known contamination are proposed for investigation eg SB-C and SB-D. Although CT offers to work with the other RP when performing the work, it is unclear what work will actually be done. The ESTC investigation proposes not to take groundwater samples because monitoring wells exist on-site. However, considering there may be deeper areas of submerged contamination and there are areas of impact where no monitoring wells exist, groundwater sampling would seem prudent.

Nested Wells-

The onsite well, MW-6, and possibly other off-site wells are proposed as nested 2" wells. It is widely agreed that nested wells are not recommended for multi-level groundwater sampling since leakage around the seals is difficult to prevent. Well clusters or multi-level sampling wells are preferred alternatives. In addition, Figure 6 in the submitted work plan labeled as a nested well construction is not a nested well at all. This type of error indicates either lack of knowledge or attention to detail that is required in performing this type of work.

- 7. Interim Remediation was requested in the County's letter, but was not proposed in your work plan.
- 8. The dating of the release(s) of MTBE was requested in the County's letter, but was not proposed in your work plan.
- 9. An estimation of MTBE contaminant mass flux was requested, however, this was not proposed in your work plan.
- 10. A water supply (irrigation) well, located 330' from your site at 15600 Lorenzo Ave., was requested to be sampled and the results submitted with your work plan. It is assumed that this work was not done since the sampling results were not submitted to our office.
- 11. Errors within the Analytical Data Tables were noted in the County's prior letter, however, review of the submitted monitoring reports note the same errors in the depth of perforation column and the indication of well screens being submerged or not submerged. Well observations consistently state that no odor is observed even in samples with up to 69,000 ppb TPHg and 200,000 ppb MTBE. The ETSC July 20, 2004 monitoring report states that the well construction in MW4 and MW5 may be

March 24, 2005 RO374, 15595 Washington Ave., San Lorenzo Page 3

the same as that in MW1 through MW3, "however, at this point, we have no information regarding these wells." The County finds this statement unreasonable, since the well construction diagrams for MW4 and MW5 are readily available in the October 16, 1998 Toxichem, Inc., "Soil and Groundwater Investigation Results" report, located in the County files. The screen interval in MW4 and MW5 are from 10-20'bgs while those in MW-1 through MW-3 are from 5-15'bgs.

- 12. The County requested that groundwater gradient be reported in both magnitude and direction. The monitoring reports submitted failed to provide magnitude gradient information. The data tables were requested to be e mailed to the County staff, however, this has not been done.
- 13. Geo Tracker EDF submittals as required by CCR beginning September 1, 2001 were requested for all analytical data. It is apparent that none of the submitted monitoring reports were submitted to the Geo Tracker system and no reports are waiting for County review.
- 14. The County letter requested that each report include conclusions and recommendations for the next phase(s) of work. The submitted monitoring reports only recommendation is to continue monitoring.
- 15. All work plans, technical reports, or technical documents submitted to this office 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. This type letter was not attached to any of the reports submitted.

These technical comments clearly illustrate that the work plan is unacceptable and therefore, must be rejected. In addition, no extension for the submission of your work plan is granted and this site is considered out of compliance. Please submit a work plan and technical reports to correct the aforementioned items immediately. Please call me at (510) 567-6765 with questions.

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

Barnes M Cha

cc:

Ms. Shari Knieriem

SWRCB

P.O. Box 944212

Sacramento, CA 94244-2120

Mr. Adam Harris

SWRCB

P.O. Box 944212

Sacramento, CA 94244-2120

Ms. Terry Brazell

SWRCB

P.O. Box 944212

Sacramento, CA 95814

files, A. Levi, D. Drogos

Chan, Barney, Env. Health

From:

SHARI KNIERIEM [SKNIERIEM@waterboards.ca.gov]

Sent:

Tuesday, March 15, 2005 8:27 AM Chan, Barney, Env. Health

To: Subject:

Site address: 15595 Washington Ave., San Leandro-Fund's claim # 15058-Mehdi

Mohammadian

Ro 374

Hi Barney

The last correspondence from your agency is your letter August 6, 2004 in which you detail the compliance requirements from Mr. Mohammadian. The work plan was due September 22, 2004 in which they did not meet that due date. On October 4, 2004, I sent Mr. Mohammadian a letter informing him that the Fund would remove his claim unless he met your compliance requirements. On October 29, 2004, Mr. Mohammadian responded to the Fund's letter stating that he would be receiving a "letter of approval" from you within 10 days. Please advise if Mr. Mohammadian is in compliance and that you would sign off on his compliance form.

And if he is not in compliance please advise on the following:

1. If you sent him a letter, please fax me a copy of that letter or what is the status of his compliance. Thanks, Shari

Please note new E-mail address: sknieriem@waterboards.ca.gov

Shari Knieriem UST Cleanup Fund (916) 341-5714 Fax (916) 341-5806 sknierie@waterboard.ca.gov

(Demail 10/25/04 response letter to up (S)?

R0374 Response Letter

Chan, Barney, Env. Health

To:

SHARI KNIERIEM

Subject:

RE: Medhi Mohammadian-15595 Washington Ave, San Lorenzo

Shari: I just left you an voice message but to reiterate, we find that the work plan submitted on Mr. Mohammadian's behalf by ETSC is inadequate in several technical respects. We are working on a letter response to detail its deficiences. Therefore, we will be rejecting the work plan and consider the site out of compliance.

Barney Chan ACEH LOP 510-567-6765

----Original Message----

From: SHARI KNIERIEM [mailto:SKNIERIEM@waterboards.ca.gov]

Sent: Tuesday, November 23, 2004 8:54 AM

To: Chan, Barney, Env. Health

Subject: Medhi Mohammadian-15595 Washington Ave, San Lorenzo

Hi Barney

This is a follow-up to my phone message of this morning regarding the compliance for the above claimant. Please advise if Mr. Mohammadian is in compliance with your directive dated August 6, 2004 and you will sign off on the claimant's compliance.

Consequently, if Mr. Mohammadian does not come into compliance with your directive, the Fund will remove his claim from the Priority List.

Since his claim will be removed from the Priority List, Mr. Mohammadian will have to file a "new" claim. Thanks,

Shari Knieriem UST Cleanup Fund (916) 341-5714 Fax (916) 341-5806 sknierie@cwp.swrcb.ca.gov

CAMBRIA

February 25, 2005

Mr. Scott Seery ACHSA 1131 Harbor Bay Pkwy. San Lorenzo, CA 94502-6577

RE: 15595 Washington Ave., San Lorenzo ACHSCA RO#: 0000374

ACHSCA RO#: 000037

Dear Mr. Seery:



This letter is to inform you of a change in management for the above-referenced site.

Effective immediately, the new ChevronTexaco project manager will be:

Mr. Mark Inglis ChevronTexaco 6001 Bollinger Canyon Rd., K-2256 San Ramon, CA 94583 Phone: 925-842-1589

Please contact either Mr. Mark Inglis or Cambria if you have any questions.

Regards,

Cambria Environmental Technology, Inc.

cc: Mark Inglis, Chevron Texaco

Cambria Environmental Technology, Inc.

5900 Hollis Street
Suite A
Emeryville, CA 94608
Tel (510) 420-0700 Site #: 211285
Fax (510) 420-9170



Secretary for

Environmental Protection

State Water Resources Control Board

Division of Financial Assistance

1001 1 Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) 341-5714 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf



October 4, 2004

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), NOTICE OF INTENDED REMOVAL FROM PRIORITY LIST, CLAIM NUMBER 015058, SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

This is to notify you that during the detailed review of your application, it has been determined that your claim for the subject site is not eligible for reimbursement in the Underground Storage Tank Cleanup Fund. Therefore, it is being proposed that your claim be removed from the Priority List based on the following reason:

The Petroleum Underground Storage Tank Cleanup Fund Regulations, Section 2813.3.(a)(1) reads in part...

"the claimant is not in compliance with any of the applicable requirements of this chapter the California Code of Regulations, title 23, division 3, chapter 16, Health and Safety Code..."

Background

On May 12 and October 23, 2003, the Fund conducted a review of your claim at the Alameda County Environmental Health Services (ACEHS). At the time of the review, it was noted that you are not in compliance with the ACEHS's directives. On April 28, 2004, the sent you a 90-Day Compliance letter for you to come into compliance.

On September 22, 2004, the Fund conducted a final compliance review of your claim. ACEHS's letter dated August 6, 2004, requested that you prepare and submit a work plan for the Soil and Water Investigation. The work plan was due on September 22, 2004. The required work plan was not received within the due date time frame. ACEHS's deems that you are not in compliance with their directives for corrective action at the subject site.

County files show that you have been out of compliance since 2002. Therefore your claim will be removed from the Priority List

If you disagree with this Staff Decision, you may appeal to the Division Chief pursuant to Section 2814.1 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:

Allan V. Patton, Fund Manager, Claim #015058 Underground Storage Tank Cleanup Fund State Water Resources Control Board

California Environmental Protection Agency



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 and your claim will be removed from the Priority List at the end of the 30 day period.

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

Sincerely,

ORIGINAL SIGNED BY

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

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



Certified Mail # 7002 0510 0000 2178 5107

August 24, 2004

Ms. Karen Petryna Shell Oil Products US 20945 S. Wilmington Ave. Carson, CA 90810

Subject: Notice of Responsibility

ACEH Case Number: RO0000374 Site Name: Chevron #21-1285/ Cal Gas Site Address: 15595 Washington Ave. City/State/Zip: San Lorenzo, CA 94580

Date First Reported: 8/28/86

Substance: gasoline Federal (x) State ()

Dear Ms. Petryna:

The following party has been <u>added</u> as the party responsible for the investigation and cleanup of the above site for the following reason:

Responsible Party: Shell Oil

Responsible Party Contact: Karen Petryna

Address: 20945 S. Wilmington Ave.

City/State/Zip: Carson, CA 90810

ADD:	X	Reason:	Additional RP identified
DELETE:		Reason:	
CHANGE:		Reason:	

ENVIRONMENTAL HEALTH SERVICES

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

Pursuant to sections 25297.1 and 25297.15 of the Health and Safety Code, you are hereby notified that the above site has been placed in the Local Oversight Program and the individual(s) or entit(ies) shown above, or on the attached list, has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site. Section 25297.15 further requires the primary or active Responsible Party to notify all current record owners of fee title before the local agency considers cleanup or site closure proposals or issues a closure letter. For purposes of implementing section 25297.15, this agency has identified Mr. Medhi Mehdi Mohammadian as the primary or active Responsible Party. It is the responsibility of the primary or active Responsible Party to submit a letter to this agency within 20 calendar days of receipt of this notice that identifies all current record owners of fee title. It is also the responsibility of the primary or active Responsible Party to certify to the local agency that the required notifications have been made at the time a cleanup or site closure proposal is made or before the local agency makes a determination that no further action is required. If property ownership changes in the future, you must notify this local agency within 20 calendar days from when you are informed of the change.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 341-5808 or telephone (916) 341-5700.

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

If you have any questions, please call Mr. Barney Chan at (510) 567-6765.

Sincerely Ariux evi, Chief

Contract Project Director

attachment

7	U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverago vided)					
5107	The state of the s		12			
21.7B	Postage Certified Fee	\$	Postmark Here			
0000	Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required)					
0750	Total Postage & Fees	\$				
7002 09	Ms. Karen Petryna Shell Oil Products US 20945 S. Wilmington Ave. Carson, CA 90810					

ATTACHMENT A

LIST OF PARTIES RESPONSIBLE FOR:

ACEH Case Number: RO0000374				
Site Name: Chevron #21-1285/ Cal Gas				
Site Address: 15595 Washington Ave.				
City/State/Zip: San Lorenzo, CA 94580				
Date First Reported: 8/28/86				
Substance: gasoline				
Federal (x) State ()				

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Ave. San Lorenzo, CA 94580	Responsible Party #1 Tank Owner, Tank Operator
Ms. Karen Streich ChevronTexaco P.O. Box 6012 San Ramon, CA 94583	Responsible Party #2 Property Owner
Ms. Agnes Calleri 10901 Cliffland Ave. Oakland, CA 94605	Responsible Party #3 Property Owner
Ms. Majorie Kanyer Bert Kubo Trust 20321 Via Espana Salinas, CA 93908	Responsible Party #4 Property Owner
Ms. Karen Petryna Shell Oil Products US 20945 S. Wilmington Ave. Carson, CA 90810	Responsible Party #5 Property Owner

cc: Ms. Jenniffer Jordan

State Water Resources Control Board

PO Box 100

Sacramento, CA 95812

Ms. Karen Streich ChevronTexaco P.O. Box 6012 San Ramon, CA 94583

Ms. Majorie Kanyer Bert Kubo Trust 20321 Via Espana Salinas, CA 93908

D. Drogos, B. Chan

Mr. Mehdi Mohammadian

Cal Gas

15595 Washington Ave. San Lorenzo, CA 94580

Ms. Agnes Calleri 10901 Cliffland Ave. Oakland, CA 94605

Ms. Terry Brazell SWRCB P.O. Box 944212 Sacramento, CA 95814 AGENCY

DAVID J. KEARS, Agency Director



August 6, 2004

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

Mş. Terry Brazell State Water Resources Control Board PO Box 944212 Sacramento, CA 95814

Dear Ms. Brazell:

Subject: Petition Responses to Naming of Responsible Parties, RO0000374, Chevron #21-1285 / Cal Gas, 15595 Washington Avenue, San Lorenzo, CA 94580

This letter responds to the January 21, 2004, document of Jeffrey L. Podawiltz, Esq. representing ChevronTexaco regarding ChevronTexaco's response to ACEH's response to petition and to the January 20, 2004, Cambria Environmental Technology, Inc. (Cambria) letter. Alameda County Environmental Health (ACEH) has reviewed the above referenced documents and provides the following response.

ACEH has performed a through review of the technical data at this site. Our technical comments on Cambria's January 20, 2004, letter and the Jeffrey L. Podawiltz, Esq., January 21, 2004 document are presented below. In summary, we are not concluding that the site was or was not a problem in 1986, but that the information presented would have been inadequate to close the site both then and now. Rather, the data presented would have resulted in ACEH requesting additional investigation to characterize the nature and extent of contamination.

A number of significant anomalies and data gaps exist. These include:

- Lack of a site conceptual model (SCM) that summarizes what is known about the site, identifies data gaps, and proposes additional work to fill the data gaps,
- Reliance on soil samples from a "screening level" assessment that were known to be negatively biased.
- Insufficient high quality soil and groundwater samples and analyses,
- Lack of vertical definition of source area contamination,
- Insufficient areal extent and density of monitoring points,
- Failure to investigate the uppermost preferential pathway for contaminant migration resulting in shallow investigative work,
- Failure to investigate the risk to receptors from liquid, residual, dissolved, and vapor phase contamination associated with the site.

Whether or not historic releases at the site contribute to the current need for cleanup requires additional study, including forensic techniques to estimate the contribution of older releases to the current contamination problem at the site. Actual data from a soil and groundwater investigation that is overseen by ACEH is needed to determine the contributions to contamination (or lack thereof) by each of the responsible parties at this site.

COMMENTS TO CAMBRIA LETTER

1) 1986 Data Objectives and Quality and Appropriateness for Regulatory Decision Making

Cambria states in their January 20, 2004 comment letter that the 1986 work was performed as a "baseline assessment in 1986 to determine site conditions and identify potential environmental liabilities prior to selling the property" and "that the investigation objectives were to screen the site for potential liabilities to support a property transaction and not for a regulated environmental investigation." As this work was done for a purpose other than regulatory decision-making, lower standards were apparently applied to the investigation technique resulting in the collection of inferior, poor quality data (reference composite soil samples).

Cambria acknowledges the 1986 work was of a lower standard for a property screening assessment and not for a regulated environmental investigation. Yet all of Cambria's technical arguments are based upon this inferior data that they readily acknowledge was never collected in a manner sufficient for regulatory decision-making. The 1986 data is insufficient to make decisions regarding the nature of contamination, the lateral and vertical extent of contamination from the release, site closure (then or now), or to make any regulatory judgments regarding the need for remediation for the contaminants of concern (COCs) at this site.

2) Groundwater Analytical Data

ACEH maintains that only a limited screening investigation of groundwater was performed at the site in 1986. Monitoring wells were not installed in the area of or immediately downgradient of the location of the highest groundwater contamination. This screening investigation was limited in depth and areal extent, with an insufficient density of monitoring points. Also, analysis for all COCs was not performed. Regulatory decisions cannot be made on limited data from a screening investigation.

3) Lack of Depth-Discrete Soil Analytical Results and Observations of Strong Petroleum Odors

Strong petroleum odors were noted by the geologist during soil sample collection. Three depth-discrete samples were composited into one sample for analysis. Subsequent analyses detected what Cambria describes as only low levels of contamination. The strong odors observed during sample collection and resulting concentrations in composited samples that are inconsistent with field observations of contamination are indicative of the samples becoming negatively biased, i.e., volatilization of the target compounds from the samples. The fact that the geologist collecting the samples noted the negative bias by documenting strong odors supports the fact that there was a significant loss of the volatile components during sample collection. Then the analysis for target compounds was performed after additional volatilization during the compositing process causing further loss of target compounds.

Regulatory agencies look at all the data when evaluating a site. That is why we take into account field observations during drilling in combination with analytical measurements. How much of a loss was caused by negative bias in these samples we do not know, as the data is not consistent with field observations. Also, this initial data from the screening level investigation cannot be exclusively relied upon for regulatory decision-making.

4) Soil and Groundwater Investigations Have Been Limited in Depth

Cambria states that it is unclear as to the role that permeable zones, at depths the consultants failed to anticipate and subsequently investigate, play in migration of hydrocarbon contamination. ACEH's December 1, 2003, letter provided a detailed but basic explanation (Technical Comment 3) of geologic and hydrogeologic considerations for contaminant transport at this site along with an appropriate technical reference.

The presence of permeable zones provide pathways for migration of contaminants from a site. Factors such as water level fluctuations (particularly during times of drought in California such as experienced in the 1980s), gradient changes, local hydrogeology, groundwater extraction, groundwater recharge activities (natural and artificial), and the presence of conduits, can significantly alter groundwater flow conditions and allow migration of contamination to permeable zones. The shallow investigations performed to date at the site have failed to investigate the uppermost preferential pathway (regionally documented as a permeable zone) for contaminant migration. The failure to investigate to adequate depths has left the vertical definition of source area(s) contamination and the possibility of off-site migration of dissolved contaminants in coarse-grained permeable strata undefined.

5) Vapor Migration Pathway Not Adequately Assessed

Cambria uses data from the initial screening assessment to evaluate the vapor migration pathway. They also use only the groundwater data for their evaluation and for an assumed depth to water of 10' bgs.

Any comparison to ESLs would need to be performed using reliable data collected appropriately from an investigation designed to define the extent of contamination at the site. The data used in Cambria's assessment is not appropriate for regulatory decision-making since there is no assurance that monitoring wells were installed within the contaminant plume; the screening investigation was limited in depth and areal extent, with an insufficient density of monitoring points; analysis for all COCs was not performed, and the investigation was merely a screening level assessment.

Additionally, there is a higher risk when depth to water is shallower than 10' bgs. Depth to water has been as shallow as 4.5' bgs site leaving this risk unevaluated at the site.

Further, to be a complete evaluation of the vapor pathway, appropriately collected soil data from an investigation that defines the lateral and vertical extent of contamination would need to be used. But soil data from this site is suspect as discussed previously (screening level assessment, with samples composited and negatively biased due to volatilization in samples).

6) Potential Impacts to Water Supply Wells Not Adequately Assessed

A water supply well is present 330' downgradient of the site. Cambria states "this well is not at risk from the low hydrocarbon concentration in groundwater in 1986 prior to Texaco's tenure at the site." ACEH

notes that this well has not been sampled for the COCs at the site and that Cambria has no data to substantiate their conclusion.

Water supply wells of this size are especially vulnerable to impacts from nearby contamination sites due to the low volume of water they pump and the subsequent limited dilution of contamination in the pumped water (as opposed to a municipal supply well pumping 1000s of gpm). There are numerous documented cases of petroleum hydrocarbon contamination, including benzene, in small water supply wells. This well's very close proximity to the gas station makes it vulnerable to contamination from the subject site.

The 1986 screening level investigation consisted of an insufficient density of monitoring points, which were limited in depth and areal extent, and produced low quality data unsuitable for regulatory decision-making. The insufficiencies of this investigation along with the lack of analytical testing results from the water supply well have left the assessment of the potential risk to the downgradient receptor unknown.

7) Cambria's Attenuation Assessment is Unpersuasive

ACEH had significant technical concerns regarding the approach Cambria used in their attenuation assessment and ACEH does not consider Cambria's approach to be conservative at all. Cambria deems their approach conservative by assuming attenuation rates for BTX would be no faster than for current TPHG and MTBE concentrations because BTX attenuation rates "far higher" than MTBE attenuation rates.

However, the attenuation rate for BTX could have been slower. Biodegradation rates at a site can vary and early releases can be slow to biodegrade because the community of hydrocarbon-degrading bacteria is small and not yet acclimated to degrading the contamination. Older sites with a history of releases could have microbial populations sufficient to allow biodegradation to occur more rapidly. Therefore, Cambria cannot assume that the reaction rates from the initial release would be as fast as the reaction rates that they calculated based on recent monitoring data. Further, recent releases of MTBE could exhibit a fast apparent "rate" due to preferential dissolution from the source.

ACEH's December 1, 2003, letter also discussed the difficulties of calculating an MTBE attenuation rate, referencing studies published in the literature that show very little agreement regarding said rates under aerobic and anaerobic conditions at research sites in California. Rates for MTBE biodegradation would be site specific and need to be measured using field tests and measured data. Cambria ignores the technical literature on this subject and uses inappropriately based assumptions and gross oversimplifications in their attenuation assessment.

Lastly, Cambria states that current hydrocarbon concentrations are attenuating but have no data to demonstrate whether the plume is shrinking or not. Stabilization or reduction in plume length, rather than mere attenuation by dilution and continued plume migration, has not been demonstrated for this site.

8) NAPL

Cambria states that there was no evidence of NAPL in the 1986 screening investigation and appears to suggest that NAPL from a 1986 or earlier release at the site was not and is not present at the site. ACEH again notes that the 1986 screening investigation was performed to limited depths and areal extent, with an insufficient density of monitoring points. Data from this investigation was not sufficient to identify source areas, determine the extent of contamination, nor identify the presence or absence of NAPL. The

Ms. Terry Brazell August 6, 2004, Page 5 of 6

1986 investigation failed to gather this data because its objectives were for screening the site for a property transaction, not for a regulated environmental investigation, thus lower standards were applied to the investigation technique resulting in the collection of inferior, poor quality screening data.

COMMENTS TO JEFFERY L. PODAWILTZ ESQ. LETTER

The conclusions of the Podawiltz document are that there is overwhelming evidence from a 1986 screening investigation to 1) close the 1986 fuel leak case; and 2) determine how much of a contribution releases from the 2nd generation USTs make to the site in terms of corrective action and costs.

ACEH maintains that there is insufficient data from the 1986 work to make regulatory decisions regarding immediate case closure or amounts of corrective actions including cleanup. ACEH notes that the 1986 work was performed as a "baseline assessment in 1986 to determine site conditions and identify potential environmental liabilities prior to selling the property" and "that the investigation objectives were to screen the site for potential liabilities to support a property transaction and not for a regulated environmental investigation" (reference Cambria January 20, 2004 letter).

Podawiltz identifies the following issues as overwhelming evidence:

No hydrocarbon contamination was detected in soil samples taken in 1986

ACEH notes that the "screening level assessment" resulted in the collection of low quality, inferior screening level data with soil samples composited along the entire length of boreholes. Also soil samples exhibited a negative bias with volatilization of target compounds. The analytical results for soil samples biased in multiple ways yielded results inconsistent with field observations. Basing regulatory decision-making on incomplete and suspect data is not appropriate at contamination sites.

• Two groundwater samples showed low level contamination, and that level of contamination, almost 18 years later, would not contribute to the need to remediate the site.

ACEH notes that other grab groundwater samples (SB-1) showed higher concentrations of contamination, suggesting that either the permanent wells were installed in the wrong location to detect groundwater contamination, or samples from the wells were negatively biased by dilution in long screen wells. Groundwater samples were not collected downgradient of the areas noted to be contaminated. Also, the investigation performed was too shallow to adequately investigate the uppermost preferential pathway for contaminant migration identified in ACEH's review of the regional geologic and hydrogeologic data. The shallow investigations left a primary pathway of potential contaminant migration unassessed.

The low level of hydrocarbon concentrations from the pre-1986 release would not have posed a
danger in 1986 and using a conservative approach to attenuation levels, would be virtually undetectable
today.

ACEH notes that the screening level assessment performed in 1986 did in no way determine the concentration and lateral and vertical extent of contamination at the site nor generate data sufficient to evaluate the risk posed by the site. Further, "a conservative approach to attenuation levels" was, in our opinion, not performed. As discussed in our December 1, 2003 letter, the attenuation assessment

performed by Cambria could have easily over estimated the attenuation rate of compounds released prior to 1986.

 The sole cause of remediation work at the site is the post-1986 release of MTBE and other contaminants.

ACEH notes that sufficient investigation to determine the nature and extent of contamination from source areas at this site was not performed. Residual pollution including NAPL from earlier releases could be present at the site particularly if historic water levels were lower at the site during its use as a gasoline station (such as in periods of drought during the 1980s) resulting in submerged source areas. Investigations performed to date have not considered nor determined the vertical extent of contamination in the source areas.

Data sufficient to evaluate potential vapor phase risks posed by the releases at the site were not collected during the 1986 screening investigation therefore this risk remains unevaluated.

Lastly, MTBE was used in U.S. gasoline supplies as early as 1973. Therefore, broad assumptions regarding the release date of MTBE at this site by ChevronTexaco's attorney should not be made.

If you have any questions please contact Mr. Barney Chan at (510) 567-6765.

Sincerely.

Donna L. Drogos, P.E.

LOP Program Manager

cc:

Mr. Mehdi Mohammadian

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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 6, 2004

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

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Ms. Marjorie Kanyer Bert Kubo Trust 20321 Via Espana Salinas, CA 93908

Ladies and Gentleman:

Subject: Fuel Leak Case No. RO374, Chevron #21-1285 / Cal Gas, 15595 Washington Avenue, San Lorenzo, CA 94580

We have reviewed the fuel leak case file for the subject site, including the most recent Groundwater Monitoring Reports from 2003, prepared by Environ Soil Tech Consultants (ESTC). We are concerned with the high levels of the gasoline oxygenate Methyl tert-Butyl Ether (MTBE) at your site, the proximity of the site to a downgradient water supply well, and the lack of sufficient data to appropriately characterize your site. This letter presents a request for full three-dimensional definition, investigation, and a proposal for cleanup of soil and water contamination (MTBE, petroleum products, and associated blending compounds and additives) from the unauthorized release(s) at your site. You are hereby required to complete a Soil and Water Investigation and prepare a Corrective Action Plan (CAP) for the subject site in accordance with California Code of Regulations 23 CCR, Section 2720 - 2728; State Water Resources Control Board Resolution 92-49, "Policies and Procedures for Investigation, Cleanup and Abatement of Discharges Under Water Code Section 13304"; and with the Regional Water Quality Control Board (Regional Board) Water Quality Control Plan for the basin.

The following technical comments address investigation and cleanup performance objectives that shall be considered as part of the required Soil and Water Investigation and CAP. We request that you prepare and submit a work plan for the Soil and Water Investigation by September 22, 2004, that addresses each of the following technical directives.

Note, 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. All work performed for your site, including field work, is required to be designed, interpreted, and overseen by the appropriately registered professional.

TECHNICAL DIRECTIVE

1. Regional Geologic and Hydrogeologic Study

The purpose of a regional geologic and hydrogeologic study is to identify the geologic and hydrogeologic setting in the vicinity of your site. This data is then used to develop your initial Site Conceptual Model (SCM) requested below, and determine the appropriate scope of investigation activities.

We request that you perform a study of the regional geologic and hydrogeologic setting of your site by reviewing the available technical literature for the area. Background information for your review includes but is not limited to regional geologic maps, United States Geological Survey (USGS) technical reports and documents, Department of Water Resources (DWR) Bulletins, Regional Water Quality Control Board reports on the groundwater basin, data from contaminant investigations in the area, etc.

Provide a narrative discussion of the regional geologic and hydrogeologic setting obtained from your background study. Use photocopies of regional geologic maps, groundwater contours, cross-sections, etc., to illustrate your results and include a list of technical references you reviewed (reference Technical Comment #5 below). Report your results in as part of your SCM in the Work Plan requested below.

2. Preferential Pathway Study

The purpose of the preferential pathway study is to locate potential migration pathways and conduits and determine the probability of the NAPL and/or plume encountering preferential pathways and conduits that could spread contamination. Of particular concern is the identification of abandoned wells and improperly-destroyed wells that can act as vertical conduits to deeper water bearing zones, pumping wells in the vicinity of your site, and manmade conduits for shallow migration.

We request that you perform a preferential pathway study that details the potential migration pathways and potential conduits (wells, utilities, pipelines, etc.) for horizontal and vertical migration that may be present in the vicinity of the site. Discuss your analysis and interpretation of the results of the preferential pathway study (including the detailed well survey and utility survey requested below) and report your results in the Work Plan requested below. Include an evaluation of the probability of the dissolved phase and NAPL plumes for all constituents of concern encountering preferential pathways and conduits that could spread the contamination, particularly in the vertical direction to deeper aquifers. The results of your study shall contain all information required by 23 CCR, Section 2654(b).

a) Utility Survey

An evaluation of all utility lines and trenches (including sewers, storm drains, pipelines, trench backfill, etc.) within and near the site and plume area(s) is required as part of your study. Submittal of map(s) and cross-sections showing the location and depth of all utility lines and trenches within and near the site and plume area(s) is required as part of your study.

b) Well Survey

The preferential pathway study shall include a **detailed well survey** of all wells (monitoring and production wells: active, inactive, standby, decommissioned (sealed with concrete), abandoned (improperly decommissioned or lost); and dewatering, drainage, and cathodic protection wells) within a

1/2-mile radius of the subject site. As part of your detailed well survey, please perform a background study of the historical land uses of the site and properties in the vicinity of the site. Use the results of your background study to determine the existence of unrecorded/unknown (abandoned) wells, which can act as pathways for migration of contamination at and/or from your site. Please review historical maps such as Sanborn maps, aerial photos, etc., when performing the background study. Submittal of map(s) showing the location of all wells identified in your study, and the use of tables to report the data collected as part of your survey are required. Include appropriate photographic prints, in stereo pairs, of historic aerial photos used as part of your study. We also request that you list by date all aerial photographs available for the site from the aerial survey company or library you use during your study. Please refer to the Regional Board's guidance for identification, location, and evaluation of potential deep well conduits (see Attachment 2) when conducting your preferential pathway study.

3. Soil and Groundwater Investigation

Results of investigation work performed at the site to date are insufficient to characterize the nature and extent of soil and groundwater contamination at the site. Investigation work to date lacks sufficient depth discrete soil analytical results to evaluate your site. Although strong petroleum odors (indicative of volatilization of COCs) were noted in almost all of the boring logs of the wells and borings installed around the 2nd generation UST and the dispenser islands, no discrete soil samples were collected for chemical analysis. Soil samples collected were composited along the borehole for analysis as a single sample and were ND for total fuel hydrocarbons and BTX. These results cannot reliably represent soil contamination that may have been present at discrete depths.

Soll and groundwater investigations performed at the site have also been limited in depth. Numerous soil borings were terminated at 15' bgs regardless of whether areas of obvious contamination were observed at the bottom of the borings. The boring logs indicate that obvious contamination was observed at completion depth thereby leaving the vertical extent of contamination undefined. Further, boring logs from subsequent investigations at the site, also of limited depth, indicate the presence of root holes, and increasing sand and gravel content at depths below 16' bgs, suggesting that a more permeable geology may underlie areas where contamination was observed. Thus, the site consultants' investigations have not been conducted to sufficient depths to determine whether or not underlying more permeable strata may have been impacted. These strata could be preferred pathways for off site migration of dissolved contaminants.

A review of geologic logs from fuel leak sites in the vicinity of the subject site suggest that permeable units are present in the shallow aquifer beneath the subject site. Data from the Shell site at 15275 Washington Avenue document the presence of silty sand and sand at depths of 23' - 25' bgs to boring completion depths of 40' bgs. The likelihood of coarse-grained sediments occurring beneath the shallow fine-grained sediments at the subject site should have been anticipated by the consultants working at the site (resulting from their regional geologic and hydrogeologic study); the existence of extensive coarse-grained sediments at depths below 20'-25' bgs throughout the East Bay Plain is well documented in the technical literature¹.

The shallow investigative work performed to date, along with the lack of a regional geologic evaluation by your consultants, neglected to consider readily available regional geologic data. This has resulted in a failure to investigate the uppermost preferential pathway for contaminant migration. To date, vertical definition of

¹ Atwater, B.F., C.W. Hedel, E.J.Helley, 1977. <u>Late Quaternary Depositional History, Holocene Sea-Level Changes, and Vertical Crustal Movement, Southern San Francisco Bay, California.</u> U.S. Geological Survey Professional Paper 1014.

source area(s) contamination and the possibility of off-site migration of dissolved contaminants in coarse-grained permeable strata remains undefined.

Additionally, intermittent depth to water measurements from 1992 to current indicate groundwater has fluctuated from 6.52' to 16.5' bgs. However, a background investigation into the seasonal fluctuation in depth to water for the area during the use of the site a gasoline station does not appear to have been performed. Such data would assist in anticipating needed depths for investigation work, potentially identify timeframes of releases at the site if submerged NAPL is present at depths consistent with periods of drought prior to the 1990s, etc.

a. Contaminant Plume Definition

The purpose of contaminant plume definition is to determine the three-dimensional extent of contamination (MTBE, petroleum products, and associated blending compounds and additives) in soil and groundwater from the unauthorized release at your site.

The three-dimensional extent of contamination in soil and groundwater at your site is undefined. The results of recent groundwater monitoring indicate the presence of high levels of dissolved MTBE and other petroleum products at your site. Up to 69,000 ppb TPHG, 340,000 ppb MTBE, and 11,000 ppb TBA has been detected in groundwater. Potentially up to 12,500 ppb Benzene has been present at the site however, previous detection limits for benzene have been too high to appropriately quantify concentrations at your site. Up to 3,500 ppb MTBE has been detected at the property boundaries of the site, and the lateral extent of pollution appears highly variable and is undefined.

MTBE is highly soluble and very mobile in groundwater. Conventional monitoring well networks currently installed at fuel leak sites are generally insufficient to properly locate and define the extent of MTBE plumes. MTBE plumes can be long, narrow, and erratic (meandering). Movement of MTBE plumes, as with other dissolved contaminants, is primarily controlled by groundwater flowlines. These flowlines can be dramatically affected by discontinuities and can drop vertically in certain parts of our groundwater basins, such as recharge zones, cascade zones, and near pumping wells. Thus, the positioning of current monitoring well networks can miss the MTBE plume core, and the monitoring well's design can incorrectly reflect the severity of the release. Therefore, we request that you perform a detailed, expedited site assessment using depth discrete sampling techniques on borings installed along transects to define and quantify the full three-dimensional extent of MTBE, TBA, Total Petroleum Hydrocarbons, Benzene, and other contamination in groundwater.

A substantial part of your plume(s) should be defined with one mobilization by using expedited site assessment techniques at your site. The appropriately-qualified professionals performing field work at your site will be using the data obtained from the field work to refine the initial three-dimensional conceptual model of site conditions developed during the conduit study and review of background information. Using expedited site assessment techniques, the appropriately-qualified professionals are to analyze the field data as it is collected, refine the conceptual model as new data is produced and evaluated, and modify the sampling and analysis program as needed, filling data gaps and resolving anomalies prior to demobilization.

Please refer to the documents entitled "Strategies for Characterizing Subsurface Releases of Gasoline Containing MTBE," American Petroleum Institute (API) Publication No. 4699, dated February 2000; "Groundwater Remediation Strategies Tool," API Publication No. 4730, dated December 2003; and

ChevronTexaco's "Mass Flux Estimates to Assist Decision-Making Technical Bulletin," dated June 2002 – Version 1.0; when proposing wells to monitor multiple groundwater zones. Additionally, expedited site assessment tools and methods are a scientifically valid and cost-effective approach to define the three-dimensional extent of the plume. Technical protocol for expedited site assessments are provided in the U.S. Environmental Protection Agency's (EPA) "Expedited Site Assessment Tools for Underground Storage Tank Sites: A Guide for Regulators" (EPA 510-B-97-001), dated March 1997.

Discuss your proposal for performing this work in the work plan requested below. Report the results of your investigation in the Soil and Water Investigation (Results of Expedited Site Assessment) Report requested below.

Please note, we request that you immediately pursue any off-site access agreements that you may need to complete your investigation activities in accordance with the schedule shown below. ACEH will send the access request letter (see Attachment 1) to owners of the neighboring properties where you propose to perform investigation activities. Please provide us with the name and address of the appropriate contacts for your off-site monitoring well locations by **September 22, 2004**.

b) Contaminant Source Characterization

The purpose of contaminant source characterization is to determine the nature and extent of free product (liquid phase), petroleum saturated soils (residual phase), and hydrocarbons dissolved in groundwater (aqueous phase), and high concentrations of soil vapor (vapor phase) that will continue to generate dissolved phase contaminant plumes. Contaminant source characterization also includes characterization of dissolved phase contamination and an estimation of contaminant mass in the source area.

Work performed at your site has identified the presence of petroleum related contamination from current and historic releases in multiple source area locations, including current and former UST locations and pump islands, the nature and extent of which has been left undefined. Previous Investigation work performed at the site to date did not collect sufficient samples for analysis and borings were not completed to depths sufficient to define the vertical extent of contamination. Additionally, limited soil sampling results detected up to 16 ppm MTBE in soil at 10' bgs with the vertical extent of this contamination left undefined. Also, a review of boring logs for the site appears to suggest that your consultants terminated all their borings when groundwater was encountered. Performing investigation work in this manner neglects to investigate whether a submerged source zone(s) is present at your site. Therefore, additional contaminant source area investigation is needed at your site.

We request that you perform a geologic investigation at and near your site installing exploratory borings to determine (1) the vertical extent of pollution in your source area, and (2) identify site geology and confirm stratigraphy that is unknown from your previous investigations. We request that source area characterization be initiated at the start of the SWI phase of work.

Please position your borings to characterize the source and collect and analyze soil samples to define the lateral and vertical extent of the source area. Source area characterization and contaminant mass estimations are needed to determine the necessity and aggressiveness of interim source cleanup and/or dissolved phase mass removal. We request that you continuously core your borings and retain the cores for future review. We recommend that you follow the procedures in the API Publication No. 4699 referenced above regarding identifying whether residual NAPL is present and to what depth. If free

product is not detected in your borings we request that they be converted to a monitoring point capable of monitoring multiple groundwater zones.

Work from this investigation will likely identify additional data gaps that need to be filled to refine the site conceptual model requested below.

Include your proposal for this work in the Work Plan requested below. Report the results of your fieldwork, including your estimates of source area contaminant mass, in the Soil and Water Investigation (Results of Expedited Site Assessment) Report requested below.

4. Characterization of Local Hydrogeology and Groundwater Flow Conditions

The purpose of this characterization is to understand the physical and geochemical characteristics of the subsurface, which may affect groundwater flow, the breakdown (fate), migration (transport), and the distribution of contaminants through the subsurface. Additionally, factors such as water level fluctuations, gradient changes, local hydrogeology, groundwater extraction, and groundwater recharge activities (natural and artificial) can significantly alter groundwater flow conditions.

We request that you properly characterize the hydrogeology and groundwater flow conditions in the vicinity of your site. During Soil and Water Investigation activities, we request that you gather detailed lithologic information using borings, expedited site assessment sampling methods, or cone penetrometer together with other methods to understand the hydrogeology at your site. The use of methods to understand the hydrogeology, such as pumping tests, geophysical methods, etc., may be proposed. We request that you continuously core borings at this site and prepare detailed boring logs. We require that you prepare the following: detailed cross sections, fence diagrams, structural contours, isopachs, and rose diagrams for groundwater gradient. The rose diagram shall be plotted on groundwater contour maps and updated in all future reports submitted for your site. Include plots of the contaminant plumes on your maps, cross sections, and diagrams.

We also request that you evaluate local groundwater flow conditions and establish a site-specific localized flownet that is dependent on geologic conditions and is reflected on detailed geologic cross sections and fence diagrams. Additional piezometers and/or monitoring wells/well clusters may be required to understand local groundwater flow conditions. Report your results in the Soil and Water Investigation (Results of Expedited Site Assessment) Report and the Soil and Water Investigation Completion Report requested below.

5) Project Approach and Investigation Reporting

We anticipate that characterization and remediation work in addition to what is requested in this letter will be necessary at and downgradient from your site. Considerable cost savings can be realized if your consultant focuses on developing and refining a viable Site Conceptual Model (SCM) for the project. A SCM is a set of working hypotheses pertaining to all aspects of the contaminant release, including site geology, hydrogeology, release history, residual and dissolved contamination, attenuation mechanisms, pathways to nearby receptors, and likely magnitude of potential impacts to receptors. The SCM is used to identify data gaps that are subsequently filled as the investigation proceeds. As the data gaps are filled, the working hypotheses are modified, and the overall SCM is refined and strengthened. Subsurface investigations continue until the SCM no longer changes as new data are collected. At this point, the SCM is said to be "validated." The validated SCM then forms the foundation for developing the most cost-effective corrective action plan to protect existing and potential receptors.

When performed properly, the process of developing, refining and ultimately validating the SCM effectively guides the scope of the entire site investigation. We have identified, based on our review of existing data, some initial key data gaps in this letter and have described several tasks that we believe will provide important new data to refine the SCM. We request that your consultant develop a SCM for this site, identify data gaps, and propose specific supplemental tasks for future investigations. There may need to be additional phases of investigations, each building on the results of the prior work, to validate the SCM. Characterizing the site in this way will improve the efficiency of the work and limit its overall cost.

The SCM approach is endorsed by both industry and the regulatory community. Technical guidance for developing SCMs is presented in API's Publication No. 4699 and EPA's Publication No. EPA 510-B-97-001 both referenced above; and "Guidelines for Investigation and Cleanup of MTBE and Other Ether-Based Oxygenates, Appendix C," prepared by the State Water Resources Control Board, dated March 27, 2000.

The SCM for this project shall incorporate, but not be limited to, the following:

- a) A concise narrative discussion of the regional geologic and hydrogeologic setting obtained from your background study. Include a list of technical references you reviewed, and copies (photocopies are sufficient) of regional geologic maps, groundwater contours, cross-sections, etc.
- b) A concise discussion of the on-site and off-site geology, hydrogeology, release history, source zone, plume development and migration, attenuation mechanisms, preferential pathways, and potential threat to downgradient and above-ground receptors. Be sure to include the vapor pathway in your analysis. Maximize the use of large-scale graphics (e.g., maps, cross-sections, contour maps, etc.) and conceptual diagrams to illustrate key points. Include structural contour maps (top of unit) and isopach maps to describe the geology at your site.
- Identification and listing of specific data gaps that require further investigation during subsequent phases of work.
- d) Proposed activities to investigate and fill data gaps identified above.
- e) The SCM shall include an analysis of the hydraulic flow system at and downgradient from the site. Include rose diagrams for groundwater gradients. The rose diagram shall be plotted on groundwater contour maps and updated in all future reports submitted for your site. Include an analysis of vertical hydraulic gradients. Note that these likely change due to seasonal precipitation and pumping.
- f) Temporal changes in the plume location and concentrations are also a key element of the SCM. In addition to providing a measure of the magnitude of the problem, these data are often useful to confirm details of the flow system inferred from the hydraulic head measurements. Include plots of the contaminant plumes on your maps, cross-sections, and diagrams.
- g) Several other contaminant release sites exist in the vicinity of your site. Hydrogeologic and contaminant data from those sites may prove helpful in testing certain hypotheses for your SCM. Include a summary of work and technical findings from nearby release sites and incorporate the findings from nearby site investigations into your SCM.

Report the information discussed above in your initial SCM and include it in the Work Plan requested below. Include updates to your SCM in the Soil and Water Investigation (Results of Expedited Site

Assessment) Report requested below.

6) Interim Remediation

This section requests that you initiate interim remediation at your site. Please note that additional remediation may be required in the future based upon the results of additional investigation work at and near your site.

a) Source Removal

The purpose of interim source removal is to immediately remove the ongoing source that is continuing to add mass to the plume and immediately begin removal of contaminant mass in the source area.

Interim cleanup is necessary to prevent dissolved phase MTBE and petroleum hydrocarbon pollution from impacting or continuing to impact water supply aquifers, reduce the ultimate impact of the unauthorized release on the resource, limit continued migration and growth of the MTBE and petroleum hydrocarbon plumes, and reduce overall cleanup costs. We request that you initiate interim source cleanup activities at your site. Report the results of your source characterization work, source area contaminant mass estimates, and outline your proposal for source removal in the Soil and Water Investigation (Results of Expedited Site Assessment) Report requested below. Please document source removal progress in the Quarterly Reports requested below.

b) Near-Source Plume Control

The purpose of migration control is to prevent continued creation of a dissolved contaminant plume.

Due to the high levels of MTBE detected at your site, and your sites proximity to a nearby receptor, we request that you implement migration control. We recommend pump and treat to control migration of MTBE contamination. Please outline your proposal for migration control in the Soil and Water Investigation (Results of Expedited Site Assessment) Report requested below. Please document migration control progress in the Quarterly Reports requested below.

7. Date of Unauthorized Release of Methyl tert-Butyl Ether

The purpose of dating the unauthorized release is to assist in the determination of the rate of transport of MTBE in groundwater.

Please determine (1) the approximate time frame of the MTBE release first occurring at your site, (2) the use history of MTBE at your site, and (3) the history of all unauthorized releases and spills at your site. Using chromatographs from previously-analyzed samples, the laboratory should be able to quantify the level of MTBE present during previous sampling events. Report your findings in the Soil and Water Investigation (Results of Expedited Site Assessment) Report requested below.

Additionally, if you have any MTBE data previously collected at your site that has not been submitted to ACEH, please submit this data immediately and update cumulative data tables accordingly.

8. Groundwater Contaminant Plume Monitoring

The purpose of groundwater contaminant plume monitoring is to determine the three-dimensional movement of the plume, the rate of plume growth, and the effectiveness of cleanup activities.

Once the extent of the plume(s) is defined, we request that you install permanent monitoring wells capable of monitoring depth discrete zones and/or monitoring well clusters (screened at appropriate discrete depths with appropriate length of screen) and piezometers to monitor the three-dimensional movement of the plume. We request that you use the detailed cross sections, structural contours, isopachs, and rose diagrams for groundwater gradient developed for Technical Comment 4 above, to determine the appropriate locations and designs for monitoring wells/well clusters and piezometers that are needed to appropriately monitor the three-dimensional movement of the plume. To appropriately evaluate your site, your monitoring wells/well clusters will need to be screened in the permeable zones with screen lengths that match the stratigraphic sequence. Sand pack for these screened intervals will not be greater than 5 feet in length. The number of piezometer/wells should be sufficient to evaluate all permeable zones.

Include your proposal for the installation of wells/piezometers in the work plan requested below. We request that wells be installed in transects. Please refer to the guidance document by API Publication No. 4730 referenced above regarding transects. We recommend that you submit your proposal for the installation of monitoring wells/well clusters and piezometers to ACEH for comment prior to installation. Report on the installation of wells/piezometers in the Soil and Water Investigation (Results of Expedited Site Assessment) Report and the Soil and Water Investigation Completion Report.

We request that you monitor the groundwater contaminant plumes on a quarterly basis. Additional wells will be required to define the downgradient extent of the plume if it continues to migrate. Discuss the results of your plume monitoring in the Quarterly Reports requested below. Discuss the results of your plume monitoring in the Quarterly Reports requested below. Please compile your monitoring data on cross-sections, include groundwater contours, and rose diagrams for groundwater gradient. We require that Quarterly Reports contain a discussion of the results of your plume monitoring, in particular whether the results are consistent with the SCM. Be sure to point out any anomalies in the data, and include recommended activities to investigate and resolve those data anomalies.

We request that you perform an EPA Method 8260 analysis for BTEX, MTBE, TAME, ETBE, DIPE, TBA, EDB, and EDC on groundwater samples from all monitoring wells for the next two quarters, at a minimum. Include cumulative analytical data tables for these compounds (columns for both EPA Method 8020/21 and 8260 results) in your Quarterly Reports with ND results reported as a less than (<) the detection limit value. We request that you review the results of your analysis after the 2 quarters of monitoring and if any of the above compounds are detected at your site and are judged to be of concern (pose a risk to human health, the environment, or water resources), provide recommendations for incorporating these compounds into your regular monitoring schedule. Also, we request that site maps included in future reports for the site show the locations of all current and former USTs, dispenser islands, monitoring wells, and soil borings.

Additionally, we note that the detection limits for BTEX analysis of your groundwater samples frequently exceed the regulatory required detection limits by up to 5 orders of magnitude. These detection limits are too high to appropriately characterize the contamination at your site. We request that you work with your lab and perform analyses appropriate to achieve regulatory detection limits for all contaminants of concern.

Estimation of Methyl tert-Butyl Ether Contaminant Mass Flux

The purpose of estimating contaminant mass flux is to determine the contaminant mass that is moving through the subsurface over time relative to a known transect (e.g., a property boundary). This can provide an approximate estimate of the potential threat or nuisance to a receptor, and possible attenuation (degradation) of the plume.

We request that you estimate MTBE contaminant mass flux using plume transects or fences located perpendicular to the MTBE plume. Please refer to the following guidance documents regarding mass flux estimates: API Publication No. 4730 and the ChevronTexaco document dated June 2002, both referenced above. We recommend the use of expedited site assessment tools and/or appropriately-screened monitoring wells (sand pack for the screened intervals not greater than 5' in length) to provide data for these estimates. In deciding the location of transects and developing mass flux estimates, please consider the variable dissolution of MTBE from the source. Please report your results in the Soil and Water Investigation (Results of Expedited Site Assessment) Report requested below.

10. Corrective Action Plan

The purpose of the CAP is to use the information obtained during investigation activities to propose cost-effective final cleanup objectives for the entire contaminant plume and remedial alternatives for soil and groundwater that will adequately protect human health and safety, the environment, eliminate nuisance conditions, and protect water resources.

A CAP for the final cleanup of contamination (MTBE, petroleum products, and associated blending compounds and additives) in soil and groundwater caused by an unauthorized release at your site will be requested upon completion of your Soil and Water Investigation in accordance with the schedule specified below. The CAP shall detail at least three technically and economically feasible methods to restore and protect beneficial uses of water and to meet the cleanup objectives for each contaminant established in the CAP. The CAP must propose verification sampling and monitoring to confirm completion of corrective actions and evaluate CAP implementation effectiveness.

11) Analyze Groundwater Sample from Water Supply Well

An active water supply well is located 330' downgradient of your site at 15600 Lorenzo Avenue. We request that you collect a water sample from this well and analyze it for TPHG and by EPA Method 8260 for BTEX, BTEX, MTBE, TAME, ETBE, DIPE, TBA, EtOH, EDB, and EDC. Report the results of your analysis in the Work Plan requested below.

We request that you immediately pursue any off-site access agreements that you may need to sample this well and complete your activities in accordance with the schedule shown below. ACEH will send the access request letter (see Attachment 1) to the owner of the property containing the well. Please provide us with the name and address of the appropriate contacts for your well sampling by August 20, 2004.

12. Analytical Data Tables

The cumulative groundwater data tables in technical reports submitted for your site appear to be incomplete. Examples of deficiencies include but are not limited to: tabulated data is distributed and in some cases duplicated in two separate tables, data for all constituents of concern are not tabulated, incorrect

concentrations are reported, data regarding depth of well screens are reported incorrectly or not reported at all, etc.

Quarterly Reports submitted for this site are required to include cumulative data tables containing all analytical results, groundwater measurements, groundwater elevations, free product thickness, presence of sheen, explanation for not sampling well(s), screen intervals, etc., from all previous and current groundwater monitoring events for all wells monitored in relation to this site. We request that your gauging and analytical data tables be combined into one table to facilitate presentation of this data and that the layout of the data follow the format of Table 1 of your latest quarterly report. Additionally, we request that your future depth discrete groundwater monitoring data be incorporated into your tables. Please update your cumulative groundwater data tables to include this information and include in all future Quarterly Reports submitted for this site.

Additionally, we request that data tables from Quarterly Reports for this site be e-mailed to ACEH (barney.chan@acgov.org) at the time the reports are submitted to our agency.

13. Groundwater Gradient

We note that groundwater monitoring reports depict only the direction of the groundwater gradient and often depict it incorrectly. Groundwater gradient has both a magnitude and a direction. We specifically request that you review <u>all</u> your historic groundwater monitoring data and determine both the magnitude and direction of groundwater gradient. Use rose diagrams to depict your results. We request that you also report vertical gradient measurements from your multi-level wells or well clusters. Report your results in the Work Plan requested below and update your rose diagrams in all future reports submitted for this site.

14. GeoTracker EDF Submittals

A review of the case file and the State Water Resources Control Board's (SWRCB) GeoTracker website indicate that electronic copies of analytical data have not been submitted 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 system via the internet. Additionally, beginning January 1, 2002, all permanent monitoring points utilized to collected 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 to sub-meter accuracy, using NAD 83, and transmitted electronically to the SWRCB GeoTracker system via the internet.

In order to remain in regulatory compliance, please upload all analytical data (collected on or after September 1, 2001), to the SWRCB's GeoTracker database website in accordance with the above-cited regulation. Please perform the electronic submittals for applicable data and submit verification to this Agency by **September 22, 2004**.

REQUEST FOR ADDITONAL INFORMATION

ACEH's case file for the subject site contains the technical reports listed below. You are requested to submit copies of any other reports you may have documenting additional investigation activities or other work related to the UST system and/or your site by **September 22**, **2004**.

- October 17, 1986, GTI, Inc., "Subsurface Hydrocarbon Investigation," for Texaco
- December 4, 1992, GTI, Inc., "Report of Sampling Activities," for Tracy Federal Bank
- August 23, 1993, EGC, Inc., "Groundwater Sampling & Analysis (15563 Washington Ave), for Callahan
- December 6, 1995, Cambria, "Investigation Work Plan," for Calleri
- October 16, 1998, Toxichem, Inc, "Soil and Groundwater Investigation Results," for Calleri
- February 11, 2000, ESTC, "Work Plan," for Mohammadian
- May 15, 2000 (2 different versions same date), ESTC, "Preliminary Off-Site Soil and Groundwater Assessment, "(REJECTED REPORTS), for Mohammadian

The following Quarterly Monitoring Reports:

- May 3, 1994, Texaco, for Texaco
- · February 6, 1996, Cambria, for unidentified party
- March 15, 1999, Toxichem, Inc, for Equiva
- May 14, 1999, Toxichem, Inc, for Equiva

The following Quarterly Monitoring Reports prepared by ESTC for Mohammadian:

- June 6, 2000, (2 different versions same date)
- September 6, 2000 (2 different versions same date)
- December 6, 2000
- March 12, 2001
- June 13, 2001
- September 5, 2001
- December 27, 2001
- April 4, 2002 (2 different versions same date)
- July 12, 2002
- October 25, 2002
- February 4, 2003
- April 29, 2003

TECHNICAL REPORT REQUEST

Please submit technical reports to ACEH (Attention: Mr. Barney Chan), according to the following schedule:

September 22, 2004 - Work plan for Soil and Water Investigation with results of completed preferential pathway study and initial SCM

110 Days From Work Plan Approval - Soil and Water Investigation (Results of Expedited Site Assessment)
Report with work plan for Soil and Water Investigation Completion

180 Days From Approval of Soil and Water Investigation (Results of Expedited Site Assessment) Report with work plan for Soil and Water Investigation Completion - Soil and Water Investigation Completion Report

90 Days After Submittal of Soil and Water Investigation Completion Report - Corrective Action Plan

September 15, 2004 - Quarterly Report for the Third Quarter 2004

December 15, 2004 - Quarterly Report for the Fourth Quarter 2004

March 15, 2005 - Quarterly Report for the First Quarter 2005

June 15, 2005 - Quarterly Report for the Second Quarter 2005

September 15, 2005 - Quarterly Report for the Third Quarter 2005

December 15, 2005 - Quarterly Report for the Fourth Quarter 2005

These reports are being requested pursuant to Section 25297 of the California Health and Safety Code, ACEH requests this report utilizing the Regional Water Quality Control Board's authority defined under Section 13267 of the California Water Code. **Each report shall include conclusions and recommendations for the next phases of work required at the site**. We request that all required work be performed in a prompt and timely manner. We have proposed a schedule for the submittal of the Soil and Water Investigation Report and the CAP. Revisions to the proposed schedule shall be requested in writing with appropriate justification for anticipated delays.

PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to this office 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

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.

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 follow up. Enforcement follow up may include administrative action or monetary penalties of up to \$10,000 per day for each day of violation of the California Health and Safety Code, Section 25299.76.

If you have any questions, please call Mr. Barney Chan at (510) 567-6765.

Sincerely,

Donna L. Drogos, P.E. LOP Program Manager

Enclosures

CC:

Ms. Shari Knieriem SWRCB P.O. Box 944212 Sacramento, CA 94244-2120

A. Levi, B. Chan, D. Drogos

Mr. Adam Harris SWRCB P.O. Box 944212 Sacramento, CA 94244-2120

Ms. Terry Brazell SWRCB P.O. Box 944212 Sacramento, CA 95814

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 6, 2004

Ms. Terry Brazell
State Water Resources Control Board
PO Box 944212
Sacramento, CA 95814

Dear Ms. Brazell:

Subject: Petition Responses to Naming of Responsible Parties, RO0000374, Chevron #21-1285 / Cal Gas, 15595 Washington Avenue, San Lorenzo, CA 94580

This letter responds to the January 21, 2004, document of Jeffrey L. Podawiltz, Esq. representing ChevronTexaco regarding ChevronTexaco's response to ACEH's response to petition and to the January 20, 2004, Cambria Environmental Technology, Inc. (Cambria) letter. Alameda County Environmental Health (ACEH) has reviewed the above referenced documents and provides the following response.

ACEH has performed a through review of the technical data at this site. Our technical comments on Cambria's January 20, 2004, letter and the Jeffrey L. Podawiltz, Esq., January 21, 2004 document are presented below. In summary, we are not concluding that the site was or was not a problem in 1986, but that the information presented would have been inadequate to close the site both then and now. Rather, the data presented would have resulted in ACEH requesting additional investigation to characterize the nature and extent of contamination.

A number of significant anomalies and data gaps exist. These include:

- Lack of a site conceptual model (SCM) that summarizes what is known about the site, identifies data gaps, and proposes additional work to fill the data gaps,
- Reliance on soil samples from a "screening level" assessment that were known to be negatively biased.
- · Insufficient high quality soil and groundwater samples and analyses,
- Lack of vertical definition of source area contamination,
- Insufficient areal extent and density of monitoring points,
- Failure to investigate the uppermost preferential pathway for contaminant migration resulting in shallow investigative work,
- Failure to investigate the risk to receptors from liquid, residual, dissolved, and vapor phase contamination associated with the site.

Whether or not historic releases at the site contribute to the current need for cleanup requires additional study, including forensic techniques to estimate the contribution of older releases to the current contamination problem at the site. Actual data from a soil and groundwater investigation that is overseen by ACEH is needed to determine the contributions to contamination (or lack thereof) by each of the responsible parties at this site.

COMMENTS TO CAMBRIA LETTER

1) 1986 Data Objectives and Quality and Appropriateness for Regulatory Decision Making

Cambria states in their January 20, 2004 comment letter that the 1986 work was performed as a "baseline assessment in 1986 to determine site conditions and identify potential environmental liabilities prior to selling the property" and "that the investigation objectives were to screen the site for potential liabilities to support a property transaction and not for a regulated environmental investigation." As this work was done for a purpose other than regulatory decision-making, lower standards were apparently applied to the investigation technique resulting in the collection of inferior, poor quality data (reference composite soil samples).

Cambria acknowledges the 1986 work was of a lower standard for a property screening assessment and not for a regulated environmental investigation. Yet all of Cambria's technical arguments are based upon this inferior data that they readily acknowledge was never collected in a manner sufficient for regulatory decision-making. The 1986 data is insufficient to make decisions regarding the nature of contamination, the lateral and vertical extent of contamination from the release, site closure (then or now), or to make any regulatory judgments regarding the need for remediation for the contaminants of concern (COCs) at this site.

2) Groundwater Analytical Data

ACEH maintains that only a limited screening investigation of groundwater was performed at the site in 1986. Monitoring wells were not installed in the area of or immediately downgradient of the location of the highest groundwater contamination. This screening investigation was limited in depth and areal extent, with an insufficient density of monitoring points. Also, analysis for all COCs was not performed. Regulatory decisions cannot be made on limited data from a screening investigation.

3) Lack of Depth-Discrete Soil Analytical Results and Observations of Strong Petroleum Odors

Strong petroleum odors were noted by the geologist during soil sample collection. Three depth-discrete samples were composited into one sample for analysis. Subsequent analyses detected what Cambria describes as only low levels of contamination. The strong odors observed during sample collection and resulting concentrations in composited samples that are inconsistent with field observations of contamination are indicative of the samples becoming negatively biased, i.e., volatilization of the target compounds from the samples. The fact that the geologist collecting the samples noted the negative bias by documenting strong odors supports the fact that there was a significant loss of the volatile components during sample collection. Then the analysis for target compounds was performed after additional volatilization during the compositing process causing further loss of target compounds.

Regulatory agencies look at all the data when evaluating a site. That is why we take into account field observations during drilling in combination with analytical measurements. How much of a loss was caused by negative bias in these samples we do not know, as the data is not consistent with field observations. Also, this initial data from the screening level investigation cannot be exclusively relied upon for regulatory decision-making.

4) Soil and Groundwater Investigations Have Been Limited in Depth

Cambria states that it is unclear as to the role that permeable zones, at depths the consultants failed to anticipate and subsequently investigate, play in migration of hydrocarbon contamination. ACEH's December 1, 2003, letter provided a detailed but basic explanation (Technical Comment 3) of geologic and hydrogeologic considerations for contaminant transport at this site along with an appropriate technical reference.

The presence of permeable zones provide pathways for migration of contaminants from a site. Factors such as water level fluctuations (particularly during times of drought in California such as experienced in the 1980s), gradient changes, local hydrogeology, groundwater extraction, groundwater recharge activities (natural and artificial), and the presence of conduits, can significantly alter groundwater flow conditions and allow migration of contamination to permeable zones. The shallow investigations performed to date at the site have failed to investigate the uppermost preferential pathway (regionally documented as a permeable zone) for contaminant migration. The failure to investigate to adequate depths has left the vertical definition of source area(s) contamination and the possibility of off-site migration of dissolved contaminants in coarse-grained permeable strata undefined.

5) Vapor Migration Pathway Not Adequately Assessed

Cambria uses data from the initial screening assessment to evaluate the vapor migration pathway. They also use only the groundwater data for their evaluation and for an assumed depth to water of 10' bgs.

Any comparison to ESLs would need to be performed using reliable data collected appropriately from an investigation designed to define the extent of contamination at the site. The data used in Cambria's assessment is not appropriate for regulatory decision-making since there is no assurance that monitoring wells were installed within the contaminant plume; the screening investigation was limited in depth and areal extent, with an insufficient density of monitoring points; analysis for all COCs was not performed, and the investigation was merely a screening level assessment.

Additionally, there is a higher risk when depth to water is shallower than 10' bgs. Depth to water has been as shallow as 4.5' bgs site leaving this risk unevaluated at the site.

Further, to be a complete evaluation of the vapor pathway, appropriately collected soil data from an investigation that defines the lateral and vertical extent of contamination would need to be used. But soil data from this site is suspect as discussed previously (screening level assessment, with samples composited and negatively biased due to volatilization in samples).

6) Potential Impacts to Water Supply Wells Not Adequately Assessed

A water supply well is present 330' downgradient of the site. Cambria states "this well is not at risk from the low hydrocarbon concentration in groundwater in 1986 prior to Texaco's tenure at the site." ACEH

notes that this well has not been sampled for the COCs at the site and that Cambria has no data to substantiate their conclusion.

Water supply wells of this size are especially vulnerable to impacts from nearby contamination sites due to the low volume of water they pump and the subsequent limited dilution of contamination in the pumped water (as opposed to a municipal supply well pumping 1000s of gpm). There are numerous documented cases of petroleum hydrocarbon contamination, including benzene, in small water supply wells. This well's very close proximity to the gas station makes it vulnerable to contamination from the subject site.

The 1986 screening level investigation consisted of an insufficient density of monitoring points, which were limited in depth and areal extent, and produced low quality data unsuitable for regulatory decision-making. The insufficiencies of this investigation along with the lack of analytical testing results from the water supply well have left the assessment of the potential risk to the downgradient receptor unknown.

7) Cambria's Attenuation Assessment is Unpersuasive

ACEH had significant technical concerns regarding the approach Cambria used in their attenuation assessment and ACEH does not consider Cambria's approach to be conservative at all. Cambria deems their approach conservative by assuming attenuation rates for BTX would be no faster than for current TPHG and MTBE concentrations because BTX attenuation rates "far higher" than MTBE attenuation rates.

However, the attenuation rate for BTX could have been slower. Biodegradation rates at a site can vary and early releases can be slow to biodegrade because the community of hydrocarbon-degrading bacteria is small and not yet acclimated to degrading the contamination. Older sites with a history of releases could have microbial populations sufficient to allow biodegradation to occur more rapidly. Therefore, Cambria cannot assume that the reaction rates from the initial release would be as fast as the reaction rates that they calculated based on recent monitoring data. Further, recent releases of MTBE could exhibit a fast apparent "rate" due to preferential dissolution from the source.

ACEH's December 1, 2003, letter also discussed the difficulties of calculating an MTBE attenuation rate, referencing studies published in the literature that show very little agreement regarding said rates under aerobic and anaerobic conditions at research sites in California. Rates for MTBE biodegradation would be site specific and need to be measured using field tests and measured data. Cambria ignores the technical literature on this subject and uses inappropriately based assumptions and gross oversimplifications in their attenuation assessment.

Lastly, Cambria states that current hydrocarbon concentrations are attenuating but have no data to demonstrate whether the plume is shrinking or not. Stabilization or reduction in plume length, rather than mere attenuation by dilution and continued plume migration, has not been demonstrated for this site.

8) NAPL

Cambria states that there was no evidence of NAPL in the 1986 screening investigation and appears to suggest that NAPL from a 1986 or earlier release at the site was not and is not present at the site. ACEH again notes that the 1986 screening investigation was performed to limited depths and areal extent, with an insufficient density of monitoring points. Data from this investigation was not sufficient to identify source areas, determine the extent of contamination, nor identify the presence or absence of NAPL. The

1986 investigation failed to gather this data because its objectives were for screening the site for a property transaction, not for a regulated environmental investigation, thus lower standards were applied to the investigation technique resulting in the collection of inferior, poor quality screening data.

COMMENTS TO JEFFERY L. PODAWILTZ ESQ. LETTER

The conclusions of the Podawiltz document are that there is overwhelming evidence from a 1986 screening investigation to 1) close the 1986 fuel leak case; and 2) determine how much of a contribution releases from the 2nd generation USTs make to the site in terms of corrective action and costs.

ACEH maintains that there is insufficient data from the 1986 work to make regulatory decisions regarding immediate case closure or amounts of corrective actions including cleanup. ACEH notes that the 1986 work was performed as a "baseline assessment in 1986 to determine site conditions and identify potential environmental liabilities prior to selling the property" and "that the investigation objectives were to screen the site for potential liabilities to support a property transaction and not for a regulated environmental investigation" (reference Cambria January 20, 2004 letter).

Podawiltz identifies the following issues as overwhelming evidence:

No hydrocarbon contamination was detected in soil samples taken in 1986

ACEH notes that the "screening level assessment" resulted in the collection of low quality, inferior screening level data with soil samples composited along the entire length of boreholes. Also soil samples exhibited a negative bias with volatilization of target compounds. The analytical results for soil samples biased in multiple ways yielded results inconsistent with field observations. Basing regulatory decision-making on incomplete and suspect data is not appropriate at contamination sites.

Two groundwater samples showed low level contamination, and that level of contamination, almost
 18 years later, would not contribute to the need to remediate the site.

ACEH notes that other grab groundwater samples (SB-1) showed higher concentrations of contamination, suggesting that either the permanent wells were installed in the wrong location to detect groundwater contamination, or samples from the wells were negatively biased by dilution in long screen wells. Groundwater samples were not collected downgradient of the areas noted to be contaminated. Also, the investigation performed was too shallow to adequately investigate the uppermost preferential pathway for contaminant migration identified in ACEH's review of the regional geologic and hydrogeologic data. The shallow investigations left a primary pathway of potential contaminant migration unassessed.

The low level of hydrocarbon concentrations from the pre-1986 release would not have posed a
danger in 1986 and using a conservative approach to attenuation levels, would be virtually undetectable
today.

ACEH notes that the screening level assessment performed in 1986 did in no way determine the concentration and lateral and vertical extent of contamination at the site nor generate data sufficient to evaluate the risk posed by the site. Further, "a conservative approach to attenuation levels" was, in our opinion, not performed. As discussed in our December 1, 2003 letter, the attenuation assessment

Ms. Terry Brazell August 6, 2004, Page 6 of 6

performed by Cambria could have easily over estimated the attenuation rate of compounds released prior to 1986.

 The sole cause of remediation work at the site is the post-1986 release of MTBE and other contaminants.

ACEH notes that sufficient investigation to determine the nature and extent of contamination from source areas at this site was not performed. Residual pollution including NAPL from earlier releases could be present at the site particularly if historic water levels were lower at the site during its use as a gasoline station (such as in periods of drought during the 1980s) resulting in submerged source areas. Investigations performed to date have not considered nor determined the vertical extent of contamination in the source areas.

Data sufficient to evaluate potential vapor phase risks posed by the releases at the site were not collected during the 1986 screening investigation therefore this risk remains unevaluated.

Lastly, MTBE was used in U.S. gasoline supplies as early as 1973. Therefore, broad assumptions regarding the release date of MTBE at this site by ChevronTexaco's attorney should not be made.

If you have any questions please contact Mr. Barney Chan at (510) 567-6765.

Sincerely,

Donna L. Drogos, P.E.

LOP Program Manager

cc:

Mr. Mehdi Mohammadian

Cal Gas

15595 Washington Avenue

San Lorenzo, CA 94580

Ms. Agnes Calleri 10901 Cliffland Avenue

Oakland, CA 94605

Ms. Terry Brazell

SWRCB

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Sacramento, CA 95812

David Boyers, Esq.

SWRCB

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SF-RWQCB

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515 Clay Street, Suite 1400

Oakland, CA 94502-6577

Walnut Creek, CA 94596-3582

Mr. Adam Harris

SWRCB

P.O. Box 944212

Sacramento, CA 94244-2120

Jeffery L. Podawiltz, Esq. Glynn & Finley, LLP

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A. Levi, B. Chan, D. Drogos

Ms. Shari Knieriem

Ms Karen Streich

San Ramon CA 94583

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20321 Via Espana

Salinas, CA 93908

ChevronTexaco

PO Box 6012

SWRCB

PO Box 944212

Sacramento, CA 94244-2120

M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA. 94580 7/8/2004

Via Fax # (510) 337-9335 **T**99

Ms. Donna Droges,
Alameda County Health Care Service
1131 Harbor Bay Parkway
Alameda CA. 94502

Dear Ms. Drogos:

Enclosed you will find copy of my letter dated 6/14/2004, which I send it by mail and also by fax the same day.

As you know time is of essence and unfortunately I have not received any respond from you, till to date. Please be kind enough to respond to my letters.

Waiting to hear from you soon.

M. Mohammadian

Yours truly,

Mehdi Mohammadian

RO 3UT

Alameda County

JUN 1 7 2004

Environmental Health

M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA. 94580 6/14/2004

Via Fax # (510) 337- 9335 Too

Ms. Donna Drogos Alameda County Health Care Service 1131 Harbor Bay Parkway Alameda CA. 94502

Dear Ms. Drogos:

Enclosed you will find a copy of letter dated April 28,2004 from:

Shari Knieriem Claim Review Unit Underground Storage Tank Cleanup Fund

Per Your conversation on May 21, 2004 with my consultant Frank Hamedi from ESTC You have informed him that; you will forward me the directive plan of action for out site investigation in order that we implement it under your agency supervisor and get your approval for compliance. Unfortunately I have not received your directive plan yet. I will appreciate if you forward that plans as soon as possible, because time is of essence, as you will notice from the above letter that we have only 90 days from April 28, 2004 to do the necessary testing.

Waiting to hear from you soon.

M. Hohammadian

Yours truly,

M. Mohammadian

CC. Ms. Shari Knieriem Claim Review Unit Underground Storage Tank Cleanup Fund



State Water Resources Control Board

Division of Financial Assistance

1001 I Street · Sacramento, California 95814 P.O. Box 944212 · Sacramento, California · 94244-2120



Terry Tamminen Secretary for Environmental Protection

(916) 341-5714 + FAX (916) 341-5806 + www.swrcb.ca.gov/cwphome/ustcf

Alameda County

JUN 1 7 2004

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580

APR 28 2004

Environmental Health

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), CLAIM NUMBER 015058; SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

Section 2811(a)(5) of the UST Cleanup Fund Regulations requires that you remain in compliance with corrective action directives issued by the local regulatory agency. On May 12, 2003 we completed a detailed review of your claim and the County deemed you out of compliance. We cannot issue a Letter of Commitment to you until you are in compliance.

You must contact the Alameda County EHD (County) immediately to determine requirements for compliance and ensure eligibility to the Cleanup Fund. If we do not obtain a compliance signoff from the County within 90 days, we will began steps to remove your claim from the Priority List.

Only, after the County determines that you are in compliance with their directives and has signed off compliance will the Fund be able to issue a Letter of Commitment (LOC). After you receive the LOC, you may submit a Reimbursement Request.

However, the costs that were discussed in the Fund's March 15, 2004 letter are not eligible for reimbursement. The work performed by ESTC was not in accordance with the Underground Storage Tank Cleanup Fund Regulations, Section 2811 (a)(5) states in part ... "in accordance with the written or oral directives or the appropriate regulatory agency..."

In addition, you requested that the Fund provide copies of the documents and information used to conclude the Fund's decision as noted in our March 15, 2003 letter. The documents used were County directives issued to you. Those letters are on file at the County. Please contact the County if you wish to obtain copies of those letters.

If you have further questions, please contact me at (916) 341-5714.

Sincerely,

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



State Water Resources Control Board

Division of Financial Assistance

1001 I Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) «STAFFPHONE» • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf



Mehdi Mohammadian

March 15, 2004

15595 Washington Ave San Lorenzo, CA 94580

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), REQUEST FOR REIMBURSEMENT FOR COSTS INCURRED FROM ENVIRO SOIL TECH CONSULTANTS (ESTC): CLAIM NUMBER 015058; FOR SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

The Fund's Technical Unit has reviewed the documentation regarding the costs that you have incurred from ESTC. After careful review, the Fund will not reimburse those cost.

AUTHORITY

The investigation was not in accordance with the Underground Storage Tank Cleanup Fund Regulations, Section 2811 (a)(5) states in part ... "in accordance with the written or oral directives or the appropriate regulatory agency..."

Alameda County Health Care Services, Environmental Health Services (ACHES) did not accept the work performed by ESTC. The sampling protocol, along with no drilling permits, and an uncertified lab was clearly unacceptable. In fact, ACHES's letter dated December 18, 2000, acknowledged your lack of non-compliance and requested that you were to select a qualified consultant to complete the investigation.

NOTE: 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.

If you disagree with this Staff Decision, you may appeal to the Division Chief pursuant to Section 2814.1 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:

Allan V. Patton, Fund Manager, Claim #015058 Underground Storage Tank Cleanup Fund State Water Resources Control Board Division of Financial Assistance P.O. Box 944212 Sacramento, CA 94244-2120

California Environmental Protection Agency



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 contact me at (916) 341-5714.

Sincerely,

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 Mary S. Taylor, Esq. SBN 100341 LAW OFFICE OF MARY S. TAYLOR 77 Solano Square #330 Benicia, California 94510-2712

Telephone: (707) 746-8200 Facsimile: (707) 746-0633

Attorney for Petitioner Agnes Calleri Alameda County

DEC 0 9 2003

Environmental Health

STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In Re:)	NOTICE OF CHANGE OF ADDRESS AND TELEPHONE NUMBER
Alameda County Health Care Services Agency Record ID: RO000374 Letter dated July 7, 2003, issued to)))	
Agnes Calleri re 15595 Washington Avenue, San Lorenzo, California	_) _)	

TO ALL PARTIES IN INTEREST AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that as of the date of this document, the attorney for Agnes Callerina has changed her address for service of notices and documents. The new address of Mary S. Taylor of The Law Office of Mary S. Taylor is now: 77 Solano Square #330, Benicia, California 94510-2712. Ms. Taylor's new telephone number is (707) 746-8200 and her new facsimile number is (707) 746-0633. Any and all notices and documents regarding this action should now be sent to the above address.

Date: December 4, 2003.

LAW OFFICE OF MARY S. TAYLOR

Mary S. Faylor

Attorney for Agnes Calleri

I, Mary Swanson Taylor, am employed in Solano County, California; I am over the age of 18 years and not a party to the within action; my business address is: 77 Solano Square #331, Benicia, California 94510-2712.

On December 5, 2003, I served the NOTICE OF CHANGE OF ADDRESS on all interested parties by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Karen Streich ChevronTexaco 6001 Bollinger Canyon Road P.O. Box 6012 San Ramon, CA 94583-2324

Barney Chan
Hazardous Material Specialist
Alameda County Health Care
Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Loretta K. Barsamian San Francisco Bay Reg. Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94612

Mr. Ariu Levi Chief Project Director Alameda County Envir. Health Services Environmental Protection 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577 Marjorie Kayner Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261

Jeffrey L. Podawiltz, Esq. Glynn & Finley, LLP 100 Pringle Avenue, Suite 500 Walnut Creek, CA 94596

Jennifer Jordan SWRCB P.O. Box 944212 Sacramento, CA 95814

Stephen Morse San Francisco Bay Reg. Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94612

I caused such envelopes with postage thereon fully paid to be placed in the United States mail in Benicia, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 5, 2003in Benicia, California.

Mary S. Taylor

I, Mary Swanson Taylor, am employed in Solano County, California; I am over the age of 18 years and not a party to the within action; my business address is: 77 Solano Square #330 Benicia, California 94510-2712.

On December 5, 2003, I served the NOTICE OF CHANGE OF ADDRESS on all interested parties by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Karen Streich ChevronTexaco 6001 Bollinger Canyon Road P.O. Box 6012 San Ramon, CA 94583-2324

Barney Chan
Hazardous Material Specialist
Alameda County Health Care
Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Loretta K. Barsamian San Francisco Bay Reg. Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94612

Mr. Ariu Levi Chief Project Director Alameda County Envir. Health Services Environmental Protection 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577 Marjorie Kayner Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261

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Mary S. Taylor

AGENCY



ENVIRONMENTAL HEALTH SERVICES

ENVIRONMENTAL PROTECTION

Alameda, CA 94502-6577

(510) 567-6700 FAX (510) 337-9335

1131 Harbor Bay Parkway, Suite 250

DAVID J. KEARS, Agency Director

December 1, 2003

Ms. Terry Brazell State Water Resources Control Board Underground Storage Tank Program 1001 I Street, Sacramento, CA 95814

Dear Ms. Brazell:

Subject: Naming of Responsible Parties, ROOOOO374, Cal Gas, 15595 Washington Avenue,

San Lorenzo, CA 94580

This letter responds to the petitions of Mr. Jeffrey Podawiltz representing ChevronTexaco and the naming of ChevronTexaco as a secondary responsible party for the referenced site; of Ms. Mary Taylor representing Ms. Agnes Calleri and the naming of Ms. Calleri as a secondary responsible party for the referenced site; and it supplements our office's November 3, 2003 response to the petition of Ms. Marjorie Kanyer and the Kubo Trust.

RESPONSIBLE PARTY IDENTIFICATION

Alameda County Environmental Health (ACEH) named the Kubo Trust, ChevronTexaco, Mr. and Mrs. Calleri, and Mr. Mohammadian responsible parties, as defined under California Code of Regulations, Title 23, Division 3, Chapter 16 (California Underground Storage Tank Regulations), Article 11, Section 2720. Section 2720 defines a responsible party (RP) as any one of four ways.

- "Any person who owns or operates an underground storage tank used for the storage of any hazardous substance" or
- "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" or
- "Any owner of property of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred" or
- "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."

Based on these definitions, ACEH identified responsible parties for this site as follows:

Mr. and Mrs. Calleri owned the property from August 1974 to June 1983. The Calleris were the last owners and operators of the 2nd generation USTs which remained in place at the site through 1986 and from which an unauthorized release was documented in August 1986. Thus the Calleris meet the second definition of an RP.

ChevronTexaco owned the property from June 1983 to December 1986. The 2nd generation of USTs remained in place at the site at this time, however ChevronTexaco reportedly did not store nor dispense fuel at the site during their ownership. ChevronTexaco removed the second generation USTs in 1986. A petroleum release was confirmed in August 1986 when monitoring

wells were installed and soil and groundwater contamination was detected. Thus ChevronTexaco meets the third and fourth definitions.

Mr. Bertram Kubo owned the property from December 1986 to June 1990. Mr. Kubo installed (February 1987), owned, and operated the3rd generation USTs at the site. Thus Mr. Kubo/Kubo Trust meets the third and fourth definitions.

Mr. Mohammadian has owned the property from June 1990 to date. Mr. Mohammadian owned and operated the 3rd generation USTs. In 1998, a significant release(s) of MTBE to groundwater was reported indicating a new unauthorized release occurred at the site. Thus Mr. Mohammadian meets the first, third, and fourth definitions.

Therefore, the County determines that the four responsible parties identified above have been properly named.

Additionally, Cambria and attorneys for Chevron assert that ACEH refused to consider and discuss re-designation of RPs at this site with Chevron. ACEH notes that it had multiple phone conversations with Ms. Karen Streich of Chevron both before and after re-designation of the RPs for this site. Discussions included how RPs were identified for this site as well as the technical merits of Cambria's June 16, 2003 assessment of site conditions.

The SWRCB issued order WOO 2002-0021, which responded to the petition of Mr. Mohammadian for review of Alameda County's Notice of Revision to Responsible Party Designation (to remove Texaco and the Calleris from the list of responsible parties). Item 2 of the order's conclusion states, "It is not appropriate for an LOP agency to remove a person who has been properly named as a responsible party for cleanup of an unauthorized release at a site unless it finds, by a preponderance of the evidence, that constituents from that party's release, when taken in conjunction with commingled constituents from another release(s) that have similar effects on beneficial uses, do not contribute to the need for cleanup at the site." Further, Page 11 of the order states "What the County did not consider, and what must be determined by the County on remand is whether the constituents attributable to the release that occurred during or prior to the Calleri's ownership and which persisted at the site while Texaco owned the property, taken in conjunction with the other constituents at the site having similar effects on beneficial uses, are contributing to the current need for corrective action."

TECHNICAL COMMENTS

ACEH staff has reviewed the historical data from the 1986 subsurface investigation for the site and Cambria's June 16, 2003, assessment of site conditions and has determined the following regarding the environmental conditions at the site in 1986:

- Groundwater Analytical Data Limited groundwater analysis was performed at this site during the initial investigation. A review of data for the site indicates the following:
 - Up to 220 ppb Benzene, 390 ppb Toluene, and 680 ppb Xylene were detected in water samples collected from the site.
 - Water samples were not analyzed for TPHG.
 - Monitoring well were not installed in the area of or immediately downgradient of the location of the highest groundwater contamination detected, north/northwest of the pump islands.
 - Cambria states that hydrocarbons were not detected in groundwater from SB3.
 ACEH notes that soil and water samples were not collected nor analyzed from SB3,

located downgradient of the USTs. Therefore it cannot be determined whether or not groundwater was contaminated at that location.

- 2) Lack of Depth-Discrete Soil Analytical Results Although strong petroleum odors were noted in almost all of the boring logs of the wells and borings installed around the 2nd generation USTs and the dispenser islands, no discrete soil samples were collected for chemical analysis. Soil samples collected were composited along the borehole for analysis as a single sample and were ND for total fuel hydrocarbons and BTX. These results cannot reliably represent soil contamination that may have been present at discrete depths.
- Soil and Groundwater Investigations Have Been Limited in Depth Soil borings were terminated at 15' bgs regardless of whether areas of obvious contamination were observed at the bottom of the borings. The boring logs indicated that obvious contamination was observed at completion depth thereby leaving the vertical extent of contamination undefined. Further, boring logs from subsequent investigations at the site, also of limited depth, indicate the presence of root holes, and increasing sand and gravel content at depths below 16' bgs, suggesting that a more permeable geology may underlie areas where contamination was observed. Thus, the site consultants' investigations may not have been conducted to sufficient depths to determine whether or not underlying more permeable strata may have been impacted. These strata could be preferred pathways for off site migration of dissolved contaminants.

A review of geologic logs from fuel leak sites in the vicinity of the subject site suggest that permeable units are present in the shallow aquifer beneath the subject site. Data from the Shell site at 15275 Washington Avenue document the presence of silty sand and sand at depths of 23' - 25' bgs to boring completion depths of 40' bgs. The likelihood of coarse-grained sediments occurring beneath the shallow fine-grained sediments at the subject site should come as no surprise and should have been anticipated by Cambria and other consultants working at the site; the existence of extensive coarse-grained sediments at depths below 20'-25' bgs throughout the East Bay Plain is well documented in the technical literature¹ resulting from coarse-grained alluvial deposition during the end of the Wisconsin ice age.

The shallow investigative work performed to date, along with the lack of a regional geologic evaluation in Cambria's assessment of site conditions, neglected to consider readily-available regional geologic data. This has resulted in a failure to investigate the uppermost preferential pathway for contaminant migration.

Cambria suggests that the low hydraulic conductivity of the clay and silty clay horizons of the shallow water bearing zone (limited to 20' bgs) will impede groundwater flow and reduce downgradient migration of petroleum hydrocarbons. Again, work performed at this site failed to investigate the uppermost preferential pathway for contaminant migration and there is not sufficient site data to support Cambria's argument.

Additionally, in support of their low hydraulic conductivity argument, Cambia suggests that downgradient migration of MTBE from the subject site is limited and the plume is defined based upon data from the "Preliminary Off-Site Soil and Groundwater Assessment," dated May 15, 2000, prepared by Enviro Soil Tech Consultants (ESTC). Not only was this work limited to shallow depths, a review of ACEH's case file for the subject site indicates that ACEH rejected the 2000 ESTC report for irregularities and non-

¹ Atwater, B.F., C.W. Hedel, E.J.Helley, 1977. <u>Late Quaternary Depositional History, Holocene Sea-Level Changes, and Vertical Crustal Movement, Southern San Francisco Bay, California</u>. U.S. Geological Survey Professional Paper 1014.

standard industry practices during performance of their field work. Hence the data collected from this report are not valid.

To date, vertical definition of source area(s) contamination and the possibility of off-site migration of dissolved contaminants in coarse-grained permeable strata remains undefined.

4) Vapor Migration Pathway Not Adequately Assessed - The SWRCB Order WQO 2002-0021 discusses the need to evaluate whether the effects of contaminants from the 2nd generation USTs in conjunction with commingled constituents from another release (i.e., from the 3rd generation USTs) will have similar effects on beneficial uses and are contributing to the current need for corrective action and/or cleanup at the site.

Typically, beneficial use refers to water sources and in the context of the SWRCB's order appear to reference dissolved phase contaminants in groundwater, and in particular MTBE. An additional risk element that was not considered by Cambria (and other consultants who performed work at the site) and the SWRCB (in their order) was migration of contamination via pathways other than the dissolved phase. Therefore, in addition to offsite migration of dissolved contaminants in more permeable strata underlying the shallow clay sediments (affecting beneficial uses); a second migration pathway, vapor migration (affecting human health & safety), must be investigated and evaluated at this site.

ACEH notes that residual NAPL or other high-concentration zones of contamination from the 2nd generation UST system could easily be present at the site within shallow, fine-grained sediments. Resultant migration of vapors, in particular the more toxic constituents of gasoline, emanating from residual contamination at the site could pose an inhalation risk at and/or in the vicinity of the site. Releases from the 2nd generation USTs may not have contained MTBE. But, if vapor migration of other constituents is significant, then the earlier release cannot be ignored since residual and possibly free-phase LNAPL from the earliest releases may still exist in fine-grained strata beneath the site. Data from the 1986 release (and data collected to date) are insufficient to evaluate whether the vapor migration pathway poses a potential threat at this site.

Potential Impacts to Nearby Water Supply Wells Not Adequately Assessed - Cambria states that groundwater flows westerly at the site and that they have identified no potential receptors downgradient of the site. ACEH notes that the groundwater flow direction has varied from northwest to southwest at the subject site and that there is an active irrigation well 330' southwest (downgradient) of the subject site (reference Chevron petition, Exhibit D, Cambria report dated October 1, 2003). It does not appear that this well has been tested for petroleum hydrocarbons.

As the uppermost preferential pathway for contaminant migration has not been investigated nor sampled at this site, and considering the very close proximity (330' downgradient) of a water supply well, the threat posed by this site from its history of unauthorized releases is unknown.

6) Cambria's Attenuation Assessment is Unpersuasive - ACEH has reviewed Cambria's "attenuation assessment" which calculated attenuation rates for TPHG and MTBE for releases from the 3rd generation USTs to estimate attenuation rates for Benzene and Toluene from the 2nd generation USTs. We have significant concerns regarding the scientific rationale Cambria used in their evaluation.

Cambria utilized a graphical method to calculate 1st order decay rates from recent concentration vs. time plots for TPHG and MTBE data from groundwater monitoring

wells. They use the resulting "attenuation rate" to estimate present day concentrations of Benzene and Toluene from an older (2nd generation UST) release and argue that this analysis shows that groundwater contamination resulting from the earlier release would have biodegraded to below MCLs by now. The logic of this approach and the interpretation of data appears flawed for the following reasons:

- a) Causes of Attenuation Cambia fails to present a thorough discussion of other possible causes for their apparent "attenuation rate" such as:
 - Source Depletion The decrease in contamination concentration could be
 due to source depletion where the source and the dissolved contaminant is
 simultaneously decreasing. This is especially relevant in a multi-component
 NAPL such as gasoline where the individual compounds are depleted
 according to their effective solubilities. As the mole fraction of the more
 soluble compound decreases, its effective solubility decreases resulting in
 declining source concentrations over time. In a downgradient monitoring well,
 this would be reflected in a plot as declining concentrations of the compound
 being present in samples from the well over time.
 - Lateral and/or Vertical Plume Migration The decrease in contamination concentration could be due to migration of the plume away from the monitoring wells. Dissolved plumes can move laterally and vertically away from a monitoring well with changes in groundwater flow direction. Concentration vs. time plots would show declining concentrations of the compound being present in samples from the well over time. The subject site does not have monitoring wells appropriately located and constructed to evaluate the effects of changing groundwater flow directions on concentrations of contaminants detected in samples collected from monitoring wells over time.
 - Biodegradation Declining concentrations could be due to biodegradation. However, biodegradation rates must be increasing over time (or the source depleting) at the monitoring locations to yield plots of decreasing concentrations in samples collected over time. Otherwise, if biodegradation is occurring at a constant rate, the concentrations of the compound in samples from the well would be constant over time (contaminant concentrations equal what is flowing into the monitoring point minus what is being degraded. Additionally, biodegradation would need to be demonstrated by several lines of evidence, such as measurement of byproducts, consumption of electron acceptors, concentration versus distance plots using appropriately located and constructed monitoring wells.
- b) Applicability of Cambria's Attenuation Rates Cambria's application of their attenuation rates bears some additional considerations.
 - Rates for Apparent MTBE Attenuation If the decreases in MTBE concentration over time are due to preferential dissolution of MTBE from the residual NAPL (i.e., source depletion), then the calculated "rates" have nothing to do with biodegradation (as implied in Cambria's arguments). Therefore, it is inappropriate for Cambria to assume that they would be "conservative" in applying the "rates" to the other BTEX compounds. Further, MTBE dissolution rates can be quite rapid at some sites depending on the initial mole fraction and depletion mechanisms (e.g., the rate of groundwater flow through the residual source, whether or not SVE was occurring, ongoing releases, etc.).

The calculation of an attenuation rate for MTBE biodegradation is not as easily determined as has been done in the report. Very little data exists on this rate in regards to MTBE. Research in California has indicated the presence of active microbial populations in lab tests of samples from contaminated sites however; other contaminated sites have not exhibited any native aerobic MTBE degrading capability. Also, many MTBE sites may not be aerobic or aerobic in limited areas which would eliminate or limit any potential natural aerobic biodegradation. There is very little agreement in the literature about possible rates of MTBE transformation under anaerobic conditions. Rates for MTBE biodegradation would be site specific and must be actually measured using field tests and measured data.

- Applying Rates from New Releases to Old Releases Cambria's application of "attenuation rates" from a later release to infer attenuation rates of an earlier release seems flawed. Biodegradation rates at a site can vary. Early releases can be slow to biodegrade simply because the community of hydrocarbon-degrading bacteria is small and not yet acclimated to degrading the contamination. Older sites with a history of releases could have microbial populations sufficient to allow biodegradation to occur more rapidly. Therefore, Cambria cannot assume that the reaction rates from the initial release would be as fast as the reaction rates that they calculated based on recent monitoring data.
- Assumption that Attenuation Rates Would be Similar at Low Concentrations We note that the range of concentrations used by Cambria in their concentration vs. time plots are in the tens of thousands to hundreds of thousands of ppm range. Cambria assumes that their calculated 1st order decay rate is applicable at lower concentrations. However, rates of microbial reactions often decrease at lower concentrations following zero-order kinetic models. This is because the growth and activity of the hydrocarbon-degrading microbial communities decline as the substrate (i.e., the hydrocarbons) becomes limited. Therefore, it is inappropriate for Cambria to extrapolate a "rate" calculated at high concentrations to conditions where concentrations are much lower (i.e., near the MCL), where the low concentrations of the hydrocarbons may be rate limiting.

CONCLUSIONS

In considering the above discussion, in 1986 and now, there is not sufficient information to close the 1986 fuel leak case. RPs would be asked to perform additional soil and groundwater sampling and analysis, particularly in source areas, in order for ACEH to evaluate the site. The lack of sufficient technical information regarding the 1986 investigation prevents the case from meeting current case closure standards.

The gasoline release(s) from the 3rd generation UST system have commingled with the release(s) from the 2nd generation UST system. Residual NAPL or high levels of hydrocarbons from the 2nd generation UST system could be present at the site, stored in the shallow, fine-grained sediments. Consequently the RPs for the 2nd generation UST may have some responsibility for remedial activities currently needed at the site. How much of a contribution release(s) from the 2nd generation USTs make to the site in terms of corrective action and costs is uncertain. However, source area pollution from the 2nd generation UST system could contribute some component of cost to the current corrective actions, including remediation of the source area(s).

ACEH has designated Mr. Mohammadian as the primary responsible party for the subject site. Data from the site indicates that an unauthorized release(s) occurred during Mr. Mohammadian's ownership and operation of the USTs. Up to 340,000 ppb MTBE was detected in groundwater samples from the site in 1998. Currently, the lateral and vertical extent of MTBE and petroleum hydrocarbon contamination remains undefined. The elevated levels of MTBE require immediate investigation and remediation of the site, by the primary RP Mr. Mohammadian. Additional investigations should evaluate (1) the vapor pathway and (2) potential off-site migration in permeable strata that most likely underlie the site at relatively shallow depths. Therefore, ACEH considers Mr. Mohammadian as the primary RP who needs to perform the additional work at the site.

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

Sincerely,

Donna L. Drogos, P.E.

LOP Program Manager

cc: A. Levi, D. Drogos, B. Chan

Mr. Stephen Morse, SFRWQCB, 1515 Clay St., Ste. 1400, Oakland, CA 94502-6577

Ms. Marjorie Kayner, 20321 Via Espana, Salinas, CA 93908

Mr. M. Mohammadian, Cal Gas, 15595 Washington Ave., San Lorenzo, CA 94580

Mrs. Agnes Calleri, 10901 Cliffland Ave., Oakland, CA 94605

Ms. Mary S. Taylor, 100 Pringle Ave., Suite 630, Walnut Creek, CA 94596-3582

Mr. Jeffery L. Podawiltz, Glynn & Finley, LLP.

100 Pringle Ave., Ste. 500, Walnut Creek, CA 94596

Ms. Karen Streich, ChevronTexaco, P.O. Box 6012, San Ramon, CA 94583-2324

Mr. David Boyers, Esq., Office of Chief Counsel, SWRCB, 1001 | St., 22nd Floor,

P.O. Box 100, Sacramento, CA 95812-0100

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

November 3, 2003

Ms. Terry Brazell
State Water Resources Control Board
Underground Storage Tank Program
1001 I Street, Sacramento, CA 95814

ENVIRONMENTAL HEALTH SERVICES

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

Dear Ms. Brazell:

Subject:

Naming of Responsible Parties, RO0000374, Cal Gas, 15595 Washington Ave.,

San Lorenzo, CA 94580

Alameda County Environmental Health (ACEH) named the Kubo Trust, ChevronTexaco, Mr. and Mrs. Calleri, and Mr. Mohammadian responsible parties, as defined under California Code of Regulations, Title 23, Division 3, Chapter 16 (California Underground Storage Tank Regulations), Article 11, Section 2720. Section 2720 defines a responsible party (RP) four ways.

First:

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

Second:

"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."

Third:

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

Fourth

"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 identified responsible parties for this site as follows:

Mr. and Mrs. Calleri owned the property from August 1974 to June 1983. The Calleris' were the last owners and operators of the second generation USTs which remained in place at the site through 1986 and from which an unauthorized release was documented in August 1986. Thus the Calleris' meet the second definition of an RP.

ChevronTexaco owned the property from June 1983 to December 1986. The second generation of USTs remained in place at the site at this time however ChevronTexaco reportedly did not store nor dispense fuel at the site during their ownership. ChevronTexaco removed the second generation USTs in 1986. A petroleum release was confirmed in August 1986 when monitoring wells were installed and soil and groundwater contamination were detected. Thus ChevronTexaco meets the third and fourth definitions.

Mr. Bertram Kubo owned the property from December 1986 to June 1990. Mr. Kubo installed (February 1987), owned, and operated the third generation USTs at the site. Thus Mr. Kubo/Kubo Trust meets the third and fourth definitions.

Mr. Mohammadian has owned the property from June 1990 to date. Mr. Mohammadian owned and operated the third generation USTs. In 1998, a significant release(s) of MTBE to groundwater was reported indicating a new unauthorized release occurred at the site. Thus Mr. Mohammadian meets the first, third, and fourth definitions.

Therefore, the County determines that the four responsible parties identified above have been properly named.

The SWRCB issued order WQO 2002-0021, which responded to the petition of Mr. Mohammadian for review of Alameda County's Notice of Revision to Responsible Party Designation (to remove Texaco and the Calleris' from the list of responsible parties). Item 2 of the order's conclusion states, "It is not appropriate for an LOP agency to remove a person who has been properly named as a responsible party for cleanup of an unauthorized release at a site unless it finds, by a preponderance of the evidence, that constituents from that party's release, when taken in conjunction with commingled constituents from another release(s) that have similar effects on beneficial uses, do not contribute to the need for cleanup at the site." Further, Page 11 of the order states "What the County did not consider, and what must be determined by the County on remand, is whether the constituents attributable to the release that occurred during or prior to the Calleris' ownership and which persisted at the site while Texaco owned the property, taken in conjunction with the other constituents at the site having similar effects on beneficial uses, are contributing to the current need for corrective action."

ACEH staff has reviewed the historical data from the 1986 subsurface investigation for the site and has determined the following:

- Up to 220 ppb Benzene, 390 ppb Toluene, and 680 ppb Xylene were detected in water samples collected from the site.
- Water samples were not analyzed for TPHG.
- Monitoring well(s) were not installed in the area of nor immediately downgradient of where the highest groundwater contamination was detected, north of the pump islands.
- Although strong petroleum odors were noted in the boring logs of the wells and borings
 installed around the second generation USTs and the dispenser islands, no discrete soil
 samples were collected for chemical analysis. Soil samples collected were composited
 along the borehole for analysis as a single sample and were ND for total fuel
 hydrocarbons and BTX.
- Soil borings were terminated at 15' bgs regardless of whether areas of obvious contamination were observed at depth. The boring logs indicated that obvious contamination was observed at completion depth thereby leaving the vertical extent of contamination undefined. Further, boring logs from subsequent investigations at the site, also of limited depth, indicate the presence of root holes, and increasing sand and gravel content at depths below 16' bgs, indicating that a more permeable geology underlies areas where contamination was observed. To date, vertical definition of source area(s) contamination remains undefined at the site.

In considering the above data, absent the presence of the recent MTBE release, there is not sufficient information to close the fuel leak case. RPs would be asked to perform additional soil and groundwater sampling and analysis, particularly in source areas, in order for ACEH to evaluate the site. The lack of sufficient technical information regarding the 1986 investigation prevents the case from meeting current case closure standards.

ACEH has designated Mr. Mohammadian as the primary responsible party for the subject site. Data from the site indicates that an unauthorized release(s) occurred during Mr. Mohammadian's ownership and operation of the USTs. Up to 340,000 ppb MTBE was detected in groundwater samples from the site in 1998. Currently, the lateral and vertical extent of MTBE and petroleum hydrocarbon contamination remains undefined. The elevated levels of MTBE require immediate investigation and remediation of the site, by the primary RP Mr. Mohammadian.

The MTBE release(s) from the third generation UST system have commingled with the release(s) from the second generation UST system. How much of a contribution release(s) from the second generation USTs make to the site in terms of corrective action and costs is uncertain. However, source area pollution from the second generation UST system could contribute some component of cost to the current corrective actions, including remediation of the source area(s). Although we cannot apportion costs nor responsibility for corrective actions among the RPs (this is a civil matter), it appears the majority of responsibility for corrective actions at this site belongs to the primary RP, Mr. Mohammadian,

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

Sincerely,

Barney M. Clar Barney M. Chan

Hazardous Materials Specialist

C: A. Levi, D. Drogos, B. Chan

Mr. Stephen Morse, SFRWQCB, 1515 Clay St., Ste. 1400, Oakland, CA 94502-6577

Ms. Marjorie Kayner, 20321 Via Espana, Salinas, CA 93908

Mr. M. Mohammadian, Cal Gas, 15595 Washington Ave., San Lorenzo, CA 94580

Mrs. Agnes Calleri, 10901 Cliffland Ave., Oakland, CA 94605

Ms. Mary S. Taylor, 100 Pringle Ave., Suite 630, Walnut Creek, CA 94596-3582

Mr. Jeffery L. Podawiltz, Glynn & Finley, LLP,

100 Pringle Ave., Ste. 500, Walnut Creek, CA 94596

Ms. Karen Streich, ChevronTexaco, P.O. Box 6012, San Ramon, CA 94583-2324

Mr. David Boyers, Esq., Office of Chief Counsel, SWRCB, 1001 I St., 22nd Floor,

P.O. Box 100, Sacramento, CA 95812-0100



State Water Resources Control Board

Division of Water Quality

1001 I Street • Sacramento, California 95814 • (916) 341-5645 Mailing Address: P.O. Box 2231 • Sacramento, California • 95812 FAX (916) 341-5808 • Internet Address: http://www.swrcb.ca.gov



The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.

For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrcb.ca.gov.

OCT 27 2003

Ms. Mary S. Taylor Law Office of Mary S. Taylor 77 Solano Square #330 Benicia, CA 94510-0633 Alameda County

OCT 3 1 2003

Environmental Health

Dear Ms. Taylor:

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST FOR COMMENTS ON PETITION

This will acknowledge receipt of your October 4, 2003 petition, submitted on behalf of Mrs. Jessen A. Calleri. You have asked that the State Water Resources Control Board (SWRCB) review Alameda County Health Care Services Agency's decision to name Agnes Calleri as a secondary responsible party.

By copy of this letter, I am requesting responses to the petition from the following: Alameda County Health Care Services Agency, San Francisco Bay Regional Water Quality Control Board, Ms. Marjorie Kanyer, Mr. Mehdi Mohammadian, Mr. Ernest J. Panosian, and Mr. Jeffrey L. Podawiltz, and Ms. Karen Streich. In accordance with State Board Resolution No. 88-23, responses shall be submitted to the SWRCB within 20 days from the date of this letter. A copy of the responses shall also be provided to the Petitioner and to the Alameda County Health Care Services Agency. The SWRCB will make arrangements for copy of the site file.

If you have any questions, please contact me at (916) 341-5645 or via email at brazellt@swrcb.ca.gov.

Sincerely,

Terry Brazell

Underground Storage Tank Program

cc:

Ariu Levi

Alameda County Environmental Health Services

1131 Harbor Bay Parkway, Suite 250

Guzill

Alameda, CA 94502-6577

California Environmental Protection Agency



Ms. Mary S. Taylor

- 2 -

cc: Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

> Ms. Karen Streich ChevronTexaco 6001 Bollinger Canyon Road PO Box 6012 San Ramon, CA 94583-2324

Salinas, CA 93908-1261

Ms. Marjorie Kayner Bertram Kubo Trust 20321 Via Espana

Mr. David Boyers
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State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814

Mr. Barney Chan Alameda County Health Services Agency Environmental health Service, Environmental Protection 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

Mr. Stephen Morse San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94502-6577

Mr. Jeffery L. Podawiltz Glynn & Finley, LLP 100 Pringle Avenue, Suite 500 Walnut Creek, CA 94596



State Water Resources Control Board

Bivision of Water Quality

1001 I Street • Sacramento, California 95814 • (916) 341-5645 Mailing Address: P.O. Box 2231 • Sacramento, California • 95812 FAX (916) 341-5808 • Internet Address: http://www.swrcb.ca.gov



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OCT 27 2003

Alameda County

OCT 3 0 2003

Environmental Health

Mr. Jeffery L. Podawiltz Glynn & Finley, LLP 100 Pringle Avenue, Suite 500

Walnut Creek, CA 94596

Dear Mr. Podawiltz:

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST FOR COMMENTS ON AUGUST 6, 2003 PETITION AND OCTOBER 3, 2003 SUPPLEMENTAL PETITION

This will acknowledge receipt of your October 3, 2003 supplemental petition delivered via courier. On August 6, 2003, you submitted a petition to review Alameda County's decision to name ChevronTexaco and Agnes Calleri as secondary responsible parties. At the same time, you asked that the State Water Resources Control Board (SWRCB) hold this petition in abeyance for sixty (60) days, pending further discussions with Alameda County. Your October 3, 2003 supplemental petition requests that the SWRCB review Alameda County's decision.

By copy of this letter, I am requesting responses to the petition from the following: Alameda County Health Care Services Agency, San Francisco Bay Regional Water Quality Control Board, Ms. Marjorie Kanyer, Mr. Mehdi Mohammadian, Mr. Ernest J. Panosian, Ms. Karen Streich, and Ms. Mary Taylor. In accordance with State Board Resolution No. 88-23, responses shall be submitted to the SWRCB within 20 days from the date of this letter. A copy of the responses shall also be provided to the Petitioner and to the Alameda County Health Care Services Agency. The SWRCB will make arrangements for copy of the site file.

If you have any questions, please contact me at (916) 341-5645 or via email at <u>brazellt@swrcb.ca.gov</u>.

Sincerely,

Terry Brazell

Underground Storage Tank Program

Ding Brayll

cc: See next page

California Environmental Protection Agency



- 2 -

cc:

Mr. Ariu Levi

Alameda County Environmental Health Services

1131 Harbor Bay Parkway, Suite 250

Alameda, CA 94502-6577

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Ms. Karen Streich ChevronTexaco 6001 Bollinger Canyon Road PO Box 6012 San Ramon, CA 94583-2324

Ms. Marjorie Kayner Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261

Mr. David Boyers
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor
Sacramento, CA 95814

Mr. Barney Chan Alameda County Health Services Agency Environmental health Service, Environmental Protection 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

Mr. Stephen Morse San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94502-6577

Ms. Mary Taylor, Esq. Attorney for Agnes Calleri 100 Pringle Avenue, Suite 630 Walnut Creek, CA 94596





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If you have any questions, please contact me at (916) 341-5645 or via email at brazellt@swrcb.ca.gov.

Sincerely,

Terry Brazell

Underground Storage Tank Program

Dung Brazell

cc: See next page

- 2 -

cc: Mr. Ariu Levi

Alameda County Environmental Health Services 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Ms. Karen Streich ChevronTexaco 6001 Bollinger Canyon Road PO Box 6012 San Ramon, CA 94583-2324

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Mr. Stephen Morse San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94502-6577

Ms. Mary Taylor, Esq. Attorney for Agnes Calleri 100 Pringle Avenue, Suite 630 Walnut Creek, CA 94596

From: Sent:

Terry Brazell [brazellt@cwp.swrcb.ca.gov] Wednesday, October 22, 2003 8:49 AM

To:

BChan@co.alameda.ca.us

Cc:

ddrogos@co.alameda.ca.us; David Boyers

Subject:

Re: County Response to Ms. M. Kanyer petition, 15595 Washington Ave., San Lorenzo, CA

Mr. Chan,

This email is to confirm that Alameda County Environmental Health's request for an extension until November 3, 2003 to submit comments on the Kanyer petition is approved.

Terry L. Brazell, Chief Underground Storage Tank Regulatory Unit Division of Water Quality State Water Resources Control Board (916) 341-5645 brazellt@.swrcb.ca.gov

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>>> "Chan, Barney, Env. Health" <BChan@co.alameda.ca.us> 10/21/03
05:13PM >>>
Ms. Brazell:
Alameda County Environmental Health requests an extension to November
3,
2003 for their response to the petition by Ms. M. Kanyer. This
pertains to
the naming of the Bertram Kubo Trs as a RP for the fuel release at
15595
Washington Ave., San Lorenzo. The County is working on a specific
letter
which will appropriately respond to this and the anticipated other
petitions
of ChevronTexaco and the Calleris. Please confirm this extension is
acceptable.

Thank you

Barney M. Chan Hazardous Materials Specialist Alameda County Environmental Health 510-567-6765

From: Sent: Terry Brazell [brazellt@cwp.swrcb.ca.gov] Tuesday, October 14, 2003 11:44 AM

To:

BChan@co.alameda.ca.us

10:

David Boyers

Cc: Subject:

RE: Petition for Cal Gas, RO0000374, 15595 Washington Ave., San Lorenzo

Mr. Chan,

Yes, we'll be sending you letters requesting responses to the other petitions received for this site.

Terry Brazell

>>> "Chan, Barney, Env. Health" <BChan@co.alameda.ca.us> 10/14/03 11:08AM >>>

Ms. Brazell,

Thank you for the information. I have another question, if I may. Will the

SWRCB be sending additional letters cc to the County requesting a response

to the petitions from Ms. Calleri and ChevronTexaco? We have only received

your October 2, 2003 letter sent to Ms. Marjorie Kanyer.

Thank you Barney Chan

Alameda County Environmental Health

----Original Message----

From: Terry Brazell [mailto:brazellt@cwp.swrcb.ca.gov]

Sent: Friday, October 10, 2003 11:18 AM

To: BChan@co.alameda.ca.us

Cc: Deanna Flanagin; David Boyers

Subject: Re: Petition for Cal Gas, R00000374, 15595 Washington Ave.,

San Lorenzo

Mr. Chan,

Alameda County will have to respond to each petition filed by a named RP for this site.

Also, we will need the County file compiled since the last copying event. I will let you know the date of our last material received from

the County. I'll also check into whether we will be using a copy service and get back to you on that.

Terry L. Brazell, Chief Underground Storage Tank Regulatory Unit Division of Water Quality State Water Resources Control Board (916) 341-5645 brazellt@.swrcb.ca.gov

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>>> "Chan, Barney, Env. Heal " Schan@co.alameda.ca.us> 10/05/03 04:08PM >>>
Dear Ms. Brazell:

I wanted to ask you to clarify Alameda County's obligation to respond to the

petition from Ms. Kanyer. Will our response be required for each of the

other named RPs petitions? How should we make ready the County files for

copying? The entire file or that which has been received since the last

copying event. Is a copying service being used?

Thank you. Sincerely,

Barney M. Chan Hazardous Materials Specialist Alameda County Environmental Health 510-567-6765

From:

Terry Brazell [brazellt@cwp.swrcb.ca.gov] Tuesday, October 14, 2003 1:20 PM

Sent:

To:

BChan@co.alameda.ca.us

Cc:

Deanna Flanagin

Subject:

Copying File- Petition for Cal Gas, RO0000374, 15595 Washington Ave., San Lorenzo

Mr. Chan,

We'll arrange for a copy service to copy the file following the SWRCB's order of 11/19/02. Deanna Flanagin of our office will contact you.

Terry Brazell

From:

Terry Brazell [brazellt@cwp.swrcb.ca.gov]

Sent:

Friday, October 10, 2003 11:18 AM

To:

BChan@co.alameda.ca.us Deanna Flanagin; David Boyers

Cc: Subject:

Re: Petition for Cal Gas, RO0000374, 15595 Washington Ave., San Lorenzo

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>>> "Chan, Barney, Env. Health" <BChan@co.alameda.ca.us> 10/09/03 04:08PM >>>

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Cc: Subject:

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Thank you. Sincerely,

Barney M. Chan Hazardous Materials Specialist Alameda County Environmental Health 510-567-6765

Ms M. Kanyer / Kubo Trust

2) Ms. Calleri / Mary Taylor Esq

3) Chevron Texaw-Kaven Streedi / Jeffney Podawiltz

Esp

M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA. 94580 10/3/2003

Ariu Levi Chief Contract Project Director Alameda County Health Services Agency 1131 Harbor Bay Parkway, Suite 250 Alameda, CA. 94502-6577

Re: 15595 Washington Ave, San Lorenzo.

Dear Mr. Levi:

This is to inform you that at our meting of July 15, 2003 you and Ms. Donna Drogos promised to inform me with in few days of what we should do in order to be able to activate the file which has been approved for more than twenty months ago by super found, and already the delay has caused me damages. Please let me know the cause of this delay.

Waiting to hear from you soon.

Yours truly,

Mehdi Mohammadian

M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA. 94580 10/3/2003

Ariu Levi Chief Contract Project Director Alameda County Health Services Agency 1131 Harbor Bay Parkway, Suite 250 Alameda, CA. 94502-6577

Re: Response to Petition of Chevron Texaco Corp

Dear Mr. Levi:

This is to let you know that I do have the name of person, which was the employee of Texaco Gas station at this location during 1982-1983, which Texaco has denied to do any business at this site. Please let me know if you need those in formations.

Waiting to hear from you soon.

Yours truly,

Heldi Hohammadias

Mehdi Mohammadian

CC, Ms. Jennifer Jordan, SWRCB State Water Resources Control Board P.O.Box 944212 Sacramento, CA. 94612

CC, Jeffery L. Podawiltz
GLYNN & FINLEY, LLP
One Walnut Creek Center
100 Pringle Avenue, suite 500
Walnut Creek, CA. 94596

CC, Agnes Calleri 10901 Clifford Ave Oakland CA. 94605

CC, Marjorie Kayner
Bertram Kubo Trust
20321 Via Espana
Salinas, CA. 93908-1261



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Division of Water Quality

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0CT - 2 2003

Ms. Marjorie Kanyer 20321 Via Espana Salinas, CA 93908

Dear Ms Kanyer:

Alameda County

OCT 0 5 2003

Environmental Health

O# 28

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST FOR RESPONSES TO PETITION

This will acknowledge receipt of your petition, dated September 20, 2003, in which you request that the State Water Resources Control Board (SWRCB) remove the Bertram Kubo Trust as a responsible party for investigation and cleanup of the gasoline station property located at 15595 Washington Avenue, San Lorenzo. You will be notified of further action taken by the SWRCB regarding this matter.

You sent a copy of your petition to Alameda County and the Regional Board. The other interested parties will receive a copy of your petition with their copy of this letter.

By copy of this letter, I am requesting responses to the petition from the following: Alameda County Environmental Health Care Services Agency, San Francisco Bay Regional Water Quality Control Board, Ms. Mary S. Taylor, Mr. Mehdi Mohammadian, Ms. Karen Streich, and Mr. Jeffrey L. Polawiltz. In accordance with State Board Resolution No. 88-23, responses shall be submitted to the SWRCB within 20 days from the date of this letter. A copy of the responses shall also be provided to the Petitioner and to the Alameda County Environmental Health Care Services Agency. The SWRCB will make arrangements for copy of the site file.

Please contact me at (916) 341-5645 or <u>brazellt@swrcb.ca.gov</u> if you have any questions or wish to discuss this matter.

Sincerely,

Jeny Brazell
Terry Brazell

Underground Storage Tank Program

Enclosure

cc: See page two

California Environmental Protection Agency



cc: Continued from previous page

Mr. Ariu Levy/Mr. Barney Chan Alameda County Environmental Health Care Services Agency 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

Ms. Mary S. Taylor (w/ enclosure) 100 Pringle Avenue, Suite 630 Walnut Creek, CA 94596-3582

Mr. Mehdi Mohammadian (w/ enclosure) Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Ms. Karen Streich (w/ enclosure) ChevronTexaco PO Box 6012 San Ramon, CA 94583-2324

Mr. Jeffrey L. Podawiltz (w/ enclosure) One Walnut Creek Center 100 Pringle Avenue, Suite 500 Walnut Creek, CA 94596

Mr. Stephen Morse San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1500 Oakland, CA 94502

Mr. David Boyers Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor Sacramento, CA 95814



State Water Resources Control Board

Division of Water Quality

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Alameda County

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OCT 0 0 2003

Ms. Marjorie Kanyer 20321 Via Espana Salinas, CA 93908

Environmental Health

have records up to

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Sincerely,

Terry Brazell

Underground Storage Tank Program

eng Grazell

Enclosure

cc: See page two

California Environmental Protection Agency



cc: Continued from previous page

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State Water Resources Contra Board

Division of Water Quality

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Winston H. Hickox Secretary for Environmental Protection

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AUG 1 1 2003

Alameda County

AUG 1 4 2003

Mr. Jeffery L. Podawiltz Glynn & Finley, LLP 100 Pringle Avenue, Suite 500 Walnut Creek, CA 94596

Environmental Health

Dear Mr. Podawiltz:

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST TO HOLD PETITION IN ABEYANCE

This will acknowledge receipt of your August 6, 2003 letter delivered via courier. You submitted a petition to review Alameda County's decision to name ChevronTexaco and Agnes Calleri as secondary responsible parties. At the same time, you asked that the State Water Resources Control Board (SWRCB) hold this petition in abeyance for sixty (60) days, pending further discussions with Alameda County. Your request is granted. We will hold the matter in abeyance until October 4, 2003. If, by that time, no resolution of the matter has taken place, ChevronTexaco must request activation of the petition.

If you have any questions, please contact me at (916) 341-5645 or via email at brazellt@swrcb.ca.gov.

Sincerely,

Underground Storage Tank Program

Drazell

see next page cc:

cc: Mr. Ariu Levi

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

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Ms. Karen Streich ChevronTexaco 6001 Bollinger Canyon Road P.O. Box 6012 San Ramon, CA 94583-2324

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Mr. Jeffrey Widman, Esq. Attorney for Mehdi Mohammadian 101 Race Street San Jose, CA 95126

Ms. Mary Taylor, Esq. Attorney for Agnes Calleri 100 Pringle Avenue, Suite 630 Walnut Creek, CA 94596 Mr. Stephen Morse San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94502-6577



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AUG - 8 2003

Alameda County

AUG 2 0 2003

Ms. Marjorie Kanyer 20321 Via Espana Salinas, CA 93908-1261

Environmental Health

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UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER ROCCO374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST FOR EXTENSION TO FILE RESPONSE

This will acknowledge receipt of your August 7, 2003 faxed letter. You asked for an additional 30 days, in addition to the 30 days that I granted on August 1, 2003 to respond to the Notice of Responsibility that Alameda County sent to you. This response should take the form of a petition of Alameda County's decision to name the Bertram Kubo Trust as a responsible party. Your request is granted. The petition must be submitted by October 4, 2003 and must contain all of the information outlined in the petition procedures. If a complete petition is not received by that date, the petition will be dismissed without prejudice.

You also asked that I acknowledge receipt of the following correspondence, which you faxed on August 7, 2003: August 18, 1999 letter from Lori Casias to you; April 4, 2002 letter from David Boyers to interested persons; and April 8, 2002 letter from you to David Boyers. I did receive these three documents.

Please note the significance of the phrase "without prejudice." If, after the petition is dismissed, an actual dispute arises between you and Alameda County over the interpretation or enforcement of the underlying order, you may file a new petition with the State Water Resources Control 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.

If you have any questions, please contact me at (916) 341-5645 or via email at brazellt@swrcb.ca.gov.

Sincerely,

Derry Brazell
Terry Brazell

Underground Storage Tank Program

California Environmental Protection Agency



cc: Mr. Ariu Levi
Alameda County Environmental
Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
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AUG - 8 2003

Alameda County

AUG 13 2003

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Environmental Health

Dear Ms. Taylor:

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST FOR EXTENSION TO FILE PETITION

This will acknowledge receipt of your August 4, 2003 faxed letter, submitted on behalf of Mrs. Jessen A. Calleri. You have asked for an additional 60 days in which to file a petition. Your request is granted. The petition must be submitted by October 4, 2003 and must contain all of the information outlined in the enclosed petition procedures. If a complete petition is not received by that date, 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 Alameda County over the interpretation or enforcement of the underlying order, you may file a new petition with the State Water Resources Control 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.

If you have any questions, please contact me at (916) 341-5645 or via email at brazellt@swrcb.ca.gov.

Sincerely,

Terry Brazell

Underground Storage Tank Program

Jeny Brazell

Enclosure

cc: see next page

California Environmental Protection Agency



cc: Ariu Levi

Alameda County Environmental Health Services 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

Mr. Mahdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Ms. Karen Streich ChevronTexaco P.O. Box 6012 San Ramon, CA 94583-2324

Ms. Marjorie Kayner Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261



State Water Resources Control Board

Division of Water Quality

1001 I Street • Sacramento, California 95814 • (916) 341-5645 Mailing Address: P.O. Box 2231 • Sacramento, California • 95812 FAX (916) 341-5808 • Internet Address: http://www.swrcb.ca.gov



The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrcb.ca.gov.

AUG - 8 2003

Ms. Marjorie Kanyer 20321 Via Espana Salinas, CA 93908-1261

Dear Ms. Kanyer:

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: REQUEST FOR EXTENSION TO FILE RESPONSE

This will acknowledge receipt of your August 7, 2003 faxed letter. You asked for an additional 30 days, in addition to the 30 days that I granted on August 1, 2003 to respond to the Notice of Responsibility that Alameda County sent to you. This response should take the form of a petition of Alameda County's decision to name the Bertram Kubo Trust as a responsible party. Your request is granted. The petition must be submitted by October 4, 2003 and must contain all of the information outlined in the petition procedures. If a complete petition is not received by that date, the petition will be dismissed without prejudice.

You also asked that I acknowledge receipt of the following correspondence, which you faxed on August 7, 2003: August 18, 1999 letter from Lori Casias to you; April 4, 2002 letter from David Boyers to interested persons; and April 8, 2002 letter from you to David Boyers. I did receive these three documents.

Please note the significance of the phrase "without prejudice." If, after the petition is dismissed, an actual dispute arises between you and Alameda County over the interpretation or enforcement of the underlying order, you may file a new petition with the State Water Resources Control 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.

If you have any questions, please contact me at (916) 341-5645 or via email at <u>brazellt@swrcb.ca.gov</u>.

Sincerely,

Lerry Brazell Terry Brazell

Underground Storage Tank Program

California Environmental Protection Agency



Alameda County Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Ms. Mary S. Taylor 100 Pringle Avenue, Suite 630 Walnut Creek, CA 94596-3582

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Ms. Karen Streich ChevronTexaco P.O. Box 6012 San Ramon, CA 94583-2324

Mr. David Boyers Office of Chief Counsel State Water Resources Control Board 1001 I Street, 22nd Floor Sacramento, CA 95814

M. Mohammadian Cal Gas 15595 Washington Ave. San Lorenzo CA. 94580 Date: 8/7/03

Via Fax # (510) 337-9335 too

Ms. Donna Drogos Alameda County Health Care Services 1131 Harbor Bay Parkway Alameda CA. 94502-6577 **Alameda County**

AUG 1 1 2003

Environmental Health

Dear Ms. Drogos:

This is to inform you that I have not received any letter from you in regard to the SWRCB till to date despite of your promise at our meeting July 15, 2003. As I have informed you this matter already has been delayed for years, and it has caused me damages, I will appreciate it if you expedite this matter as soon as possible. Thank you.

Waiting to hear from you soon.

H. Hohammadian

Yours truly,

Mehdi Mohammadian

GLYNN & FINLEY, LLP

ONE WALNUT CREEK CENTER SHITE SOO 100 PRINGLE AVENUE WALNUT CREEK, CALIFORNIA 94596

TELEPHONE: (925) 210-2800

FACSIMILE: (925) 945-1975

WRITER'S DIRECT DIAL NUMBER

Alameda County

AUG 0 7 2003

(925) 210-2809

email: ipodawiltz@glynnfinley.com

Environmental Health

August 5, 2003

UST: Current Shell Station at 15595 Washington Ave, San Lorenzo

VIA FACSIMILE & U.S. MAIL

Mr. Ariu Levi Chief Project Director Alameda County Environmental Health Services **Environmental Protection** 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

Dear Mr. Levi:

We represent ChevronTexaco Corp. ("ChevronTexaco") in the abovereferenced matter.

Pursuant to State Water Resources Control Board Resolution No. 88-23, we request that Alameda County Environmental Health Services (the "Agency") prepare the Agency's record concerning the above referenced site and the Agency's letter dated July 7, 2003 re-designating ChevronTexaco and Agnes Calleri as secondary responsible parties for the investigation and remediation activities at 15595 Washington Avenue, San Lorenzo. This request is made because ChevronTexaco Corp. will soon file a petition for review by the State Water Resources Control Board of the Agency's July 7, 2003 decision.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to call.

Jeffery L. Podawiltz

All interested parties (by mail only)

GLYNN & FINLEY, LLP

ONE WALNUT CREEK CENTER 100 PRINGLE AVENUE, SUITE 500 WALNUT CREEK, CALIFORNIA 94596 TELEPHONE (925) 210-2800 FACS(MILE (925) 945-1975

4	4	

To:

Mr. Ariu Levi, Chief Project Director

Company:

Alameda County Environmental Health Services,

Environmental Protection

Fax:

(510) 337-9335

Telephone:

(510) 567-6700

Pages (including cover sheet):

2

From:

Jeffery L. Podawiltz, Esq.

Date:

August 5, 2003

If you do not receive the correct number of pages, please call Gina Bentley as soon as possible, at (925) 210-2814.

Re: UST: Current Shell Station at 15595 Washington Ave., San Lorenzo

Comments:

Please see attached.

WARNING:

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

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

August 4, 2003

Ms. Majorie Kayner Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261 **ENVIRONMENTAL HEALTH SERVICES**

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

Dear Ms. Kayner:

Subject: Naming of Responsible Party, RO0000374, Cal Gas, 15595 Washington Ave., San Lorenzo, CA 94580

Alameda County Environmental Health, Local Oversight Program (LOP) has named the Bertram Kubo Trust a "Responsible Party," as defined under California Code of Regulations, Title 23, Division 3, Chapter 16 (California Underground Storage Tank Regulations), Article 11, Section 2720. Section 2720 defines a responsible party 4 ways.

First:

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

Second:

"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."

Third:

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

Fourth:

"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."

It appears that the Bertram Kubo Trust meets the third and fourth definitions of a responsible party. As noted in the Notice of Responsibility, should you disagree with this action, you may file a petition to the State Water Resources Control Board.

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

Sincerely,

Barney M. Chan

Hazardous Materials Specialist

Sarrey as Chan

August 4, 2003 RO0000374 Ms. Majorie Kayner Bertram Kubo Trust Cal Gas, 15595 Washington Ave., San Lorenzo, CA 94580 Page 2

C. B. Chan, D. Drogos
Mr. M. Mohammadian, Cal Gas, 15595 Washington Ave., San Lorenzo, CA 94580
Mrs. Agnes Calleri, 10901 Cliffland Ave., Oakland, CA 94605
Ms. Karen Streich, ChevronTexaco, P.O. Box 6012, San Ramon, CA 94583-2324
Mr. David Boyers, Esq., Office of Chief Counsel, SWRCB, 1001 I St., 22nd Floor, P.O. Box 100, Sacramento, CA 95812-0100

RP15595WashingtonAve



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410-337 6235

State of California
Department of Water Resources
Central District
3251 S Street
Sacramento, CA 95816-7017

WELL DRILLER'S REPORTS INSPECTION REQUEST AND AGREEMENT

Project:	21-1285	,				
*	155 95	MOTONHIZACN	AVENAE	SAN LORENZO		
•	ALAMEDA		Contract Number:	(510) 420-3352		

Request is made pursuant to Section 13751 of the California Water Code for permission to inspect or copy Water Well Driller's Reports which are on file in your office.

In accordance with the requirements of Section 13752 of the Water Code, it is stipulated and agreed that such reports, or any copy or copies made thereof, will not be made available for inspection by the public but will be used solely by this governmental agency for making studies. If copies are made or taken, each copy will be stamped "CONFIDENTIAL" or "FOR OFFICIAL USE ONLY" and will be kept in a restricted file, access to which is limited to the staff of this governmental agency or to its contracted agents. Any copies furnished to contracted agents must be returned to the Department of Water Resources, Central District upon completion of work by the contracted agent.

No information contained in these reports can be disseminated or published without the written permission of the owner of the well.

CAMBRIA ENVIRONMENTAL	Alameda County Env. Health
Contracted Agent	1131 Harbor Bay Parkway
5900 Hollis Ave, Suite A. Address	Address
EMERYVILLE , CA, 94608	Hameda A 94502



Winston H. Hickox Secretary for Environmental Protection

State Water Resources Control Board

Division of Water Quality

1001 I Street • Sacramento, California 95814 • (916) 341-5645 Mailing Address: P.O. Box 2231 • Sacramento, California • 95812 FAX (916) 341-5808 • Internet Address: http://www.swrch.ca.gov



The energy challenge facing California is real. Every Colifornian needs to take immediate action to reduce energy consumption.

For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrcb.cu.gov.

CAY AVIN

August 1, 2003

Ms. Marjoric Kanyer 20321 Via Espana Salinas, CA 93908-1261

Dear Ms. Kanyer:

UNDERGROUND STORAGE TANK PROGRAM, LOCAL OVERSIGHT PROGRAM (LOP), SITE NUMBER RO000374, CAL GAS, 15595 WASHINGTON AVENUE, SAN LORENZO, CALIFORNIA, ALAMEDA COUNTY: RESPONSE TO NOTICE OF RESPONSIBILITY

This will acknowledge receipt of the following materials, which you faxed to me today, July 31, 2003: Notice of Responsibility from Alameda County, dated July 7, 2003; attorncy's certification of termination of Trust; letter to the Mohammadians advising of termination of Trust; and final Federal and State tax returns for the Trust.

As we discussed in our July 31, 2003 telephone conversation, I am granting you a 30-day extension to respond to the Notice of Responsibility. You have requested that Alameda County remove the Bertram Kubo Trust as a Responsible Party for the subject site. In support of this request, please forward records that show the assets of the trust and how they were distributed, and any other pertinent information for our review.

Please contact me at (916) 341-5645 or <u>brazellt@swrcb.ca.gov</u> if you have any questions or wish to discuss this matter.

Sincerely,

Terry Brazell

Underground Storage Tank Program

Jeny Brezell

cc:

Mr. Ariu Levi

Alameda County Environmental Health Services

1131 Harbor Bay Parkway, Suite 250

Alameda, CA 94502-6577



Winston H. Hickox Secretary for Environmental Protection

State Water Resources Control Board

Division of Water Quality

1001 I Street - Sacramento, California 95814 - (916) 341-5645 Mailing Address: P.O. Box 2231 - Sacramento, California - 95812 FAX (916) 341-5808 - Internet Address: http://www.swrch.ca.gov



The energy challenge facing California is real. Every Colifornian needs to take immediate action to reduce energy consumption.

For a list of simple ways you can reduce demand and cut your energy costs, see our website at http://www.swrch.ca.gov.

August 1, 2003

Ms. Marjoric Kanyer 20321 Via Espana Salinas, CA 93908-1261

Dear Ms. Kanyer:

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Please contact me at (916) 341-5645 or <u>brazellt@swicb.ca.gov</u> if you have any questions or wish to discuss this matter.

Sincerely,

Terry Brazell

Underground Storage Tank Program

cc:

Mr. Ariu Levi

Alameda County Environmental Health Services

1131 Harbor Bay Parkway, Suite 250

Alameda, CA 94502-6577

R0314

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_			-		•	, ,

To: Borney Chan

Company: Alameda County Health Core Services

Fax: (510) 337-9335

Phone: (510) 567- 6765

From: IAN ROGE

Phone: (510) 420-3352

Pages: /+ cover

Date: 7/23/03

Re: DWR Well Survey -

Hard Copy to Follow? Yes ☐ No ☐

Mr. Chan,

Fax

Attached is a partially completed DWR request. Thank

you and Feel Free to call with any questions or

concerns.

Sincerely,

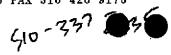
I AN Robb

Staff Geologist

Cambria Environmental Technology, Inc.

This fax transmittal is intended solely for use by the person or entity identified above. Any copying or distribution of this document by anyone other than the intended recipient is strictly prohibited. If you are not the intended recipient, please telephone us immediately and return the original transmittal to us at the address listed below.

Cambria Environmental Technology, Inc., 5900 Hollis Street, Suite A. Emveryville, CA 94608 Tel (510) 420-0700 Fak (510) 420-9170



(For Departmental Information: _____ copies sent _

State of California
Department of Water Resources
Central District
3251 S Street
Sacramento, CA 95816-7017

WELL DRILLER'S REPORTS INSPECTION REQUEST AND AGREEMENT

Pţoject: _	21-1285	,		·				
Location:	155 95	MOT & MIHZACN	AVENAE	SAN LORENZO				
County:	ALAMEDA	<u> </u>	Contract Number:	(510) 420-3352				
Request is made pursuant to Section 13751 of the California Water Code for permission to inspect or copy Water Well Driller's Reports which are on file in your office.								
agreed the inspection studies. I OFFICIAL of this governments means agents means agents agent agents	In accordance with the requirements of Section 13752 of the Water Code, it is stipulated and agreed that such reports, or any copy or copies made thereof, will not be made available for inspection by the public but will be used solely by this governmental agency for making studies. If copies are made or taken, each copy will be stamped "CONFIDENTIAL" or "FOR OFFICIAL USE ONLY" and will be kept in a restricted file, access to which is limited to the staff of this governmental agency or to its contracted agents. Any copies furnished to contracted agents must be returned to the Department of Water Resources, Central District upon completion of work by the contracted agent.							
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	TAN ROBB		By Barne					
- 54	Title	s <i>†</i>	Hazardous M	Materials Specialist				
(510)	420-3352 Telephone		3 /	765 ephone				
	7/22/0 3 Date		7/2460	3 Date -				
								

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



July 21, 2003

PR0500951 /434

Medhi Mohammadian Owner/Operator CAL GAS 15595 Washington Boulevard San Lorenzo, California 94580 **ENVIRONMENTAL HEALTH SERVICES**

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

Re: Incomplete and inadequate response to Notice of Violation, dated April 21, 2003

Dear Mr. Mohammadian:

This office has received and reviewed your written response to the Notice of Violation (NOV), dated April 21, 2003, issued to you for violations found during the April 21, 2003 inspection of your facility. Your written response was required to be submitted to this office within 60 days of the NOV. Your letter dated June 16, 2003 was received and date stamped on July 18, 2003 in this office. The envelope shows a postmark of July 17, 2003, San Francisco. Your response is almost 30 days late. A timely response by June 21, 2003 was important so that you could address violations that left unchecked have the potential to contaminate the soil and groundwater at your station.

We have compared your explanation of the events that were responsible for the violations. However, you have not presented any factual evidence to repudiate the findings of this office. Additionally you have not presented a procedure and protocol to prevent the underground storage tanks from being overfilled in the future. You have not described in your response how you will assure that the tanks are properly managed to prevent an unauthorized release from overfilling. Receipts from deliveries kept in a binder onsite does not mean that the tanks have not been overfilled or could not be overfilled.

You have not responded to the overfill and maximum capacity alarm history with any evidence that would refute the facts that the tanks were filled beyond the legal limit of 95%. Anecdotal evidence from your observations does not change the fact that you have violated the law as detailed in the April 21, 2003 letter from this office. Scott Company representative, William McCarthy, certified the Veeder Root TLS 350 monitoring system and associated sensors on April 21, 2003. Mr. McCarthy is a factory certified Veeder Root technician. The alarm history was taken from that same monitoring system on the day of the inspection.

Additionally, you are required to certify that the tank system is in full compliance with the California Health and Safety Code and Title 23 of the California Code of Regulations. Your failure to comply with the law places your permit to operate the station in jeopardy. You are required to make a complete reply to this office regarding the NOV not later than August 4, 2003.

Please contact me at (510) 567-6781 should you have any questions about the content of this letter.

7 D. I. . . 4 331 . . 4 . . .

Senior Hazardous Materials Specialist

Cc:

Susan Hugo, Manager, ACDEH

Barry Chan, LOP, ACDEH

Susan Torrence, Deputy District Attorney, Alameda County District Attorney's Office

Leslie Alford, State Water Resources Control Board, Clean Water Program

July 18, 2003

Alameda County Health Care Services Agency Environmental Health Services Administration ATTN: Barney Chan, Hazardous Material Specialist 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577



RE: Reply to Notice of Responsibility letter dated July 7, 2003 (attached)

Dear Mr. Chan,

In August 19, 1999, the Kubo Trust was removed from the "Responsible Party" list by Alameda County. The Mohammadians did **not** file an appeal against this action within 30 days. On April 8, 2002, after receiving the attached letter dated April 4, 2002 from the State Water Resources Control Board, I spoke with attorney Mr. David Boyers in Sacramento and was advised that the Mohammadians had not filed an appeal and, if one was later filed, it would be denied pursuant to the 30-day criterion; therefore, the Kubo Trust was not a party involved in Alameda County's Notice of Revision to Responsible Party Designation. I, therefore, feel that the Kubo Trust was added to the Responsible Party list in error.

Pursuant to a telephone conversation with Scott Seery on July 16, 2003, I am submitting documents to you as proof that the Estate of the late Bertram H. Kubo has been closed. Because the Kubo Trust is a non-entity, I am requesting that the Kubo Trust be released as a Responsible Party.

Thank you for your assistance in this matter. If there are any questions, you may contact me at the phone number and address provided below.

Sincerely,

Marjorie Kanyer 20321 Via Espana Salinas, CA 93908

KAMAT

(831)455.0756

enc: Attorney's Certification

Alameda County Notice of Responsibility letter, dated July 7, 2003

Notice of Second Revision to "responsible Party" Designation dated August 19, 1999

Believe Tile Second Revision to "responsible Party" Designation dated August 19, 1999

My letter to Mr. David Boyers, Office of Chief Counsel, Sacramento in response to letter from the State Water Resources Control Board dated August 4, 2002.

Letter to the Mohammadians' RE: closure of Trust

Federal Income Tax Return, 2000 California Income Tax Return, 2000

ERIC N. HOLK

Attorney at Law

Living Trusts • Wills • Estate Planning

26346 Carmel Rancho Lane, Suite 200 Carmel, CA 93923

> (831) 622-8808 FAX: (831) 622-8802

ATTORNEY'S CERTIFICATION

I, ERIC N. HOLK, hereby declare and certify:

That I am an active member of the State Bar of California;

That the BERTRAM H. KUBO TRUST, of which BERTRAM H. KUBO was the settlor and MARJORIE KANYER was the successor trustee, was terminated and dissolved following the final distribution of all trust assets in July of 2000. Final tax returns for the trust were completed and filed for tax year 2000. Under California Probate Code §15407(a)(2), a trust is terminated when the trust purpose is fulfilled. Final distribution of trust assets and completion and filing of the final trust returns fulfilled the purpose of the BERTRAM H. KUBO TRUST; therefore, that trust now no longer exists.

I declare under penalty of perjury that the foregoing statements are true and correct. Please feel free to contact me directly if you have any questions or require further information.

Dated: July 18, 2003

Eric N. Holk, Attorney at Law

TAXABLE YE	AR
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California Fiduciary Income Tax Return

For c	alen	dar year 2000 or fi	scal year beginning month day year	2000, and ending r	nonth day year	
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	2	Dividends	*********	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		
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O M	6	Ferm income or	(loss) Attach federal Cabadula F (Farm 1010)	Tegeral Schedule E (F	orm 1040)	
E	7	Outlines and and	(loss). Attach federal Schedule F (Form 1040)		····· • 6 <u></u>	
	1	Croinary gain or	(loss). Attach Schedule D-1	• • • • • • • • • • • • • • • • • • • •	····· • 7 <u> </u>	
	8	Other Income. Si	se instructions. State nature of income		• B	· · · · · · · · · · · · · · · · · · ·
	9	Total income. Co	ombine line 1 through line 8			-3,000.
	10	Interest		10 _		
	13	Taxes ,	******************	11		
	12	Fiduciary tees		• 12		
D ·	13	Charitable deduc	ction. Enter the amount from Side 2, Schedule A,	line 7 ● 13		
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3	16	Total. Add line 10	through line 14 and line 15c	-		11,780.
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	18		on deduction from Side 2, Schedule B, line 15. At			
	20	Taxable income of	of fiduciary. Subtract line 18 from line 17		20	-14,780.
	22	Evernation credit	; b Other taxes	, C GOF Vax	, G 10tal # 21	<u> </u>
	23	Credite Attach we	(\$10.00 for an estate, \$1.00 for a trust). See instructions are code.	UCIIONS		
	2.5		n one credit, see instructions.			
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A X			um tax. Attach Schedule P (541)			
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A	28		tax withheld			·
Ď	29	California income	tax previously paid. See instructions			
.	30	2000 CA estimate	d tax, amount applied from 1999 return, and pay	ment with form FTB 35	63 == 30	
P A Y	31	Total payments. A	dd line 28, line 29, and line 30			0.
			tine 31 from line 27			
M E N T S	33	Overpaid tax. Sub	ptract line 27 from line 31			
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T	35	Amount of overpa	iid tax available this year. Subtract line 34 from lin	ne 33		
-	36	Total voluntary co	ntributions from Side 2, Schedule C, line 13		36	
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İ	37	Refund or No Arr	nount Due. Subtract line 36 from line 35		37	<u> </u>
	38		d line 32 and line 36			
Į			estimated tax. Check box: FTB 5805 attached		ached	
ı					· —	·········

ب م ا	41		ine Treasury - Internal Revenue	Estates and Trus	ts 🛕	2000	
М	•			, 2000, and end		. 20	OMB No. 1545-0092
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	•	ome fund				☐ Describe	id in section 4947(a)(1)
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F Chec		Initial return	Final return	Amended return	G Po	coled mortgage acc	count (see page 11 of the instr.):
apple	cable		duciary's name	☐ Change in fiduciary's a	address =	Bought 🗓	Sold Date:
boxe	5: 1	Interest income	Administration of the second			1	
	2	Ordinary divident	ds			2	
ı	3	Business income	or (loss) (attach Schedule	C or C-EZ (Form 1040))			
Ņ	4	Capital pain or (le	oss) (attach Schedule D (F	orm 1041))		4	-3,000
Č	5	Rents, royalties.	partnerships, other estates	& trusts, etc. (attach Schedule E	·)		
·M	6	Farm income or ((loss) (attach Schedule F (f	Form 1040))		6 .	
Ë	7	Ordinary gain (or	loss) (attach Form 4797).	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		7	
	6	Other income.	,			8	
	9	Total income. C	ombine lines 1 through & .			▶ 9	-3,000
	10	Interest, Check If	Form 4952 is attached	0			
	11	Taxes		11			
	12	Fiduciary fees				12	
₽	13	Charitable deduction (from Schedule A, line 7)					
E	14	Attorney accoun	tant, and return preparer fo	965		14	22 560
ŭ	15 a	Other deductions not subject to the 2% hoof (attach schedule)					23,560
Č	b	Allowable miscel	laneous itemized deduction	ns subject to 2% floor :		198	23,560
Ţ	16	Total. Add lines	10 through 15b			16	-26,560
6	17	Adjusted total inc	come or (loss). Subtract lin	e 16 from line 9. Enter here & on	Schedule B, line 1		-20,300
Ň	18	Income distributi	on deduction (from Sched	ule B, line 15) (attach Schedules	K-1 (Form 1041))	18	
Ŝ	19	Estate tax deduc	tate tax deduction (including certain generation-skipping taxes) (attach computation)				
	20	Exemption		*******		20	0
	21	Total deduction	s. Add lines 18 through 20	47 15 - 1 45 of the i	netructions	22	-26,560
	22	Taxable income.	Subtract line 21 from line	17. If a loss, see page 15 of the i	NSU DEGUNS	23	0
T	23	Total tax (from S	Schedule G, line 7)	s & amount applied from 1999 re	daurr	248	
Ŷ	24	Payments: a 20	XXV estimated tax payments	s a amount applied from 1999 (e	regarding a visit and a service of the service of t	24b	
A	b	Estimated tax pa	lyments allocated to benefit	ciaries (from Form 1041-T)		24c	1
N	C	Subtract line 24t	o ITOM HITE 248	☐ Form 2758 ☐ Form 8736 │	□ Form 8800	24d	
D	d	Tax paid with ex	tension of time to file:	Form(s) 1099, check ▶ ☐		246	
P	•	Federal income	tax withheld, if any is from	; g Form 4136		Total > 24h	
P A Y M E N		Other payments	Add lines 24s through 24	e, and 24h		≥ 25	
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T S	27	Overnment	t line 26 is larner than the t	total of lines 23 and 26, enter am	punt overpaid	28	
3	28	Overpayment.	Tillne 25 is larger trial title to 28 to be: a Credited to 290	1 estimated tax	, b Refunded.	▶ 29	
	29	- Amount of III & 2		· · · · · · · · · · · · · · · · · · ·			

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than fiduciary) is based on all information of which preparer has any knowledge. Sign Here EIN of fiduciary if a financial institution (see page 8 of the instrs.) Signature of fiduciary or officer representing fiduciary Preparer's 55N or PTIN Date Check if selfemployed 🕨 🛭 P00124392

Paid Preparer's Use Only

CARL MIDDIONE, E.A. Western Accounting & Tax Svcs. 1568 Washington Blvd. yours if self-employed), address, and ZIP code

Fremont, CA 94539

EIN ▶ 94-3146492

Phone no. (510) 623-9048

Form 1041 (2000)



M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA. 94580 Date: 7/9/2003

Via Fax # (510) 337-9335 Too

Ms. Donna Drogos Alameda County Health Care Services 1131 Harbor Bay Parkway Alameda CA. 94502-6577

Alameda County

JUL 1 1 2003

Environmental Health

Dear Ms. Drogos:

I have received your letter dated July 2, 2003; I am surprised at the statements that you have made. Maybe you were speaking to somebody from your staff, but it was not I.

It seems that you have forgotten that I had just asked for an appointment with you to let you know of the wrong doing, illegal and discriminatory perjuries of your employees, which has caused me damages. I do have the evidence to prove their illegal actions. The only reason I wanted to discuses this with you prior to going to the public, the District attorney, and the Court, was that I felt a responsibility to let your agency learn directly from a tax payer the problems your agency has caused to a small business and tax payer.

Furthermore in regard to the SWRCB, I have to inform you that they have approved my case more than a year ago. Also, few months ago Ms. Shari Knieriem from Claim Review Unit informed me that my case had been completed, but that they are waiting for a response from your agency. Unfortunately, your agency has been stalling on this matter, and as a result causing more damages.

Let me again repeat my request that:

At this time, I will once again ask for an appointment with you and your supervisor, in order to discuss the wrong doing of your employees before I take legal action against your agency. Believe me when I say that I do have evidence, and that I will show some of them to you at that meeting.

Waiting to hear from you soon.

M. Mohammadian

Yours truly,

M. Mohammadian

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY





ENVIRONMENTAL HEALTH SERVICES

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

July 2, 2003

Mr. Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Subject:

Fuel Leak Case No. RO0000374, Cal Gas, 15595 Washington Avenue, San Lorenzo,

ÇA

Dear Mr. Mohammadian:

Thank you for your letter dated June 6, 2003. We did discuss by telephone your above referenced fuel leak site on December 17, 2003. You discussed non-technical concerns you had regarding the oversight Alameda County Environmental Health (ACEH) has provided for your case which were specific to your petition before the State Water Resources Control Board (SWRCB). Additionally, you had a specific allegation concerning ACEH staff. We also discussed the contamination present at your site, including the high levels of the gasoline oxygenate MTBE, and the need for investigation and cleanup of contamination at your site.

As we discussed, the petition process before the SWRCB provides responsible parties for fuel leak sites a process by which actions of the regulatory agency on a case can be reviewed. A decision by the SWRCB on a petition is binding upon all parties. A decision on your case was rendered by the SWRCB on November 19, 2002. During our phone conversation I explained to you that I would not be addressing issues that were part of your petition as a decision had already been rendered on your petition by the SWRCB. Your fax of December 17, 2002, contained documents you submitted to the SWRCB regarding the petition and as such is covered under the SWRCB's decision. Regarding your allegation against ACEH staff, upon further discussion during our conversation you were unable to substantiate your allegation with specific evidence and retracted the allegation as being merely a figure of speech.

Since our conversation, ACEH's fuel leak caseload has been redistributed among the staff and Mr. Barney Chan has been assigned to your case. At this time I am reviewing the technical reports for your site and the petition order as it pertains to responsible party identification issued by the SWRCB with your caseworker. When we have completed our review we will contact you discuss the site.

If you have any questions please me at (510) 567-6721.

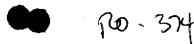
Sincerely,

Donna L. Drogos, P.E.

LOP Program Manager

cc: A. Levi, T. Wiggins, B. Chan, D. Drogos

Company 6001 Bollinger Canyon Rd, L4050 P.O. Box 6012 San Ramon, CA 94583-2324 Tel 925-842-1589 Fax 925-842-8370



ChevronTexaco

June 17, 2003

Ms. Eva Chu Alameda County Health Care Services 1131 Harbor Bay Parkway Alameda, CA 94502-6577

Subject:

Former Texaco Station 211285

15595 Washington Ave, San Lorenzo

Dear Eva,

Attached is a technical evaluation of potential contamination related to site operations prior to Texaco selling the referenced property. As described in records previously submitted to the County, Texaco owned the property for three years but did not operate a service station at this location.

We are requesting that Alameda County Health Care Services (the County):

- 1. Reconsider the site as two separate release cases: one for the release(s) prior to Texaco selling the site in 1986 and the other for the release(s) after Texaco sold the site.
- 2. Review the attached information and close the environmental case related to the release(s) that occurred prior to Texaco selling the site in 1986.

We also request that, as part of closing the early release case, Texaco be de-designated as a Responsible Party for the more recent release that involves MTBE, which was not used in Northern California until after Texaco divested the property.

I agree with the conclusions and recommendations presented in the attached report. The information in this report is accurate to the best of my knowledge and all local Agency/Regional Board guidelines have been followed. This report was prepared by Cambria Environmental Technology, Inc. upon whose assistance and advice I have relied. This paragraph is included in this letter pursuant to the requirements of California Water Code Section 13267(b)(1) and the regulating implementation entitled Appendix A pertaining thereto. I declare under penalty of perjury that the foregoing is true and correct.

June 17, 2003 Page 2

We would be glad to meet with you to discuss this site or provide any additional information you require to review this request. If you have any questions or there is any way we can help you with this review, please call me at 925-842-1589.

Sincerely,
Loven Start,

Karen Streich

Project Manager

Copy to:

Scott MacLeod, Cambria Environmental, 5900 Hollis St, Suite A, Emeryville, CA 94608 Jon Robbins, ChevronTexaco Legal Department

M. Mohammadian Cal Gas 15595 Washington Ave, San Lorenzo CA. 94580 Date: 6/5/03

Ms. Donna Drogos Alameda County Health Care Services 1131 Harbor Bay Parkway Alameda Ca. 94502-6577

Alameda County
JUN 17 2000

Dear Ms. Drogos:

Environmental Health

On the afternoon of December 4, 2002, I came to your office in hopes of being able to discus with you the wrong doings of the employees of your office. Unfortunately, you did not have time to speak with me. Then, after I called your office several times and asked for an appointment, I was eventually able to speak with you in Mid. December. You insisted that you needed more information before our meeting. So, we agreed that I would fax you both my declaration from November 6, 2002 and my statement dated on November 11, 2002 to the State Water Resources Control Board. I faxed these two documents to you on December 17, 2002, in hopes that you would review them and set an appointment for us. Unfortunately, it seems that I have been ignored.

At this time, I will once again ask for another appointment with you and your supervisor, in order to discuss the wrong doings of your employees before I formally file my complaint.

If I do not hear from you within two weeks, I will consider that your office is not interested in hearing about the wrong doings of your employees. I will then proceed with my legal action against your office and your employees.

Waiting to hear from you soon.

M. Mohammadian

Yours truly,

M. Mohammadian

AGENCY



DAVID J. KEARS, Agency Director

April 21, 2003

PR0500951

Medhi Mohammadian Owner/Operator CAL GAS 15595 Washington Boulevard San Lorenzo, California 94580 **ENVIRONMENTAL HEALTH SERVICES**

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

NOTICE OF VIOLATION

Re: Inspection of CAL GAS, 15595 Washington Boulevard, San Lorenzo, California 94580

Dear Mr. Mohammadian:

A regulatory compliance inspection was performed at the subject facility on April 21, 2003. Technicians from Scott Company facilitated the inspection. The purpose of the inspection was to determine compliance with conditions of the facility underground storage tank (UST) operating permit, as well as provisions of Title 23, California Code of Regulations (CCR) and California Health and Safety Code (HSC) Chapter 6.7.

The following is a summary of non-compliant and other conditions noted at the time of the inspection:

- Tank leak detection records from the Veeder Root monitoring console indicate a pattern of filling tank 1, regular gasoline past the allowable limit of 95% of tank capacity. The high product alarm is programmed at 95% of tank capacity. An overfill event which triggered an alarm means that the tank was filled past 95%. According to the printout from the memory of the monitoring system, Tank 1, regular gasoline, was filled past 95% on at least three occasions. Additionally, on at least three occasions the tank was filled to 100% of total capacity. There may have been more episodes of overfilling the tanks since the memory can only hold the last three alarms. The law prohibits filling past 95% with the installed equipment. The overfilling may have caused an unauthorized release.
- The owner/operator has failed to document overfill alarms found stored in the Veeder Root TLS 350 memory. A record is required to be created each time an alarm indicates a sensor has been triggered. The high product alarm indicates an overfill of the tank. The owner/operator is required to take actions based on the alarms to prevent overfilling. You have taken no documented actions, as of the date of this letter, to prevent this problem. See enclosed sample log sheet for recording each alarm and documenting actions taken to correct the alarm.

CAL GAS April 22, 2003 Page 2 of 3

- Documents for Certification of Financial Responsibility using the State Fund are outdated. Please
 use the enclosed forms to update the information. Return the completed forms within 30 days.
- Hazardous materials business plan (HMBP) not available on site during inspection. The HMBP is
 required to be available for review and reference on site. Make the plan available immediately.

<u>Violations</u> of provisions of the CCR and HSC have been identified, as follows:

<u>CCR Sec. 2712(k)</u> - Owners and operators shall use care to prevent releases due to spilling or overfilling. Before product is delivered, owners, operator, or their agents shall ensure that the space available in the tank is greater than the volume of product to be transferred to the tank and shall ensure that the transfer operation is monitored constantly to prevent overfilling and spilling.

HSC Sec. 25292.1(a) – The underground storage tank 1, regular gasoline has been filled with petroleum past 95% of the tank capacity. The dates of the overfill alarms are printed out from the memory of the monitoring console. It is a violation of the HSC to overfill the tanks. An unauthorized release may have occurred as a result of this mismanagement.

HSC Sec. 25299(a) provide for civil liabilities imposed on the tank <u>operator</u> of up to \$5000 per tank per day per violation for:

- (2) Violation of any applicable requirement of the permit
- (6) Violation of any applicable requirements of HSC Chapter 6.7

HSC Sec. 25299(b) provides for civil liabilities imposed on the tank owner of up to \$5000 per tank per day per violation for:

- (5) Violation of any applicable requirement of the permit issued for operation of the underground tank system
- (6) Violation of any applicable requirements of HSC Chapter 6.7

HSC Sec. 25293 – The operator of the underground tank system shall maintain records in sufficient detail to enable this office to determine that the underground tank system is in compliance with the permit conditions. Records of alarms are not being kept in sufficient detail for compliance with the permit conditions.

Please be advised that HSC Sec. 25299(a) provides for civil liabilities imposed on the tank operator of up to \$5000 per tank per day per violation for:

(3) Failure to maintain records as required in HSC Chapter 6.7

Please be further advised that HSC Sec. 25299(b) provides for civil liabilities imposed on the tank <u>owner</u> of up to \$5000 per tank per day per violation for:

CAL GAS April 22, 2003 Page 3 of 3

- (5) Violation of any applicable requirement of the permit issued for operation of the underground tank system
- (6) Violation of any applicable requirements of HSC Chapter 6.7 or any regulation adopted by the board pursuant to Section 25299.3

At this time, you are required to correct the tank system operation and administrative issues identified in this inspection report, namely:

Correct the problems identified during the April 21, 2003 inspection.

Pursuant to HSC Sec. 25288(d), you are required to submit a Plan of Correction within 60 days. This plan shall indicate the tasks to be completed, or those that have been completed already, and the schedule for doing so.

You must <u>certify</u>, once all the necessary repairs and other tasks have been completed, that the tank system is in full compliance with HSC Chapter 6.7 and UST regulations.

Please contact me at (510) 567-6781 should you have any questions about the content this letter.

Sincerely,

Robert Weston

Senior Hazardous Materials Specialist

Enclosures

Cc: Susan Hugo, Manager, ACDEH

Emchaptop, ACDEM

Susan Torrence, Deputy District Attorney, Alameda County District Attorney's Office Leslie Alford, State Water Resources Control Board, Clean Water Program Shahla Farahnak, State Water Resources Control Board, Clean Water Program

CALGAS
15595 WASHINGTON AVE
SAN LORENZO CA.94580
12-17-02

VIA FAK #(SIO) 337-9335
HS. DONNA DROGOS
Alameda County HEALTH DEP.

Dear DONNA :

I am enclosing The copy of my declaration dated Nov. 6 and statement date 11-19-2002 which summerize the issue which I would like to discuse with you in ameeting. Please let me know whe I can meet you of your office.

Yours Sincerely

Mehdi

<u>Declaration of Mehdi Mohammadian in response to the State Water Resources</u> <u>Control Board proposed order.</u>

A governmental authority which is in charged with fact finding and making decisions that effect others, must close their eyes to prejudice, discrimination and make its decision based on facts gathered from neutral and nonbiased sources. Unfortunately, that has not occurred here, but it is not too late for you to make the right decision. I implore you here today to look at the facts and all of the evidence. Do not base your decision on biased reports, but rather on neutral source. The Toxichem report, which this board has relied upon so much, is not a neutral non-biased source. Toxichem was hired by Texaco and paid by Texaco, especially after the legal settlement. This does not make them a neutral source, especially with the fact I will present today. The GTI. 86 report, which has been ignored by the commission, on the other hand, is more reliable though they were contracted by Texaco too, and it's finding were in direct conflict with the Toxichem report. Thus any ambiguities should be resolved using the reasoning of the nonbiased source that of the GTI86 report.

Most of the documents and information that I am sharing with you today are facts, not conjectures. These facts provide more evidence of the wrong doings of Texaco and its agents.

Unfortunately, the authorities have ignored these facts, in favor of untrue statements based on faulty reasoning and illogical presumptions. Rather than basing their findings on facts, which conclusively point to Texaco and its agents as the responsible party, the authorities have chosen to ignore the evidence and have instead created a fictional account of the truth. The only reason that I can fathom as to why the county authority has chosen to create fiction instead of following the facts is because the county is discriminating against us.

I am here today to set the record straight and I hope that somebody here will actually listen to the facts and make a judgment based on the facts.

I am a Civil Engineer with over 37 years of experience. I have a Masters degree in Engineering and I am the holder of a valid Professional Engineering License issued by the State of California. As such I am an expert in my field and the observations that I have made with regard to issues presented here today are not conjectures, but facts based upon my experience as an Engineer.

In Early 2001, a major retrofit of the station was conducted. Although, I was not required to change the pipeline because the pipes, which were installed in 1987, were double walled, I decided to change all of the pipes because 1). I wanted to be sure that the new system was in perfect working condition with no possibility of any undetected leakage. 2). I wanted to confirm my suspicion that the ACHCSA was wrong in their presumption that a major leak occurred after 1992.

Evidences & Facts

The As Built Plan

The As Built Plan of 2001 shows the new plumbing, dispenser and the location of sensors. In February 2001, after we exposed the pipeline and the tanks we observed the following:

- A. All of the highlighted areas, in the As Built Plan, consisted of the tank locations and piping, which were done in early 1987. We discovered that there was pea gravel in the tank area, from approximately 11 foot to the finish slab and in the trenches of the pipes, no less than 4 feet of which we did not excavate.
- B. The pipeline was double lined. There was no evidence that the pipeline leaked. There was not even a single crack on the secondary pipes.
- C. There is no evidence that any of the tanks were leaking, especially since the existing tanks are double wall XRX Tanks, which were installed back in 1987. These tanks have sensor probes between the containers and the secondary wall, and we have tested them regularly over the last seven years under the direct supervision of the ACHCSA by Don Atkinson Adams, Robert Weston, and Scott Seery.
- D. Messer's Scott Seery and Robert Weston witnesses to the above facts as they observed that there was no evidence that the system, which was installed in early 1987, leaked. There was indeed no evidence of gas or even gas odors in this area at all.
- E. We changed all of the piping system and equipments just to be sure and to be safe in the future.
- F. In February 2001, after Exposing the pipeline and tanks, Mr. Scott Seery took a photograph of the existing system. The ACHCSA has this photograph in its file and I also have a copy of this photo for you.

GTI. 86 Report

G. GTI. 86 report states that:

"SITE HISTORY

The site was operated as a Texaco service station until it was closed several years ago. The exact date of closure is not available to ground water technology at this time. The underground storage tanks remain on-site but have been purged of all products."

The neighbors have exactly the same observations they say it was first Texaco then Shell (Mr. Kubo). Texaco has denied the above fact without any evidence.

1. Ground Water Technology Inc. October 17, 1986 report stated that MW1 near the former pump island,

At 5' below the grade slight odor

At 8' below the grade strong odor
At 15' below the grade strong odor

[So My question to you is how much gas leaked before 1986 to contaminated up to 15' of soil below the grade to have strong odor at 15' deep.] Of course still today we do have same ground untouched and contaminated.

MW2	At 2' below the grade slight odor At 10' below the grade slight odor
MW3	At 10' below the grade strong petroleum odor At 15' below the grade slight petroleum odor
SB1	At 5' below the grade slight petroleum odor At 7' below the grade strong petroleum odor At 10' below the grade slight petroleum odor At 14' below the grade strong petroleum odor At 15' below the grade slight petroleum odor
SB2	At 3' below the grade slight petroleum odor At 8' below the grade slight petroleum odor At 10' below the grade strong petroleum odor
SB3	At 2' below the grade slight petroleum odor At 7' below the grade slight petroleum odor

How Could Texaco ignore all of these facts and decide that the case should be closed?

Enviro Soil Tech Reports

- H. With regard to the soil report by Soil Tech Engineering dated December 27, 2001, which is already on file of ACHCSA. If we look at Figure 3: TPHg concentration contour map groundwater. As you will notice the center of high contamination is the place of the former USTs (MW3). On the next page, Figure 4: Benzene concentration contour map in groundwater. As you will notice again the center of the high contamination is the place of former USTs (MW3). On the next page, Figure 5: MTBE concentration contour map groundwater. As you will notice again the center of the high contamination is the place of former USTs (MW3).
- I. I have brought with me a copy of the Environ Soil Tech consultant's report of April 4, 2002, which is already on file of ACHCSA, if we look to diagram again TPH-g Benzene & MTBE concentration is along the former USTs (MW3).
- J. Let us look at the chart of analytical results. By looking at this chart you will notice that something happened in 1998. It appears that somebody contaminated or discharged gas and/or MTBE to all of the wells. I have explained in detail the

(650)

facts and presumptions and all that arise there from with regard to this irregularity in my letter to Ms. Lori Casias of the State Water Control Board dated 7-9-1999. The fact-finding and exposing the UST3 Generation of early 2001 provides more support for the contentions made in this letter, which Texaco and their Agent was responsible for it.

Facts

- K. Based on information contained in the soil report of GTI. 86, and October 5, 1992 (H+GCC92) Texaco did not disclose the information contained in GTI. 86 to the authority, despite the requirement that this information should be disclosed. Texaco illegally removed the tanks and lines and dispensers with out any proper closure especially with contamination, which reflected in GTI. 86 report. Texaco withheld evidence and tried to deceive the government agencies and Kubo.
- L. We took legal action against Kubo, Texaco, Calleris, and Chevron in the Superior Court of Santa Clara County Case # 744664, in 1994. The basis of the suit was due to the contamination of the property prior to the Mohammadians' purchase.
- M. The parties settled in late 1997. It was based on this settlement agreement that Texaco and the Calleries were held to be the responsible parties for the quarterly monitoring testing and they were responsible for any cleanout. A copy of settlement submitted to Mr. Scott Seery from ACHCSA before signature and another copy as soon as the signatures were obtained.
- N. Texaco has been responsible for taking care of the monitoring wells and tests since 1994. Texaco is responsible for maintaining the integrity of the monitoring wells; and as such Texaco and their agents are the only persons that have opened the monitoring wells. Texaco and its agents are the only ones with the keys to the caps and as such only they can open the monitoring wells. Texaco and its agents in essence can do whatever they please, whenever they please because they are the only ones with access to the monitoring wells.
- O. As Mr. Don Atkinson Adams, the Senior Registered Environmental Health specialist from ACHCSA stated in his letter dated September 18, 1995, "Please note that this problem with the leak detectors does not mean the system has leaked. I have no indication of leakage at this time."
- P. In January 1999, Mr. Weston and I observed the monitoring wells and the problem of these monitoring wells is discussed in detail in my letter dated 7-9-1999, and provide further evidence that Texaco is directly responsible for the problems.

Fact Finding

1. Based on all of the existing facts, visual inspections and observation of the exposed third generation UST's and the result of the regular testing conducted during 1995 to 2001, and the admission of the ACHCSA senior specialist THERE WAS NO RELEASE AT ALL FROM THE EXISTING SYSTEM. THIS IS A FACT NOT AN ASSUMPTION.

- 2. The problem with the vapor recovery system was only due to the 6" pipe with reverse slope, which is evidence in fact (F) above. There was no evidence of leaking in the vapors recovery line at all. We could not pass the test when the vapor recovery line contained liquid gas, and we would pass the test when it did not contain liquid gas.
- 3. I will be appreciate if someone could explain to me in a logical way how the discharge of gas from the third generation tanks could contaminate the sites 30°, 10°, or even 5° away from the tank pad at the elevation of 3°, or 4°, or 5°, or 6°, 7°, or 10° from the ground. With the fact that all of the existing USTs pad are filled with pea gravel since 1987.
- 4. The irresponsible actions of Texaco and their employees since 1986 is clear indication of their illegal action and they culpability. It is my belief that Texaco is capable of contaminating the wells by adding MTBE and or other chemical to the monitoring wells because (a). They were the only persons with access to the monitoring wells. (b). They have engaged in illegal and deceptive practices in the past. Examples of Texaco's illegal actions include: On 1986 Texaco was aware that the site was contaminated because of the (GTI86) report and they withheld this information from the authority. Texaco was aware that they had duty to report the contamination to the Authority and they failed to do so. Texaco illegally removed the tanks, lines and dispensers with out any proper tank closures and installed 3 monitoring wells without any permits. They were aware that when removing the tanks it must be done with a permit and under supervision of the appropriate governmental authority. This is especially important since they were aware of the (GTI86) report, and contamination. Texaco was aware of the Authorities requirement for diligent testing after the removal of the tanks, especially since they were aware of the facts in the GTI86 report. However, they did not comply and withheld evidence with the intention of deceiving everyone including the authorities. They were aware that they had to do a clean up of the property prior to the sale of the property to Mr. Kubo, however, they did not do this and withheld evidence again. During last eight years they did not provide any information regarding all of their wrongdoing, and their stand is that they cannot locate the information. What an excuse!

UNTRUTHFUL STATEMENTS CONTAINED IN THE TOXICHEM REPORTS

Let us analyze the trust of Toxichem Management Systems, Inc. (Hereinafter, TMS inc.)

A. They fabricated statements and passed them off to ACHCSA as facts in their reports. For example, their October 16, 1998 report states, that:

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"The facility has been a retail gas service station since approximately 1964, Texaco obtained control over the facility in 1983, but never operated the service station"

This is contrary to the observation of the neighbors that the site and sign was first a Texaco and then a Shell gas station. Furtherer it is contrary to the (GTI86) report and their finding that the "site was operated as a Texaco service station until it was closed several years ago." Toxichem's assumption is that Texaco did not have the ownership until 1983, but the fact is, this was the year Texaco acquired the fee simple from the owner in the foreclosure procedure.

B. The TMS Inc. October 16, 1998 report states that,

"Texaco removed the fuel underground storage tanks (USTs) in 1983 and contaminated detected in 1986"

This is an untrue statement again based on all of the evidence. Where are the permit and closure report, and were are the results of the soil and underground water during and after the closure? Texaco has never provided any documents or information to show when and how the tanks were removed despite all of the pressure from ACHCSA and the attorneys. The GTI86 report states under the "site history,"

"The site was operated as Texaco service station until it was closed several years ago. The exact date of the closure is not available to groundwater Technology at this time." Again the GTI86 report states that, "the underground storage tanks remain on-site but have been purged of all product." This means that the underground tanks were on site on October 1986 but they were emptied. What happened to the inventory of gas at the date of foreclosure or closure of the station it is not known. If Texaco paid somebody to purge the tanks between 1983-1986 they should have some documentation, like their check, from this they should have been able to find who purged the tanks. As Texaco did not have any documents to prove that they paid someone to purge the tanks, the only logical presumption is that the tanks leaked and all of the gas was discharged into the ground.

C. TMS Inc.'s June 28, 1999 letter states

"1. Total purge able petroleum hydrocarbons (TPPH) and benzene in groundwater were first detected from MW-1 in November 1992."

Another untrue statement based on GTI86 report, which in detail explained about the contamination of MW1. The above letter state that:

"During the July/August 1998 investigation MTBE was also detected. ... Concentration of 4.7 mg/kg at 5 feet below ground surface (bgs) in boring SB-B and at 2.1 mg/kg at 6 feet bgs in borings SB-E. MTBE was also detected in deeper soils from five of the six boring, up to a maximum concentration of 16 mg/kg."

They try hard to tell the reader that the third generation tanks leaked and made the ground even above the top of the tank level 10' to 30' away from the tanks contaminated despite the fact and evidences which, I explained on Evidence & facts A, B, C, D above.

- D. Furthermore, based on the GTI86, in general all of the borings at almost every level had a petroleum odor. (See Evidence & fact item G)
- E. TMS Inc.'s June 28, 1999 letter on page 4, 5 TMS. Inc. explains in detail some of the deficiencies. But this company is not trustworthy. Toxichem never discusses why these deficiencies were not reported on their reports. They claim that Blaine found the first deficiencies on April 6, 1999, but they are short to admit why they did not report it. And why they did not take corrective action, after Mohammadians had informed Texaco and their agent early 1999 and Mr. Scott Seery of the ACHCSA on June 1999.
- F. In this letter TMS. Inc. states that: "It is only in Mohammadian's interest that surface runoff enters or potentially enters a monitoring well." Why is it to the benefit of anybody, especially Mohammadians? Texaco is the only one that gets a benefit because they are trying to go out of their legal obligation based on the legal settlement, which they have tried, and Texaco has stopped their obligation based on the settlement since Mid. 1999. Why did TMS, Inc. did not respond to this question? This report is full of untrue statements. That is why I had to respond to it with a 8 page letter which explains one by one each of the untrue statements in the TMS report by my letter dated 7-9-1999, which is already on the file. How the Texaco consultants who have made so many untrue statements be trusted? It seems that they have been paid by Texaco to do their best to release Texaco from their duty based on the legal settlement with the Mohammadians by making up false statements.

The Draft Order

Finally, I have to respond to the draft order, which was prepared by the authority based on incorrect facts and faulty reasoning and mostly based on the assumptions that Texaco and their agents are the only persons to be trusted.

A. The draft has some untrue statements, for example on page 3 wherein it is stated that,

"Texaco purchased the facility at the foreclosure sale in August of 1983. But never operated the service station." This is not a fact and there is no evidence to substantiate it, contrary the neighborhood had witnessed Texaco and its sign then after Shell gas station. Furthermore, the GTI. Increport Oct. 1986 under site History states, "the site was operated as a Texaco service station until it was closed several years ago."

B. On page 6, the report provided by Toxichem Management Systems Inc. is discussed, in the middle of this page this report indicates, "MTBE was detected in soil samples obtained from soil borings SB-B at 5 feet in depth (4,700 PPb) Soil boring SB-E at 6 feet in depth (2,100 ppb) and SB-E (16,000 ppb) in the immediate vicinity of the third generator USTs...(4700 ppb)." The report tries to say that there is a release of gas from the third generation tanks, but this cannot be substantiated with the result of the inspection and regular tests since 1995 and observation made during the retrofit project back on February 2001 where

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everything was exposed. (1) No observable or probable releases from the third generation UST's or the lines were made. Especially, with the pea gravel on and around the third generation tank. It is impossible even with a substantial leak that on 5' or 30 feet away from the third generation, the upper level of the ground be contaminated by any possible release. (2) On the contrary, the contamination is from the second generation and is still in the soil. The topsoil could only be contaminated within 5' to 30 feet from the third USTs because they are all in the vicinity of the second USTs. (3) I will challenge anybody here today that can give me one logical reason as to how it is possible for tanks in pea gravel even with a leak to contaminate the soil away from the pad, especially in the soil at the elevation of 2 feet to 10 feet below the surface.

C. The Draft on page 7 paragraph 2, states that:

"Based on the MTBE... Because this more recent release has originated from the third generation USTs which were never owned or operated by Texaco or Calleris" This is a base less statement.

With February 2001 observation of exposed third generation UST's, and inspection, and the entire regular testing as I explained in detail, we know that this statement is untrue and it is impossible. And the statement is based on the wrong assumption, not the facts.

D. On page 7 under contention,

"Petitioner maintains that the county's findings regarding the pre-1986 release in no way eliminated Texaco and Calleris as responsible parties' as there is clear evidence that they were old as recent release at the property." This is not a statement that is attributable to me, since I have always maintained that there was no leak from the third generation USTs and Pipeline due to all of the tests, which we did during 1995-2000. Especially after exposing the system on February 2001. I have maintained that if there were any contamination during 1995 to 1999 it would be by Texaco and its agents, from the cap of Monitoring wells.

- E. Page 7 under findings, "in addition, we find that a subsequent more significant release or releases for which petitioner is responsible occurred in the early to mid 1990's and that the pre 1986 release and this later release or releases have commingled." This statement is untrue and proven to be baseless especially after exposing the third generation USTs and pipeline on February 2001.
- F. Page 10, "our review of the record also indicates that a separate release or releases occurred beginning in the early to mid 1990's" This is not a true statement and there is no evidence or records to support the finding that any leakage has occurred since 1990, on the contrary you have substantial evidence that we did many tests and we could not find any leak or release. As Mr. Don Atkinson-Adams from the ACHCSA states, "Please note that this problem with the leak detectors does not mean the system has leaked. I have no indication of leakage at this time." (See letter from Don Atkinson-Adams, Senior registered Environmental Health specialist dated September 18, 1995).
- G. Page 10, "further supported by the fact that the highest detectable contaminations of MTBE in analytical results from soil samples in the 1998 soil and groundwater investigation were found in soil borings SB-B and SB-E, directly to the east and

west of the third generation tank and piping system between 5' and 10 feet below ground surfaces (bgs).——third generation ——USTs as the source of the MTBE contamination detected in the 1998 SWI." Today not only are we sure that this statement is wrong and untrue, considering that the exposed tank of USTs third generation on February 2001 did not show any leakage at all.

- H. Furthermore, there are sites, which are closed for more than 25 years, but when tested recently for MTBE, it has been found present
- I. Page 15, findings "petitioners contention lack merit" As I have already explained above based on the exposed third generation USTs and the observations and tests done by us and witnessed by ACHCSA my contention has always been with merit and is fully substantiated by all of the evidences and facts.
- J. What more evidence do you want? We conducted several tests and found no leaks and no release was found. We exposed the third generation USTs we found no evidence of damage or leaks or releases. Indeed we found that contamination was impossible at the topsoil adjacent to the third generation USTs. The authority has no evidence supporting its finding.
- K. How could a double wall tank leak if tested for leaks and no leakage is found and if there is no evidence of a leak in the second container? The test, which we conducted, is a pressurized test and a broken pipe or tank could not be passed and then later by itself get fixed.
- L. Page 16, the summary and conclusion, number 3 is not correct based on all of the evidence explained in detail above.
- M. Generally the statement or findings are all based of the reports of Toxichem, a Company that was hired and paid by Texaco. Texaco hired Toxichem after the legal Settlement of the lawsuit, which Texaco accepted the responsible for, clean up and tests. It is shameful attempt to release Texaco from its responsibility of conducting tests and cleaning up.

I believe that your findings are all wrong and based upon faulty reasoning and illogically and false presumptions. The only reason that I can fathom as to why all the facts have been disregarded in favor of lies is that I am being discriminated against.

Thank you, I will be happy to respond to any question.

Yours truly,

Mehdi

11-19-2002

State Water Resources Control Board

Gentlemen:

Here today I respectfully ask the Board to please review all of the documents so that you can come to a just decision. All I ask is that you take into consideration all of the facts, not assumptions and not any untrue statements by individuals or governmental agencies.

On November 6, 2002, I came before you with a declaration that I wanted to read into the record and to engage the panel in a discussion. Unfortunately, I was informed that I would be given no more than 5 minutes before the panel. You agreed to have a copy of my declaration be placed on record. During the 5 minutes that I was granted, I summarize the material. I asked you then and I ask you again now please review all of the documents before making your decision.

In my declaration I quoted statements from the documents all of which have been on the ACHCSA files for many years and certain documents have been on file for several months. These documents include GTI 86 report, the H+GCC92 report, Environ Soil Tech reports, 1997 settlement, correspondence files, test results, and letters to and from Mr. Adams from the ACHCSA, and my letter to Ms. Lori Casias. The file also includes pictures of the site taken by Mr. Scott Seery, from the ACHCSA, on February 2001, after the exposing of the third UST generation.

The only document that I brought with me on November 6th that was not already on file was the As Built Plan. I brought it with me so that you could better visualize the situation.

Both Mr. Scott Seery and Mr. Robert Weston form ACHCSA witnessed the exposure of the third generation UST tank and thus they knew of all the facts that I discuss in my declaration.

Why has this agency ignored all of the facts? How can this agency justify the draft order when it is not supported by the records and by the facts? The only thing that comes into my mind as to why someone would behave this way is that I am being discriminated against.

It is not too late for you to do the right thing. I urge you to please base your decision on the facts.

On my declaration on pages 7, 8 & 9, A-M, I describe in detail why the draft order is based on faulty reasoning. I also discuss and quote from the GTI 86 report which has been on record since 1994. I discussed the existing facts relating the pea gravel all around the Third generation tanks. I pointed out the untruthful statements contained in the Toxichem Reports. I discuss and quote from letter of Mr. Don Atkinson Adams,

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Senior registered Environmental Health Specialist of ACHCSA dated September 18, 1995.

I am surprise how the staff with all of the above facts could recommend to the Board to accept the Draft Order, which is full of untrue statements.

In addition I will appreciate if the Board ask the staff which of the documents I referred to in my declaration is not on their file, why it is not on their file, and who is responsible if it is not on their file?

Yours truly,

Mehdi Mohammadian

ALAMEDA COUNTY HEALTH CARE SERVICES



DAVID J. KEARS, Agency Director





May 17, 2002

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

Mehdi Mohammadian Owner/Operator CAL GAS 15595 Washington Avenue San Lorenzo, California 94580 PR0500951

NOTICE OF VIOLATION

Dear Mr. Mohamadian:

A regulatory compliance inspection was performed on May 14, 2002 at your facility listed above. A technician from your contractor, Scott Company, facilitated the inspection of your underground storage tank (UST) system. The purpose of the inspection was to determine your facility's compliance with the conditions of your operating permit, and with provisions in Title 23, California Code of Regulations and the California Health and Safety Code.

The following is a summary of conditions noted at the time of the inspection:

- An interview was conducted with the manager and cashier on duty at the time of the
 inspection. I asked to review the logbook for the alarm history. Neither one of the staff
 could show me any records documenting the alarm history found in the memory of the
 monitoring system. No records were available documenting the cause of the alarms or the
 resolution of the alarm.
- Found secondary containment for the dispenser #2 full of water from testing but not emptied by the contractor. The contractor emptied the water and repositioned the sensor in the pan.
- Found dispenser #4 in the process of repair to correct failed penetration fitting in dispenser containment. Subsequently inspected on May 16, 2002 and found dispenser containment tight.

Consequently, you are in violation of your permit to operate and the California Health and Safety Code.

California Health and Safety Code (H&SC), Section 25299(b)(5)- Failure to comply with permit conditions. Conditions of the permit to operate include a requirement to maintain written records of all liquid alarm conditions and their resolution. No such records were available on site and have not been provided as required.

April 8, 2002

Mr. David M. Boyers, Esq.
Office of Chief Counsel
State Water Resources Control Board
1001 I Street, 22nd Floor (95814)
P.O. Box 100
Sacramento, CA 95812-0100

RE: "In the Matter of the Petition of Mehdi Mohammadian..." dated April 4, 2002.

Dear Mr. Boyers:

This letter serves to document our telephone conversation this morning regarding the petition of Mohammadian for review of Alameda County's Notice of Revision to Responsible Party Designation (letter dated April 4, 2002) and for your advising me that my deceased brother's Trust (Bertram H Kubo Trust) is not involved in this petition.

Thanks for your help and for clarifying this for me.

Sincerely,

Marjorie Kanyer

Bertram Kubo Trust

mailed at a lost

AGENCY

DAVID J. KEARS, Agency Director



May 22, 2001

Mr. Jack Ottovich 15600 Lorenzo Avenue San Lorenzo, CA 94580

State Well No. 3S / 3W 12 J4

RE: Investigation of gasoline release at 15595 Washington Avenue, San Lorenzo

Dear Mr. Ottovich:

The Alameda County Department of Environmental Health (ACDEH) is directing the investigation of a gasoline release associated with the underground storage tank (UST) system at a retail service station located at 15595 Washington Avenue. This service station, located on the corner of Washington and Via Enrico, is very close to your home.

This office is aware of the irrigation well located on your property. Irrigation and other pumping wells that are in proximity to UST release sites can often affect the way contaminants move through the aquifer, and pose a potential risk to both the well user and deeper water- bearing zones.

For your information, samples collected from a series of monitoring wells located on the service station property have identified the presence of high concentrations of gasoline components in shallow groundwater beneath the site. Most noteworthy of these is the compound *methyl-tert* butyl ether, or MtBE. You may have heard recently of the issues surrounding MtBE and its use in gasoline sold in California.

The extent of this release is currently unknown, as the occurrence of MtBE in groundwater has only recently been determined. Consequently, the investigation will be expanding in scope. Although progress is somewhat stalled at this time due to ancillary issues, we anticipate that the investigation will extend into the coming year and beyond before all is known, and that your irrigation well will become the focus of future sampling efforts.

Until such time as we have a better understanding of the nature and extent of this release, and the physical and geological factors which control the movement of the underlying ground water and associated gasoline plume, we request that you <u>not</u> use your well for any purpose until advised otherwise.

ENVIRONMENTAL HEALTH SERVICES

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

RE: investigation at 15595 Washington Ave.

May 22, 2001 Page 2 of 2

This agency would like to thank you in advance for your cooperation with this important request. Please feel free to contact me at (510) 567-6783 should you have any questions about this case.

Sincerely,

Scott O. Seery, CHMM

Hazardous Materials Specialist

cc: Chuck Headlee, RWQCB

Lori Casias, SWRCB

Emmanual Da Costa, Alameda Co. Public Works Agency

951 Turner Ct., Ste. 300, Hayward, CA 94545-2651

Mehdi Mohammadian, 15595 Washington Ave., San Lorenzo, CA 94580



State Water Resources Control Board

Division of Clean Water Programs

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



Gray Davis Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption.

For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.

MAR - 8 2001

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580 MAR 1 3 2001

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), NOTICE OF ELIGIBILITY DETERMINATION: CLAIM NUMBER 015058; FOR SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

Your claim has been accepted for placement on the Priority List in Priority Class "B" with a deductible of \$5,000.

We have completed our initial review. The next step in the claim review process is to conduct a compliance review.

Compliance Review: Staff reviews, verifies, and processes claims based on the priority and rank within a priority class. After the Board adopts the Priority List, your claim will remain on the Priority List until your Priority Class and rank are reached. At that time, staff will conduct an extensive Compliance Review at the local regulatory agency or Regional Water Quality Control Board. During this Compliance Review, staff may request additional information needed to verify eligibility. Once the Compliance Review is completed, staff will determine if the claim is valid or must be rejected. If the claim is valid, a Letter of Commitment will be issued obligating funds toward the cleanup. If staff determine that you have not complied with regulations governing site cleanup, you have not supplied necessary information or documentation, or your claim application contains a material error, the claim will be rejected. In such event, you will be issued a Notice of Intended Removal from the Priority List, informed of the basis for the proposed removal of your claim, and provided an opportunity to correct the condition that is the basis for the proposed removal. Your claim will be barred from further participation in the Fund, if the claim application contains a material error resulting from fraud or intentional or negligent misrepresentation.

Record keeping: During your cleanup project you should keep complete and well organized records of all corrective action activity and payment transactions. If you are eventually issued a Letter of Commitment, you will be required to submit: (1) copies of detailed invoices for all corrective action activity performed (including subcontractor invoices), (2) copies of canceled checks used to pay for work shown on the invoices, (3) copies of technical documents (bids, narrative work description, reports), and (4) evidence that the claimant paid for the work performed (not paid by another party). These documents are necessary for reimbursement and failure to submit them could impact the amount of reimbursement made by the Fund. It is not necessary to submit these documents at this time; however, they will definitely be required prior to reimbursement.

Compliance with Corrective Action Requirements: In order to be reimbursed for your eligible costs of cleanup incurred after December 2, 1991, you must have complied with corrective action requirements of Article 11, Chapter 16, Division 3, Title 23, California Code of Regulations. Article 11 categorized the corrective action process into *phases*. In addition, Article 11 requires the responsible party to submit an

investigative workplan/Corrective Action Plan (CAP) before performing any work. This phasing process and the workplan/CAP requirements were intended to:

- 1. help the responsible party undertake the necessary corrective action in a cost-effective, efficient and timely manner;
- 2. enable the regulatory agency to review and approve the proposed cost-effective corrective action alternative before any corrective action work was performed; and
- 3. ensure the Fund will only reimburse the most cost-effective corrective action alternative required by the regulatory agency to achieve the minimum cleanup necessary to protect human health, safety and the environment.

In some limited situations interim cleanup will be necessary to mitigate a demonstrated immediate hazard to public health, or the environment. Program regulations allow the responsible party to undertake interim remedial action after: (1) notifying the regulatory agency of the proposed action, and; (2) complying with any requirements that the regulatory agency may set. Interim remedial action should only be proposed when necessary to mitigate an immediate demonstrated hazard. Implementing interim remedial action does not eliminate the requirement for a CAP and an evaluation of the most cost-effective corrective action alternative.

Three bids and Cost Preapproval: Only corrective action costs required by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. You must comply with all regulatory agency time schedules and requirements and you must obtain three bids for any required corrective action. Unless waived in writing, you are required to obtain preapproval of costs for all future corrective action work. If you do not obtain three bids and cost preapproval, reimbursement is not assured and costs may be rejected as ineligible.

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

Sincerely,

Shari Knieriem

Claims Review Unit

Underground Storage Tank Cleanup Fund

and murier

cc: Mr. Steve Morse RWQCB, Region 2 1515 Clay Street, Ste. 1400 Oakland, CA 94612

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

M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA 94580 1-24-2001

Mr. Scott O. Seery Alameda County Health Care Services 1131 Harbor Bay Parkway, Suite 250 Alameda CA. 94502-6577

Dear Scott:

To respond to your letter dated Dec. 18, 2000, Unfortunately I could not find any other consultant to be able to assist us in a short notice.

As you are aware, the Enviro Soil Tech Consultants, not only admitted that they have made mistake, they have informed both yourself and me that they are ready to do their investigation again under your direct supervision to satisfy you, and perform their job. As they do have all of the information and many of the facts I believe they are the only Company to do the investigation at the shortest time.

please let me know of your decision, by return.

Awaiting to hear from you soon.

Mito hamma dian

Yours Sincerely

Mehdi Mohammadian

M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo CA 94580 1-24-2001

Mr. Scott O. Seery Alameda County Health Care Services 1131 Harbor Bay Parkway, Suite 250 Alameda CA. 94502-6577

Dear Scott:

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please let me know of your decision, by return.

Awaiting to hear from you soon.

Mito hamma dian

Yours Sincerely

Mehdi Mohammadian

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

December 18, 2000

STID 1360

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580 **ENVIRONMENTAL HEALTH SERVICES**

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

RE: Cal Gas (aka Linda Shell), 15595 Washington Avenue - Soil and Water Investigation

Dear Mr. Mohammadian:

As you have been made aware, this office has found the recent Geoprobe[®] investigation completed by your consultant, Enviro Soil Tech Consultants (ESTC), unacceptable. Our position is based on several technical and regulatory concerns that arose during oversight of the project. In addition, laboratory data enclosed with the ESTC quarterly monitoring and sampling reports are also unacceptable for reasons similar to those identified during review of their Geoprobe[®] project. The noted technical and regulatory issues supporting these decisions were presented in previous correspondence from this office dated October 24 and December 15, 2000.

At this time, you are required to repeat the off-site investigation in order to generate acceptable data. Acceptable data are necessary to further the development of the Site Conceptual Model (SCM) for the MtBE release at the site, and to facilitate the scoping of any future work. An outline of the SCM framework was provided to you previously under cover dated March 16, 2000, and another copy is enclosed herein. All future work must strive to address data gaps that the evolving SCM may still present.

You are to advise this office, within 30 days of the date of this letter, when you have selected a qualified consultant to complete the off-site investigation and continue quarterly well monitoring, sampling, and reporting. Once notified, this office will schedule a technical meeting to discuss the specific tasks to be completed during the course of the project.

Please contact me at (510) 567-6783 should you have any questions about the content of this letter.

Sincerely,

Soott O. Seery, CHMM

Hazardous Materials Specialist

Mr. Mohammadian

Re: 15595 Washington Ave., San Lorenzo

December 18, 2000

Page 2 of 2

Attachment

cc: Tom Peacock, ACDEH
John Creighton, Alameda County District Attorney's Office
Chuck Headlee, RWQCB
Allan Patton, SWRCB UST Fund
Anne Hartridge, SWRCB Office of Chief Counsel
P.O. Box. 100, Sacramento, CA 95812-0100





399 Elmhurst Street • Hayward, CA 94544-1395 (510) 670-5480

December 15, 2000

Frank Hamedi-Fard Environmental Soil Tech Consultants 131 Tully Road San Jose, CA 95111

Subject: INVESTIGATION OF DRILLING PERMIT VIOLATION

This office has received an inquiry alleging violations of the Alameda County Well Ordinance on this property at:

15595 WASHINGTON AVENUE, SAN LORENZO

The alleged violation is drilling without a County issued drilling permit at the subject location.

Alameda County, Water Well Ordinance, Chapter 6.88.070 Enforcement, Section D. states:

D. Penalty. Any person who does any work for which a permit is required by this chapter and who fails to obtain a permit shall be guilty of a misdemeanor punishable by fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding six months, or by both such fine and imprisonment, and such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any such violation is committed, continued, or permitted, and shall be subject to the same punishment as for the original offense. (Prior gen. Code § 3-160.6)

Please submit a copy of the drilling permit application issued to your firm by the County, including a drilling permit number or a letter/report explaining why a drilling permit application was not submitted to the County and how the borings were destroyed. The letter/ report should include drilling dates, completion dates and completion logs, location sketch or site map. Please submit your report or letter within ten (10) working days of this letter.

If your report or letter is not received within ten (10) working days, your project will be considered to be in violation of Alameda County Ordinance 73-68, and we may issue a fine or restrict the issuance of future permits to your firm.

If you have any questions regarding this matter, please feel free to contact me at (510) 670-6633.

Very truly yours,

Engineer-Scientist

Water Resources Section

"To Serve and Preserve Our Community"

BCO S. Seery



AGENCY

DAVID J. KEARS, Agency Director



December 15, 2000

STID 1360

Frank Hamedi-Fard Lawrence Koo, P.E. Enviro Soil Tech Consultants 131 Tully Road San Jose, CA 95111 ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway. Suite 250
Alameda, CA 94502-6577

(510) 567-6700 FAX (510) 337-9335

Re: Cal Gas, 15595 Washington Avenue, San Lorenzo

Dear Messrs. Hamedi-Fard and Koo:

We are in receipt of your November 22, 2000 correspondence sent in response to the October 24, 2000 correspondence from this office presenting our concerns regarding the recent off-site Geoprobe[®] investigation and the May 15, 2000 Enviro Soil Tech Consultants (ESTC) report documenting this project. We are also in receipt of additional copies of the ESTC June 6 and September 6, 2000 quarterly reports, as well as May 15th report, all of which were attached to your recent correspondence. Reports appear to present limited revisions that include new maps showing modified groundwater flow directions, where applicable, and well elevations converted to elevations relative to MSL.

Your November 22nd correspondence fails to present information sufficient to mitigate the regulatory issues and concerns and technical oversights that arose with ESTC's involvement with this project. In addition, upon closer scrutiny of particular project elements and the related ESTC reports, further issues and concerns have arisen, as follows:

 Priority Environmental Labs (mistakenly identified in the October 24th correspondence as Performance Environmental Labs) is not certified by the Department of Health Services (DHS), Environmental Laboratory Accreditation Program (ELAP), for conducting analyses for regulatory purposes, pursuant to provisions of California Health and Safety Code (HSC) Sec. 100825 et seq. This lab lost its certification after January 31, 1998.

Using an uncertified laboratory is a violation of HSC Chapter 6.7, Sec. 25298.5. Consequently, <u>all</u> data generated by this lab since ESTC began working on this environmental investigation are unacceptable.

• We have been informed that Alameda County Public Works Agency (ACPWA) encroachment permits do not allow encroachment onto private property without the express permission from the owner of the property. We understand that this requirement applies even if the portion of private land in question is within a county-owned easement or right-of-way, and independent of whether or not the area is delineated as a public thoroughfare (i.e., sidewalk or street).

Messrs. Hamidi-Fard and Koo

Re: 15595 Washington Ave., San Lorenzo

December 15, 2000

Page 2 of 2

- The Water Resources Program of ACPWA requires the issuance of a drilling permit to complete borings or wells in the project area. ACPWA does not have a record that a drilling permit was issued for the subject Geoprobe® project, and a copy of the drilling permit was not enclosed with the May 15th report. It appears, therefore, that a drilling permit was not issued.
- Both the initial and resubmitted copies of the May 15th report include a tabulation of soil and water analyses data, enclosed in Appendix "A" of each report as Tables 1 and 2, respectively. These tables present the laboratory results for some common gasoline components (TPH-G, BTEX). Both tables also purport to present the results of the analyses of particular fuel oxygenates (TBA, TAME, and ETBE), as well as a general category for the remaining 8260B analytes. All fuel oxygenates and remaining 8260B compounds (which would include MtBE in this format) are reported to be at concentrations of <0.01 mg/kg for soil, and <0.005 ug/l for water.</p>

As was discussed in the October 24th correspondence, no laboratory report has been provided to date to support that <u>any</u> of the fuel oxygenates, other than MtBE, have been sought in samples submitted to a certified laboratory.

You have requested the opportunity to redo the Geoprobe® investigation. Although it is true that your client, Mr. Mohammadian, will be required to repeat this project, it will be up to him to hire the appropriate environmental contractor for this effort. A separate letter addressing the need to repeat this project will be sent to Mr. Mohammadian shortly.

Please contact me at (510) 567-6783 should you have any questions about the content of this letter.

Sincerely,

Spott O. Seery, CHMM

Hazardous Materials Specialist

cc: Tom Peacock, ACDEH

John Creighton, Alameda Co. District Attorney's Office (QIC 21001)

Chuck Headlee, RWQCB

Allan Patton, SWRCB UST Fund

Anne Hartridge, SWRCB Office of Chief Counsel

P.O. Box. 100, Sacramento, CA 95812-0100

Mehdi Mohammadian, Cal Gas, 15595 Washington Ave., San Lorenzo, CA 94580

George Kulasingam, Env. Laboratory Accreditation Program, CA Dept. of Health Services 2151 Berkeley Way, Annex 2, Berkeley, CA 94704
Sally Strubinger, Board for Professional Engineers and Land Surveyors
P.O. Box 349002, Sacramento, CA 95834-9002
James Yoo, ACPWA, Water Resources (QIC 51503)
Tom Ringot, ACPWA, Permit Center (QIC 51502)



COUNTY OF ALAMEDA PUBLIC WORKS AGENCY 951 Turner Court, Hayward Room 100, CA 94545 (510) 670-5979

DATE: 12-4-60

No. of Pages (including cover):

FAX TRANSMITTAL

T	SCOTT	SEERY
0		
	FAX:	337-9335

F	Tom Ringot
R	Development Services Dept.
o	
M	Fax: (510) 670 - 5269

Should you have problems receiving this FAX transmittal, please call: (510) 670-5979

SUBJECT:

TRANSMITTING THE FOLLOWING:

POPLOWING: GENERAL PROVISIONS ROL PERADWAY ENC. PERMITS.

REMARKS:

F.02/07 P.01/06 Tom K.

COUNTY OF ALAMEDA PUBLIC WORKS AGENCY

General Provisions for Roadway Eucroachment Permits

CAUTION:

THE FOLLOWING PROVISIONS, UNLESS MODIFIED OR EXEMPTED ON THE FACE OF THIS PERMIT. ARE AN INTEGRAL PART OF EACH PERMIT - AND YOUR SIGNATURE ON THE FACE OF THIS PERMIT CERTIFIES THAT YOU HAVE READ AND UNDERSTOOD THE TERMS AND CONDITIONS OF THESE PROVISIONS AND ANY MODIFICATIONS THERETO.

The Agency reserves the right to suspend or cancel this Permit, without advance notice, if the Permittee fails to comply with the terms and conditions of these Provisions, or with any other terms and conditions of this Permit. In the event of such suspension or cancellation, the Permittee shall be held liable for all costs incurred by the County in securing and restoring the right-of-way.

- PERMIT AUTHORITY: This Encroachment Permit is issued in accordance with the provisions of Chapter 12.08 of the Alameda County General Ordinance Code.
- 2. ACCEPTANCE OF PERMIT REQUIREMENTS: It shall be understood that any entry onto the encroachment site by the Permittee, or agents of the Permittee, for the purpose of performing the work or obtaining the access described herein shall be considered as evidence of the acceptance by the Permittee of all the terms and conditions and other requirements of the said Chapter 12.08 and of this Permit.
- PERMIT AVAILABILITY: This Permit, or a copy thereof, shall be kept available at the site of the authorized encroachment. It must be shown to any representative of the County or to any law enforcement officer, upon demand.
- 4. PERMIT SCOPE: With the following exceptions, the scope of this Permit shall be limited to the authorization of an encroachment upon the right-of-way of an existing public roadway that is under the jurisdiction of the County of Alameda:
 - When specifically noted on the face of this Permit, this Permit may authorize the Permittee to encroach
 upon other County-owned property.
 - When specifically noted on the face of this Permit, this Permit may he used to enable the inspection, by a
 representative of the County, of improvements that are located upon private property which will be
 dedicated to the County for use as a public roadway or upon a private roadway which will be maintained
 by the County and part of a County Service Area.
- 5. PERMIT TERM: Unless otherwise specified on the face of this Permit, the Permittee shall initiate the encroachment described herein within ninery (90) days of the date of issuance of this Permit and shall attempt to complete the encroachment prior to the expiration date of this Permit. In the event that the Permittee fails to satisfactorily complete all of the required actions by the expiration date, the County shall retain the right to either keep the Permit open pending such completions or suspend the Permit in accordance with Provision 19.
- 6. CHANGES TO PERMIT: No change to the location or character of the encroachment herein permitted shall be made without written authorization from the County. Contact the Permit Center, 399 Elimburst Street, Hayward, CA 94544, (510) 670-5429.
- 7. RELATIONSHIP TO EXISTING AGREEMENTS: In the event that the encroachment authorized by this Permit is located within an area which is subject to an existing agreement or easement with or for the County, this Permit shall be regarded as a notice/record of work and as a means of establishing certain safety or inspection requirements specifically for the said encroachment; no new or different rights or obligations other than those written into this Permit are intended to be created, and all existing rights and obligations of the

agreement or easement are fully protected. In the case of conflict between an existing agreement/easement and these General Provisions, the terms and conditions of the agreement or easement shall prevail.

- 8. DEDICATION OF PROPERTY TO THE COUNTY: When specifically noted on the face of this Permit, the Permittee shall be required to prepare and submit a legal description and a plat map of property that will be dedicated to the County for use as a public roadway. This description and map must be accepted by the County before the close-out of this Permit.
- 9. PERMIT TRANSFERABILITY: This Permit is not transferable; no parties other than the named Permittee, or his/her agents, are authorized to have access or to do work under this Permit.
- 10. INSPECTION AND APPROVAL: All encroachments authorized by this Permit are subject to monitoring, inspection, testing, and final approval by a representative of the County. Unless otherwise specified on the back of this Permit, the Permittee shall be responsible for coordinating with an inspection office of the County. The assigned inspector will prescribe the required inspection and test points and define all of the other submittal or review requirements. The Permittee shall then be responsible for notifying the inspector at the appropriate times and for furnishing the required data or samples to the inspector in a timely manner.

CAUTION:

ALL OF THE COUNTY INSPECTION OFFICES OR OTHER REPRESENTATIVES OF THE COUNTY WILL REQUIRE 1-3 DAYS ADVANCE NOTICE TO ARRANGE A SITE INSPECTION OR OTHER REVIEW. CHECK WITH YOUR ASSIGNED INSPECTOR BEFORE YOU SCHEDULE A CONSTRUCTION OPERATION THAT REQUIRES INSPECTION BY THE COUNTY.

WARNING:

IF THE ENCROACHMENT IS COMPLETED WITHOUT THE NECESSARY INSPECTIONS OR TESTS, THE COUNTY RESERVES THE RIGHT TO REJECT THE WORK OUTRIGHT - OR TO REQUIRE THAT THE PERMITTEE ENTER INTO A MAINTENANCE AND REPAIR AGREEMENT WITH THE COUNTY.

11. TESTING AND CERTIFICATION: All materials and equipment intended for use within the right-of-way, along with certain construction operations, will be subject to verification through testing and/or certification; the specific requirements for such testing/certification should be established by consultation with the applicable County inspection office listed on the back of this Permit.

Typical testing/certification requirements would include the quality and strength of concrete pours, the compaction of fill areas and trench backfills, the strength of reinforced concrete pipe, the quality and strength of fencing materials, and the operation of traffic signals and street lights. Manufacturer's certifications would also typically be required for precast structures and for any operating or safety equipment.

- 12. START OF WORK: The Permittee shall be responsible for notifying the County Inspection Office at (510) 670-6601, and/or the other designated County representative(s), prior to the start of work or access; see Provision 10, above.
- 13. LIABILITY AND INDEMNIFICATION: The County of Alameda and its officers, employees, agents, representatives, and/or successors shall not be liable for any death, injury, illness, or property damage claim which arises from the actions of the Permittee under this Permit, or which arises from the failure of the Permittee to properly maintain the site of the encroachment authorized by this Permit. If a claim does arise from the foregoing, the Permittee shall defend, indemnify, and hold harmless the County and its officers, employees, agents, representatives, and/or successors.

WARNING:

UNDER THE TERMS OF THIS PROVISION, YOU ARE AGREEING TO HOLD THE COUNTY HARMLESS FOR YOUR ACTIONS OR LACK OF ACTION.

14. MAINTENANCE OF THE ENCROACHMENT AREA: Upon initiation of the access or work authorized herein, the Permittee shall assume responsibility for the maintenance of the area of the encroachment and shall continue to hold this responsibility pending the close-out of this Permit.

Unless otherwise specified on the face of this Permit, the County will resume the responsibility for the maintenance of the modified encroachment area following acceptance of the improvements by the County.

When specifically noted on the face of this Permit, the Permittee will be required to enter into an agreement with the County concerning long-term maintenance of some or all of the improvements authorized herein. If required, such agreements must be executed prior to the close-out of this Permit.

- 15. STANDARDS OF WORK: All work authorized herein shall conform to those design guidelines and construction standards specified on the plans or in this Permit, subject to any field modifications directed by the County representative(s). The work shall be performed in a workmanlike, diligent, and expeditious manner and shall be completed to the satisfaction of the Director of Public Works.
- 16. PERMITS AND APPROVALS FROM OTHER AGENCIES: This Permit may not be construed as allowing the Permittee to proceed without first obtaining all necessary approvals, permits, agreements, authorizations, or releases from all other public agencies having jurisdiction nor may it be considered as relieving the Permittee from compliance with any of the restrictions imposed by such approvals, permits, agreements, authorizations, or releases.
- 17. COORDINATION WITH UTILITIES AND OTHERS: The Permittee shall be responsible for coordinating the access or work authorized by this Permit with those utility agencies/companies and others, including the County of Alameda, who own or maintain underground or overhead utility lines, equipment, and facilities in the vicinity of the encroachment.

CAUTION:

ALL EXCAVATIONS IN THE RIGHT-OF-WAY REQUIRE A PRIOR CLEARANCE FROM UNDERGROUND SERVICE ALERT (USA); CALL (800) 642-2444

SEE ALSO PROVISION 18.

In the event that the Permittee encounters underground facilities or other obstructions not identified on the plans or by USA, such facilities or obstructions shall be secured and protected – as directed by the County Inspector; call (510) 670-6601.

18. COORDINATION WITH THE COUNTY: If the authorized encroachment includes excavation in the vicinity of a traffic signal or a street light which is connected to its power source by means of underground wiring, the Permittee shall be responsible for coordinating the said excavation with the County Signal Maintenance Office - since such signal/street light wiring runs or signal detector loops may not be included in the USA review described in Provision 17.

CAUTION:

ALL EXCAVATIONS WITHIN 500' OF A TRAFFIC SIGNAL, OR IN THE VICINITY OF THOSE STREETLIGHTS WHICH ARE POWERED BY MEANS OF UNDERGROUND WIRING, REQUIRE A PRIOR CLEARANCE FROM THE COUNTY SIGNAL OFFICE; CALL (510) 670-5537 AT LEAST 48 HOURS IN ADVANCE.

If the authorized encroachment involves the installation or modification of traffic signals or associated equipment, the inspection and acceptance of all such work will be performed by the County Signal Office; notify that Office at (510) 670-5537 at least 48 hours before the start of any work.

If the encroachment requires the installation or modification of maffix markers, traffic markings, signs, or street lights, the Permittee may be required to coordinate with other departments of the Agency - if so directed by the assigned County inspector.

If the encroachment requires testing by the County Materials Testing Laboratory, all such tests will be directed and coordinated by the County inspector.

19. SUSPENSION OR CANCELLATION OF THIS PERMIT: This Permit may be suspended or canceled, at the discretion of the Director of Public Works of the County of Alameda, whenever the Permittee is

performing in such a manner so as to threaten the safe usage of the right-of-way by the public or by the Permittee.

- 20. PROTECTION OF VEHICULAR TRAFFIC: The Permittee shall be fully responsible for the protection of the public traveling through the encroachment site, both during and after working hours. All signs, lights, safety devices, flagpersons, watchpersons, and other measures required for traffic safety shall conform to the requirements of the Caltrans Manual of Traffic Controls for Construction and Maintenance Work Zones. Unless otherwise specified in this Permit, traffic control measures for lane closures shall conform to the requirements of Caltrans Standard Plan T11, T12, or T13, as appropriate.
- 21. PROTECTION OF PEDESTRIAN TRAFFIC: Wherever sidewalks or walkways preexist within the rightof-way, the Permittee shall be responsible for the establishment and maintenance of a 4' wide passageway to
 allow safe pedestrian traffic in or around the encroachment site at all times. At no time shall pedestrian traffic
 be directed onto a travel lane of the roadway. At those locations where safe passageway cannot reasonably be
 provided, appropriate signs and barricades shall be installed at the nearest marked crosswalk or intersection so
 as to provide for a pedestrian detour around the encroachment site.
- 22. ROADWAY CLOSURES: All encroachments within the right-of-way shall be conducted so as to cause the least possible inconvenience to the traveling public of the adjacent property owners. Unless a roadway blockage is specifically authorized by resolution of the Board of Supervisors of the County, at least one travel lane shall remain open at all times and unless specifically exempted on the face of this Permit, all travel lanes of the affected roadway shall be left open during both the morning (6-9 a.m.) and the evening (3:30-6 p.m.) rush hour periods.

WARNING:

EXCEPT FOR MINOR TRAFFIC FLAGGING CONTROL ASSOCIATED WITH NORMAL CONSTRUCTION ACTIVITIES, YOU ARE NOT AUTHORIZED TO BLOCK OR CAUSE A DETOUR OF A PUBLIC ROADWAY - WITHOUT THE SPECIFIC APPROVAL OF THE COUNTY BOARD OF SUPERVISORS.

23. PASSAGE THROUGH THE ENCROACHMENT SITE: Unless specifically exempted on the face of this Permit, the Permittee shall be responsible for providing reasonable access through the encroachment site to all those adjacent properties that were previously accessible from the right-of-way.

CAUTION:

YOU WILL BE RESPONSIBLE FOR ASSURING THAT EMERGENCY VEHICLES CAN PASS THROUGH OR AROUND THE ENCROACHMENT SITE AT ALL TIMES.

- 24. STORAGE OF EQUIPMENT/MATERIALS IN THE RIGHT-OF-WAY: No stockpiling of any materials or storage of any non-vehicular construction equipment shall be allowed within the roadway right-of-way without the approval of the County inspector.
- 25. DAILY CLEAN-UP OF THE RIGHT-OF-WAY: At the end of each working day, the Permittee shall clear the readway travel lanes and driveway entrances of all obstructions and debris, make all sidewalks and readway shoulders safe, and either fill and pave or plate over any excavations in or adjacent to the readway travel lanes. If plating is used, the plates and the installation methods shall conform to the latest "Steel Trench Plating Guidelines" of the State of California Department of Transportation.
- 26. FINAL CLEAN-UP: Upon completion of the authorized access or work, the Permittee shall promptly remove all construction materials and debris from the site of the encroachment. The affected right-of-way, including all guners, ditches, inlets, and drain lines in or adjacent to the encroachment, shall be left in at least as presentable a condition as existed before the start of the encroachment.
- 27. REPAIR OF DAMAGE: The Permittee shall be fully responsible for the prompt restoration of any portion of the right-of-way which is damaged as either a direct or an indirect result of the access to, work on, or maintenance of the authorized encroachment. If a damaged right-of-way is not promptly or adequately restored, the County may elect to make the necessary repairs and bill the Permittee for the costs.

28. REMOVAL OF MATERIALS/FACILITIES: If this Permit authorizes removal of portions of the right-of-way, the affected facilities or materials shall be taken from the right-of-way and disposed of in a legal manner. The Permittee shall obtain all necessary disposal permits, agreements, licenses, or clearances — and shall furnish a copy of same to the County inspector, upon demand.

Notwithstanding the above, and unless otherwise specified in this Permit, all removed and recoverable inlet grates, manhole covers, manhole and inlet frames, signs, and other standard equipment items shall be cleaned and reused whenever possible. The County reserves the right to require that removed equipment which is not reused be returned to the County yard at 951 Turner Court, Hayward.

29. DUST AND DIRT CONTROL: If the work scope of this Permit includes excavation, filling, grading, tocking, graveling, or other activities that could cause contamination of the roadway pavement, the Permittee shall provide for regular cleaning of the encroachment site, including sweeping of the roadway pavement — throughout the period of construction. Hosing of the roadway is not allowed.

If specified on the plans or in this Permit, or if so directed by the County inspector, the Permittee shall be prepared to implement a formal Soil Erosion Control Plan, following approval of the Plan by the County.

30. STORMWATER POLLUTION CONTROL: Work scheduled during the rainy season (October 1 to April 15) may require the installation of sediment and etosion control devices to prevent the deposition of construction materials and/or loose soil into the local storm drainage system.

If specified on the plans or in this Permit, or if so directed by the County inspector, the Permittee shall be prepared to implement a formal Stormwater Pollution Prevention Plan, following approval of the Plan by the County.

- FUTURE ROADWAY RELOCATION/WIDENING: In the event that a future improvement, widening, or relocation of the affected roadway necessitates the removal, modification, or relocation of any facility, structure, or equipment installed or modified by this Permit, said facility, structure, or equipment shall be so removed, modified, or relocated, at no cost to the County if so requested and as directed by the County.
- 32. MODIFICATION OF EXISTING ROADWAY FACILITIES: Except for minor changes that can be made using County standard details, any modification of existing roadway facilities must be in accordance with plans that have been approved by the County.

If specified on the plans or in this Permit, or if so directed by the County representative, the Permittee shall submit detailed shop plans for approval, prior to construction, and/or record drawings following construction.

CAUTION:

IF YOU ARE PLANNING TO MODIFY EXISTING COUNTY-MAINTAINED STRUCTURES, FACILITIES, OR EQUIPMENT IN THE ROADWAY RIGHT-OF-WAY, YOU MUST COORDINATE ALL SUCH CHANGES WITH A COUNTY INSPECTOR: CALL (510) 670-6601.

33. REPLACEMENT OF EXISTING ROADWAY FACILITIES: Unless otherwise specified on the plans or in this Permit, roadway facilities, such as pavement, slabs, curbs and guners, berms, sidewalks, driveway entrances, pavement stripes, pavement markers, pavement marking, traffic signs, survey monuments, street trees, traffic control equipment, street lights, drainage inlets and manholes, culverts, headwalls, swales, etc., that are to be removed as part of the encroachment authorized herein, shall be replaced in kind, or better, at no cost to the County and in conformance with the latest County of Alameda Design Guldelines or with other guidelines provided by the County, subject to field modifications directed by the County representative.

If specified on the plans or in this Permit, or if so directed by the County representative, the Permittee shall submit detailed shop plans for approval prior to construction and/or record drawings following construction.

CAUTION:

IF YOU ARE PLANNING TO REMOVE, RELOCATE, OR REPLACE EXISTING COUNTY-MAINTAINED STRUCTURES, FACILITIES, OR EQUIPMENT IN THE ROADWAY RIGHT-OF-WAY, YOU MUST COORDINATE ALL SUCH CHANGES WITH A COUNTY INSPECTOR: CALL (510) 670-6601.

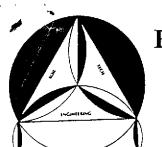
- 34. DRAINAGE: Existing drainage facilities, such as inlets, culverts, ditches, swales, pumps, channels, etc., that provide for storm water collection and runoff from the encroachment site shall not be altered, blocked, or otherwise disturbed, except as authorized by this Permit for the purposes of crossion and sedimentation control, or as directed by a representative of the County.
- 35. EXCAVATION: Unless otherwise specified on the face of this Permit, all excavation within the roadway right-of-way shall be in accordance with standard County guidelines as directed by the County inspector. Note that rock wheel excavators or trenchless technology may be used only if specifically authorized by this Permit.

If specified on the plans or in this Permit, or if so directed by the County inspector, the Permittee shall submit detailed trenching and shoring plans for approval prior to construction.

If specified on the plans or in this Pennit, or II so directed by the County inspector, the Pennittee shall erect and maintain project nonfication signs at the excavation site. Such signs shall include the name and address of the excavator and the name and phone number of the responsible contact person.

The amount of excavation that can take place at any time within or adjacent to the travel lanes of the roadway shall be limited to that volume that can be filled or plated in accordance with the limitations of Provision 25 – but in no case shall the total length of open linear trenching within the right-of-way exceed 600 feet (180 meters).

- 36. BACKFILLING: Unless otherwise specified on the face of this Permit, all backfilling of trenches and other excavations shall be in accordance with standard County guidelines as directed by the County inspector. All disturbed roadway surfaces shall be fully restored within fifteen (15) working days of the date of the original excavation.
- 37. SECURITY DEPOSIT: If so specified, the Permitter may be required to provide a security deposit as a condition of obtaining this Permit. The purpose of this security is to establish a funding source for the County in the event that emergency restoration of the right-of-way becomes necessary. The County reserves the right to require that the said security be kept in place for a reasonable period of time following the completion of the authorized work or, in the case of certain types of equipment or facilities, held for the lifetime of the equipment or facilities. Any questions related to the return of a security deposit should be directed to the County Permit Center at 670-5429.
- 58. CLOSING THE PERMIT: It shall be the responsibility of the Permittee to notify the cognizant County representative(s) upon completion of the authorized access or work. Following such notification, the County will perform an inspection of the encroachment site to assure acceptability of the work and to verify restoration of the right-of-way per Provision 26, above. The County will continue to hold the Permittee responsible for maintenance of the encroachment, per Provision 14, above, and will retain any security deposits, pending the signoff of the Permit by the County representative(s).
- 39. PERMIT PRECEDENCE: This Permit is issued on the basis that there is no implied precedence established as to the need for, or the acceptability of, specific terms and conditions for future cacroachments.



ENVIROSOIL TECH CONSULTANTS

Environmental & Geotechnical Consultants, 131 TULLY ROAD, SAN JOSE, CALIFORNIA 95111 TENTAL Tel: (408) 297-1500 Fax: (408) 297-1500

November 22, 2000

File No. 12-99-702-SI

Mr. Mehdi Mohammadian

Cal Gas 15595 Washington Avenue San Lorenzo, California 94580

Mr. Scott O. Seery

Alameda County Health Care Services Agency Environmental Health Services Environmental Protection 1131 Harbor Bay Parkway, Suite 250 Alameda, California 94502-6577

SUBJECT: RESPONDING TO ACHCSA'S LETTER REGARDING THE PROPERTY

Located at 15595 Washington Avenue, in San Lorenzo, California

Dear Mr. Mohammadian:

This letter is in respond to Alameda County Health Care Services Agency's letter dated October 24, 2000. Enclosed revised Preliminary Off-Site Soil and Groundwater Assessment report dated May 15, 2000; Quarterly Groundwater Monitoring and Sampling reports dated June 6, 2000 and September 6, 2000.

The field work and reports were performed on allowance time frame. However, due to unexpected over-sea travel of my client, Mr. Mohammadian, the reports were not released until we reached the contract agreement, and his review of the reports. The situation was explained to Mr. Scott O. Seery on previous phone conversation.

During drilling operation, soil samples were collected continuously in 4 feet acetate liners. These 4 feet liners did not fit in a regular ice chest; therefore, soil with the liners were transferred to our office where we have a large refrigerator, on completion of every 4th boring, this process were explained to Mr. Seery at his first visit. He examined a few soil samples, and he made a comment that, "he did not like it," but samples appeared to be clean, and he stated, "it does not matter". If Mr. Seery has advised us differently, I would have stop the sampling operation and brought electric refrigerator to the site. We apologize for this misunderstanding.

During my first meeting at the subject property with Mr. Scott Seery regarding the work plan, I had proposed the spacing of the borings to be 30 to 40 feet, and this spacing would be adjusted based on our field work. However, Mr. Seery disagreed, and he requested that the spacing be 20 but not more than 25 feet. Our work plan was prepared based on his recommendation. However, the spacing was revised on his letter dated March 16, 2000, to be 40 feet. During our field work on south sidewalk of Via Enrico Street, the drilling work started with 20 to 30 feet spacing. However, the spacing were increased to 40 feet in west sidewalk of Lorenzo Avenue after Mr. Scott Seery mentioned the content of his letter dated March 16, 2000. This over look on our behalf generated two extra borings. We believed these borings did not generated any harm.

File No. 12-99-702-S1

During the course of our field investigation, three borings were drilled in the lawn next to the sidewalk. Verbal permit from the tenants were obtained during our field works. Furthermore, we had learned that the public property boundary extended 8 feet from the face of the curb, therefore, the borings in the lawn are in the limit of our approved encroachment permit.

In regard to fuel oxygenates such as MTBE, TBA, TAME and ETBE constituents, please see our chain-of-custody and request to the laboratory.

For soil and water collection procedure, please see pages 5, 6 and 7 of Preliminary Off-Site Soil and Groundwater Assessment report.

For mean sea level elevation, the property was resurveyed, and elevations have been revised to the mean sea level. Furthermore, the groundwater flow direction has been corrected.

If you have any questions or require additional information, please feel free to contact our office at (408) 297-1500.

Sincerely,

ENVIRO SOIL TECH CONSULTANTS

FRANK HAMEDI-FARD GENERAL MANAGER

cc: Mr. Tom Peacock, ACDEH

Mr. Chuck Headlee, RWQCB

Mr. Dave Deaner, SWRCB UST Fund

Ms. Anne Hartridge, SWRCB Office of Chief Council P. O. Box 100, Sacramento, CA 95812-0100

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

October 24, 2000

STID 1360

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

Frank Hamedi-Fard Enviro Soil Tech Consultants 131 Tully Road San Jose, CA 95111 ENVIRONMENTAL HEALTH SERVICES

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

Re: Cal Gas, 15595 Washington Avenue, San Lorenzo

Dear Messrs. Mohammadian and Hamedi-Fard:

This office received on September 26, 2000 the Enviro Soil Tech Consultants (ESTC) report entitled "Preliminary Off-site Soil and Groundwater Assessment for the Property Located at 15595 Washington Avenue, San Lorenzo, California" dated May 15, 2000. This report was to document the off-site assessment work ESTC performed on April 18, 2000 in conformance with the scope of work proposed in the ESTC workplan dated February 11, 2000, as modified in correspondence from this office dated March 16, 2000. We are also in receipt of the ESTC quarterly sampling reports dated June 6 and September 6, 2000, both received in this office on September 21, 2000.

You were advised in the March 16, 2000 correspondence from this office that the off-site assessment report was to be submitted within 45 days of the completion of field activities. That schedule would have required the report to be submitted on or around June 2nd. This office, however, received the cited report on September 26th, more than 5 months following the completion of field activities. This late submittal is unacceptable on a number of fronts: first, it fails to comply with a condition of the approval of the ESTC workplan; second, it violates the sense of urgency this assessment project was intended to address.

During my two visits to the project site on April 18th, it became apparent that ESTC was not adhering to the approved scope of work. Upon my initial arrival to the project site, I observed approximately thirteen (13) acetate-lined soil cores in the bed of Mr. Hamedi-Fard's pickup truck. These cores were lying in full sun with no provision given for appropriate storage or cooling. Standard professional practice and acceptable sampling protocol require that such samples be quickly cooled to 4° C or lower immediately after collection, and that each be maintained in that condition until such time as they are analyzed by the laboratory. Mr. Hamedi-Fard stated that he preferred to log the cores in the "controlled environment" of his San Jose office, and that someone would be by to pick them up shortly. He also stated that these cores would be stored in a refrigerator at that location until logged and sections selected for submittal to the laboratory. This practice is unacceptable, as are the laboratory data generated from them.

Messrs. Mohammadian and Hamedi-Fard Re: Cal Gas, 15595 Washington Avenue, San Lorenzo October 24, 2000 Page 2 of 3

In addition, the approved scope of work <u>reduced</u> the number of borings to be emplaced along Via Enrico from the proposed 13 to 7, and <u>increased</u> the number along Lorenzo Avenue from 3 to 5. Hence, only 12 borings were requested. This change in boring density stemmed from an increase in boring spacing from the proposed 20' to 40'. I brought this issue to Mr. Hamedi-Fard's attention during the second of my two visits to the project site. The gaps between borings 12 - 15 essentially reflect this late change in boring spacing that afternoon.

I was also surprised to see that a number of borings were advanced along Lorenzo Avenue not in the sidewalk, but through the lawns of the private residences/apartments on the east-side of the street. The approved scope of work indicated such borings would be emplaced on public property, i.e., through the sidewalk. I understand from Mr. Hamedi-Fard's responses to my inquiries that day that permission from these private property owners was neither sought nor received. This issue makes little difference from a technical perspective; however, permission for conducting this work on private property must be sought prior to initiating the work. If in fact permission was not received, this is an unprofessional way of performing the investigation. Such conduct was not, nor will it ever be, endorsed by this office.

The approved scope of work for the off-site assessment also <u>specifically</u> requested that other fuel oxygenates, in addition to methyl tert butyl ether (MtBE), be sought in collected water samples. You were both advised that the contracted laboratory would have to be informed of this so that they would be prepared to analyze for them, as these compounds are not on the standard list of analytes for EPA Methods 8260B or 8020/8021. Review of the Performance Environmental Labs analytical report sheets for samples collected and analyzed during this assessment project indicate that <u>none</u> of the requested additional oxygenates were reported by the laboratory. Perhaps these data were simply omitted from the ESTC report. However, if the laboratory initially failed to analyze samples for these additional compounds, and ESTC failed to follow-up with the lab to ensure that they did, the approved scope of work was, again, not adhered to.

The off-site assessment report also fails to provide any specific or reliable information regarding the collection of soil and water samples from the completed Geoprobe® borings. For example, how were the soil samples eventually sent to the laboratory selected from the soil cores? How were water samples collected? Did you use a bailer or a pump? Were the borings purged before sampling? If so, what volume of water was removed first, and what was used to determine purging adequacy? Were temporary well screens placed into completed boreholes before sampling, or were water samples simply collected through the drill pipe? These details require "fleshing-out", as currently, this report lacks any details sufficient to address these points.

I also notice from my review of the cited off-site assessment report, as well as the latest two ESTC quarterly reports, that the site monitoring wells and off-site Geoprobe® borings were recently resurveyed using an "assumed" elevation benchmark of 100'. Please note that all wells are expected to be surveyed to elevations relative to Mean Sea Level (MSL). This is a long-standing practice and requirement for environmental investigations of this sort. Consequently, all well and borehole elevations, as well as measured water levels, are to be converted to, and associated data presented in, elevations relative to MSL in all future reports.

Messrs. Mohammadian and Hamedi-Fard Re: Cal Gas, 15595 Washington Avenue, San Lorenzo October 24, 2000 Page 3 of 3

And lastly, the latest two ESTC quarterly monitoring reports present maps (Figures 2) intended to illustrate both stabilized water elevations in each of the on-site wells and calculated groundwater flow directions during the reporting periods. In the case of both reports, the illustrated flow directions appear in conflict with the reported water elevations. Both reports indicate an identical west-northwest flow direction, yet the presented water elevation data clearly suggest a southwest flow in both instances. Either the water elevation data, or the illustrated flow directions, are in error, or, perhaps, both. This report element needs to be clarified and corrected, as in current form, these data are erroneous.

At this time, you are directed within 30 days of the date of this letter to submit the following information:

- Submit the certified laboratory reports for the previously requested fuel oxygenates TBA, ETBE, and TAME, that were to be generated from water samples collected during the off-site Geoprobe® assessment project, or provide an explanation why you cannot provide them
- <u>Submit</u> a complete and detailed description of the soil and water sampling, and sample selection, practices employed during the course of the Geoprobe® off-site assessment. <u>Submit</u> water sampling field sheets.
- Submit corrected groundwater elevation and gradient maps for the 5/24/00 and 8/24/00 sampling events

Please contact me at (510) 567-6783 should you have any questions about the content of this letter.

Sincerely,

Scott O. Seery, CHMM

Hazardous Materials Specialist

cc: Tom Peacock, ACDEH Chuck Headlee, RWQCB

Dave Deaner, SWRCB UST Fund

Anne Hartridge, SWRCB Office of Chief Council

P.O. Box. 100, Sacramento, CA 95812-0100

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 31, 2000

STID 1360

Anne M. Hartridge State Water Resources Control Board Office of Chief Council P.O. Box 100 Sacramento, CA 95812-0100

RE: SWRCB/CWP File No. P99-198, Petition of Mehdi Mohammadian, 15595

Washington Blvd., San Lorenzo, Alameda County, CA

Dear Ms. Hartridge

This letter is sent to clarify some of the points in your August 25, 2000 correspondence that memorializes our August 22nd telephone conversation. You should by now have received the 8/23/00 correspondence from this office with the documents requested in your original letter dated August 11, 2000.

During our telephone conversation, I agreed to contact the Petitioner's attorney, Jeffrey Widman, and request that he search his records for a copy of an 8 page facsimile that was reportedly sent by him to Allan Patton on 6/8/99. Mr. Widman was to be contacted as I could not locate the requested document in this agency's files.

I contacted Mr. Widman on 8/22/00 and requested he look for the requested document, asking that he send it to you directly when it was located. Mr. Widman called me this morning indicating the specified document could not be found. I asked that he convey this information to you directly, which he agreed to do.

There still appears to be some confusion regarding the so-called "as-built" drawings. As we discussed, to my knowledge, there were never any professionally-drafted, blue-line engineering prints submitted prior to the installation of the current tanks, nor does it appear that there have been any submitted since. As we also discussed, Dick Fahey submitted his version of "as-built" drawings in the form of a few bare-bones, hand-drawn maps and attachments. These drawings are dated 1/29/86, 2/6/87, and 4/3/95. The 4/3/95 drawing appears to be a redated copy of the 1/29/86 map.

Ms. Hartridge

Re: 15595 Washington Blvd., San Lorenzo

August 31, 2000

Page 2 of 3

These drawings appear to be the best representations that we have of the tank configuration for this facility.

I am not aware of a "note to the file" dated 1/28/97. You listed in your original August 11th correspondence, however, a reference to an "unknown" document of that date, apparently from Diablo Petroleum. I brought to your attention during our telephone conversation that I was not aware of a document of that date from Diablo Petroleum. I also mentioned that the referenced date seemed a bit suspect, as the record reflects that Diablo Petroleum had been out of business since 1990. In support of that, I directed your attention to Dick Fahey's correspondence to Bert Kubo dated 4/4/95. Mr. Fahey states in his letter that, as of December 17, 1990, "...Diablo Petroleum was no longer in business at that time." I am not aware if Mr. Fahey's statement is correct or not.

It would be helpful if you would send a copy of the 1/28/97 reference to me so that I may place it into a context that would assist my search.

Your original August 11th correspondence requested a copy of a four page facsimile dated 9/6/95 that was sent to Mary Swanson. You reportedly had a (partial) copy of the facsimile cover sheet from this office on that date, but not the transmitted document itself. During our telephone conversation I informed you that I believed, based on the timing and sequence of events of that time, the referenced facsimile cover sheet was used to transmit a copy of the 8/31/95 RWQCB letter sent to the various parties involved in this case. This RWQCB letter was sent in the wake of a Pre-Enforcement Review Panel (PERP) meeting held some weeks before, and established the list of responsible parties (RP) for this case based on the facts available to the PERP at that time.

You may recall that during our telephone conversation, I initially could not locate the referenced 9/6/95 facsimile cover sheet. For reasons I am still not clear on, a date of "3/31/95" for the referenced facsimile then arose as our conversation and my file search continued. During a search for the 3/31/95 facsimile transmittal, I discovered the 9/6/95 facsimile cover sheet. Although there were a few documents discovered on and around the 3/31/95 date (including a 3 page facsimile dated 3/31/95 - a two page letter plus cover sheet - from Mary Swanson and sent to this office), no documents from that "new" date were specifically requested. My records reflect that, at that point, the only request on this front was for me to send a full copy of the 9/6/95 facsimile cover sheet, as the one in your copy of the record was cut off at the bottom. This has been done.

Ms. Hartridge

Re: 15595 Washington Blvd., San Lorenzo

August 31, 2000

Page 3 of 3

I trust this information clarifies these points. Please let me know if more light can be shed on the referenced document dated 1/28/97 so that I might be better equipped to narrow down my search for it. I may be reached at (510) 567-6783.

Sincerely,

Scott O. Seery, CHMM Hazardous materials Specialist

cc: Ariu Levi, Chief, Environmental Protection, ACDEH Tom Peacock, ACDEH

> Mary S. Taylor, Esq. 101 Ygnacio Valley Road #330 Walnut Creek, CA 94596

James Wesley Kinnear, Esq. Makoff Kinnear Council P.C. 20 California Street, Ste. 201 San Francisco, CA 94111

Bernard Rose, Esq. Randick & O'Dea 1800 Harrison Street, Ste. 2350 Oakland, CA 94612

Jeffrey P. Widman, Esq. 84 West Santa Clara Street, Ste. 690 San Jose, CA 95113 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 23, 2000

STID 1360

Anne M. Hartridge State Water Resources Control Board Office of Chief Council P.O. Box 100 Sacramento, CA 95812-0100

RE: Response to request for additional information for SWRCB/CWP File No. P99-198, Petition of Mehdi Mohammadian, 15595 Washington Blvd., San Lorenzo, Alameda County, CA

Dear Ms. Hartridge

This letter and attachments are sent following our telephone conversation yesterday and in response to your letter dated August 11, 2000 in which you requested some additional information from the subject case file.

Please find attached copies of the following documents, presented in the order in which they were originally requested in your 8/11/00 letter:

- A copy of the Blaine Tech Services, Inc. report as it appears in our case file, and as submitted under Texaco cover dated May 3, 1994.
- A copy of Dick Fahey's 4/4/95 hand-written letter with attachments, including a site drawing with tank cross-section and section notes. This site drawing and section appear to be originally dated 1/29/86, and then redated 4/3/95.

A copy of a hand-drawn "as-built" drawing from Dick Fahey dated 2-26-87. Note that the date stamp on the reverse side of this drawing – 95 Mar 14 - appears to correspond well with Mr. Fahey's letter date of 3/10/95.

Both the originals and color copies of the requested transparency and photograph are enclosed.

Ms. Hartridge

Re: 15595 Washington Blvd., San Lorenzo

August 23, 2000 Page 2 of 3

- A copy of the Cohen, Nelsen & Makoff letter dated August 10, 1995. This letter includes attachments dated 7/31/85, 11/1/84, and 6/13/83.
- A complete copy of the facsimile cover sheet dated 9/6/95 addressed to Mary Swanson as transmitted from this agency. As we discussed, the letter transmitted under this cover was most likely the four page RWQCB letter dated 8/31/95 that presented the outcome of the local Pre-Enforcement Review Panel and assignment of the "responsible party" designation.
- As we discussed, it appears that any and all piping drawings and plot plans available to this agency should now be in your possession.
- Mr. Widman was contacted yesterday. I requested that he submit directly to you a copy of the 6/8/99 facsimile transmitted from his office to Allan Patton.

I have also enclosed with this letter copies of six (6) digital images I took this afternoon to give you an idea of the current state of the facility and associated improvements.

Please call me at (510) 567-6783 should you need any additional information.

Sincerely,

Scott O. Seery, CHMM

Hazardous materials Specialist

Enclosures (addressee, only)

cc: See attached list

Ms. Hartridge

Re: 15595 Washington Blvd., San Lorenzo

August 23, 2000

Page 3 of 3

cc: Ariu Levi, Chief, Environmental Protection, ACDEH

Tom Peacock, ACDEH

Mary S. Taylor, Esq. 101 Ygnacio Valley Road #330 Walnut Creek, CA 94596

James Wesley Kinnear, Esq. Makoff Kinnear Council P.C. 20 California Street, Ste. 201 San Francisco, CA 94111

Bernard Rose, Esq. Randick & O'Dea 1800 Harrison Street, Ste. 2350 Oakland, CA 94612

Jeffrey P. Widman, Esq. 84 West Santa Clara Street, Ste. 690 San Jose, CA 95113

Seery, Scott, Public Health, EH

From:

Seery, Scott, Public Health, EH

Sent:

Wednesday, August 16, 2000 2:58 PM

To:

'Anne Hartridge'

Cc:

Levi, Ariu, Public Health, EH; Peacock, Tom, Public Health, EH

Subject:

RE: Mohammadian file

Anne

I received your 8/11/00 letter today with the list of items from the Mohammadian file you are seeking. I suspect that you have many of these items already, but may not be aware of it. As you might imagine, files that are open to numerous case (and program) workers (and needs) over the years, as well as the public during public records reviews, tend to get a bit "disjointed".

I have a couple of questions for you that might help me to get what you need. These will be presented in sequence with the documents requested in your letter. recent whole report

1. Which portions of the 5/3/94 "Texaco report" are missing? I have what I believe to be the entire report, here. Are there certain pages? Do you want me to send the whole document? send originals

2 Tocated both an original transparency and photo of the subject site. The photo has a 8/87 date, as does the transparency, and both exhibit Dick Fahey's signature and annotation. I believe that they are the two images you referenced as being sent by Fahey on 3/10/95. I can't be certain, though, as these two items were in an "archived" UST compliance file located elsewhere in our office, separated from Fahey's original submittal, the bulk of which is in the LOP file.

I could send the originals to you if you would like, as they really serve no purpose to us here. I doubt they will be of much use to your office, either.

The so-called "as-built" drawings, to the extent that they are such, you should already have. When I found them today they were detached from Fahey's letter, but do reveal a date stamp from this office of 3/14/95 which, in my view, is consistent with the time lag between his mailing and our receipt of his 3/10/95 submittal.

These "as-builts" are not the typical blue-line prints that one usually sees submitted by a professional engineering contractor. They are a simple, hand drawn map on 8.5x11" paper. I'll send a copy to you if you would like, as well as another Fahey drawing that exhibits both 1/29/86 and 4/3/95 dates.

3. I do not see any correspondence dated 8/10/95 from Cohen, Nelsen & Makoff/ I'll look again.

4. I suspect the FAX to Mary Swanson you reference is a copy of the 4 page RWQCB letter dated 8/31/95. Could

you look on the fax cover sheet for some more clues for me? I can't even find that.

5. I cannot find anything from Diablo Petroleum dated 1/28/97. Interestingly, Fahey writes in letter to Kubo dated 4/4/95 that Diablo Petroleum was no longer in business as of 12/90. Could this item be something else?

6. I could find no evidence in our file of a FAX to the SWRCB (Alan Patton) from J. Widman. As we were not the apparent nor intended recipient of that FAX, perhaps the SWRCB would have that information.

Please let me know how you would like me to proceed. I will also do another file scan to see if I can locate the Cohen, Nelsen & Makoff letter.

Scott

From: Sent:

Anne Hartridge[SMTP:HARTA@exec.swrcb.ca.gov]

Thursday, August 10, 2000 1:13 PM sseery@co.alameda.ca.us Kathleen Keber

To:

Subject:

RE: Mohammadian file

Scott,

Thanks for your concern. I'm anxious to wrap this up as well. I'll get back to you as soon as I have the information.

Anne

>>> "Seery, Scott, Public Health, EH" <sseery@co.alameda.ca.us> 08/09/00 03:54PM >>> Anne

As I haven't heard back from you in the last couple of weeks, I thought I would inquire whether your assistant had been able to pinpoint the case entries that appeared to missing from your copy of our case file. Please let me know so that I can quickly search for them and, if discovered, sent them off to you.

Scott

```
> From:
                 Anne Hartridge[SMTP:HARTA@exec.swrcb.ca.gov]
> Sent: Thursday, July 27, 2000 11:53 AM
> To: sseery@co.alameda.ca.us
                 Mohammadian file
> Subject:
> Scott,
> This is a follow-up to the voicemail I left this morning, requesting the
> complete file on the Mehdi Mohammadian site in San Lorenzo at 15595
> Washington Blvd in San Lorenzo. We do not currently have the complete
> file, which we need to review the petition. Please send it to Lori
> Casias, State Water Resources Control Board, Division of Clean Water
> Programs, Underground Storage Tank Program, PO Box 944212, Sacramento, CA
> 94244-2120. This file should include everything: phone logs,
> photographs, all correspondence, all reports, etc. If you have any
> questions, please feel free to call me.
  **********
> Anne Hartridge
Office of the Chief CounselState Water Resources Control Board
> 2014 T Street
> Mail: P.O. Box 100
> Sacramento, CA 95812
> Phone: (916) 227-4435
> Fax: (916) 227-4562
> Internet: harta@exec.swrcb.ca.gov
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Bertram H. Kubo Trust P.O. Box 1169 Marina, CA 93933

July 12, 2000

Mehdi and Fereshteh Mohammadian 919 Stagi Court Los Altos, CA 94024-4640

Dear Mehdi and Fereshteh:

This purpose of this letter is to advise you that the Bertram H. Kubo Trust has granted, sold, conveyed, assigned and transferred all of its rights, title, and interest in the Note to the William Stuart Money Purchase and Profit Sharing Plans. This asset was the last asset of the Trust. With this disposition, the Trust has been dissolved.

Very truly yours.

Marjorie Kanyer, Trustee for Bertram H. Kubo Trust



Secretary for

Environmental Protection

State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4366

Mailing Address: P.O. Box 944212 • Sacramento, California • 94344-2439; __5

FAX (916) 227-4530 • Internet Address: http://www.swrcb.ca.gov/~cwphonic/ustcf



AM 8: 52

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580

UNDERGROUND STORAGE TANK CLEANUP FUND PROGRAM, REQUEST FOR FURTHER DOCUMENTATION DURING INITIAL REVIEW: CLAIM NUMBER 015058; FOR SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

Thank you for the submittal of you recent documentation that was requested on May 1, 2000. However, please provide the Fund with the additional information that should have been submitted with your documentation. The Request for Assignment of Claim Priority Class B requires that you submit a DE-6 that supports the total number of employees you employ. Provide a copy of the DE-6 (Department of Employment Development payroll reports for the last four quarters). Also, the Permit Waiver requires your provide proof that you have paid all of your past and current Board of Equalization (BOE) fees. Again, provide a statement from BOE that shows you have paid all your fees.

In addition, page two of your claim application does not have the date that you initiated corrective action. Please provide the date you initiated corrective action.

The above information is needed to determine your eligibility for placement on the Priority List.

NOTE: Failure to respond to this request within thirty (30) calendar days from the date of this letter may result in an ineligibility determination of your claim.

If you have any questions, please contact me at (916) 227-4366.

Sincerely,

ORIGINAL SIGNED BY

Shari Knieriem Claims Review Unit Underground Storage Tank Cleanup Fund

cc: Mr. Steve Morse RWQCB, Region 2 1515 Clay Street, Ste. 1400 Oakland, CA 94612 Mr. Thomas Peacock (STID 1360) Alameda County EHD 1131 Harbor Bay Pkway, 2nd Fl. Alameda, CA 94502-6577

	UNDERGROUND STORAGE TANK UNAUTHORIZE	ED RELEASE (LEAK) / CONTAMINATIO	ON SITE REPORT				
REPO	HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? YES NO ORT DATE CASE #	FOR LOCAL AGENCY USE ONLY 1 HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM.					
0.	5,1,5,0,0, 1360	SIGNED	DATE				
ΒY	NAME OF INDIVIDUAL FILING REPORT Scott Seery (570)	E SIGNATURE D) 567-6783					
REPORTED!	REPRESENTING OWNER/OPERATOR REGIONAL BOARD LOCAL AGENCY OTHER	COMPANY OR AGENCY NAME Alameda Co. ENU. H	lealth				
	1/31 Harbor Bay Pkwy	Alameda C	A 84502 STATE ZIP				
RESPONSIBLE PARTY	Mehd; Wohammadian unknown	CONTACT PERSON	PHONE (650) 941-7277				
RESPO PA	15595 Washington Ave.	San Lorenzo Co	4				
NO	FACILITY NAME (IF APPLICABLE) Cal Gas	OPERATOR AS ABOVE	PHONE ()				
SITE LOCATION	15595 Washington Ave.	San Lorenzo Ala	Heda 94588				
SS	Via Enrico		i				
TING	Alameda Co. Enu. Health	CONTACT PERSON	PHONE (FIG.) 577 (783)				
IMPLEMENTING AGENCIES	REGIONAL BOARD	Scott Seery Chuck Headlee	(50)567-6783				
		Chuck Headlee	(5/0)622-2433				
NCES VED	Gasoline w/ MtBE		QUANTITY LOST (GALLONS) White control (GALLONS)				
SUBSTANCES INVOLVED	(2)						
	DATE DISCOVERED		UNKNOWN				
ABATEMENT	INVE	ENTORY CONTROL SUBSURFACE MONITORING NK REMOVAL OTHER	NUISANCE CONDITIONS				
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35. 35.	SOURCE OF DISCHARGE CAUSE(S) TANK LEAK UNKNOWN OV		7				
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CASE	CHECK ONE ONLY						
Ŭ F	UNDETERMINED SOIL ONLY GROUNDWATER CHECK ONE ONLY	DRINKING WATER - (CHECK ONLY IF WATER WELLS	HAVE ACTUALLY BEEN AFFECTED)				
CURRENT							
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REMEDIAL	CAP SITE (CD) EXCAVATE & TREAT (ET)		REPLACE SUPPLY (RS)				
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ŽĪŠ	A		rst time it				
COMMENTS	MtBE discovered in wells and was sought. This indicates a release discovered in 1980.	"water. " release diffe	in the farment				
ğ	where discovered in 1986	white is a second court of	Jeni 1m 106				

INSTRUCTIONS

EMERGENCY

Indicate whether emergency response personnel and equipment were involved at any time. If so, a Hazardous Material incident Report should be filed with the State Office of Emergency Services (OES) at 2500 Mediawyiew Road, Sacramento, CA 66832. Copies of the OES report form may be obtained at your local underground storage tank, permitting agency: Indicate whether the OES report has been filed as of the date of this report.

LOCAL AGENCY ONLY

To avoid duplicate notification pursuant to Health and Safety code Section 25186.5, a government employee should sign and date the form on this block. A signature here does not mean that the lask has been determined to pose a significant threat to baman health or safety, only that notification procedures have been followed if required.

REPORTED BY

nter your name, telephone number, and address. Indicate which party you present and provide company or agency name.

RESPONSIBLE PARTY

Enter name, telephone number, contact person, and address of the party . responsible for the leak. The responsible party would normally be the tark owner.

SITE LOCATION

Enter information regarding the tank facility. At a minimum, you must provide the facility name and full address.

IMPLEMENTING AGENCIES

Enter names of the local agency and Regional Water Quality Control Board involved

SUBSTANCES INVOLVED

Enter the name and quantity lost of the hazardons substance involved. Room is provided for information on two substances if appropriate. If more than two substances leaked list the two of most concern for cleanup.

DISCOVERY/ABATEMENT

Provide information regarding the discovery and eletement of the leak.

SOURCE/GAUSE

icate source(s) of leak. Check box(es) indicating cause of leak.

CASE TYPE

Indicate the case typs category for this leak. Check one box only. Case type is been on the most sensitive resource affected. For example, if both soil and ground water have been affected, case type will be "Ground Water". Indicate "Brinking Water" only if one or more musicipal or domeship water wells have actually been affected. A "Ground Water" designation does not imply that the affected water cannot be, or is not, used for drinking water, but only that water wells have not yet been affected. It is understood that case type may change upon Europe investigation.

CURRENT STATUS

Indicate the category which best describes the current status of the case. Check one box only. The response should be relative to the case type. For example, if case type is "Ground Moter", then "Current Status" should refer to the status of the ground water investigation or cleanup, as opposed to that of soil. Descriptions of options follow:

Mc Action Taken - No action has them taken by responsible party beyond initial report of leak.

Leak Reing Confirmed - Leak suspected at site, but has not been confirmed. Preliminary Site Assessment Workplan Submitted - workplan/proposal requested of/submitted by responsible party to determine whether ground water has been, or will be, impacted as a result of the release.

Preliminary Site Assessment Underway - implementation of workplan.

Pollution Characterization - responsible party is in the process of fully defining the extent of contamination in soil and ground water and assessing impacts on surface and/or ground water.

Remediation Plan - remediation plan submitted evaluating long term remediation options. Proposal and implementation schedule for appropriate remediation options also submitted.

Cleanup Underway - implementation of ramediation plan.

Post Cleanup Mouitoring in Progress - periodic ground water or other monitoring at site, as necessary, to verify and/or evaluate effectiveness of remedial activities.

<u>Case Closed</u> - regional board and local agency in concurrence that no further work is necessary at the site.

IMPORTANT: THE INFORMATION PROVIDED ON THIS FORM IS INTENDED FOR GENERAL STATISTICAL PURPOSES ONLY AND IS NOT TO BE CONSTRUED AS REPRESENTING THE OFFICIAL POSITION OF ANY GOVERNMENTAL AGENCY

REMEDIAL ACTION

Indicate which action have been used to cleanup or remediate the heak; Descriptions of options follow:

Cap Site - install horizontal impermeable layer to reduce rainfall infiltration.

Containment Barrier - install vertical dike to block horizontal movement of contaminant.

Excavate and Dispose - remove contaminated soil and dispose in approved

Excavate and Treat remove contaminated soil and treat (includes spraading or land farming).

Remove Free Product - remove floating product from water table.

Pump and Treat Groundwater - generally employed to remove dissolved conteminants.

Enhanced Biodegradation - usé of any available technology to promote bacterial decomposition of contaminants.

Replace Supply - provide alternative water supply to affected parties.

Treatment at Hookup - install water treatment devices at each dwelling or other place of use.

Vacuum Extract - use pumps or blowers to draw air through soil. • Vent Soil - bore holes in soil to allow volatilization of contaminants. No Action Required - incident is minor, requiring no remedial action.

COMMENTS - Use this space to elaborate on any aspects of the incident,

SIGNATURE - Sign the form in the space provided.

MISSELLBUTION

If the form is completed by the tank owner or his agent, retain the last copy and forward the remaining copies intact to your local tank permitting agency for distribution.

- 1. Original Local Tank Permitting Agency
- E. State Water Resources Control Board, Division of Clean Water Programs, Underground Storage Tank Program, P.O. Box 944212, Sacramento, CA 94244-2120
- 3. Regional Water Quality Control Board
- Local Health Officer and County Board of Supervisors or their designee to receive Proposition 65 notifications.
- 5. Owner/responsible party.

M. MOHAMMADIAN 5-15-2000

A.C.H.C.S.A.
Mr. Scott o' seery
Dear SCOTT.

Re: CAL GAS 15595 WASHINGTONAUR SANJORENZO EA.94580

Enclosed you will find copy

of letter dated may 1,2000 from statemater Resources

control Board. claims Reviewmit.

Thank you for your help.

Yours sincerely Mehdi



Secretary for

Environmental Protection

State Water Resources Control Soard

10 0574

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-43600 MAY -4 Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120 FAX (916) 227-4530 • Internet Address: http://www.swrcb.ca.gov/~cwphome/ustcf

Gray Davis Governor

AM 9: 57

May 1, 2000

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580

UNDERGROUND STORAGE TANK CLEANUP FUND PROGRAM, REQUEST FOR FURTHER DOCUMENTATION DURING INITIAL REVIEW: CLAIM NUMBER 015058; FOR SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

Upon reviewing the requested information that you provided, we find that the following additional information is needed to determine your eligibility for placement on the Priority List:

Alameda County's letter dated May 28, 1999 states that this is a separate release subsequent from the release in 1986. According to their letter, this unauthorized release has high MtBE concentrations. However, your claim application is stating that the discovery date of the unauthorized release is 1986. Documentation shows that you were not a UST owner in 1986; therefore, you are not eligible for costs associated with the 1986 release. Please correct your application to reflect the correct date of the unauthorized release that Alameda County is referring to in their above letter.

Provide the Fund with an Underground Storage Tank Unauthorized Release (LEAK) Contamination Report that reflects the subsequent release. There should be a new Notice of Responsibility reflecting the subsequent release. Alameda County's Notice of Responsibility regards the unauthorized release in 1986.

Program regulations [Section 2811(a)(2)(B), Title 23, Division 3, Chapter 18 California Code of Regulations] places emphases on the claimant having applied for the required permit not later that January 1, 1990. Provide a copy of the owner/operator permit for the second generation of USTs that were installed in 1987. If you cannot provide a permit dated before January 1, 1990, you must complete a Permit Waiver.

The Request for Priority Assignment (Assignment) is not complete. You must submit a DE-6 with the Assignment and complete the annual gross receipts portion. I am returning the form for you to complete.

NOTE: Failure to respond to this request within thirty (30) calendar days from the date of this letter may result in an ineligibility determination of your claim.





May 1, 2000

If you have any questions, please contact me at (916) 227-4366.

Sincerely,

Shari Knieriem

Claims Review Unit

Underground Storage Tank Cleanup Fund

cc: Mr. Steve Morse RWQCB, Region 2 1515 Clay Street, Ste. 1400 Oakland, CA 94612

> Mr. Thomas Peacock Alameda County EHD 1131 Harbor Bay Pkway, 2nd Fl. Alameda, CA 94502-6577



Winston H. Hickox Secretary for Environmental Protection

State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sagramento, Cultifornia 95814 • (916) 227-4366

Mailing Address: P.O. Box 944212 • Sagramento, California • 94244-2120

FAX (916) 227-4530 • Internet Address: http://www.swreb.ca.gov/~ewphome/ustef



Gray Davis *Governor*

May 1, 2000

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580

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"after 1992"

ur®

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96, 97, 98 For Chary B and C3 coquired. Acknowledges

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California Environmental Protection Agency

Mchdi Mohammadian

-2-

May 1, 2000

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Sincerely,

Sharidonuiren

Shari Knieriem Claims Review Unit Underground Storage Tank Cleanup Fund

cc: Mr. Steve Morse RWQCB, Region 2 1515 Clay Street, Ste. 1400 Oakland, CA 94612

> Mr. Thomas Peacock Alameda County EHD 1131 Harbor Bay Pkway, 2nd Fl. Alameda, CA 94502-6577

UNDERGROUND STORAGE TANK CLOSURE/REMOVAL (NVESTICATION) FIELD INSPECTION REPORT

Site Address: 15595 Was hington	Name of Facility: Cal Gas, aka Linda Shel
Inspector: 5. Seery	Contact on site: Flank Hausedi - Fara
Date and Time of Arrival: 4-18-00	Contractor/Consultant:

General Requirements	Yes	No	N/A
Approved closure plan on site.			
Changes to approved plan noted.			
Residuals properly stored/transported.			
Receipt for adequate dry ice noted.			

General Requirements	Yes	No	N/A
Site Safety Plan properly signed.			
40B:C fire extinguisher on site.			
"No Smoking" signs posted.			
Gas detector challenged by inspector.			

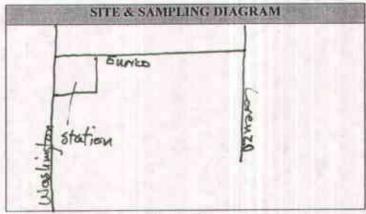
Tank Observations	T #1	T #2	T #3	T #4
Tank Capacity (gallons)				
Material last stored				
Dry ice used (pounds)				
Combustible gas concentration	as %LEL.	Note time	& sampli	ng point)
(1)				
(2)				
(3)				
Oxygen concentration as % vol	ume. (Not	e time ≻	mpling p	oint.)
(1)				
(2)				
(3)				
Tank Material				
Wrapping/Coating, if any				
Obvious holes?				

Tank Observations	T #1	T #2	T #3	T #4
Obvious corrosion?				
Obvious odors from tank?				
Seams intact?				
Tank bed backfill material				
Obvious discoloration?				
Obvious odors ex tank bed?				
Water in excavation?				
Sheen/product on water?				
Tank tagged by transporter?				
Tank wrapped for transport?				
Tank plugged w/ vent cap?				
Date/time tank hauled off?				
No. of soil samples taken?				
Depth of soil samples (ft. bgs)				

Piping Removal	Yes	No	N/A
All piping removed hauled off w/ tanks?			
Obvious holes on pipes?			
Obvious odors from pipes?			
Obvious soil discoloration in piping trench?			
Obvious odors from piping trench?			
Water in piping trench?			
Number & depth of soil samples from piping tr	ench?		1
Number & depth of water samples from piping	trench?		

General Observations	Yes	No	N/A
Leak from any tank suspected?			
"Leak Report" form given to the operator?			
Obviously contaminated soil excavated?			
Soil stockpile sampled?			
Stockpile lined AND covered?			
Water in excavation sampled?			7
Number/depth of water samples taken?			
All samples properly preserved for transport?			

Additional Observations	Yes	No	N/A
Soil/water sampling protocols acceptable?			
Sampling "chain of custody" noted?			
Tank pit filled in or covered?			
Tank pit fenced or barricaded?			
Transporter a registered HW hauler?			
Uniform HW Manifest completed?			
Contractor/Consultant reminded of complete UST Removal Report due within 30 days?			
Date/Time removal/closure operations complete	d?		
OT hours or additional charges due from contra	ctor?		



Notes/Comm	ents: 0	voite	Luring	dolling.	Vivons	x	Dush-to	of vice o	uch operator
perforaing	work.	Gw	reached	betroken	8-10'	BG	Poor	sample	recovery
between	8' and	GW.				-			re covery

INSPECTION NOTES been ex fraded into 4 long ace tate Comes are being transported occured in The field. listes worth a a time) to TPE where there will reported be stored in igerator, and then logged later in a soil same 6 Havedi-After susgesting That This is not something before, and suggesting some means of sung length of cord board was placed over boring did not adhere to modifications indicated in the 4 letter accepting this w.p., i.e., borings were still on 20-25' Centers , not the 40' centers veguested The nearly livere with The irrigation well. I met and spoke with Victoria Perry, an elderly woman most likely in her 803 90's. The has a woman culo lives with her as a coregiver. Although Mrs. Perry was a bit confused on the issue of not using The irrication well (the well may or may not be in working), the core taker was. The core giver is involved in The day to day Gasiness of Mus.













13 soil cores seem in back of track

AGENCY



DAVID J. KEARS, Agency Director

March 16, 2000

STID 1360

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

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580

RE: Cal Gas (aka Linda Shell), 15595 Washington Avenue – Soil and Water Investigation

Dear Mr. Mohammadian:

I am in receipt of the February 11, 2000 Enviro Soil Tech Consultants (ESTC) workplan for the continued soil and water investigation (SWI) associated with the referenced site. This ESTC workplan, due January 10, 2000, was received by this office on February 25th. As submitted, ESTC proposes the installation of a series of Geoprobe® "push-tool" borings in locations south and west of the subject site from which groundwater and soil samples will be collected for eventual laboratory analyses.

The cited ESTC work plan <u>has been accepted</u> for this preliminary stage of work at this site with the following modifications and clarifications:

1. ESTC proposes 13 borings along the south-side of Via Enrico and 3 along the east-side of Lorenzo Avenue in locations most adjacent to the subject site. A 20' spacing between borings is proposed. This boring density reflects earlier discussions with Mr. Hamedi-Fard (ESTC). After further consideration of this case, however, this boring configuration shall be modified.

Increase to 40' the distance between each boring along both alignments. This will reduce the resultant number of borings along Via Enrico from 13 to 7, but will provide similar coverage overall. In addition, increase the number of borings planned along Lorenzo Avenue, from the 3 proposed, to 5. This modification will-allow for 160' of coverage along Lorenzo Avenue, and better reflects the reported historic groundwater flow characteristics calculated from well data derived from the subject site. In this last configuration, the first boring of the Lorenzo Avenue alignment shall be emplaced near the northeast corner of the intersection with Via Enrico.

- 2. Every other boring shall be continuously cored and lithologically logged to total depth explored. The remaining borings may be advanced and logged as proposed.
- 3. Should only one soil sample be collected for laboratory analyses from each boring, that sample shall be the one collected from the apparent capillary fringe. Additional soil samples from other sample intervals will be required for laboratory analyses if subjective field evidence indicates impacts from fuel hydrocarbons.
- 4. Water samples shall be collected from boreholes in a manner that will minimize or eliminate the loss of any volatile constituents. The use of a mini-bailer is acceptable for this purpose. What is not acceptable is the use of a peristaltic pump, airlift pump, or a length of tubing and ball-check valve.

Mr. Mohammadian

RE: 15595 Washington Blvd., San Lorenzo

March 16, 2000 Page 2 of 2

5. In addition to analyses for the gasoline additive methyl tert-butyl ether (MtBE), other fuel oxygenates are to be sought in collected samples. Samples are to be analyzed for the presence of: tertiary butyl alcohol (TBA), tertiary amyl methyl ether (TAME), and ethyl tertiary butyl ether (ETBE). Because the ether oxygenates and TBA are not included in the standard list of analytes for EPA Method 8260B or 8020/8021, these additional compounds must be specifically requested when submitting samples to the laboratory for analysis.

For your information, Senate Bill (SB) 989 was signed into law by Governor Davis on October 8, 1999. SB 989 directs the State Water Resources Control Board (SWRCB) to identify areas most vulnerable to releases of MtBE, prioritize resources, and develop investigation and cleanup guidelines. The SWRCB MtBE cleanup guidelines have now been drafted, and prescribe the step-wise process in development of a Site Conceptual Model (SCM). A SCM, required for all MtBE release sites, is the progressive assemblage of information regarding the distribution of chemicals at a site, its hydrologic setting, geology, surrounding land use, well locations, and existing and projected water use patterns. The SCM functions as the framework for the investigation, remediation, and ultimately the closure of the site.

Attached to this letter you will find a copy of Appendix C, derived from the referenced SWRCB MtBE guidance. Appendix C provides a format for your consultant to follow when putting together the SCM for this site. You are requested to ensure that your consultant adheres to this format when submitting the report documenting this phase, and subsequent phases, of work at your site.

In addition, the MtBE guidance now requires that interim remedial action (IRA) be implemented at sites where persistent concentrations of 10,000 ug/l MtBE or more in groundwater have been identified. Your site appears to meet that criterium. The assessment work that will be conducted within the coming 6 months will dictate whether or not you will be required to implement IRA at this site.

You are directed at this time to implement the ESTC SWI workplan, as modified, within 30 days of the date of this letter. You are also directed to reinstate quarterly sampling and monitoring of the on-site wells within this same time frame (30 days). The report documenting this phase of the investigation, including the re-initiation of well sampling and monitoring, shall be submitted within 45 days following completion of field activities.

Please contact me at (510) 567-6783 should you have any questions or comments, and to advise when field work has been scheduled.

Sincerely,

Scott O. Seery, CHMM

Hazardous Materials Specialist

Attachment

cc: Robert Weston, ACDEH

Dave Deaner, SWRCB UST Fund

Chuck Headlee, RWOCB

Jeffrey Widman, Esq., 84 West Santa Clara Street, Ste. 690, San Jose, CA 95113

Frank Hamedi-Fard, Enviro Soil Tech Consultants, 131 Tully Rd., San Jose, CA 95111 (w/attachment)

Appendix C

Site Conceptual Model Reports

The Site Conceptual Model (SCM) is a written or graphical representation of the release scenario, site characteristics (geology, hydrogeology, etc.) and the likely distribution of chemicals at the site. It links potential sources to potential receptors through transport of chemicals in air, soil, and water. It also provides a framework for the entire project and a communication tool for regulators, responsible parties, and other stakeholders. The goals of the conceptual model are listed below:

- Identify how the distribution of chemicals is changing in space and time
- Identify potential current and future receptors
- Identify environmental issues that need to be addressed

Reporting

Reports submitted to regulatory agencies are by necessity specific to the type of information they are presenting. They may contain a summary of activities, backup data to support conclusions, etc. A report that attempts to convey a representation of a SCM needs to meet the goals listed above. To meet these goals, investigation reports usually, at a minimum, contain the following elements:

Text

- 1. Site Description, Land Use, and Water Use
- 2. Chronology of Events
- Site Stratigraphy and Hydrogeology
- 4. Well and Conduit Study
- 5. Estimation of Release Mass (if available)
- 6. Source Removal Activities
- 7. Remediation Activities

Figures

- 1. Site Location Map
- 2. Site Vicinity Map with Receptor Wells
- 3. Site Map with Groundwater Gradients, Cross Section Lines, and any known preferential pathways
- 4. Site Map with Isoconcentration Contours
- 5. Cross Section long axis of plume
- 6. Cross Section short axis of plume
- 7. Cross Section of Regional Geology (optional)
- 8. Concentration vs. Time Plots for Each Well
- 9. Concentration vs. Distance (optional)

Tables

- 1. Groundwater Elevation Data
- 2. Groundwater Analytical Data
- 3. Soil Analytical Data

mtbe_finaldraft 03/27/00

Appendix C

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00 MAR -3 PM 3: 49

M. Mohammadian Cal Gas 15595 Washington Ave. San Lorenzo CA. 94580 3-1-2000

Mr. Scott O. Seery Alameda County Health care Services Agency **Environmental protection** 1131 Harbor Bay Parkway Suite 250 Alameda, CA. 94502-6577

Dear Mr. seery:

Enclosed you will find a copy of a letter dated Feb. 17, 2000 from State Water Resources Control Board, Under ground Storage Tank Cleanup Found, I will appreciate if you provide me with the documents which they required by the item 1, 2& 3, Furthermore I will appreciate if you forward me the copies of the permit to operate since 1990 and also a copy of permit for upgrade of December 1998. Awaiting to hear from you soon.

Yours Sincerely

M. Hohammadian

Mehdi Mohammadian

Rob -Can you handle item # 3, above?



Secretary for

Environmental Protection

State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4366

Maiting Address: P.O. Box 944212 • Sacramento, California • 94244-2120

FAX (916) 227-4530 • Internet Address: http://www.swrcb.ca.gov/~cwphome/ustcf



Gray Davis
Governor

5710 1360

FEB 17 2000

Mehdi Mohammadian 15595 Washington Ave San Lorenzo, CA 94580

UNDERGROUND STORAGE TANK CLEANUP FUND PROGRAM, REQUEST FOR FURTHER DOCUMENTATION DURING INITIAL REVIEW: CLAIM NUMBER 015058; FOR SITE ADDRESS: 15595 WASHINGTON AVE, SAN LORENZO

This letter is a follow-up to our conversation on February 14, 2000 requesting additional to determine your eligibility for placement on the Priority List.

A claimant must have either owned or operated the subject leaking UST, must be the entity being directed to undertake corrective action for an unauthorized release by the local regulator and the entity paying for the costs of cleanup. It appears that you are not eligible for the release in 1986 since the USTs were removed and you did not become the UST owner until 1990. However, if the basis for this claim is for a new release the following documentation will be needed.

- 1) Verification from the local agency that an unauthorized release of petroleum from the UST was discovered on a specified date.
- 2) Copy of a letter from the local regulatory agency naming you a responsible party and directing you to clean up the contamination at the subject site.
- 3) A copy of the permit to own or operate the UST from the local implementing agency dated between January 1, 1984 and January 1, 1990 (pursuant to Chapter 6.7 of the Health and Safety Code).

If you were not subject to the permit requirement, submit documentation to confirm this claim. Situations where the permit was not required by January 1, 1990, can include: a) you removed all USTs prior to January 1, 1990; and not replaced; b) you decommissioned all USTs pursuant to the direction of the regulatory agency prior to January 1, 1984; c) you sold the property and tanks by January 1, 1990.

If you were subject to the permit requirement but failed to comply by January 1, 1990, you can request the State Board to waive the requirement as a condition for eligibility. To request a waiver, complete the enclosed "Permit Waiver Request" form and return with any additional information requested below.

- 4) Financial Responsibility (FR) Claimant must demonstrate FR until the subject site receives closure from the local regulator (no further cleanup action required). For your convenience I have enclosed the necessary forms to complete. If you should have questions regarding FR, please contact Judi Nash at (916) 227-4527.
- 5) Since claimant acquired the property in 1990, claimant must provide the following for the purchase of the site:

Purchase Offer Purchase Agreement (final) Appraisal Report Escrow Instructions

- 6) Claimant has requested Priority Class B; however, has not provided the appropriate documentation to support Priority Class B. Enclosed is the addendum to the Cleanup Fund Claim Application for assignment to Priority Class B. Please complete.
- 7) Claimant may opt to request Priority Class C. Claimant must submit documentation verifying that claimant does not employ more than 500 full time or part time employees. Submit either a DE-6 filed with Employment Development Department for calendar year 1999 or a declaration letter signed by an officer of the company.
- 8) Provide copies of claimant's owner/operator permits for the years 1990 thru 1998. In addition, if claimant's USTs were not upgraded prior to December 22, 1998, claimant must demonstrate that the following actions were completed prior to December 22, 1998

Operation of USTs had ceased.

USTs were emptied.

Claimant applied for a temporary/permanent closure permit for the USTs.

NOTE: Failure to respond to this request within thirty (30) calendar days from the date of this letter may result in an ineligibility determination of your claim.

If you have any questions, please contact me at (916) 227-4366.

Sincerely,

Shari Knieriem

Claims Review Unit

Underground Storage Tank Cleanup Fund

Sharitainiem

Enclosure

cc: Mr. Steve Morse/Without Enclosure RWQCB, Region 2 1515 Clay Street, Ste. 1400 Oakland, CA 94612

Mr. Thomas Peacock/Without Enclosure Alameda County EHD 1131 Harbor Bay Pkway, 2nd Fl. Alameda, CA 94502-6577

Notice of Sale of Tax-Defaulted Property Alameda County Tax Collector's Office

Bertram H. Kubo Route 2 186C Oakley, CA 94561 y wrong address

Recorder's Number: 90-161470

IMPORTANT NOTICE TO PARTIES OF INTEREST

Our records indicate you may have a legal interest in the propery described below. This property will be offered for sale at public auction to the highest bidder, and for not less than the minimum bid at the place, date and time indicated. The proposed sale is for the purpose of satisfying unpaid taxes, penalties and costs.

The amount currently required for redemption is shown below. THE RIGHT OF REDEMPTION WILL TERMINATE AT THE CLOSE OF BUSINESS ON THE LAST BUSINESS DAY PRIOR TO THE DATE THE SALE BEGINS. REDEMPTION OF THE SUBJECT PROPERTY WILL NOT CAUSE A TRANSFER OF TITLE.

Redemption Amount: \$35,027.28

If paid by: March 28, 2000

Assessee's Name: Mohammadian Mehdi & Fereshteh

Assessor's Parcel No: 441-0821-001-15

Address of Property: \$15593 Washington Ave. San Location

Minimum Bid: \$35,193.78

ONLY CASH, CASHIER'S CHECK, CERTIFIED CHECK, OR POSTAL MONEY ORDER WILL BE ACCEPTED TO REDEBM THIS PROPERTY AND MUST BE MADE PAYABLE TO: DONALD R. WHITE, Tax Collector. If you have any questions regarding redemption amounts phone (510) 272-6800.

If the property was damaged, and not substantially repaired, within the last five years due to a local, state, or federally declared disaster, it cannot be offered for sale until it has been tax-defaulted for five years from the date of the disaster. If property falls into this category, contact the county tax collector's office immediately and the last property commentation may be requested by the tax collector showing that the property was damaged as a result of declared disaster and the date the damaged occurred.

RIGHTS OF PARTIES OF INTEREST AFTER SALE

If the property is not redeemed, and it is sold, you have the right to claim proceeds remaining after the tax and assessment liens and costs of sale are satisfied. To claim for excess proceeds you must be a "party of interest" as defined by section 4675 of the Revenue and Taxation Code. A claim must be filed within one year after the tax collector's deed to the purchaser is recorded.

The law protects parties of interest by requiring that any assignment to another person of the right to claim excess proceeds can be made only by means of a dated, written document. The document must specifically state that the right to claim excess proceeds is being assigned and that each party to the transaction has informed the other of the value of the right being assigned.

AGENCY





February 1, 2000

STID 1360

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA 94580 **ENVIRONMENTAL HEALTH SERVICES**

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

NOTICE OF VIOLATION

RE: Linda Shell (aka Cal Gas), 15595 Washington Avenue, San Lorenzo

Dear Mr. Mohammadian:

Your attention is directed to the November 10, 1999 correspondence from this office which requested your submittal of a soil and water investigation (SWI) workplan. This SWI workplan was due January 10, 2000. To date, the SWI workplan has not been received by this office.

You spoke with me on January 7, 2000 to inform me that you had hired a consultant to assist you on this project, and to request a 2 week extension to the due date for workplan submittal. This extension was never granted. However, I did agree to speak to your consultant, Frank Hamedi (Soil Tech Engineering), which I did, and arranged to meet him at the subject site the following Monday, January 10th. On January 10th, Mr. Hamedi and I toured your site and surrounding areas in order to identify appropriate sampling locations. Later that day I also provided Mr. Hamedi with excerpts from the October 16, 1998 Toxichem Management Systems, Inc. Soil and Groundwater Investigation Results report. Mr. Hamedi informed me that he had not been aware of this report prior to our meeting.

It has now been 3½ weeks since you requested a 2 week extension, and ~3 months since the subject SWI workplan was requested.

At this time, you are directed to submit the SWI workplan within 7 days of the date of this letter. Failure to comply with this request will result in your case being referred for enforcement action.

Be advised, as before, that this letter constitutes an official request for a SWI work plan pursuant to California Code of Regulations §2722. Please be further advised that failure to comply with this request is a violation of Health & Safety Code §25299(b)(6), and may result in fines of up to \$5000 per day per violation upon conviction.

Mr. Mohammadian

RE: 15595 Washington Blvd., San Lorenzo - N.O.V.

February 1, 2000

Page 2 of 2

Please contact me at (510) 567-6783 should you have any questions about the content of this letter.

Sincerely,

Scott O. Seery, CHMM

Hazardous Materials Specialist

cc: Robert Weston, ACDEH

Bob Chambers, Alameda County District Attorney's Office

Dave Deaner, SWRCB UST Fund

Chuck Headlee, RWQCB

Jeffrey Widman, Esq., 84 West Santa Clara Street, Ste. 690, San Jose, CA 95113

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

November 10, 1999

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580 **ENVIRONMENTAL HEALTH SERVICES**

ENVIRONMENTAL PROTECTION 1131 Harbor Bay Parkway Alameda, CA 94502-6577 (510) 567-6700 (510) 337-9432

RE:

LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO – Second Request

for Continued Soil and Water Investigation

Dear Mr. Mohammadian:

Your attention is directed to the November 9, 1999 State Water Resources Control Board (SWRCB) correspondence that dismisses your request for stay in the matter of your petition to the SWRCB. A copy of this letter is attached for your reference. Your attention is also directed to the May 19, 1999 correspondence from this office which requested from the responsible parties (RP) associated with this case at that time the submittal of a soil and water investigation (SWI) work plan for the continued assessment of the release from the subject site. A copy of this letter is also attached for your reference. Approximately 6 months have now passed since the SWI work plan request was issued.

As you are aware, on May 28, 1999 Texaco Inc. and successor corporations, and Agnes and Jessen Calleri, were removed from further responsibility in this case. On August 19, 1999, the Bertram Kubo Trust was also removed. You are the surviving RP for this case. Now that the SWRCB has dismissed your request for stay, you are solely responsible at this time for ensuring the release from your site is fully investigated, and an appropriate corrective action plan (CAP) is developed and implemented.

You are hereby directed to submit a SWI work plan for the continued investigation of this gasoline release. The SWI work plan is due within 60 calendar days of the date of this letter, or by the close of business on January 10, 2000.

Please be advised that this letter constitutes an official request for a SWI work plan pursuant to California Code of Regulations §2722. Please be further advised that failure to comply with this request is a violation of Health & Safety Code §25299(b)(6), and may result in fines of up to \$5000 per day per violation upon conviction.

Mr. Mohammadian

RE: 15595 Washington Blvd., San Lorenzo

November 10, 1999

Page 2 of 2

Please contact me at (510) 567-6783 should you have any questions or comments.

Sincerely,

Hazardous Materials Specialist

Attachments (addressee, only)

cc: Robert Weston, ACDEH

Dave Deaner, SWRCB UST Fund

Chuck Headlee, RWQCB

Karen Fineran, Esq., Makoff Kinnear Council, P.C.

20 California St., Ste. 201, San Francisco, CA 94111

Mary Taylor, Esq., 101 Ygnacio Valley Rd., Ste. 330, Walnut Creek, CA 94596

Bernard Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350, Oakland, CA 94612

Jeffrey Widman, Esq., 84 West Santa Clara Street, Ste. 690, San Jose, CA 95113

` ALAMEDA COUNTY

HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

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

September 3, 1999

Lori Casias State Water Resources Control Board Division of Clean Water Programs P.O. Box 94412 Sacramento, CA 95814

RE:

Response to Petition, Underground Storage Tank Local Oversight Program Site No. 1360, 15595 Washington Avenue, San Lorenzo, Alameda County, California

Dear Ms. Casias:

This letter is sent in response to a Petition to the State Water Resources Control Board (SWRCB) submitted by counsel on behalf of Mehdi Mohammadian ("Petitioner") regarding the subject site. Following is a brief discussion and response to the crux of Petitioner's claims. Transmitted to the SWRCB with this response is a copy of the Local Oversight Program (LOP) and underground storage tank (UST) compliance files for this case.

Petitioner claims that the Alameda County Health Care Services Agency ("ACHCSA") acted improperly in removing both Texaco and the Calleris from the list of "responsible parties", pursuant to Title 23, §2720, California Code of Regulations (CCR). This claim has no merit. Both Texaco and the Calleris (and, more recently, the Bert Kubo Trust) were removed for cause, based on the following facts:

(1) ACHCSA originally named Texaco, Inc., Bertram Kubo, and the Petitioner as "responsible parties" in April 1993. The Calleris were added in September 1995. These responsible party designations were in conformance with 23CCR §2720 criteria and substantially based on an October 1986 Groundwater Technology, Inc. (GTI) report that identified the presence of detectable concentrations of gasoline compounds in groundwater sampled from wells at the site during August 1986.

RE: Petition to SWRCB, 15595 Washington Ave., San Lorenzo

September 3, 1999

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The following §2720 criteria and site history were applied in making this determination:

- i) The Calleris were the last known owners of the property and 2nd generation USTs immediately before the discontinuation of their use, which occurred during or prior to 1983.
- ii) Texaco was a subsequent owner of the property, including the 2nd generation USTs, acquiring the property in August 1983 in a foreclosure sale. The USTs were reportedly never used during Texaco's tenure at the site. The 2nd generation USTs were reportedly removed prior to sale of the property in December 1986.
- iii) Bertram Kubo was a subsequent owner of the site, acquiring the property in December 1986 from Texaco. The 2nd generation USTs had reportedly been removed by the time of his purchase. The 3rd and current generation USTs were installed in February 1987.
- iv) The Petitioner is a subsequent owner of the site and 3rd generation USTs, acquiring the property in June 1990.
- (2) August 1998 and early 1999 site assessment data document the presence of up to 340,000 ug/l of methyl tert-butyl ether (MtBE), among other gasoline compounds, in sampled groundwater, consistent with a "recent" release associated with the 3rd generation UST system.
- (3) This recent release occurred subsequent to the release first identified in 1986, as the 2nd generation USTs were last used in the early 1980's, a period of time when MtBE was not in widespread use in California.
- (4) Neither the Calleris nor Texaco were owners of the property or the USTs at the time the subsequent (MtBE) release occurred.

The record reflects that ACHCSA did not become aware of a release at this site, let alone the presence of monitoring wells there, until January 1993, when a December 1992 GTI well sampling report was received unsolicited. Tracy Federal Bank (TFB) apparently contracted GTI to conduct this work and produce the cited report when TFB was processing a commercial loan on the property, apparently for the Petitioner. The 1986 GTI report was not received by this office until March 1993, two months after receipt of the 1992 report, at the request of Bertram Kubo.

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As a result of the sampling data presented in the cited reports and our review of site ownership records, three of the aforementioned parties (Texaco, Kubo, Petitioner) were subsequently named and notified in April 1993 of their joint responsibilities. The Calleris were later named in September 1995 following the second of two Pre-Enforcement Review Panels (PERP), convened by this office in October 1994 and February 1995 due to disputes between the parties regarding their responsible party status and their combined resistance to comply with directives from this office. The decision to name the Calleris was initially challenged in a petition to the SWRCB, and later rescinded. (See: August 31, 1995 directive from Lawrence Kolb, San Francisco Bay RWQCB, and [undated] petition to the SWRCB from Mary J. Swanson, attorney for Jessen and Agnes Calleri.)

Between 1993 and the end of 1995, the three original wells at the site were sampled only twice: during March 1994 and December 1995. Each event was financed by Texaco, who agreed to pay for all site work in the interim while the parties were still negotiating and disputing their respective roles. Between July and September 1998, an expanded soil and water investigation (SWI) was performed at the site, the workplan for which had been approved by this office in February 1996. Both the SWI workplan and its implementation were, again, financed by Texaco. (Note: No work occurred at the site for over 2 years [1996-1998], reportedly as a result of continued disputes, negotiations, and legal actions between the parties.)

During completion of the SWI two new wells were constructed and several soil borings advanced. The original wells were also sampled. It is during this initial phase of the SWI that MtBE was first sought and consequently discovered at the site at a concentration of up to 340,000 ug/l in sampled groundwater. Subsequent sampling events, which included the use of EPA Method 8260, confirmed the high concentrations of MtBE at the site.

Petitioner claims some correlation between the temporarily-missing well plug ("J-plug") on one of the wells, and exposed casing irregularities in two other wells, with the occurrence of MtBE in sampled groundwater. The Petitioner speculates that "contaminated run-off" must have entered the subsurface through the unplugged well casing or by infiltration into two other wells from partially inundated well boxes, and in this way MtBE could have impacted underlying groundwater. Consequently, Petitioner argues, Texaco should be responsible for the MtBE impact to groundwater as Texaco, he claims, and their agents are solely responsible for the integrity of and access to the wells at the site. Petitioner further argues that had this author been aware of these "facts", the decision to release the Calleris and Texaco from further responsibility may have been affected.

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Although it is true that the (now remedied) condition of the three subject wells was unknown to this author when the decision to release the Calleris and Texaco was made, such knowledge would <u>not</u> have changed this decision, as Petitioner's arguments have no technical or practical merit. For an exploration of and rebuttal to Petitioner's claims on this issue, the reader is directed to the June 28, 1999 response to the SWRCB from Toxichem Management Systems, Inc. ("Toxichem") and their August 17, 1999 addendum to Karen Fineran's letter.

The issue of "contaminated run-off" and observations made during a June 1999 site inspection have raised a specter of concern, however, regarding the Petitioner's UST spill prevention and response program, unauthorized release reporting compliance, adequacy of employee training, and general integrity of the surface seal (e.g., asphalt) across the site. According to Petitioner's August 1995 UST permit conditions, employees must be sufficiently trained to respond to, and sufficient supplies on hand to clean-up, any unauthorized releases, such as incidental spills or "drive-offs", hence preventing the occurrence of so-called "contaminated run-off". Petitioner's current Hazardous Materials Business Plan (HMBP) also indicates that his employees are both trained and sufficient spill supplies readily on hand to respond to such events.

Further, pursuant to 23CCR §2650(e), any unauthorized release that escapes the primary container is to be reported to the local agency within 24 hours, followed by a full written report within 5 days. In addition, Petitioner's HMBP indicates that he is specifically aware of the requirement to immediately contact this office if a release occurs. The record reflects that this office has not become aware of any notifications being made or reports submitted on behalf of Petitioner for such releases.

This office, therefore, can only conclude from these facts that: 1) no releases that might have produced "contaminated run-off" occurred, or 2) if such releases <u>did</u> occur, Petitioner both failed to notify this office <u>and</u> take appropriate clean-up actions. Nevertheless, if such releases did occur, it is much more plausible that gasoline has infiltrated the subsurface, not through uncapped wells or inundated well boxes, but rather, via the copious surface cracks in the asphaltic concrete and joints clearly evident near the dispenser and UST areas at the site.

Petitioner also claims that "[d]uring 1993 and 1994, the site [had] been under direct observation and inspection by the ACHCSA and all of the equipment [had] been tested and there was no sign of any leakage from existing equipment." This statement could not be further from the truth. The record reflects that, between December 1990 and March 1995, no inspections of UST system compliance or other direct interaction by this office regarding UST system compliance occurred.

RE: Petition to SWRCB, 15595 Washington Ave., San Lorenzo

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The reader is directed to a series of letters from this office and inspection records generated in response to UST compliance inspections performed during 1995 and 1996. As an example, Petitioner was issued a "NOTICE OF VIOLATION" in March 1995 after one such inspection. During this inspection, the inspector, Robert Weston, observed, among other conditions noted, that the alarm lights of the Pollulert UST monitoring system were activated, and the audible alarm bypassed, a violation of the UST monitoring requirements set forth under 23CCR. Further inspection of the Pollulert panel and integral test functions revealed that the unit appeared not to be functioning properly, and that it had likely not been serviced since it had been installed in 1987. Unfortunately, Petitioner was unclear on the proper operation of the Pollulert system, as he claimed to have only received verbal instructions from the previous owner (Kubo). (Note: A subsequent inspection in April 1996, again, demonstrated that the employee in control of the facility at that time also did not know how to operate the Pollulert system.)

Further observations made in the course of the March 1995 inspection revealed that the area under the dispensers lacked containment pans and showed subjective evidence of leaks from pipe joints above the shear valves. In follow-up to this inspection, this office requested, among other numerous requirements, that repairs be made to the leaking pipes, and that the Red Jacket leak detectors and Pollulert system be serviced and tested.

A subsequent test of the Red Jacket pipeline leak detectors, performed in July 1995, demonstrated that <u>each</u> detector failed to comply with the Health & Safety Code (HSC) §25292(b)(4)(C) standards that applied at that time. Since December 1990, §25292(b)(4)(C) required that line leak detectors be capable of detecting a leak of 3 gph at a test pressure of 10 psi. Petitioner's leak detector leak rate was higher than this. (Note: Petitioner upgraded the leak detectors in September 1995, and again in January 1999 to comply with December 1998 standards.)

These observations and violations demonstrate that for many years the UST system, for all intents and purposes, had not been appropriately monitored, nor the site managed, in compliance with HSC and 23CCR standards and UST operating permit conditions.

It is true that the extent of the "historic" (pre-1984) release had not been fully defined by the time clear evidence of a recent release was discovered in August 1998. There are numerous reasons for this, including an initial failure to inform this office or that of the Regional Water Quality Control Board (RWQCB) of the historic release. However, once this office was informed of the release in 1993 and the parties were directed to act, long delays ensued, primarily due to the reluctance of many of the parties to assume their responsible roles. Texaco was the only party that expended resources directly to continue the site investigation, however limited that effort was.

RE: Petition to SWRCB, 15595 Washington Ave., San Lorenzo

September 3, 1999

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Nevertheless, it is not anticipated that the historic release was either necessarily large in extent or would pose a risk to nearby potential receptors. This opinion is based on: 1) the underlying geology at the site, 2) the chemistry of fuel releases from that era, 3) the intrinsic attenuation factors that would have acted upon this release over the years, and 4) an understanding that the historic release occurred a minimum of 16 years ago. Although difficult to clearly contemplate now, it is not expected that the investigation of the historic release would have expanded greatly in scope.

The recent release, however, is significant in terms of the MtBE concentrations detected recently in groundwater at the site. The investigation, therefore, must expand to off-site locations. A directive from this office dated May 19, 1999, now in abeyance pending the outcome of this petition, directed the parties to do just that. In addition, an active irrigation well (3S / 3W 12 J4) was recently discovered nearby and, in this author's view, may be at risk from the MtBE contamination should work at the site fail to move forward now at a brisk pace.

To assign any level of responsibility for this recent and more significant release to the Calleris or Texaco is unreasonable based on the facts of this case.

Please call me at (510) 567-6783 should you need any additional information.

Sincerely,

Scott Q. Seery/CHMM

Hazardous materials Specialist

Enclosure (addressee, only)

cc: See attached list

Ms. Casias RE: Petition to SWRCB, 15595 Washington Ave., San Lorenzo September 3, 1999 Page 7 of 7

cc: Robert Weston, ACHCSA, Hazardous Materials Program
Tom Peacock, Manager, LOP, ACHCSA
Ariu Levi, Chief, ACHCSA
Chuck Headlee, RWQCB

Douglas Gravelle Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Karen Petryna Equiva Services LLC P.O. Box 6249 Carson, CA 90749-6249

Mary S. Taylor, Esq. 101 Ygnacio Valley Road #330 Walnut Creek, CA 94596

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

Karen D. Fineran, Esq. Makoff Kinnear Council P.C. 20 California Street, Ste. 201 San Francisco, CA 94111

Julie M. Rose, Esq. Randick & O'Dea 1800 Harrison Street, Ste. 2350 Oakland, CA 94612

Jeffrey P. Widman, Esq. 84 West Santa Clara Street, Ste. 690 San Jose, CA 95113

Mehdi Mohammadian 15595 Washington Avenue San Lorenzo, CA 94580

ALAMEDA COUNTY PUBLIC HEA	ALTH DEPARTMENT
PETTY CASH VOUCHER #_	
Dept No. 444 430 Account No. 3/11	Cost Center No. <u>4580</u>
Am	ount of Purchase \$ 24.75
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14 pounds of case documents to ?	State Water Resources
Control Board in Sacragranto	
imployee's Signature	Employee's QIC 30440
Employee Name (Print) Scott Seery	Telephone No. 510/567-6783
Approved Department Head or Authorized Signature	Date 9/10/95

FecEx USA Airbill Tracking 814752643243	for D200 Packages up to 190 fbs.
Prom. Process print and prison hand. Dates 9-3-79 Sender's FedEx. Account Number	4a Express Package Service FedEx Priority Overnight FedEx Standard Overnight FedEx First Overnight FedEx Firs
Senders Scott Seery Phone (510) 567-6783	FedEx 20oy* Second borroad day FedEx Express Saver* *FedEx Express
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Your Internal Billing Reference First 24 characters will appear on Proofs. To Recogniser's Lori Casias Phase 1976 227-4325 Name State Water Resources Control Board, Company Division of Clean Water Programs	6 Special Handling Sundary Delivery Available for FedEx Priority Overright and Index 2Der Does this shipment contain dangerous goods? Does bear must be checked. Yes Shipper's Declaration Page of PedEx Post Declaration No Page of PedEx PedEx Declaration Proceed Declaration Proceed Declaration Overright and FedEx Declaration Proceed Declaration Overright and FedEx Declaration Proceed Declaration Overright and FedEx Declaration Overright and F
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Questions? Call 1.800.Go.FedEx® (800-463-3339) Visit our Web site at www.fedex.com	B Release Signature Styre to authorize delivery without challing algorithm.
By using this Astall you agree to the service conditions on the back of this Astall and in our current Service (Sailt), including serve that limit our fability.	By signing you sutherton us to deliver this shipment without obtaining a signeture and agree to indemnify and hold us harmfess from any resulting sistens.

Telephone: (415) 217-8800 Facsimile: (415) 217-8818

Writer's Direct Dial: (415) 217-8831

September 3, 1999

Writer's Direct Email: kfineran@mkclaw.com

Via Facsimile (w/o Enclosures) and Overnight Mail

Ms. Lori Casias State Water Resources Control Board 2014 "T" Street, P.O. Box 944212 Post Office Box 944212 Sacramento, California 94224-2120

> Re: Former Texaco/Current Shell Service Station 15595 Washington Street, San Lorenzo, California 15995

Dear Ms. Casias:

I am writing on behalf of Texaco, Inc. in response to your August 16, 1999 letter, in which you requested responses to Mehdi Mohammadian's petition to the State Water Resources Appeal Board (SWRCB) appealing the decision of the Alameda County Health Care Services Agency (ACHCSA).

As we feel that we have adequately set forth Texaco's position in previous letters to the SWRCB, Texaco's response consists of my letter to you dated August 17, 1999 and Keith Winemiller's letter to you dated June 28, 1999, both enclosed with this letter. In addition, we enclose two other documents for your review: (1) the Soil and Groundwater Investigation Results of Toxichem Management Systems, Inc., dated October 16, 1998, and (2) the Quarterly Monitoring Report - Second Quarter 1999, dated May 14, 1999.

September 3, 1999 Page 2

Please do not hesitate to call me or Wesley Kinnear if you have any questions or if you feel that any additional information would be useful.

Sincerely yours,

Karen D. Fineran

Enclosures

cc: Wayne Hinson, Esq.
Mary Taylor, Esq.
Julie Rose, Esq.
Scott Seery, ACHCSA
Jeffrey Widman, Esq.
Karen Petryna, Equiva Services LLC

August 26, 1999

ATTN: Scott Seery
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

8314550756

RE: 15595 Washington Blvd., San Lorenzo site

VIA FAX (510) 337 9335 total pages including this page:

Dear Scott:

Pursuant to our telephone conversation this morning, I am transmitting to you two documents: a copy of the "Award of Arbitrator" decision and my brother's statement regarding this property. It is my feeling that the Mohammadians will, again, blame my brother for all damages he suffered and; therefore, I feel the decision of the arbitrator should be a part of this file.

At the current time, the Mohammadians owe Bert \$117,356.67 for the property. Bert was carrying the second. After the Mohammadians found out that Bert had died, payments to Bert stopped. I have been trying to collect on this Note and I recently received a letter from the Mohammadians, putting an entirely different spin on the whole issue. The question that remains for me is: Why did Mohammadian spend so much in time and attorney fees if he didn't want this property? Bert foreclosed on him in 1991 (and there may have been a second foreclosure further on down the line) but, the Mohammadians brought their payments current and resumed ownership of the station. If he did not want this station, Bert would have taken it back. Instead, Mohammadian kept it and another 7 years of hell ensued for my brother. Now, Mohammadian wants the Trust to buy it back from him. Last I heard, he was five or six years delinquent on property taxes as well. Maybe they are current now; your guess is as good as mine.

Thanks for your help, Scott. I'm as sorry as you are that Mohammadian have absolutely no regard for anyone and only know how to make life miserable.

Sincerely,

Manie Kanyer

COMMERCIAL ARBITRATION TRIBUNAL AWARD OF ARBITRATOR

In the Matter of Arbitration between

8314550756

Re: 74 181 01434 91
Mehdi Mohammadian and
Fereshteh Mohammadian
and
Bertram H. Kubo

- I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Arbitration Agreement entered into by the above-named Parties, and dated January 23, 1990 and having been duly sworn and having duly heard the proofs and allegations of the Parties, AWARD, as follows:
- 1. The application of Claimants', Mehdi Mohammadian and Fereshteh Mohammadian, attorney for sanctions is denied.
- Claimants', Mehdi Mohammadian and Fereshteh Mohammadian, claim or request for relief, either as sought in the second amended demand for arbitration, or as supplemented by brief or oral argument is hereby denied.

The damages suffered by Claimants, Mehdi Mohammadian and Fereshteh Mohammadian, were caused by the grievous errors and omissions of the "business consultant" and his brother, upon whom the Claimants relied."

- 3. All sums held in escrow # 3907 pd Business and Escrow Service Center, 650 Saratoga Ave. #100, San Jose, California, together with any interest thereon shall be paid forthwith without deduction or set-off to Respondent, Bertram H. Kubo.
- 4. Except as otherwise stated herein, neither side shall recover any attorneys fees or other costs arising out of or associated with this arbitration.
- 5. The compensation of the arbitrator totaling \$2500.00 (TWO THOUSAND FIVE HUNDRED DOLLARS) shall be borne by Claimants, Mehdi Mohammadian and Fereshteh Mohammadian; therefore, Claimants shall pay to the American Arbitration Association the sum of \$1000.00 (ONE THOUSAND DOLLARS) and Claimant shall pay to Respondent, Bertram H. Kubo, the sum of \$500.00 (FIVE HUNDRED DOLLARS) for those fees already paid to the Association.
- 6. The fees and expenses of the American Arbitration Association totaling \$3050.00 (THREE THOUSAND FIFTY DOLLARS) shall be borne by Claimants, Mehdi Mohammadian and Fereshteh Mohammadian; therefore, Claimant shall pay to Respondent the sum of \$300.00 (THREE HUNDRED DOLLARS) for those fees already paid to the Association.

Postponement fees shall be borne by Respondent, Bertram H. Kubo; therefore, Respondent shall pay to the American Arbitration Association the sum of \$100.00 (ONE HUNDRED DOLLARS).

Award of Arbitrator 74 181 0134 91 Page Two

- 7. Nothing contained in this Award shall be construed to alter, vary or contradict any deed, deed of trust, promissory note, or other obligation existing between the parties.
- 8. This Award is in full settlement of all claims submitted to this arbitration.

DATED: 7/31/42

Stanley Anthony Shulster

Mehdi Mohammadian 6222 Mojave Drive San Jose, California 95120 July 11, 1999

Bertram H. Kubo Trust PO Box 1169 Marina, California 93933

Dear Ms. Marjorie Kanyer;

First and foremost we would like to extend to you and your family our condolences for the loss of your brother. No doubt that the death of a loved one is a most traumatic and heartfelt loss that one may experience and the void must be intolerable, but it is our sincerest hope that the passage of time will ease your pain and lessen your grief.

We would by this letter, in addition to sending you our condolences, wish to respond to your letter dated June 8, 1999. It seems that you are not aware of all of the facts. Your brother caused our financial ruin and caused us an immeasurable amount of emotional pain. His actions caused us so much suffering and has cost us so much, we have lost so much--our money, our retirement fund, our home, our faith in the integrity and honesty of other men, and my health has suffered greatly. I am not a young man, who can easily recover from such a fall, from such a loss.

For nine years my whole family has suffered because of this station and the headaches still continue to haunt us to this date. My wife, my four children, and myself have to suffer continually because the issues regarding the station are seemingly never ending, we have no peace in our household because everyday another headache arises because of the station. We believe that you are aware of the current torment that we are undergoing in regard to the contamination of the property. Enclosed you will find a letter in regard to this current issue.

Had we been afforded our right of full disclosure prior to our purchase, more than nine years ago, we would never have purchased the station. In fact, during the last nine years almost all properties in the bay area have appreciated nearly 100%, all throughout this time we tried hard to get your brother to do the right thing, indeed we begged him to do the decent thing, and to rescind the property, to take back the property and to pay us back all the monies that we had paid him was all that we asked for, no more than that; we been deceived into believing all the lies that the property was not contaminated and that it was a good investment, had he been the least bit compassionate he would have taken the property back without any hesitation, but instead he refused and thus has prolonged our suffering. We ask you now to do the right thing and take back the station, thus we make the same offer to you that we made to your brother during the last nine years.

Moreover, you are wrong when you assert that we stopped the payment of interest illegally. The non-payment of interest is due to the fact that your brother owes us. Enclosed you will find another copy of the Abstract of Judgment for the amount of \$9287. 50 plus 10% since 8-15-95. This Abstract of Judgment has already been sent to your brother's attorney. Thus, by this letter we request that the full payment of the aforementioned Abstract of Judgment be made. Further, we ask that the name and the address of the court appointed probate officer be disclosed as soon as possible. We hope

KANYER

Once again we extend to you our sympathy for your loss.

that these issues will soon be resolved and thus, we await your response.

Sincerely,

08/26/1999 11:11

H. Hohammadian

Mehdi Mohammadian



Date: Tue, 27 Jul 1999 15:34:44 -0700 From: Mark Hirsch mhirsch@earthlink.net>

Organization: Mark L. Hirsch, Inc.

X-Mailer: Mozilla 4.02 (en)C-DIAL (Win95; U)

To: blackpup@redshift.com Subject: (no subject)

Marjie, Mohammadian is fiddling around with this abstract. It is important that the attorney handling this on behalf of Bert's estate make sure that there is not any confusion that gives Mohammadian any basis to get anybody going on this. Obviously it is completely falsified but I want to be sure that it gets dealt with appropriately. I think that what Mohamadian is actually doing is probably a fraud and could be actionable in and of itself.

ATTORNEY OR PARTY WITHOUT ATTORNEY INVOICE AND ADDRESS!. TELEPHONE NO	FOR RECORDER'S USE OMY
Recording requested by and return to: MEHDI MOHAMMADIAN (408)997.7940	e e e e e e e e e e e e e e e e e e e
MENO! HOMMINDIAN	
6222 HOJAVE DRIVE	
5AN JOSE CA.95/20	1
ATTORNEY FOR JUDGMENT CREDITO" ASSIGNEE OF RECORD	
NAME OF COURT THE SUPERIOR COURT OF THE STATE OF CALLPONING STREET AUCHESS 191 NORTH FIRST STREET	
STREET ADDRESS 101 11 AATH COUNTY	
CITY AND ZIP CODE SAN JOSE CA. 95/13	
BRANCH NAME	
PLAINTIFF: MEHDI & FERESHTEN MONAMMA DIAN	
DEFENDANT GRUBB dellis, A CA, CORP. Et, e.	
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ABSTRACT OF JUDGMENT	CV 721987
ADSTRUCT OF BODGINETT	FOR COURT USE ONLY
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applies for an abstract of judgment and represents the following:	
a. Judgment debtor's	
Name and last known address	
BERT RAM KUBO	
5772 SELLERS AVE.	
,	
OAKLEY CA94561	•
b. Driver's license No. and state:	
c. Social Security No.: Unknown	
d. Summons or notice of entry of sister-state judgment was personally served or	
meiled to Iname and address):	
BERT RAM KUBO 5772 SELLERS AVE.	
OAKLEY CA94561	
e. Additional judgment debtors are shown on reverse.	
late: 1- 5- 78	
	I
MEHDI MOHAMMADIAN H.H.S	GNATURE OF APPLICANT OF A DESCRIPTION
THE COLUMN NAME	
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Judgment debtor (full name as it appears in judgment):	
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idate: hi been or	dered by the court effective until
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(darm): JAN 0 6 1998 Clark, by	, Daput

Bernard F. Rose, No. 119437 RANDICK & O'DEA 2 1800 Harrison, Suite 2350 Oakland, California 94612 3 Telephone: (510) 836+3555 4 Attorneys for Cross-Defendants BERTRAM H. KUBO 5 6 7 8 SUPERIOR COURT OF CALIFORNIA 9 COUNTY OF SANTA CLARA 10 MEHDI MOHAMMADIAN and Case No. 721987 FERESHTEH MOHAMMADIAN 11 DECLARATION OF BERTRAM H. Plaintiffs, KUBO IN SUPPORT OF MOTION TO 12 SET ASIDE JUDGMENT 13 GRUBB & ELLIS, a California 14 corporation, BASIL CHRISTOPOULOS, MIKE AMIDI, BETTER BUSINESS BROKER,) 15 ALI AMIDY, PAN DILLON, BUSINESS &) ESCROW SERVICE CENTER, and DOES 1 16 through 50, 17 Defendants. 18 AND RELATED CROSS-ACTIONS. 19 20 I, BERTRAM B. KUBO, declare that I was a party in the 21 above-captioned matter and that I have personal knowledge of, and at 22 the time of trial in this matter could have and would have testified 23 competently as to the following matters, if given the opportunity to 24 do sol 25 In early 1990, I entered into an agreement to sell a

property located at 15595 Washington Avenue, San Lorenzo, California

(the "Property") to Mehdi Mohammadian ("Mohammadian").

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- 3. Mohammadian's realtor, Ali Amidy ("Amidy") selected to the purchase and sale of the property. I had nothing to do with selecting her nor did I know anything about her or her business. I subsequently learned that Amidy worked out of Dillon's office and that he was doing so despite the fact that his real estate license had been revoked years earlier.
- 4. Escrow was opened in March, 1990. Until the day, June 12, 1990, that I went to Dillon's office to sign the final papers, I had only telephonic and letter contact with her. At one point, she called me to inquire about the relationship of Mr. Nakashima to the property, which I related to her. She also sent me at various times copies of the proposed closing papers but she never included or even mentioned that, at closing, a separate agreement with her would be included by virtue of which she intended to shield herself completely from any responsibility for her conduct as the escrow holder by requiring me to defend and indemnify her against lawsuits filed in relation to the escrow by anyone, including Mohammadian, over whose actions I had no control whatsoever.
- 5. Dillon also concealed from me that she had an on-going business relationship with an unlicensed real estate agent and that she and her business were uninsured. I would not have continued the escrow with her had she revealed these facts to me.
- 6. When I went to Dillon's office on the 12th, Dillon again concealed the general escrow instructions document by burying it in the stack of papers presented me for signing. Had I known it was there, I would have refused to sign it. I would have insisted that

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the indemnification term be removed or revised so that it only held If she refused I would have me responsible for my own conduct. refused to sign the general escrow instructions and, if she then refused to proceed with the closing, I would have demanded a different escrow holder.

- At the closing, Dillon simply placed a stack of papers to be signed in front of me; she did not give me time to read them nor did she so much as suggest that I should do so because of the inclusion in the stack of the general escrow instructions of which I was totally oblivious. Since I had negotiated several rounds of offers/counteroffers with Mohammadian and had been provided with numerous drafts of the proposed closing papers that applied directly to the purchase and sale - which, again, never included the general escrow instructions - I felt I knew what I was signing was not especially concerned with the speed of the closing. bother me when Dillon simply laid the pile of papers in front of me, leafed through the bottom edges to expose the signature line only and said nothing other than "Sign here, sign here". closing took no more than about twenty (20) minutes.
- Later, when Mohammadian filed his lawsuit against Dillon, I was extremely surprised when Dillon cross-complained against me. I immediately contacted her attorney at the time, Gary V. Giannini-("Giannini"), and asked what this was all about. Giannini told me not to worry, that I was being named only because it was standard procedure to do so in this type of situation; it was Mohammadian that they were concerned with. Giannini did not suggest that I get an attorney.

11.

- 9. Nevertheless, I felt that I should be represented so I retained Robert C. Borris, Jr., Esq. ("Borris") to assist me in dealing with the suit. Borris filed an answer on my behalf. While he did discuss with me some theories for getting me out of the case, he never discussed the potential extent of my liability; in particular, he never explained to me that I could be held liable for Dillon's attorneys' tees even if she won her case against Mohammadian.
- on my own. Since I could not see how I could have any liability because I had done absolutely nothing wrong and since Giannini had told me that I had nothing to worry about, I did not retain another attorney.
- arbitration. The arbitration went as I expected it would based on my own prior litigation experience with Mohammadian over this same property: he lost. Mohammadian rejected the arbitration decision and demanded a jury trial.
- Blake ("Blake"), Dillon's new attorney. Blake complained that he was being brought into the case at too late a date, trial having been set for May 15, 1995, and he asked if I could help him out ingetting prepared by meeting with him and discussing the case and some Mohammadian history. I asked him why I should do that; after all, he represented Dillon and all I would be doing would be aiding and abetting the enemy if I talked with him. Blake did not suggest that I seek independent counsel to address my concerns. Instead, he merely said that it would be in my best interest to cooperate

because, if I helped Dillon win the case, I would be "off the hook".

Still feeling that I had done absolutely nothing wrong and could not possibly be held liable for anything, I believed him and permitted him to come to my home where he spent over two hours asking questions, all of which I answered as best I could. He also asked for and I showed him the entire file of Mohammadian v. Kubo, in which action I had previously defeated Mohammadian in binding arbitration. The next day he sent someone to my home to copy parts of the file, which I permitted.

- 13. During the following weeks, I had several additional conversations with Blake who asked more questions and requested more documents. During more than one of these sessions, I asked Blake what I should do about the trial. He said that I didn't have to worry about attending trial and stated specifically that, if he felt he wanted me to testify on Dillon's behalf, he would subpoen ame to appear and that I should simply wait until I received his subpoena which would tell me when to show up at trial.
- 14. When I finally did receive Blake's subpoena, I called him to confirm the appearance date noted therein. He said that he might need me that day or the next, he would let me know. I arranged my schedule to be available both days.
- Mr. Robert Sturgis ('Sturgis'), attorney for co-defendant Amidy. Sturgis said that I had better get down to court in a hurry, that trial had begun and that a default was going to be entered against me for not appearing.
- 16. On the first day of open court trial, May 17, 1995, I went to court and tried to get an audience with the trial judge, Judge

08/26/1999 11:15

Alden E. Danner, but the judge would not speak to me or permit me to participate in the trial. I merely sat in back and watched.

by Blake. After testifying, I asked Blake to let me know how the trial turned out. I later learned that, not surprisingly, Mr. Mohammadian had once again been annihilated. Despite my belief all along that Mohammadian's suit was bogus, I was nevertheless relieved, remembering Blake's words that, if Dillon won, I was "off the hook". Based on Blake's statement and the fact that the trial turned out as it did, I put the default against me out of mind.

18. I was thus shocked, to say the least, when in late June, 1995, I received a letter from Blake telling me that Dillon was seeking attorneys' fees from me as well as from Mohammadian. The letter said that I should contact Borris, which I did. I also, however, because of his repeated assertion to me to the contrary, immediately called Blake who said, again, that I should not be concerned, that I was still not the object of Dillon's ire, Mohammadian was, and that Dillon was not actually going to come after me for the attorney's fees. A short while thereafter, I spoke with Borris, who said that he had had the same conversation with Blake; i.e., Dillon was not going to seek attorneys' fees from me. Having heard the same thing from Blake and my own former attorney, I once again was relieved and took no further action at the time.

19. Then, in late August and early September, I received, in rapid succession, an abstract of judgment against me for Dillon's attorney's fees, over \$90,000.00, and a lien against my personal real property. I was furious. I called Blake to remind him of his earlier statements to me and to find out why this action was being

I like you, but I have to do what my client tells me to." He then said that I should get an attorney. I then called Borris, who told me the same thing; I thereupon retained counsel to bring this motion.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed this _____ day of October, 1995, at Oakland, California.

Bertram H. Kubo

28 kubo.dec pld#10.bfr

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



August 19, 1999

STID 1360

ENVIRONMENTAL HEALTH SERVICES

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

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Bertram Kubo Trust P.O. Box 1169 Marina, CA 93933 Attn: Marjorie Kanyer

NOTICE OF <u>SECOND</u> REVISION TO "RESPONSIBLE PARTY" DESIGNATION PURSUANT TO SECTION 2720, TITLE 23, CALIFORNIA CODE OF REGULATIONS

RE: Linda Shell, 15595 Washington Boulevard, San Lorenzo

Dear Ms. Kanyer and Mr. Mohammadian:

Pursuant to a 08/18/99 opinion issued by staff of the California State Water Resources Control Board (SWRCB), issued in response to a Petition submitted on behalf of the Bertram Kubo Trust, a determination to revise the list of surviving parties subject to the corrective action requirements pursuant to Section 2720, Title 23, California Code of Regulations (CCR) has been made, as follows:

 The Bertram Kubo Trust is hereby removed from the list of "responsible parties" according to Title 23 provisions

This decision is based on the following facts:

- (1) recent site assessment data document up to 340,000 ug/l of MtBE in sampled groundwater
- (2) high MtBE concentrations are consistent with a "recent" release associated with the 3rd generation fuel underground storage tanks (UST) at the site, as large-scale use of MtBE as a gasoline additive in California first began in the winter of 1992

Ms. Kanyer and Mr. Mohammadian

Re: 15595 Washington Blvd., San Lorenzo

August 19, 1999

Page 2 of 2

- (3) this "recent" release occurred subsequent to the release first identified in 1986, as the USTs at the site at that time were reportedly last used in the early 1980's, a period of time when MtBE was not in widespread use in California
- (4) the USTs present at the site when owned by the Calleris, and then by Texaco, were removed prior to the site being sold to Bertram Kubo in December 1986
- (5) the 3rd generation of USTs were installed in February 1987 during Mr. Kubo's ownership of the site
- (6) Mr. Kubo sold the site and associated improvements to Mr. Mohammadian in June 1990
- (7) no evidence has been presented that ties the release from the 3rd generation tanks to the period of time when Mr. Kubo owned the site

A copy of the 08/18/99 SWRCB opinion is attached. This action is subject to appeal to the SWRCB. Appeals must be filed within 30 days from the date of this action. To obtain appeal procedures, you may FAX your request to the SWRCB at (916) 227-4349 or telephone (916) 227-4408.

Please contact me at (510) 567-6783 should you have any questions or comments about the content of this letter.

Sincerely,

Scott O. Seery, CHMM

Hazardous Materials Specialist

Attachment

cc: Robert Weston, ACDEH

Lori Casias, SWRCB

Chuck Headlee, RWQCB (w/attachment)

Karen Fineran, Esq., Makoff Kinnear Council, P.C. (w/ attachment)

20 California St., Ste. 201, San Francisco, CA 94111

Mary Taylor, Esq., 101 Ygnacio Valley Rd., #330, Walnut Creek, CA 94596 (w/attachment)

Julie Rose, Esq., Randick & O'Dea (w/attachment)

1800 Harrison St., Ste. 2350, Oakland, CA 94612



State Water Resources Control Board

Division of Clean Water Programs

2014 T Street • Sacramento, California 95814 • (916) 227-4325 2014 T Street • Sacramento, California • 90014 • (210) 421

Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120 • (3.10) • (3.10 FAX (916) 227-4349 • Internet Address: http://www.swrcb.ca.gov



99 AUG 19 AMII: 55

PROTECTION

AUG 1 8 1999

Marjorie Kanyer Bertram H. Kubo Trust PO Box 1169 Marina, CA 93933

Dear Ms. Kanyer:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM (LOP), SITE NO. 1360, 15595 WASHINGTON BOULEVARD, SAN LORENZO, ALAMEDA COUNTY

This is in response to the protective petition submitted on June 16, 1999. As we have discussed on numerous occasions, I've been working with Scott Seery with Alameda County with regards to responsible party identification for this site. I've been holding the petition in abeyance during this time. We have come to the conclusion that the Bertram H. Kubo Trust will be removed from the responsible party list because no evidence has been provided to the County that would suggest that the unauthorized release occurred during the time your brother owned the property. You will soon be notified by Alameda County of this fact.

It is important to understand that the current project is now focused on an unauthorized release from the third generation of tanks which were installed in February 1987 during Bertram Kubo's ownership of the site. High levels of methyl tert-butyl ether (MtBE) were found in groundwater samples taken in 1998, the first time this compound was tested for in samples collected at the site. Large-scale use of MtBE as a gasoline additive in California did not begin until the winter of 1992. Consequently, Texaco and the Calleri's were removed from the responsible party list because we understand they were only involved directly with the second generation tanks (1969) and indirectly with the first generation tanks (1965) through subsequent property ownership. The property was sold to Mr. Kubo prior to the installation of the third generation tanks (1987). Mr. Kubo in turn sold the property to Mehdi Mohammadian in June 1990, two years before the use of MtBE in California gasoline.

It is anticipated that residual levels of contamination from the earlier generation of tanks may still be present at the site; however, the occurrence of such elevated levels of MtBE presents unambiguous evidence that an unauthorized release associated with the third generation tanks has occurred. This new release is now the focus of Alameda County's continued oversight of this case.

California Environmental Protection Agency

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If you have any questions, please contact me at (916) 227-4325.

Sincerely,

Lori Casias

Local Oversight Program

X Casias

cc:

Scott Seery

Alameda County LOP

MAKOFF KINNEAR COUNSELP.C.

20 California Street Suite 201 San Francisco, California 94111

LATEL STUDIES TAL PROTECTION

Telephone: (415) 217-8800 Facsimile: (415) 217-8818 99 AUG 18 PH 2: 13

Writer's Direct Dial: (415) 217-8831

August 17, 1999

Writer's Direct Email: kfineran@mkclaw.com

Ms. Lori Casias State Water Resources Control Board Post Office Box 944212 Sacramento, California 94224-2120

Re: Former Texaco/Current Shell Service Station

15595 Washington Street, San Lorenzo, California 15995

Dear Ms. Casias:

I am writing on behalf of Texaco, Inc. in response to Dana Ritchie's August 12, 1999 letter to the State Water Resources Control Board (SWRCB) on behalf of Mr. Mehdi Mohammadian, and also in response to Mohammadian's July 9, 1999 letter to the SWRCB.

First, we address Ms. Ritchie's request, on behalf of Mohammadian, to grant a stay of the effect of the Alameda County Health Care Services Agency's (ACHCSA) decision to remove Texaco and the Calleris as responsible parties from this site. A grant of this request would be unduly prejudicial to Texaco and to the Calleris, who then would be forced to recommence clean-up and monitoring efforts of contamination for which they are not responsible. Texaco and the Calleris have acted properly in shutting down remediation and monitoring activities at the site, as they no longer are named as responsible parties, and as it is inappropriate for them to clean up and apply for reimbursement for contamination caused by Mohammadian. Mohammadian should undertake the monitoring and remediation of the site and should submit his own application for reimbursement from the UST Cleanup Fund.

Moreover, Mohammadian's assertions with respect to Texaco's obligation under the settlement agreement are irrelevant to Mohammadian's appeal from the actions of the ACHCSA, and are untrue. Under the settlement agreement with Mohammadian, Texaco is required to undertake remediation only "to the extent required by governmental agencies" and only of contamination from pre-1990 releases that were not attributable to the Mohammadians' operations.

Second, we address below certain of Mohammadian's comments in his July 9, 1999 letter to the SWRCB (Mohammadian apparently submitted that letter in response to Toxichem Management System's June 28, 1999 Response to Mohammadian's Letter to ACHCSA). Many of Mohammadian's comments were deemed irrelevant, incomprehensible and/or extraneous, and consequently, are not addressed.

August 17, 1999 Page 2

I. The ACHCSA's Informed Decision To Remove Texaco and the Calleris As

Responsible Parties, Which Was Made After Thorough Investigation of the Facts
and Data Available, Should Be Upheld

The ACHCSA made its decision to remove Texaco and the Calleris as responsible parties based upon all of the data that was then and is now available. The analytical results of the data collected at this site indicate that the contamination at the site is the result of a recent release.

Toxichem's June 19, 1999 letter presented data indicating that petroleum hydrocarbons and methyl tertiary-butyl ether (MtBE) were released at the site after 1992. The October 1986 Groundwater Technology Inc. (GTI) report established the extent of petroleum hydrocarbon impact to soil and groundwater at the site as of August 1986. See Toxichem's Addendum, attached to this letter, at (1). Groundwater monitoring and sampling data from November 12, 1992 shows what appears to be the beginning trend of increasing petroleum hydrocarbon concentrations at the site, including MtBE (MtBE was blended into gasoline after approximately 1990). Accordingly, the decision made by the ACHCSA should be upheld.

II. Contrary to Mohammadian's Assertion, Surface Runoff Could Not Have Impacted the Monitoring Wells

Mohammadian's assertion that MtBE-impacted surface runoff has entered one or more of the monitoring wells is mere speculation on his part. There is no evidence of entry of runoff into any of the wells. While nobody can say for certain that no runoff at all has entered any one of the well boxes, it a reasonable conclusion, given the existing site conditions, that surface runoff has not entered any well box in sufficient volume to affect the subsurface. Moreover, it is improbable, based on site topography, that surface runoff from the areas of the fuel dispensers and UST pad could flow to either Well MW-2 or MW-3. The site slopes toward Washington Avenue in the area of the fuel dispensers and UST pad, or in the opposite direction to Well MW-3 and cross-slope to Well MW-2. (In addition, MW-5 is the highest well, not MW-1, as Mohammadian contends. See Toxichem's Addendum, at (2)).

Furthermore, Mohammadian's apparent assertion that the contamination levels of the wells are caused by fluctuating groundwater ("the level of underground water has increased or decreased from one test to another test.... this will cause the movement of the contamination from one level to the other") is untrue. Based on the available data, the depth to groundwater has fluctuated from approximately 11 feet below ground surface (bgs) in 1986 to between 7 and 9 feet bgs in 1999. Therefore, there was not enough water level fluctuation during the time in question to account for any changes in the concentration of contaminants in the wells.

In addition, Mohammadian contends that "deficiencies of the monitoring wells" cause contamination from surface runoff to run "directly into the ground, and underground water, through pea gravel." (Apparently, he refers to the fact that the well boxes do not have bottoms.) First, the wells were not constructed deficiently. Neither the well construction diagram in the GTI report or the inspections of the wells at the site indicated any deficiencies in well construction or installment. Second, any "deficient construction" of the wells would not have

August 17, 1999 Page 3

impacted the contamination levels indicated by the wells. Surface runoff could not reasonably have accumulated in the well box to a level high enough to enter the well casing during the brief period the well casing cap was missing. Furthermore, any surface runoff that might have entered the well box likely would have drained through the pea gravel floor of the well box and into the native soil surrounding the well box. Even if all of the wells were lacking caps, there would be no reason to think that surface runoff would accumulate sufficiently to enter the wells.

Finally, neither Texaco (or its agents) nor the ACHCSA acted negligently with respect to certain irregularities discovered in some of the monitoring wells, including a missing well cap, as Mohammadian'contends. As soon as the problems with the wells were discovered, they were investigated, repaired and resurveyed. See Toxichem Addendum, at (3). (Toxichem further addresses two inaccuracies stated in Mohammadian's letter in its Addendum, at (4)).

Please feel free to contact me or Wesley Kinnear if you have any questions or comments regarding this letter.

Sincerely yours,

cc: Wayne Hinson, Esq. Mary Taylor, Esq. Julie Rose, Esq. Scott Seery, ACHCSA Jeffrey Widman, Esq. Karen Petryna, Equiva Services LLC

Keith Winemiller, Toxichem Management Systems, Inc.

TOXICHEM MANAGEMENT SYSTEM, INC.'S ADDENDUM TO KAREN FINERAN'S AUGUST 17, 1999 LETTER ON BEHALF OF TEXACO, INC. TO STATE WATER RESOURCES CONTROL BOARD

- (1) The October 1986 Groundwater Technology Inc. (GTI) report demonstrates that there were no detectable concentrations of petroleum hydrocarbons in any of the soil samples collected. Three soil samples were collected from each boring (MW-1 through MW-3 and SB-1 and SB-2) at 5-foot intervals, then composited by the analytical laboratory into one sample for each boring and analyzed for total fuel hydrocarbons, benzene, toluene, and total xylene isomers. The GTI report also documents that petroleum hydrocarbons were detected in groundwater from only one well total xylene isomers were detected in Well MW-1 at a concentration of 82 micrograms per liter (μg/L).
- (2) The elevation data Mohammadian presents represents top-of-casing (TOC) measurements, not top-of-box (TOB) measurements. TOB measurements more accurately reflect site topography because the well boxes should be installed just above surface grade. Based on the *Monitoring Well Survey* (Virgil Chavez Land Surveying, September 30, 1998), Well MW-5 has the highest elevation at 24.37 feet Mean Sea Level (MSL), followed by Well MW-4 at 23.84 feet MSL, Well MW-3 at 23.36 feet MSL, Well MW-1 at 23.25 feet MSL, and Well MW-2 at 22.51 feet MSL.
- (3) In the late afternoon of Friday, June 11, 1999, Scott Seery of the ACHCSA left Keith Winemiller of Toxichem a voicemail informing him of certain deficiencies in the monitoring wells. On Monday, June 14, 1999, Toxichem obtained a copy by facsimile of the April 6, 1999 Well Head Inspection Checklist and Repair from Blaine Tech Services Inc., the monitoring and sampling contractor. After consultations with Seery, Equiva, Karen Fineran of Makoff Kinnear Counsel, and Blaine, Mr. Winemiller performed an inspection of all wells at the site on Friday, June 16, 1999. All well deficiencies were subsequently corrected the following week on June 25 and 26, 1999. The time period between Seery's call to Toxichem and the correction of all well deficiencies was only 15 days.
- (4) Finally, Mohammadian's July 9, 1999 letter contained numerous inaccuracies, many of which are too irrelevant, incomprehensible and/or extraneous for Toxichem to address. We address two of Mohammadian's inaccuracies, however, to clarify those issues for the SWRCB:
 - Mohammadian's representation that the ¾-inch hole in the well box lid is centrally located is incorrect. The hole was located about halfway between the edge and center of the lid, and was not located directly over the well casing as shown in the graphical representation depicted in Mohammadian's July 9 letter. Photographs documenting the position of the hole in the well box lid are available.
 - Mohammadian claims that Toxichem's statement in its June 19, 1999 letter that
 "TPPH and benzene in groundwater were first detected from Well MW-1 in

August 17, 1999 Page 5

November 1992" is untrue, based upon the October 1986 GTI report, and that Toxichem's statement was "used to deceive" the SWRCB. However, the GTI report documents that only total xylene isomers were detected in Well MW-1 at a concentration of 82 μ g/L. Based on the reports available to Toxichem, TPPH and benzene were first detected in Well MW-1 in November 1992, as originally stated.



State Water Resources Control Board

Division of Clean Water Programs

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99 AUG 18 PH 2: 19

AUG | 6 1999

Jeffrey P. Widman Law Offices of Jeffrey P. Widman 84 West Santa Clara Street, Suite 690 San Jose, CA 95113

Dear Mr. Widman:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, SITE NO. 1360, 1595 WASHINGTON BOULEVARD, SAN LORENZO, ALAMEDA COUNTY, FILE NO. P99-198

This is in response to the petition submitted on June 28, 1999 on behalf of Mehdi Mohammadian. I received proof that a copy of the petition was provided to the San Francisco Bay Regional Water Quality Control Board; therefore, the petition is now in order and you will be notified of further action by the State Water Resources Control Board regarding this matter.

By copy of this letter, I am requesting responses to the petition from those shown on the attached list within 20 days from the date of this letter. The County's response shall include a copy of the site file and copies of all responses shall be provided to Petitioner.

If you have any questions, please telephone me at (916) 227-4325.

Sincerely,

Lori Casias

Local Oversight Program

L Casias

cc: See attached list

California Environmental Protection Agency

cc: Scott Seery
Alameda County
Environmental Health Services
Environmental Protection
1131 Harbor Bay Parkway, 2nd Floor
Alameda, CA 94502-6577

San Francisco Bay Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 94612

Texaco, Inc. Attn: Douglas A. Gravelle 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Karen Fineran, Esq. Makoff, Kinnear Council, P.C. 20 California Street, Suite 201 San Francisco, CA 94111

Keith Winemiller Toxichem Management Systems, Inc. 1562 44th Avenue San Francisco, CA 94122

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

Mary Taylor, Esq. Attorney at Law 101 Ygnacio Valley Road, #330 Walnut Creek, CA 94596

Karen Petryna Equiva Services LLC PO Box 6249 Carson, CA 90749-6249 AGENCY

DAVID J. KEARS, Agency Director



July 20, 1999

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

Ms. Victoria Perry 15600 Lorenzo Avenue San Lorenzo. CA 94580

State Well No. 3S / 3W 12 J4

RE: Investigation of gasoline release at 15595 Washington Avenue, San Lorenzo

Dear Ms. Perry:

The Alameda County Department of Environmental Health (ACDEH) is directing the investigation of a gasoline release associated with the underground storage tank (UST) system at a retail service station located at 15595 Washington Avenue. This service station, located on the corner of Washington and Via Enrico, is very close to your home.

This office has become aware recently that an active irrigation well is located on your property. Irrigation and other pumping wells that are in proximity to UST release sites can often affect the way contaminants move through the aquifer, and pose a potential risk to both the well user and deeper water- bearing zones.

For your information, samples collected from a series of monitoring wells located on the service station property have identified the presence of high concentrations of gasoline components in shallow groundwater beneath the site. Most noteworthy of these is the compound methyl-tert butyl ether, or MtBE. You may have heard recently of the issues surrounding MtBE and its use in gasoline sold in California.

The extent of this release is currently unknown, as the occurrence of MtBE in groundwater has only recently been determined. Consequently, the investigation will be expanding in scope. Although progress is somewhat stalled at this time due to ancillary issues, we anticipate that the investigation will extend into the coming year and beyond before all is known. This agency will ultimately be working with the responsible party(ies) to determine the appropriate remediation and/or mitigation steps.

Until such time as we have a better understanding of the nature and extent of this release, and the physical and geological factors which control the movement of the underlying ground water and associated gasoline plume, we request that you <u>not</u> use your well for any purpose at this time until advised otherwise

This agency would like to thank you in advance for your cooperation with this important request.

Ms. Perry

RE: investigation at 15595 Washington Ave.

July 20, 1999 Page 2 of 2

Please feel free to contact me at (510) 567-6783 should you have any questions about this case.

Sincerely,

Scott O. Seerly, CHMM

Hazardous Materials Specialist

cc: Chuck Headlee, RWQCB

Lori Casias, SWRCB

Robert Weston, ACDEH

Emmanual Da Costa, Alameda Co. Public Works Agency

951 Turner Ct., Ste. 300, Hayward, CA 94545-2651

Mehdi Mohammadian, 15595 Washington Ave., San Lorenzo, CA 94580



Environmental Protection

State Water Resources Control Board

Division of Clean Water Programs

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STIO 1360

JUL 1 4 1999

M.S.Taylor C/O Law Office Of M.S. Taylor Jessen & Agnes Calleri 101 Ygnacio Valley Rd #330 Walnut Creek, CA 94596-4061

UNDERGROUND STORAGE TANK CLEANUP FUND, CLAIM NO. 012999, FOR SITE ADDRESS: 15595 WASHINGTON ST, SAN LORENZO 94580

The State Water Resources Control Board (State Board) is able to issue, pursuant to applicable regulations, the enclosed Letter of Commitment (LOC) in an amount not to exceed \$20,000. This LOC is based upon our review of the corrective action costs you reported to have incurred to date. The LOC may be modified by the State Board.

It is very important that you read the terms and conditions listed in the enclosed LOC. Claims filed with the Underground Storage Tank Cleanup Fund far exceed the funding available and it is very important that you make use of the funding that has been committed to your cleanup in a timely manner.

You are reminded that you must comply with all regulatory agency time schedules and requirements and you must obtain three bids for any required corrective action. Only corrective action costs required by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. Unless waived in writing, you are required to obtain preapproval of costs for all future corrective action work (form enclosed). If you have any questions on obtaining preapproval of your costs or the three bid requirement, please call Mark Owens, our Technical Reviewer assigned to claims in your Region, at (916) 227-7883. Failure to obtain preapproval of your future costs may result in the costs not being reimbursed.

The following documents needed to submit your reimbursement request are enclosed:

- "Reimbursement Request Instructions" package. Retain this package for future reimbursement requests. These instructions must be followed when seeking reimbursement for corrective action costs incurred after January 1, 1988. Included in the instruction package are samples of completed reimbursement request forms and spreadsheets.
- "Bid Summary Sheet" to list information on bids received which must be completed and returned.
- "Reimbursement Request" forms which you must use to request reimbursement of costs incurred.
- "Spreadsheet" forms which you must use in conjunction with your reimbursement request.

THIS IS IMPORTANT TO YOU, PLEASE NOTE:

You have 90 calendar days from the date of this letter to submit your first reimbursement request for incurred corrective action costs. NO EXTENSIONS CAN BE GRANTED. If you fail to do so, your LOC funds will automatically be reduced to zero (deobligated). Once this occurs, any future funds for this site are subject to availability when you submit your first reimbursement request. We continuously review the status of all active claims. You must continue to remain in compliance and submit a reimbursement request every 6 months. Failure to do so will result in the Fund taking steps to withdraw your LOC.

If you have any questions regarding the enclosed documents, please contact Anna Torres at 916) 227-4388.

Sincerely

Dave Deaner, Mana UST Cleanup Fund Pr

Enclosures

cc: Mr. Steve Morse RWQCB, Region 2 1515 Clay Street, Ste. 1400 Oakland, CA 94612

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

7-1-99

MEMO to Fle:

I visited the sife today to cote status of well vepairs. I also drove around the neighborhood located west of the site. I discovered what appeared to be a pump house and associated pipmy on a large property just south of the sife with the advess 15600 Corenzo Arenne, on the 5E corner of Corenzo and Via Enrico. The site looks like it may have had some acreage historically, and perhaps a well to serve invigation needs.

I called ACPW to neglost a "well survey" as well as a confirmation of well depth, use, etc. on this sit.

505



TOXICHEM Management Systems, Inc.

Environmental & Occupational Health Services

1562 44th Avenue San Francisco, California 94122 (415) 681-8816 / Fax (415) 681-8132 Industrial Hygiene - Exposure Assessment Quantitative Risk Assessment Compliance Audits Real Property Environmental Assessments Remedial Investigations Air, Soil, and Groundwater Sampling Remedial Engineering and Construction Regulatory Compliance and Negotiation Litigation Support Services

June 28, 1999 Project EQ-07.2A

Ms. Lori Casias State Water Resources Control Board P.O. Box 944212 Sacramento, California 94244-2120

Re: Response to Mohammadian's Letter to ACHCSA, dated June 19, 1999
Former Texaco/Current Shell Service Station
15595 Washington Street, San Lorenzo, California

Dear Ms. Casias:

On behalf of Jessen and Agnes Calleri and Texaco, Inc. (Texaco), Toxichem Management Systems, Inc. (TOXICHEM) has prepared this letter to respond to Mr. Mehdi Mohammadian's letter to Alameda County Health Care Services Agency (ACHCSA), dated June 19, 1999, regarding modification of the responsible parties for the above referenced site. There are several incorrect statements in Mohammadian's letter and this response serves to correct the record.

IMPACT RESULTS FROM RELEASE, NOT RUNOFF INTO WELLS

Most importantly, in his letter Mohammadian asserts that the petroleum hydrocarbon and methyl tert-butyl ether (MtBE) impact to groundwater at the site results from surface runoff entering Wells MW-1, MW-2, or MW-3 in recent months. Mohammadian's assertion does not consider actual hydrogeologic factors, including the concentration, distribution, and transport of petroleum hydrocarbons and MtBE in groundwater at the site that suggests a long-term release, presumably since 1992, for the following reasons:

- Total purgeable petroleum hydrocarbons (TPPH) and benzene in groundwater were first detected from Well MW-1 in November 1992. Since that time, the concentrations of petroleum hydrocarbons in groundwater have increased in all wells at the site.
- 2. The analysis of MtBE in groundwater began at the site in July/August 1998 during a soil and groundwater investigation that included drilling 7 soil borings (SB-A through SB-E, MW-4 and MW-5) and installing Wells MW-4 and MW-5. At that time, MtBE was detected by EPA Method 8020 at concentrations ranging from 99,000 to 340,000 μg/L in Wells MW-1 through MW-3, 150 μg/L in Well MW-4, and from 7.2 to 140,000 μg/L in Borings SB-A through SB-E. This data clearly indicates that MtBE-impacted groundwater existed across the entire site prior to the period that

BY STRONGENTAL PROTECTION STAN

Mohammadian claims that surface runoff may have entered Wells MW-1, MW-2, or MW-3.

- 3. During the July/August 1998 investigation, MtBE was also detected in shallow soil samples collected from two soil borings, and both of these borings were located next to the existing underground storage tanks (USTs). MtBE was detected by EPA Method 8020 at a concentration of 4.7 mg/kg at 5 feet below ground surface (bgs) in Boring SB-B and at 2.1 mg/kg at 6 feet bgs in Boring SB-E. MtBE was also detected in deeper soils from five of the six borings, up to a maximum concentration of 16 mg/kg.
- 4. The date of release can be roughly calculated based on groundwater velocity and the distance that the MtBE-impacted groundwater has traveled. Groundwater velocity can be conservatively calculated at 0.02 feet per day based on assuming a hydraulic conductivity of 1 feet/day or less and a porosity of 0.5 for silty clay soils, and using the second quarter 1999 groundwater gradient of 0.01. Given this velocity and the proximity of downgradient Well MW-3 and Borings SB-C and SB-D to the dispensers and USTs, a release probably occurred at the site during the 1992-1996 time frame.

Mohammadian also fails to consider site topography in his assertion. It is important to note that Wells MW-2 and MW-3 are located in the parking lot and away from the fuel storage and dispensing areas. Based on visual interpretation, the surface grade slopes in the direction of Washington Avenue in the fuel storage and dispensing areas and not toward Wells MW-2 or MW-3. Therefore, it is improbable that surface runoff from these areas could flow to either Well MW-2 or MW-3. Moreover, Well MW-3 is located near the southwest rear corner of the station building at an apparent elevation that is higher than the fuel storage and dispensing areas. While TOXICHEM cannot discount the possibility that surface runoff could enter a well box, given existing site conditions it can be reasonably concluded that surface runoff probably hasn't entered any well box in sufficient volume to affect the subsurface as Mohammadian claims.

Additionally, TOXICHEM met Mr. Scott Seery of ACHCSA on-site on June 25, 1999. Seery indicated that he wanted to inspect the condition of the monitoring wells first-hand and also evaluate surface runoff patterns based on site topography. Based on visual interpretation of the surface grade, it was reasoned that only Well MW-1 is located in an area where surface runoff from the fuel storage and dispensing areas could be expected to occur. Using a water hose, Seery tested the flow patterns of surface runoff near Well MW-1. Testing began about 6 to 8 feet from the well, adjacent to the southeastern end of the southwestern-most dispenser and upslope to Well MW-1. Surface runoff followed the cracks and seams between the uneven concrete pads in this area and no surface runoff flowed to Well MW-1. Seery continued moving closer to Well MW-1 until approximately 6 inches up-slope of the well box. Even at this short range, all surface runoff was deflected around the well box by the slight raise in elevation of the well box. Throughout Seery's test, surface runoff did not flow into the well box. Based on this testing, it is unlikely that surface runoff flowed into the well box of Well MW-1 as Mohammadian claims. It is even more improbable that surface runoff from the fuel storage and dispensing areas flows toward Wells MW-2 or MW-3.

Mohammadian's concern with surface runoff has some merit however. The concrete pads in the fuel storage and dispensing areas and surrounding asphalt at the site are in very poor condition.

Surface runoff is expected to infiltrate the numerous cracks, open saw-cuts in the UST pad, and uneven and separated seams between the concrete pads and in the asphalt. Severe cracking was observed in the area of the dispensers, especially in the area near Well MW-1. Vegetation was also observed to be growing in some of these cracks and seams and this suggests that infiltration of surface runoff has already occurred. As a consequence, Mohammadian may be correct that surface runoff containing petroleum hydrocarbons and MtBE is impacting the subsurface soils and groundwater at the site. However, the pathway for surface runoff impact is through the separations in the surface asphalt and concrete, which Mohammadian is solely responsible for maintaining.

TIGHTNESS TESTING RECORDS AND WELL DEFICIENCIES

In addition, Mohammadian's assertion is partly based on his claim that the USTs, piping, and other equipment have all passed testing with a satisfactory result. We therefore request that Mohammadian produce all testing records to confirm this claim.

Mohammadian's assertion is also partly based on the mere possibility that surface runoff could have entered Wells MW-1, MW-2, or MW-3 because deficiencies with these wells were noted by him and Mr. Rob Weston of ACHCSA in January 1999 or by Blaine Tech Services, Inc. (Blaine), the groundwater monitoring and sampling contractor, on April 6, 1999. TOXICHEM inspected all wells on June 16, 1999 and obtained copies of Blaine's Well Head Inspection Checklist and Repair Order logs for all previous sampling events. All deficiencies claimed and observed for all sampling events are described in detail below.

March 24, 1994

Blaine noted that Wells MW-1 through MW-3 "need new locks" and Blaine installed new locks on each well casing cap (i-plug) before leaving the site.

August 26, 1998

Blaine noted "no lock" on Wells MW-4 and MW-5, which had been drilled and installed on July 30, 1998. Blaine installed new locks on each well casing cap (j-plug) before leaving the site. Blaine noted no deficiencies with Wells MW-1 through MW-3.

January 26, 1999

Mohammadian claims that he and Weston observed that the well box lid and the well casing cap for Well MW-1 were missing sometime in January 1999. Blaine inspected the wells on January 26, 1999 and found no deficiencies with any of the wells at that time.

On June 24, 1999, I spoke with Weston by telephone regarding his observations of the well at the site. Weston visited the site on the two following occasions in which he met Mohammadian: October 28, 1998 and January 29, 1999. Weston recalled that during both visits, he toured the site with Mohammadian. Weston was unable to recall with certainty during which site visit he observed the deficiency related to Well MW-1. He indicated that his October 1998 visit focused on removing lids to site penetrations, like unmarked monitoring wells, to gain understanding of what existed at the site. During his January 1999 visit, Weston indicated he focused on UST upgrade activities. Weston therefore believes that it was the October 1998 visit in which he accessed Well MW-1 and noted that the well casing cap was loose or missing. Weston clearly

recalled that the well box lid was in-place and that it was difficult to remove. More importantly, Weston clearly recalls explaining to Mohammadian the importance of keeping the well sealed and the potential consequences, and recommended that Mohammadian take immediate action to protect the well. Since Mohammadian was aware that the well casing cap for Well MW-1 was missing, was strongly urged to take immediate action by Weston, and took no action, he would be at fault for not taking action to notify Blaine, TOXICHEM, or Texaco of the well deficiency. It also remains to be explained who removed the well casing cap and when. It is only in Mohammadian's interest that surface runoff enters or potentially enters a monitoring well. TOXICHEM understands that Mohammadian only raised the condition of the well after receiving Seery's Notice of Revision to Responsible Party Designation, dated May 28, 1999, a condition for which Mohammadian took no action and appears to have withheld for 5 months after learning of the potential consequences from Weston.

April 6, 1999

Blaine inspected the wells on April 6, 1999 and found the following three deficiencies: Well MW-1 – "Cap broken/no lock;" Well MW-2 – "Pipe is broken on Top;" Well MW-3 – "TOC is cracked." Blaine replaced the well casing cap and lock on Well MW-1 before leaving the site.

June 16, 1999

All wells were thoroughly inspected by TOXICHEM on June 16, 1999 and the findings and corrective action taken are presented below.

Well MW-1

The well box was set within a large concrete pad that Mohammadian said is 6-inches thick. The well box was slightly raised above grade. The lid was a piece of steel with a ¾-inch hole punched through. The lid was slightly warped from traffic, was very difficult to remove, it had no gasket and cannot be bolted down. The casing appeared to be in good condition with no cracks. The casing was properly capped with a j-plug and locked. There was no water in the well box.

Well MW-2

The Christy G5 well box and lid were in good shape. The well box was nearly at grade level and the surface seal around the well box was in poor shape. The casing has what appears to me to be 4 hack-saw slots in an x-pattern that were approximately 1½-inches long extending from top of casing (TOC), rather than "broken" as reported by Blaine. On the north side of the casing, a rectangular section approximately 1½-inches long by ¼-inches wide has been removed. A piece of casing approximately of the size and shape of the removed section was in the well box, which Mohammadian kept. A 2-inch slip cap was also found in the well box. The casing was properly capped with a j-plug and locked. Approximately 2½-inches of water was in the well box, and its level was about ½-inches below the bottom of the slot marks.

Well MW-3

The Christy G5 well box and lid are in good shape. The well box appears properly set above grade, but the surface seal around the well box is in poor shape. The casing has what appears to me to be 4 hack-saw slots in an x-pattern that are approximately 1¾-inches long extending from TOC, rather than "cracked" as reported by Blaine. A 2-inch slip cap was found in the well box. The casing was properly capped with a j-plug and locked. There was no water in the well box.

Well MW-4

The Boart-Longyear well box and fid are in good shape. The well box appears properly set above grade, the surface seal was in good condition, and the lid was tightly bolted down. The rubber gaskets between the bolts and lid were missing. The casing is properly capped with a j-plug and locked. There was no water in the well box.

Well MW-5

The Boart-Longyear well box and lid are in good shape. The well box appears properly set above grade, the surface seal was in good condition, and the lid was tightly bolted down. The rubber gaskets between the bolts and lid were in-place. The casing was properly capped with a j-plug and locked. There was no water in the well box.

Corrective Action

On June 25 and 26, 1999, TOXICHEM replaced the existing well boxes for Wells MW-1, MW-2, and MW-3 with Boart-Longyear well boxes, which were also used for Wells MW-4 and MW-5. During this period, TOXICHEM and Seery discovered that the well casing of Well MW-1 had been damaged and repaired in the past. The casing was broken approximately 12 inches below grade and a PVC coupler and steel casing riser was installed. Additionally, the bottom of the well box could not be located by probing a screwdriver through the pea gravel. Seery questioned whether the well was constructed properly or perhaps the UST replacement activities damaged the integrity of the well. In response, TOXICHEM reviewed the report of Subsurface Hydrocarbon Investigation (Groundwater Technology, Inc., October 17, 1986) and concluded that the well was constructed properly.

On June 26, 1999, TOXICHEM removed the well box and pea gravel contained within the well box. The concrete surrounding the well box measured 10 inches thick. Native soil consisting of brown sandy clay was encountered below the concrete pad to a depth of approximately 22 inches bgs. The bentonite well seal was encountered at approximately 22 inches bgs. The well box did not have a concrete bottom. Based on field observations and a broad understanding of past events, TOXICHEM believes that the casing of Well MW-1 was probably damaged during UST replacement activities. Once the well casing was repaired, pea gravel was probably placed above the well seal and used to adjust the height of the well box before cementing the well box in place. It appears that the UST replacement activities did not affect the integrity of the well given the presence of native soil around and below the well box and concrete pad and around and above the well seal. However, since the well box was re-installed without a concrete bottom, any surface runoff that could potentially enter the well box would likely drain through the pea gravel into the native soil surrounding the well box. Surface runoff could not reasonably

accumulate in the well box to a level high enough to enter the well casing during the period the well casing cap was missing.

As part of the corrective action, TOXICHEM also removed the sections of damaged casing in Wells MW-1, MW-2 and MW-3, which lowered the TOC elevations of these wells. The elevations of all wells will need to be re-surveyed in the near future.

MINOR MISSTATEMENTS

Mohammadian made other minor misstatements in his letter, which are corrected below.

- 1. Mohammadian indicated that only I have a key to the monitoring well locks. Actually, TOXICHEM, Blaine and Texaco have keys to the well locks. It should be noted that keys are not required to access any of the well boxes or to forcibly remove the well casing caps (j-plugs). On June 25, 1999, TOXICHEM demonstrated to Seery and Mohammadian that a locked well casing cap could be removed from the well casing using no keys.
- 2. Mohammadian indicated for Well MW-1 that the "metal cap of the casing has a hole with more than a ¼ [inch] diameter, therefore any run off will easily go inside the casing and inside the monitoring wells." Actually, the well box lid has a hole approximately ¾-inches in diameter, not the well casing cap (j-plug). Runoff could potentially have entered the well box, but not into Well MW-1 since the well casing cap was properly installed during all previous sampling events with one exception, as observed by Blaine. Also, there is no evidence that surface runoff entered the well box in sufficient volume to enter the well and impact groundwater during the brief period that the well casing cap was reported "missing". Although it is unknown when the well casing cap was removed, why, and by whom, Blaine first noted the missing well casing cap in April 1999.
- 3. Mohammadian indicated that "contamination from this part is definite" with respect to the damaged well casing of Well MW-2. Although water was observed in the well box of Well MW-2 during the June 1999 inspection, there is no evidence that surface runoff entered the well box in sufficient volume to enter the well and impact groundwater. Although it is unknown when the well casing was damaged, why, and by whom, Blaine first noted the damaged well casing in April 1999.
- 4. Mohammadian indicates that there was "not much contamination" in Wells MW-1, MW-2, and MW-3 in 1994-1995. The concentrations of petroleum hydrocarbons began increasing in Well MW-1 in 1992. A release in the 1992-1996 time frame would not be expected to be observable in Wells MW-2 or MW-3 in 1994-1995 given groundwater velocity, but rather much later as we see today. Additionally, groundwater was not analyzed for MtBE until August 1998.

Based on the above information, TOXICHEM requests that the State Water Resources Control Board accept the findings of ACHCSA's evaluation and decision formally to discharge the Calleri's and Texaco from all further responsibility relating to the investigation and remediation of petroleum hydrocarbons and MtBE at this site.

If you have any questions regarding this request, please contact me at your convenience at (415) 681-8816. Thank you for your cooperation in this matter.

Sincerely,

Toxichem Management Systems, Inc.

Keith Winemiller, P.E. Senior Engineer

cc: Ms. Karen Petryna, P.E., Equiva Services LLC, P.O. Box 6249, Carson, CA 90749-6249

Ms. Karen D. Fineran, Makoff Kinnear Counsel P.C., 20 California Street, Suite 201, San Francisco, CA 94111

Mr. Scott Seery, Alameda County Health Care Services Agency, Environmental Health Services, 1131 Harbor Bay Parkway, Suite 250, Alameda, California 94502-6577

Mr. Chuck Headlee, Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612

Mr. Mehdi Mohammadian, Linda Shell, 15595 Washington St., San Lorenzo, CA 94580 Bertram Kubo Trust, P.O. Box 1169, Marina CA 93933

Ms. Mary S. Taylor, Law Offices of Mary S. Taylor, 101 Ygnacio Valley Road, Suite 330, Walnut Creek, CA 94596-3564

Ms. Julie M. Rose, Randick & O'Dea, 1800 Harrison St., Suite 2350, Oakland, CA 94612

6-25-89

mano to file:

I contacted Scott Mackind (Cambria) today to inguine of closes votions they might have made during the 12/15/95 sampling of the 3 wells at the site. He will have his in-house project manager look into it and get back to me. I informed him of my particular interest in well condition, security, apparent/recent repairs, et.

565

page of 2

white -env.health yellow -facility pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

1131 Harbor Bay Pkwy Suite 250 Alameda, CA 94502-6577 (510)567-6700

11,111

-			Site # 1360 Site Name Linda Shell Today's 25, 89
II.A	BUSINESS PLANS (Title 19)		Date 8/22/77
	1. Immediate Reporting 2. Bus. Pian Stat. 3. RR Cars > 30 days	2703 25503(b) 25503.7	Site Address 15595 Washington Ave
	4. Inventory Information 5. Inventory Complete 6. Emergency Response	25504(a) 2730 25504(b)	City 5. Lovenzo zip 94580 Phone
		25504(c) 25505(a) 25505(b)	MAX AMT stored > 500 lbs. 55 gal., 200 cft.?
II.B	ACUTELY HAZ, MATLS		Inspection Categories: 1. Haz. Mat/Waste GENERATOR/TRANSPORTER
	10. Registration Form Filed 11. Form Complete 12. RMPP Contents 13. Implement Sch. Regid? (Y/N	25533(a) 25533(b) 25534(c)	II. Business Plans, Acute Hazardous MaterialsIII. Underground Tanks
	14. Offsite Conseq. Assess. 15. Probable Risk Assessment 16. Persons Responsible	25524(c) 25534(d) 25534(g)	Callf. Administration Code (CAC) or the Health & Safety Code (HS&C)
	17. Certification 18. Exemption Request? (Y/N) 19. Trade Secret Requested?	25534(f) 25536(b) 25538	Comments: Mr. Mohommadian appeared shorthy after unyone
III.	UNDERGROUND TANKS (Title	23)	Met on site of Keith Winemiller (Toxiclam) to
7	1. Permit Application	25284 (H&S)	
General	2. Pipeline Leak Detection 3. Records Mointenance 4. Release Report	25292 (H&S) 2712 2651	to facilitate repairs to be completed to morrow.
_	5. Closure Plans	2670	I dogground the appropriat a vertical society in TI
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	 Daily Vadase One firme soils 		was unissing tran The top of MW-2 (~1.5 x 0.3").
Terk	Annual tank fest 4) Monthly Gnawater		Gack well was I plugged and locked. The diplug
Bull	One time sols 5) Daily inventory		in Mis-2 and 3 could be nemoved w/o nemoving lacks
Š	Annual tank testing Cont pipe leak det Vadase/gndwater mon		by just Pulling Thom was and off. When This was
p p q	Colly Inventory Annual tank testing		attempted wil MW-1 a section of the casin Doan
Monitoring for Existing	Cont pipe leak det 7) Weekly Tank Gauge		off instead This continues as a seal of
ž	Annual tank tisting 8) Annual Tank Testing		the said of the conference of a stee
	Dally inventory 9) Other		threaded section (~5" (ong) attached to an ~3" Puc
	7. Precis Tank Test	2643	slewe That was then slip-tit our The broken
		2644	2 O.D. well casing. It appears This way have been
	10 Ground Water	2646 2647	glad in place, but the bond broke when the J. ple
Tank	12.Access. Secure	2632 2634	was trigged. Pea grave / syrrounds at least the
New To		2711	unper foot or so of this particular well to an
Z	Date:	2635	wikers of dother This will be defended down
Rev (W88		its repair.
	Contact:	Keith	Winewiller I III

Inspector:

Signature:

100 del

Title:

Signature:

gage 2 of 2

white -env.health yellow -facility pink -files

Signature:

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

1131 Harbor Bay Pkwy Suite 250 Alameda, CA 94502-6577 (510)567-6700

		Site # 1360 Site Vida Stell Today's 25, 99
11.4	BUSINESS PLANS (Title 19)	Date 6/23/77
11.8	1. Immediate Reporting 2703 2. Bus. Plan Stds 25503(b) 3. RR Cars > 30 days 25503.7 4. Inventory Information 25504(a) 5. Inventory Complete 2730 6. Emergency Response 25504(b) 7. Tratining 25504(c) 8. Deficiency 25505(a) 9. Madification 25505(b) ACUTELY HAZ MATLS 10. Registration Form Filed 25533(b) 11. Form Complete 25533(b) 12. RMPP Contents 25534(c) 13. Implement Sch. Regiatr (Y/N) 14. OffSite Coreeq. Assess. 25524(c) 15. Probable Risk Assessment 25534(d) 16. Persons Responsible 25534(g) 17. Ceritification 25534(b) 18. Exemption Request? (Y/N) 25534(b) 19. Trade Secret Requested? 25538	Site Address /5595 Washing for City S. Loren 20 Zip 94580 Phone MAX AMT stored > 500 lbs, 55 gal., 200 cft.? Inspection Categories: I. Haz. Mat/Waste GENERATOR/TRANSPORTER Business Plans, Acute Hazardous Materials III. Underground Tanks * Calif. Administration Code (CAC) or the Health & Safety Code (HS&C) Comments:
III.	UNDERGROUND TANKS (Title 23)	A liviet experiment was conducted to see how
General		liquids might flow from two areas of the site was used for
Monitoring for Existing Tanks		this purpose. First, The hose was allowed to down in an area of the adis parser pad war the SW disparses. Water was directed towards MW. Water flowed across the pad until it mached the joint petween the pad and UST pad. Upon reaching the joint, water flowed along the joint towards Washington has. by passing MW-1. Second, the end of the hose was Grought win a 6" of MW-1 and allowed to discharge at a moderately slow vate. The hose discharge point was at the west edge of the well, just inside the sow cuts. This was to demonstrate a possible "worse case"
New Tanks	12.Access. Secure 2632 13.Plans Submit 2711 Date: 2711 14. As Built 2635 Date: 2635	this fashion did not go into the west look (like a birdie put might on a golf course green), but flowed
		around the opening as though it were an island.
	Contact: Keith Title: Toxiclou	Winemiller 1. U.P. Inspector: 5 Seems

Signature:

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

June 22, 1999

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580 **ENVIRONMENTAL HEALTH SERVICES**

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

RE: Linda Shell, 15595 Washington Boulevard, San Lorenzo

Dear Mr. Mohammadian:

I am in receipt of your letter dated June 19, 1999. I received a similar (verbal) account regarding the condition of the wells at this site from Mr. Winemiller (Toxichem) yesterday. As you pointed out in your letter, I understand that Mr. Winemiller will be repairing and upgrading the wells and well boxes, as well as issuing a report of his findings and actions.

Should you believe these facts negate the May 19, 1999 decision by this agency to remove the Calleris and Texaco Inc. and successor corporations from the list of responsible parties connected to this case, I recommend that you file a petition with the State Water Resources Control Board (SWRCB). You have 30 days from the date of the May 28th letter, or by June 28, 1999, to file a petition with the SWRCB.

Please contact me at (510) 567-6783 should you have any questions or comments about the content of this letter.

Sincerely,

Scott O/ Seery, CHMM

Hazardous Materials Specialist

cc: Lori Casias, SWRCB

Chuck Headlee, RWQCB

Karen Fineran, Esq., Makoff Kinnear Council, P.C.

20 California St., Ste. 201, San Francisco, CA 94111

Mary Taylor, Esq., 101 Ygnacio Valley Rd., #330, Walnut Creek, CA 94596

Julie Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350, Oakland, CA 94612

Keith Winemiller, Toxichem Management Systems, Inc.

1562 44th Ave., San Francisco, CA 94122

Mehdi Mohammadian Cal Gas 15595 Washington Avenue San Lorenzo, CA. 94580

Scott Seery CHMM A.C.H.C.S.A 1131 Harbor Bay Parkway, Suit 250 Alameda, CA. 94502-6577

> Re: Cal Gas, 15595 Washington Avenue San Lorenzo, CA. 94580

Dear Scott;

In our last meeting dated June 11, 1999, I informed you that the monitoring cap was missing when it was inspected by Rob Weston, from your office, back in January. Rob Weston stated that contamination due to this missing cap was highly possible and he wanted all of the casings to be capped off, much like the two newly installed ones.

On the afternoon of June 16, Mr. Keith Winemiller from Toxichem Management Systems, Inc. came to the station and inspected all of the casing, cap of monitoring wells based on your direction. These were all locked and only Mr. Winemiller has the key (I DO NOT HAVE THE KEY). I was present when Mr. Winemiller found:

MW1- the metal cap of the casing has a hole with more than a 3/4' diameter, therefore any run off will easily go inside the casing and inside the monitoring wells. The 2 inch monitoring well pipe were capped and locked (unlike what was found back in January 1999 when Rob Weston inspected it, then the lock and cap were broken and were not in their place and inside the 2 inch pipe were visible)

MW2- was capped with water cast iron cristy box. The 2" PVC pipe was cut in four places 1 1/2" from the top with a saw; and a piece of 1 1/2" by 3/8" was cut out; the water level in cristy box was 1" to 1/2" below this cut, contamination from this part is definite.

MW3 - cristy box was capped with cast iron water cristy box the 2" PVC monitoring pipe was saw cut from the top almost 1 1/2" at four places

MW4 - cristy box, pipe, cap were all in proper condition.

MW5 - Cristy box, pipe, cap were all in proper condition.

Mr. Winemiller also stated that only he and the company which were doing the tests had the keys for the locks. He also stated that none of their reports show that the MW1 cap of the monitoring wells were broken (which is contrary to what Rob Weston and I observed back in January 1999). He also stated that he did not know why they had saw cut the 2" PVC pipe of the monitoring wells and why one piece is broken. He further told me that he will do the full report of his inspection and he will arrange to fix the PVC pipe and casing of MW1, MW2, and MW3 monitoring wells.

Based on the above facts it is no wonder why MW1, MW2, MW3 test show that they are highly contaminated. Even though in 1994-1995 all the monitoring wells were capped and there was not much contamination. This would tend to show who was responsible for the contamination of recent months, despite of all of the testing of tanks, pipes and other equipment with satisfactory result. It is those who did the test and managed the monitoring, the **Texaco Employees**, who are responsible for this contamination. Therefore, I request, based on the foregoing facts, that you change your opinion in your letter of May 28,1999 and those who are indeed the ones who are responsible for the contamination be held accountable for the clean up.

Sincerely,

M. Hohammadian

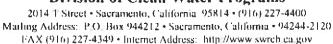
Mehdi Mohammadian

cc: Bertram Kubo Trust;
Karen Petryna;
Jessen and Agnes Calleri;
Karen Fineran;
Mary Taylor;
Bernard Rose;
Keith Winemiller;
State Water Resources Control Board
Jeffrey Widman





Division of Clean Water Programs





JIN 18 1999

Marjie Kanyer Bertram H. Kubo Trust PO Box 1169 Marina, CA 93933

Dear Ms. Kanyer:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM (LOP), SITE NO. 1360, 15595 WASHINGTON BOULEVARD, SAN LORENZO, ALAMEDA COUNTY

This will acknowledge receipt of the protective petition faxed on June 17, 1999 on behalf of the Bertram H. Kubo Trust. As we discussed on the telephone, I am currently working with the County to resolve the issue of responsibility for this site. We will hold your petition in abeyance while I continue to work with the County. You will be notified of further action by the State Water Resources Control Board on this matter.

If you have any questions, please contact me at (916) 227-4325.

Sincerely,

Lori Casias

Local Oversight Program

asias

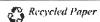
cc:

Scott Seery

Alameda County LOP

SHAIRS FROTECTION 99 53

California Environmental Protection Agency





DAVID J. KEARS, Agency Director

May 28, 1999

ENVIRONMENTAL HEALTH SERVICES

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

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Karen Petryna Equiva Services LLC P.O. Box 6249 Carson, CA 90749-6249

Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261 Attn: Marjorie Kanyer

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

NOTICE OF REVISION TO "RESPONSIBLE PARTY" DESIGNATION PURSUANT TO SECTION 2720, TITLE 23, CALIFORNIA CODE OF REGULATIONS

RE: Linda Shell, 15595 Washington Boulevard, San Lorenzo

Dear Ms. Petryna and Kanyer, Mr. Mohammadian, and Mr. and Mrs. Calleri:

A determination to revise the list of parties subject to the corrective action requirements pursuant to Section 2720, Title 23, California Code of Regulations (CCR) has been made, as follows:

□ Texaco Inc., and successor corporations, and Agnes and Jessen Calleri are hereby removed from the list that previously identified them as a "responsible party" according to Title 23 provisions.

This decision, made in consultation with staff of the State Water Resources Control Board (SWRCB), is based on the following:

- (1) recent site assessment data document up to 340,000 ug/l of MtBE in sampled groundwater
- (2) high MtBE concentrations are consistent with a "recent" release from the current generation of fuel underground storage tanks (UST) at the site, as large-scale use of MtBE as a gasoline additive in California first began in the winter of 1992 in order to comply with the Federal Clean Air Act Amendments

Ms. Petryna and Kanyer, Mr. Mohammadian, and Mr. and Mrs. Calleri

Re: 15595 Washington Blvd., San Lorenzo

May 28, 1999 Page 2 of 2

- (3) this "recent" release occurred subsequent to the release first identified in 1986, as the USTs at the site at that time were reportedly last used in the early 1980's, a period of time when MtBE was not in widespread use in California
- (4) the USTs present at the site when owned by the Calleris, and then by Texaco, were removed prior to the site being sold to Bertram Kubo in December 1986
- (5) a new generation of USTs was installed in February 1987 during Mr. Kubo's ownership of the site
- (6) neither Texaco nor the Calleris were owners of the property or the USTs at the time the subsequent release occurred.

This action is subject to petition to the SWRCB. Petitions must be filed within 30 days from the date of this action. To obtain petition procedures, you may FAX your request to the SWRCB at (916) 227-4349 or telephone (916) 227-4408.

Please contact me at (510) 567-6783 should you have any questions or comments about the content of this letter.

Sincerely,

Scott O. Seery, CHMM

Hazardous Materials Specialist

cc: Robert Weston, ACDEH

Dave Deaner, SWRCB UST Fund

Chuck Headlee, RWQCB

Karen Fineran, Esq., Makoff Kinnear Council, P.C.

20 California St., Ste. 201, San Francisco, CA 94111

Mary Taylor, Esq., 101 Ygnacio Valley Rd., #330, Walnut Creek, CA 94596

Bernard Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350, Oakland, CA 94612

Keith Winemiller, Toxichem Management Systems, Inc.

1562 44th Ave., San Francisco, CA 94122



TOXICHEM Management Systems, Inc.

Environmental & Occupational Health Services

1562 44th Avenue San Francisco, California 94122 (415) 681-8816 / Fax (415) 681-8132 Industrial Hygiene - Exposure Assessment
Quantitative Risk Assessment
Compliance Audits
Real Property Environmental Assessments
Remedial Investigations
Air, Soil, and Groundwater Sampling
Remedial Engineering and Construction
Regulatory Compliance and Negotiation
Litigation Support Services

May 20, 1999 Project EQ-07.2A

Mr. Scott Seery Alameda County Health Care Services Agency Environmental Health Services 1131 Harbor Bay Parkway, Suite 250 Alameda, California 94502-6577

Re: Responsible Party Modification Request Former Texaco/Current Shell Service Station 15595 Washington Street, San Lorenzo, California

Dear Mr. Seery:

Thank you for speaking with me on Wednesday, May 19, 1999 regarding the above referenced site. As we discussed, Toxichem Management Systems, Inc. (TOXICHEM) has prepared this letter to request that Jessen and Agnes Calleri (the Calleri's) and Texaco, Inc. (Texaco) be removed as responsible parties for all further investigation and remediation activities at this site. This request is based on the following facts:

- The Calleri's owned the site from 1974 to 1983. Texaco owned the site from 1983 to 1986 during which time the site was not operated as a service station. The site was purchased and reopened as a service station by Bertram Kubo in 1987, then sold in 1990 to Mehdi Mohammadian who currently owns and operates the site as a Shell service station.
- The concentrations of dissolved petroleum hydrocarbons documented in the Subsurface Hydrocarbon Investigation (Groundwater Technology, Inc. [GTI], October 17, 1986) and Report of Sampling Activities (GTI, December 4, 1992) are substantially lower than the concentrations detected at the site today. This suggests that a subsequent release of petroleum hydrocarbons has occurred at the site, presumably since 1992.
- Elevated concentrations of methyl tertiary-butyl ether (MtBE) are
 documented in the Quarterly Monitoring Report Second Quarter 1999
 (TOXICHEM, May 14, 1999). The Calleri's and Texaco's ownership of the
 site pre-dates the usage of MtBE. This further suggests that a release of
 petroleum hydrocarbons has occurred at the site, presumably after
 approximately 1990 when MtBE was blended into gasoline as a result of
 Federal and State clean air requirements.

PROTECTION

May 20, 1999 Page 2

Based on the above information, TOXICHEM requests that the Alameda County Health Care Services Agency formerly discharge the Calleri's and Texaco from all further responsibility relating to the investigation and remediation of petroleum hydrocarbons and MtBE at this site. TOXICHEM also requests your approval to suspend all investigation and remediation activities at the site that are being performed on behalf of the Calleri's, including quarterly groundwater monitoring and sampling.

If you have any questions regarding this request, please contact me at your convenience at (415) 681-8816. Thank you for your cooperation in this matter.

Sincerely,

Toxichem Management Systems, Inc.

Keith Winemiller, P.E. Senior Engineer

cc: Karen Petryna, P.E., Equiva Services LLC, P.O. Box 6249, Carson, CA 90749-6249 Karen D. Fineran, Makoff Kinnear Counsel P.C., 20 California Street, Suite 201, San Francisco, CA 94111

Mehdi Mohammadian, Linda Shell, 15595 Washington St., San Lorenzo, CA 94580 Bertram Kubo Trust, 20321 Via Espana, Salinas, CA 93908-1261

Mary S. Taylor, Law Offices of Mary S. Taylor, 101 Ygnacio Valley Road, Suite 330, Walnut Creek, CA 94596-3564

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

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

May 19, 1999

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261 Attn: Marjorie Kanyer Karen Petryna Equiva Services LLC P.O. Box 6249 Carson, CA 90749-6249

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE:

LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO – Request for Continued Soil and Water Investigation

Dear Ms. Petryna and Kanyer, Mr. Mohammadian, and Mr. and Mrs. Calleri,:

The October 16, 1998 Toxichem Management Systems, Inc. (Toxichem) soil and water investigation (SWI) report and subsequent quarterly reports have documented a <u>significant</u> impact to groundwater encountered beneath the subject site. Most noteworthy are the elevated concentrations of methyl-tert butyl ether (MtBE), a gasoline additive. MtBE concentrations have ranged upwards to 340,000 micrograms per liter (ug/l). These concentrations are both extraordinary and significant.

Sampling data have also clearly demonstrated that the extent of the gasoline plume has not been defined. The plume clearly extends off-site. Consequently, plume definition must be completed, and an appropriate corrective action plan (CAP) developed.

You directed to submit a SWI work plan for the continued investigation of this gasoline release. The SWI work plan is due within 60 days of the date of this letter.

As this phase of the SWI will involve encroachment on and assessment of off-site locations, you are encouraged to employ the use of so-called "rapid site assessment tools" (e.g., Geoprobe, etc.) for the initial stage of this off-site assessment. Final, permanent well locations may then be determined based on these initial results.

Ms. Petryna and Kanyer, Mr. Mohammadian, and Mr. and Mrs. Calleri RE: 15595 Washington Blvd., San Lorenzo May 19, 1999 Page 2 of 2

Please contact me at (510) 567-6783 should you have any questions or comments.

Sincerely,

Scott/Q. Seery, CHMM

Hazardous Materials Specialist

cc: Robert Weston, ACDEH

Dave Deaner, SWRCB UST Fund

Chuck Headlee, RWQCB

Karen Fineran, Esq., Makoff Kinnear Council, P.C.

20 California St., Ste. 201, San Francisco, CA 94111

Mary Taylor, Esq., 101 Ygnacio Valley Rd., #330, Walnut Creek, CA 94596

Bernard Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350, Oakland, CA 94612

Dan Hernandez, Toxichem Management Systems, Inc.

1461 Newport Ave., San Jose, CA 95125

NO.555

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MOBILE CHEM LABS INC.

1678 Reliez Valley Road • Lafayette, CA 94549 Phone (925) 945-1266 • Fax (925) 943-6884

March 23, 1999

Mr. Scott Seery Alameda County Health Dept.

RE: Station #1624880329-15595 Washington St., San Lorenzo, CA

Dear Mr. Seery :

Regarding our phone conversation on 3-23-99 about this station and MTBE on this site in 1994, it is explained as follows. First, Mobile Chem Labs(MCL) performed an analysis for TPH as Gasoline and BTEX compounds but was not asked, at that time, to analyze the samples for MTBE. Therefore in an effort to answer the question regarding MTBE on site in 1994 the chromatograms were reviewed and a time frame established where MTBE would have appeared if it were present in 1994. The results of this review are as follows:

MW-2 & MW-3 do not show a peak in the time frame that would indicate the presents of MTBE.

MW-1 has peaks in the time frame in which MTBE would have been found. Because of the amplitude and number of peaks on this chromatogram it cannot be stated that MTBE is not present in this sample. Therefore the presents or absents of MTBE cannot be determined in this case.

The trip blank and the equipment blank did not show the presence of MTBE.

Further MTBE was introduced as part of gasoline by some manufactures during the 1980's but at low levels, approximately 1-3 percent. In 1996 California required the use of MTBE in the new reformulated gasoline. The level of MTBE in new gasoline can be as high as 30 %.

I hope this helps in your effort to establish the relationship of MTBE on this site through time. If you have any further questions please call at the above number.

Sincerely,

1.

MOBILE CHEM LABS, INC.

Ronald G. Evans Lab Director

MAKOFF KINNEAR COUNSEL P.C.

20 California Street Suite 201 San Francisco, California 94111

> Telephone: (415) 217-8800 Facsimile: (415) 217-8818

Writer's Direct Dial: (415) 217-8831

March 3, 1999

Writer's Direct Email: kfineran@mkclaw.com

4

VIA FACSIMILE

Mr. Scott O. Seary Alameda County Health Care Services 1131 Harbor Bay Parkway, Suite 250 Alameda, California 94502-6577

Re: 15995 Washington Avenue, San Lorenzo, California

Dear Mr. Seary:

Please add the following two people to your correspondence distribution list for this site:

Mr. Dan Hemandez
Toxichem Management Systems Inc.
1461 Newport Avenue
San Jose, California 95125
Phone: (408) 292-3266
Fax: (408) 298-6591

Ms. Karen E. Petryna Equiva Services, LLC P.O. Box 6249 Carson City, California 90749-6249 Phone: (559) 645-9306 Fax: (559) 645-5643

If you have any concerns regarding this site, please feel free to contact me anytime.

Sincerely yours,

Karen D. Fineran

MAKOFF KINNEAR COUNSEL P.C.

20 California Street Suite 201

San Francisco, California 94111

Telephone: (415) 217-8800

Facsimile: (415) 217-8818

FACSIMILE COVER SHEET

TO: Mr. Scott Seery

COMPANY: Alameda County Health Care Services

FACSIMILE NO.: (510) 337-9335

FROM: Karen D. Fineran, Esq.

DATE: March 3, 1999

TIME: 2:16 PM

PAGES (including this page): 2

This faceimile is intended only for use of the recipient named above and may contain legally privileged and/or CONFIDENTIAL INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT DISSEMINATION, DISTRIBUTION OR COPYING OF THIS TRANSMISSION IS PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US BY MAIL. WE WILL REIMBURSE ANY COSTS YOU INCUR IN NOTIFYING US AND RETURNING THE FACSIMILE TO US.

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

March 1, 1999

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Bertram Kubo Trust 20321 Via Espana Salinas, CA 93908-1261 ENVIRONMENTAL HEALTH SERVICES ENVIRONMENTAL PROTECTION 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

(510) 567-6700

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO

Dear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

This letter is sent in follow-up to the November 9, 1998 correspondence from this office in which was requested a schedule of quarterly well sampling, monitoring, and reporting for the project at the subject site. This work shall commence no later than the 1st quarter of 1999. Hence, this initial work must be completed before April 1, 1999 in order to comply with this schedule.

As indicated previously, all samples are to be analyzed for total petroleum hydrocarbons as gasoline (TPH-gas); benzene, toluene, ethylbenzene, and total xylenes (BTEX); and, methyl tert butyl ether (MtBE). The highest MtBE detection in any given sampling event shall be confirmed by rerunning that sample using Method 8240 or 8260.

Technical reports summarizing all tasks that occurred during a given quarter shall be submitted within 60 days following completion of field activities associated with that quarter. Each report shall include, among other elements, tabulated results of laboratory analyses, and depth-to-water and water elevations. Each report shall also present maps depicting ground water flow and contaminant isoconcentrations.

Data presented over the next several quarters shall be applied in determining the next appropriate actions with this case. Please contact me at (510) 567-6783 should you have any questions or comments.

Sincerely,

cott O. Seery, CHMM

Hazardous Materials Specialist

Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo Re: 15995 Washington Avenue, San Lorenzo March 1, 1999 Page 2 of 2

cc: Robert Weston, ACDEH
Dave Deaner, SWRCB UST Fund
Chuck Headlee, RWQCB
Karen Fineran, Esq., Makoff Kinnear Council, P.C.
20 California St., Ste. 201, San Francisco, CA 94111
Mary Taylor, Esq., 101 Ygnacio Valley Rd., #330, Walnut Creek, CA 94596
Bernard Rose, Esq., Randick & O'Dea
1800 Harrison St., Ste. 2350, Oakland, CA 94612

November 21, 1998

Environmental Health Services 1131 Harbor Bay Parkway, Suite 250 Alameda, CA 94502-6577

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO

Dear Mr. Seery,

I am in receipt of your letter addressed to Bertram Kubo dated November 9, 1998 regarding the recent soil and water testing at the above-listed property. The recent soil and water contamination that has occurred is the responsibility of the current owner, Medhi Mohammadian. Please be advised that my brother, Bertram Kubo passed away on September 10, 1998. Because my brother no longer owns this property, I feel there is no reason for the Trust to continue receiving these reports. Please advise me if Lam incorrect.

Please call me at (831) 455-0756 if you should have any questions.

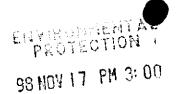
Sincerely,

Marjorie Kanyer, Trustee for Bertram Kubo

II/30/98

I called the addressor of the explain that Mr. Kubos

Trust is still a RP according to Article II, 23 CCR criteria.



M. Mohammadian Cal Gas 15595 Washington Ave San Lorenzo Ca.94580 11-14-98

Mr. Scott Seery Hazardous Material Specialist A. C.H. C. Services 1131 Harbor Bay Parkway Suite # 250 Alameda Ca. 94502-6577

Dear Scott;

Re;15595WashingtonAveSanLorenzo

I have received your letter dated Nov. 9,1998 I will appreciate if you let me Know By return what is your evidences that you have noted;

" it appears,... a more "recent" release from the underground storage tank system has occurred at this site, "

How it is possible any leak from underground tanks with all of the existing equipment.

Awaiting to hear from you soon.

Yours Sincerely

M. Mohammadian

H. Ho ham wadian

ALAMEDA COUNTY HEALTH CARE SERVICES



DAVID J. KEARS, Agency Director



November 9, 1998

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561 ENVIRONMENTAL HEALTH SERVICES

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

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO

Dear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

I am in receipt and have completed review of the October 16, 1998 Toxichem Management Systems, Inc. (Toxichem) report documenting the results of the recent phase of the soil and water investigation (SWI) at the subject site. The recent work presented in this report includes the installation of two additional monitoring wells (MW-4 and -5) and five soil borings (SB-A through SB-E). Soil and groundwater samples were collected from each for subsequent laboratory analyses.

The recent data appear to demonstrate that a more "recent" release from the underground storage tank system has occurred at this site. This interpretation is substantially based on the reported (tentative) concentrations of the fuel oxygenate methyl-tert butyl ether (MtBE) in sampled groundwater. Concentrations of MtBE ranged from 150 – 340,000 ug/l during the July and August 1998 sampling events. MtBE was not in widespread use prior to the late 1980s.

At this time, please adhere to a quarterly schedule of well sampling, monitoring, and reporting.

All samples shall be run for standard gasoline constituents: total petroleum hydrocarbons as gasoline (TPH-G); benzene, toluene, ethylbenzene, and total xylene isomers (BTEX); and, MtBE. Further, the presence of MtBE shall be confirmed through use of EPA Method 8240 or 8260 on the sample showing the highest MtBE concentration using Method 8020 or 8021.

Please call me at 510/567-6783 should you have any questions.

Sincerely,

Scott O. Seery CHMM

Hazardous Materials Specialist

Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo Re: 15995 Washington Avenue, San Lorenzo November 9, 1998 Page 2 of 2

cc: Mee Ling Tung, Director, Environmental Health
Robert Weston, ACDEH
Chuck Headlee, RWQCB
Karen Fineran, Esq., Makoff Kinnear Council, P.C.
20 California St., Ste. 201, San Francisco, CA 94111
Mary Swanson, Esq., Langford & Taylor LLP
100 Pringle Ave., Ste. 260, Walnut Creek, CA 94596
Bernard Rose, Esq., Randick & O'Dea
1800 Harrison St., Ste. 2350, Oakland, CA 94612



TOXICHEM **Management** Systems, Inc.

Environmental & Occupational Health Services

1461 Newport Avenue San Jose, California 95125 (408) 292-3266 / Fax (408) 298-6591

Exposure Assessment/Estimation ENVISORE NI Quantitative Risk Assessments PROTECTION Industrial Hygiene

Regulatory Compliance Programs 98 AUG 26 PM 12. 1999 Property Environmental Assessments Compliance Audits Air Pollution Dispersion Modeling Hazardous Waste Management Air Sampling and Analysis

Aug 28, 1998

Scott Seery Alameda County Environmental Health Department 1131 Harbor Bay Parkway Alameda, CA 94502

Re:

Execution of the Investigation Work Plan

15595 Washington Avenue

San Lorenzo, CA

Dear Mr. Seery:

As we discussed, the purpose of this communication is to inform your office that the investigation work plan prepared by Cambria Associates, dated November 28, 1995, was executed during July 1998 at the above referenced site. Briefly, five borings and two monitoring wells were completed, soil samples collected, and wells were developed and sampled (there is now a total of 5 monitoring wells onsite). Please update your file with respect to work plan execution. A report summarizing the methods and results of the investigation will be sent to you as soon as it is available. If you could kindly call the individual below to indicate that we have spoken on this project, it would be appreciated.

Chervl Gordon Claim Review Unit State Water Resources Control Board (916) 227- 4539

Sincerely,

Daniel W. Hernandez

President

cc: Karen Petryna, Equiva Services LLC., Box 8080, Martinez, CA 94553

Memo to file:

Dan Fernandez (?) (Toxichem Management Systems)
informed one today that his firm implemented the Cambria
work plan from 1995. I sympsed surprise as I had
not been informed of This before the fact, and may likely
have decided to be present during boring advancement.

SOS



State Water Resources Control Board

John P. Caffrey, Chairman

Division of Clean Water Programs

2014 T Street, Suite 130 • Sacramento, California 95814 • (916) 227-4539 FAX (916) 227 JUL 22 PM 5: 14 Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120

Internet Address: http://www.swrcb.ca.gov/~cwphome/ustcf/fundhome.htm

July 21, 1998

GTC 110 Novernor

Jessen & Agnes Calleri C/O Law Office of Mary.S. Taylor Attn: Mary Taylor 101 Ygnacio Valley Rd #330 Walnut Creek, CA 94596-4061

UNDERGROUND STORAGE TANK CLEANUP FUND PROGRAM, CLAIM NUMBER 12999; SITE ADDRESS: 15595 WASHINGTON ST, SAN LORENZO 94580

Section 2811(b)(3) of the UST Cleanup Fund Regulations requires that you remain in compliance with corrective action directives issued by the local regulatory agency. On May 18, 1998, we completed a detailed review of your claim and you were deemed out of compliance because there is no record that a workplan for a soil and groundwater investigation which was approved by the County in February of 1996 has not been implemented yet. We cannot issue a Letter of Commitment to you until you are in compliance.

You must contact the Alameda County EHD immediately to ensure eligibility to the Cleanup Fund. If we do not obtain a compliance signoff within 90 days, we will remove your claim from the Priority List.

If you have further questions, please contact me at (916)227-4539.

Sincerely,

Claim Review Unit

Underground Storage Tank Cleanup Fund

cc: Mr. Thomas Peacock Alameda County EHD 1131 Harbor Bay Pkway, 2nd Fl. Alameda, CA 94502-6577

California Environmental Protection Agency



ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

April 9, 1998

STID 1360

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

Mr. Marvin Katz Texaco Refining and Marketing, Inc. 108 Cutting Boulevard Richmond, CA 94804

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO - SOIL AND WATER INVESTIGATION (SWI) IMPLEMENTATION SCHEDULE

Dear Mr. Katz:

I have received your April 6, 1998 correspondence. Please keep me informed of your progress with respect to: 1) selection of the qualified, state-registered environmental contractor hired by Texaco to implement the approved work plan, 2) receipt of preapproval from the State UST Fund, and 3) the date field work will commence.

Please be certain your consultant contacts this office early on to discuss any issues needing clarification. I may be reached at 510/567-6783.

Sincerely

Scott O/ Seery, CHMM

Hazardous/Materials Specialist

cc: Larry Blazer, Alameda County District Attorney's Office Chuck Hedley, RWQCB

J. Wesley Kinnear, Esq., Cohen, Makoff & Kinnear LLP 625 Market St., Ste. 1100, San Francisco, CA 94105

Mary Swanson, Esq., Langford & Taylor LLP

100 Pringle Ave., Ste. 260, Walnut Creek, CA 94596

Bernard Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350, Oakland, CA 94612



Texaco Refining and Marketing Inc.

108 Cutting Boulevard Richmond, CA 94804

April 6, 1998

ENV - SERVICE STATION

15595 Washington St. San Lorenzo, CA

Mr. Scott Seery Alameda County Health Agency, Dept. of Environmental Health 1131 Harbor Bay Parkway, 2nd Floor Alameda, CA 94502

Dear Mr. Seery:

Texaco Refining and Marketing Inc., on behalf of Agnes and Jessen Calleri, intends to implement the November 28, 1995 workplan prepared by Cambria which your office approved. A *Request for Bid* has just been sent out. Responses are due April 29, 1998. The successful bidder will be awarded by May 8, 1998. Prior to implementing the workplan, preapproval will be obtained from the State of California UST Reimbursement Fund. This should be obtained by the end of May 1998. The work will be implemented and a report sent to you by September 4, 1998. If you have any questions, please call at (510) 236-1112.

49-339-2759

Thank you,

Marvin Katz

Project Coordinator

Texaco EH&S

MMK:mmk

u:\msoffice\site\15595was\cov-leg.doc

Marvin Kak

richfiles

cc: Mi

Mr. Wesley Kinnear Makoff Kinnear Counsel P.C. 20 California St., Suite 201 San Francisco, CA 94111

MEMO to tile:

Marvin Katz (Texaco) called today. He informed me That Texaco would be setting up an account to pay for the pending Sw1, pending the Calleris acceptance into the UST Fund.

I had to servind him That a SWI w.p. (amended) had already been accepted by This office. He however, inscited that he would be proposing a different scope involving H.P. points, even though he was not familiar with the already-accepted plan. I told him to take a look at it.

I requested something in winting from aim vegarding Texaco's plans.

600

ALAMEDA COUNTY HEALTH CARE SERVICES





DAVID J. KEARS, Agency Director

February 19, 1998

STID 1360

ENVIRONMENTAL HEALTH SERVICES

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

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561 Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO - SOIL AND WATER INVESTIGATION (SWI) IMPLEMENTATION SCHEDULE

Dear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

I was advised in October 1997 that the parties had reached agreement with respect to implementation of the soil and water investigation (SWI) work plan approved by this office on February 9, 1996. I understand that this agreement was signed in August 1997. To date, I have not been informed when the SWI will be performed.

Please inform this office within 15 days of the date of this letter of the current status of work plan implementation.

Please call me at 510/567-6783 should you have any questions.

Sincerely

Scott O. Seery, CHMM

Hazardous Materials Specialist

CC: Larry Blazer, Alameda County District Attorney's Office Stephen Hill, RWQCB

J. Wesley Kinnear, Esq., Cohen, Makoff & Kinnear LLP 625 Market St., Ste. 1100, San Francisco, CA 94105

Mary Swanson, Esq., Langford & Taylor LLP

100 Pringle Ave., Ste. 260, Walnut Creek, CA 94596

Bernard Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350, Oakland, CA 94612

COHEN, MAKOFF & KINNEAR LLP

RICK COHEN*
JEFFREY T. MAKOFF*
CHARLOTTE N. MAKOFF*
JAMES WESLEY KINNEAR*

EVELYN C. COOPER D. STEVEN STATHATOS

PATRICIA PRINCE ELLEN R. FENICHEL JULIE A. EMEDE 20 California Street Suite 201 San Francisco, California 94111 Telephone: (415) 217-8800 Facsimile: (415) 217-8818

OFFICES ALSO LOCATED IN: SANTA MONICA

* A Law Corporation

September 10, 1996

WRITER'S E-MAIL ADDRESS IS: jwkiv@ix.netcom.com

By Facsimile

Scott O. Seery Senior Hazardous Materials Specialist Environmental Protection Division Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Room 250 Alameda, California 94502-6577

> Re: Mohammadian v. Kubo, et al.; 15595 Washington Blvd., San Lorenzo, California; Santa Clara Superior Court No. CV 744664; Alameda County/Regional Water Board Proceedings

Dear Mr. Seery:

On behalf of Texaco Inc. and Texaco Refining and Marketing Inc., this letter responds to your inquiry concerning implementation of the investigation work plan previously submitted to you.

You asked why the work plan has not been implemented previously, how the parties propose to implement it, and a schedule for implementation.

The short answer to the first question is that over a period of many months the parties have vigorously attempted to achieve a global solution of their dispute concerning their relative responsibilities for the condition of the site and to preserve their eligibility to obtain reimbursement from the UST clean-up fund. The Calleris have thus far declined to submit an application to the fund, however, and various proposals to implement the work plan as part of a settlement have been rejected by Mr. Mohammadian as well.

We understand that the Calleris' refusal to apply to the fund and the pendency of Mr. Mohammadian's civil litigation in Santa Clara Superior Court may not, standing alone, excuse a delay in implementation of the work plan. It is offered as an explanation, therefore, and not an excuse, and to make clear that Texaco has labored in good faith to fulfill all its obligations and more.

Accordingly, subject to final approval of Texaco management, we have proposed to the other responsible parties named by the Regional Board – the Calleris, Mr. Mohammadian, and Mr. Kubo – that each party contribute its pro rata or one quarter

Mr. Scott O. Seery September 10, 1996 Page 2

share of the cost of implementing the work plan. As of the writing of this letter, the other parties have not responded to this proposal.

Texaco has thus far borne the lion's share of the cost of investigation and monitoring for this site, even though Texaco's connection to the site is very attenuated. As you may remember, Texaco owned the site for a few years between 1983 and 1986, having acquired it in bankruptcy from the Calleris to prevent foreclosure of Texaco's lien, but, unlike the other named responsible parties, Texaco never operated the property as a service station. Under these circumstances, and absent either an application to the UST fund or any final settlement among the parties, it would simply be unfair to require any more of Texaco. Nonetheless, Texaco has made clear that if there were any prospect of reimbursement by the UST fund or a final settlement among the parties, Texaco would consider financing implementation of the work plan in its entirety.

With respect to your last question concerning the expected schedule, we estimate that the required bidding process for selection of a contractor to perform the work plan would require three weeks and that work could commence approximately two weeks after the contractor is selected.

Please do not hesitate to contact me with any comments or questions you may. Please also note (and have your staff note) our new address and telephone and fax numbers above.

Very truly yours,

cc:

Bernard F. Rose Julie M. Rose Randick & O'Dea (510) 834-4748

Mary Swanson Taylor Langford & Taylor, LLP (510) 938-3802 Jeffrey P. Widman

Law Offices of Jeffrey P. Widman

(408) 288.7668

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY



DAVID J. KEARS, Agency Director

August 27, 1996

Alameda County CC4580 Environmental Protection Services 1131 Harbor Bay Parkway, Room 250 Alameda CA 94502-6577

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO - SOIL AND WATER INVESTIGATION (SWI) IMPLEMENTATION SCHEDULE

Dear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

I have been in periodic contact with attorneys representing both Mr. Kubo and Texaco since June of this year. My initial contact was to inquire of the status of the soil and water investigation (SWI). However, upon learning that the SWI work plan accepted by this office on February 9, 1996 had yet to be implemented, subsequent contact was regarding a projected schedule for its implementation. I understand that there are a variety of issues occurring "behind the scenes" which have impacted the parties' ability to perform this work.

Please inform this office in writing, within 15 days of the date of this letter, of the issues which have resulted in this work being delayed. In addition, please also include a proposed schedule to perform the SWI. When drafting your proposed schedule, please bear in mind that a current lack of SB2004 funding or Letter of Commitment from the SWRCB are not standalone causes to continue delay of this work.

Calleri, Mohammadian, Gravelle, and Kubo RE: 15595 Washington Ave., San Lorenzo August 27, 1996 Page 2 of 2

Please call me at 510/567-6783 should you have any questions.

Sincerely,

Scott o. Seery, CHMM

Senior Hazardous Materials Specialist

cc: Gil Jensen, Alameda County District Attorney's Office Kevin Graves, RWQCB

> J. Wesley Kinnear, Esq., Cohen, Makoff & Kinnear LLP 625 Market St., Ste. 1100

> > San Francisco, CA 94105

Mary Swanson, Esq., Law Office of Mary Swanson

101 Ygnacio Valley Rd., Ste. 350

Walnut Creek, CA 94596

Bernard Rose, Esq., Randick & O'Dea

1800 Harrison St., Ste. 2350

Oakland, CA 94612

RICK COHEN*
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CHARLOTTE N. MAKOFF*
JAMES WESLEY KINNEAR*

EVELYN C. COOPER D. STEVEN STATHATOS

PATRICIA PRINCE ELLEN R. FENICHEL JULIE A. EMEDE 96 AUG 15 PM 1: 17 Suite 1100

San Francisco, California 94105 Telephone: (415) 217-8800 Facsimile: (415) 217-8818 OFFICES ALSO LOCATED IN:

SANTA MONICA

* A Ław Corporation

WRITER'S DIRECT DIAL IS: (415) 284-1450 WRITER'S E-MAIL ADDRESS IS: jwkiv@ix.netcom.com

August 13, 1996

By Facsimile

Scott O. Seery Senior Hazardous Materials Specialist Environmental Protection Division Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Room 250 Alameda, California 94502-6577

> Re: Linda Shell, 15595 Washington Blvd., San Lorenzo, California

Dear Mr. Seery:

After we spoke the other day about implementation of the investigative workplan and other progress at the referenced site, I alerted the other parties to your concerns. Bernard Rose, Mr. Kubo's attorney, reported developments to me and told me that he would speak directly with you about the status of the site.

I assume that you have spoken with Mr. Rose by now. If not, or if I can provide any information or assistance, please do not hesitate to call me.

Very truly yours,

cc: All counsel

AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, DIRECTOR

February 9, 1996

DEPARTMENT OF ENVIRONMENTAL HEALTH 1131 Harbor Bay Parkway Alameda, CA 94502-6577 (510) 567-6777

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO

Dear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

I have completed review of the December 6, 1995 Cambria Environmental Technology, Inc. (Cambria) soil and water investigation (SWI) work plan for the continued assessment of the referenced site. This work plan proposes the advancement of eight (8) soil borings, two of which will be later converted into ground water monitoring wells. Soil and "grab" ground water samples will be collected from each borehole. Ground water will also be sampled from completed wells. All samples will be analyzed for total petroleum hydrocarbons as gasoline (TPH-G), and the aromatic fuel constituents benzene, toluene, ethylbenzene, and total xylene isomers (BTEX).

The proposed scope of work was discussed with Mr. Joseph Theisen of Cambria during a telephone conversation on January 5, 1996. We agreed to modify the original number of wells to be completed from two to one, as well as the locations of one boring (SB-A) and the remaining well (now designated MW-4). Sampling and analysis strategies have not changed. New well and boring locations are illustrated on a revised site map submitted under Cambria cover dated February 6, 1996.

Calleri, Mohammadian, Gravelle, and Kubo RE: 15595 Washington Ave., San Lorenzo February 9, 1996 Page 2 of 2

The cited Cambria SWI work plan has been accepted as amended. Please contact this office when field work is slated to begin.

Please call me at 510/567-6783 should you have any questions.

Sincerely,

Scott Ø. Seety, CHMM

Senior Hazardous Materials Specialist

cc: Gil Jensen, Alameda County District Attorney's Office

Kevin Graves, RWQCB

Don Atkinson-Adams, ACDEH

Jim Ferdinand, Alameda County Fire Department J. Wesley Kinnear, Esq., Cohen, Nelsen & Makoff

Mary Swanson, Esq.

COHEN, NELSON & MAKOFF

RICK COHEN*
JEFFREY T. MAKOFF*
RICHARD J L. NELSON*
CHARLOTTE N. MAKOFF*

EVELYN C. COOPER D. STEVEN STATHATOS JAMES WESLEY KINNEAR

PATRICIA PRINCE MARILYN J. HERLIN ELLEN R. FENICHEL 625 Market Street
Suite 1100
San Francisco, California 94105
Telephone: (415) 495-6168Facsimile: (415) 541-0506

217-8000

December 11, 1995

OFFICES ALSO LOCATED IN:

SANTA MONICA WALNUT CREEK TIBURON

* A Law Corporation

WRITER'S DIRECT DIAL IS: (415) 284-1450 WRITER'S E-MAIL ADDRESS IS: jwkiv@ix netcom com

Scott O. Seery Senior Hazardous Materials Specialist Environmental Protection Division Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Room 250 Alameda, California 94502-6577

> Re: Mohammadian v. Kubo, et al.; 15595 Washington Blvd., San Lorenzo, California; Santa Clara Superior Court No. CV 744664; Alameda County/Regional Water Board Proceedings

Dear Mr. Seery:

I enclose an Unauthorized Release Report relating to the referenced property, as required by the Regional Board's August 31, 1995, letter to the responsible parties.

As I believe you know, Texaco and Texaco Refining and Marketing have agreed to pay for the soil and water investigation work plan and for one-half of the first quarterly monitoring. In order to facilitate the necessary work at the property, Texaco and TRMI have also agreed to indemnify the Calleris in connection with the preparation of the work plan and the monitoring.

I understand that you have been in contact with the Randick & O'Dea law firm, representing Mr. Kubo, which has kept you up-to-date with the responsible parties' efforts to comply with the remainder of the Regional Board's requirements. Please do not hesitate to call me with any comments or questions you may have, or if I can be of any assistance.

Very truly yours,

James Wesley Kinnear

Enclosure

cc: Gil Jensen, Senior Deputy District Attorney w/ encl.

Bernard F. Rose / encl.

S. Andrew Motozaki w/ encl.

Mary J. Swanson w/ encl.

UNDERGROUND STORAGE TANK UNAUTHORIZED RELEASE (LEAK) / CONTAMINATION SITE REPORT					
	EMERGENCY WES HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? YES NO RESPONSE HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? YES NO DISTRIBUTION SHOWN ON THE WISTRIUCTION SHEET ON THE BACK	CK PAGE OF THIS FORM.			
1.	SIGNATURE O	12-14-95* DATE			
REPORTED BY	REPRESENTING OWNER/OBERATOR REGIONAL BOARD COMPANY OR AGENCY NAME LOCAL AGENCY OTHER TOP MER OWNS STREET TY PLANE LOS ANGS CAS CAST STATE	71608			
ISIBLE	NAME CONTACT PERSON PHO	DNE)			
RESPONSIBLE PARTY	ADDRESS STREET CITY STATE	710			
SITE LOCATION	FACILITY NAME (IF APPLICABLE) OPERATOR PHI	ONE) PUSSED			
IMPLEMENTING AGENCIES	LOCAL AGENCY AGENCY NAME CONTACT PERSON ACH CS A REGIONAL BOARD PH	ONE (70) 5376783			
SUBSTANCES	SUBSTANCE SUBSTANCE OUAN	TITY LOST (GALLONS) UNKNOWN			
DISCOVERY/ABATEMENT	DATE DISCOVERED HOW DISCOVERED INVENTORY CONTROL SUBSURFACE MONITORING NUISANCE CONDITIONS MOM DISCOVERED INVENTORY CONTROL SUBSURFACE MONITORING NUISANCE CONDITIONS TANK REMOVAL OTHER METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) REMOVE CONTENTS CLOSE TANK & REMOVE REPAIR PIPING HAS DISCHARGE BEEN STOPPED? REPAIR TANK CLOSE TANK & FILL IN PLACE CHANGE PROCEDURE YES NO IF YES, DATE REPLACE TANK OTHER				
SOURCE	SOURCE OF DISCHARGE CAUSE(S) TANK LEAK UNKNOWN OVERFILL RUPTURE/FAILURE SP OTHER CORROSION UNKNOWN OTHER OTHER	ILL THER			
CASE	CHECK ONE ONLY CHECK ONE ONLY SOIL ONLY GROUNDWATER DRINKING WATER - (CHECK ONLY IF WATER WELLS HAVE	ACTUALLY BEEN AFFECTED)			
CURRENT	CHECK ONE ONLY NO ACTION TAKEN PRELIMINARY SITE ASSESSMENT WORKPLAN SUBMITTED POLLUTION CHARACTERIZATION LEAK BEING CONFIRMED PRELIMINARY SITE ASSESSMENT UNDERWAY PROST CLEANUP MONITORING IN PROGRESS REMEDIATION PLAN CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY) CLEANUP UNDERWAY				
REMEDIAL	CHECK APPROPRIATE ACTION(S) (BEE BACK FOR DETAILS) CAP SITE (CD) EXCAVATE & DISPOSE (ED) REMOVE FREE PRODUCT (FP) ENHA CAP SITE (CD) EXCAVATE & TREAT (ET) PUMP & TREAT GROUNDWATER (GT) REPL CONTAINMENT BARRIER (CB) NÓ ACTION REQUIRED (NA) TREATMENT AT HOOKUP (HU) VACUUM EXTRACT (VE) OTHER (OT) OTHER (OT)	NCED BIO DEGRADATION (IT) ACE SUPPLY (RS) SOIL (VS)			
COMMENTS	Preliminary site assessment performed during August 1986. Soil a investigation (SWI) to be performed shortly define limits of and determine appropriate corrective action.	nd water contamination			
		HSC 05 (8/90)			

IBSTRUCTIONS

EMERGENCY

Sacramento, CA 95832. Copies of the OES report form may be obtained at your local underground storage tank permitting agency. Indicate whether

LOCAL MOUNCY ONLY

To avoid duplicate notification pursuant to Health and Safety code Section 25180 5, a government employee should sign and date the form in this block. A signature here does not mean that the leak has been determined to pose a significant threat to human health or safety only that notification procedures have been followed if required.

SPORTED BY

ame, telephone number, and address. Indicate which party you describe a provide company or agency name.

RESPONSIBLE PARTY

Internally, telephone number contact person, and address of the party compounded for the leak. The responsible party would normally be the tank

SITE LOCATION

Enter information regarding the tank facility. At a minimum, you must provide the facility name and full address.

IMPLEMENTING AGENCIES

Inter takes of the local agency and Regional Water Quality Control Board .

BUBSTANCES INVILVED

Enter the name and quantity lost of the hazardour sufficience involved. Room is provided for information on two appropriates if appropriate. If more than two substances leaked, Tist the two of most concern for cleanup.

BESCOVERY/ABATEMENT

From the information regarding the discovery and abatement of the leak.

LINCE/GASHS

Mesta mource(s) of leak Check box(es) indicating_cause of leak

CASE TYPE

is leak. Ch nly. Case source affect and ample, if ffected, cas a "Ground y if one or a lor control or affected."

If the control of the contr

CURRENT STATUS

Indicate the case; the current of the case; the case of the case; the case of the case of the case; the case; the case of the case; the ca

______arty beyond

Lask from Confirmed - Last supported at a tits, but has not been confirmed, workplan/proposal sequented of submitted by responsible party to determine whether ground enter has been or will be impacted at result of the release.

In the confirmed confirmed and or supported by the property of the process of fully defining the orient of confirmed that are not assessing apparts on surface and/or ground water and assessing apparts on surface and/or ground water.

Remodelian Plan - remediation plan submitted evaluating long term transfer of the properties of the pr

Cleaner Underway - implementation of remediation plan.

Post Cleanum Monitoring Ph Progress - periodic ground water or other monitoring at site, as necessary, to vexify and/or evaluate effectiveness of remedial activities.

Case Closed - regional board and local agency in concurrence that no further work is necessary at the site.

IMPORTANT: THE INFORMATION PROVIDED ON THIS FORM IS INTERDED FOR GENERAL' STATISTICAL PURPOSES ONLY AND IS NOT TO BE CONSTRUED AS REPRESENTING THE OFFICIAL POSITION OF ANY GOVERNMENTAL AGENCY.

REMEDIAL ACTION

Indicate which action have been used to cleanup or remediate the leak. Descriptions of options follow:

Cap Site - install horizontal impermeable layer to reduce reinfall infiltration.

Containment Barrier - install vertical dike to block horizontal movement of

Excepte and Dispose - remove contaminated soil and dispose in approved

From and I can remove contaminated soil and treat (includes spreading or land farming)

e floating product from water table.

- generally employed to remove dissolved

Enhanced Blockmand Long use of any available technology to promote background contaminants.

Replace Comply — provide a ternative water supply to affected parties. It was all water treatment devices at each dwelling or other place of use.

Vent foil bore holes or blowers to draw air through soil contaminants, in Asia Burnell and action.

COMMENTS - Use this space to elaborate on any sapects of the incident,

SIGNATURE - Sign the form in the space provided.

DISTRIBUTION

If the form is completed by the tank owner or his egent, retain the last copy and forward the remaining copies intact to your local tank permitting agency for distribution.

- 1. Original Local Tank Permitting Agency
- 2. State Mater Resources Control Board, Division of Clean Water Programs, Underground Storage Tunk Programs, P.O. Now 14-212, Lauremento, CA 94244-2125
- Regional Water Quality Control Board
- Local Health Officer and County Board of Supervisors or their designee to receive Proposition 65 notifications.
- Owner/responsible party.

COHEN, NELSON & MAKOFF

BICK COHEN*
JEFFREY T. MAKOFF*
RICHARD J.L. NELSON*
CHARLOTTE N. MAKOFF*

EVELYN C. COOPER D. STEVEN STATHATOS CHERYL F. GERTLER JAMES WESLEY KINNEAR

PATRICIA PRINCE MARILYN J. HERLIN ELLEN R. FENICHEL 625 Market Street Suite 1100 San Francisco, California 94105 Telephone: (415) 495-6168 Facsimile: (415) 541-0506

October 18, 1995

OFFICES ALSO LOCATED IN:

SANTA MONICA WALNUT CREEK TIBURON

* A Law Corporation

WRITER'S DIRECT DIAL IS. (415) 284-1450 WRITER'S E-MAIL ADDRESS IS: jwkiv@ix.netcom.com

Scott O. Seery
Senior Hazardous Materials Specialist
Environmental Protection Division
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502-6577

Re: Linda Shell

15595 Washington Blvd., San Lorenzo, California

Dear Mr. Seery:

I am writing to inform you of new information developed by Texaco with respect to a Mr. Al Maples, originally a tenant on the property during the Calleris' ownership. We have learned that Mr. Maples remained on the property for a few months in 1983 after Texaco acquired it in foreclosure. We have now found Mr. Maples, who currently lives in North Carolina, and spoken with him concerning his activities on the property.

We understand that Mr. Maples operated an autoservice business at the site for a number of years as a tenant of the Calleris. During that time he did not sell gasoline or other fuels, which were sold by another tenant or possibly by the Calleris. He did use the waste oil tank, however.

After the Calleris lost the property in foreclosure in July 1983, Mr. Maples entered a "DS lease" with Texaco. It appears that he remained on the property until about November or December 1983. Under the lease, Mr. Maples was not permitted to sell fuel at the site. He could only operate a garage. A "DS lease" is the form of lease Texaco uses when renting to tenants other than gasoline retailers. Mr. Maples confirms that he did not sell fuels and did not use the fuel USTs. In all likelihood, however, he did use the waste oil tank during the period from July to December 1983 while he was renting from Texaco, as he had done in the preceding years as a tenant of the Calleris.

We do not believe that this new information concerning Mr. Maples's activities at the site changes the designation of responsible parties in the Regional Board's August 31, 1995, letter to all responsible parties. First, Mr. Maples only used the waste oil tank and only for a few months as a holdover tenant of the Calleris after Texaco acquired the

Mr. Scott O. Seery October 18, 1995 Page 2

property. He did not use the fuel tanks. Accordingly, the Calleris remain the last owners or operators of the fuel USTs immediately prior to the discontinuation of their use. 23 CCR § 2720(2). Moreover, the contamination identified at the property appears to derive from gasoline, not waste oil.

Second, the Regional Board's August 31 letter made several findings each of which independently requires that the Calleris be named as responsible parties (*viz.*, the Calleris had control of the USTs at the time of or following an unauthorized release (August 31, 1995, letter at 2)). The new information concerning Mr. Maples does not negate those independent bases for naming the Calleris as responsible parties.

We hope that you and the offices with jurisdiction over this site will appreciate Texaco's good faith and candor in pursuing the facts wherever they may lead and in informing you of the results.

Please do not hesitate to contact me with any comments or questions you may have.

Very truly yours,

James Wesley Kinnear

cc:

Gil Jensen, Senior Deputy District Attorney

Bernard F. Rose

S. Andrew Motozaki

Mary J. Swanson

ALAMEDA COUNTY HEALTH CARE SERVICES

AGENCY DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

October 12, 1995

Alameda County CC458C Environmental Protection Division 1131 Harbor Bay Parkway, Room 250 Alameda CA 94502-6577

STID 1360

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO

Dear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

I have been informed that the parties involved in this case have met recently, and that this meeting resulted in some agreement beneficial to continued progress in this case. As a result of this reported progress, and at the request of Mr. James Wesley Kinnear of Cohen, Nelson & Makoff, outside council for Texaco in this matter, a 45-day extension has been granted to assist the parties in fully complying with the tasks outlined in the August 31, 1995 San Francisco Bay Regional Water Quality Control Board (RWQCB) directive. I understand that in granting this extension the parties have agreed to reinstate quarterly well sampling and monitoring, and that steps necessary to prepare a soil and water investigation (SWI) work plan will also be taken.

Therefore, this office anticipates the parties will be in full compliance with the August 31, 1995 RWQCB directive no later than December 1, 1995.

Calleri, Gravelle, Kubo, Mohammadian RE: 15595 Washington Ave. October 12, 1995

Page 2 of 2

Please call me at 510/567-6783 should you have any questions.

Sincerely,

Scott O./Seery, CHMM

Senior Mazardous Materials Specialist

cc: Gil Jensen, Alameda County District Attorney's Office

Kevin Graves, RWQCB

Don Atkinson-Adams, ACDEH

Jim Ferdinand, Alameda County Fire Department J. Wesley Kinnear, Esq., Cohen, Nelsen & Makoff

Mary Swanson, Esq.

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October 12, 1995

By Telecopy and U.S. Mail

Scott O. Seery
Senior Hazardous Materials Specialist
Environmental Protection Division
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502-6577

Re: Linda Shell;

15595 Washington Blvd., San Lorenzo, California

Dear Mr. Seery:

Further to our telephone conversation of October 3, this letter is to notify you that the designated responsible parties have reached an agreement fulfilling the two conditions you set for granting a 45-day extension of time to respond to the Regional Board's August 31, 1995, letter to the responsible parties. Absent an extension, the time to respond to the order expires on October 15.

Texaco has agreed to prepare the necessary scope of work, and Mr. Kubo's attorneys have agreed to handle a solicitation of bids, all on behalf of the applicant to the UST clean-up fund, which effort will produce the soil and water investigation work plan you required as the first condition of an extension of time.

Texaco and Mr. Kubo have agreed to advance the cost of a quarterly sampling, also on behalf of the applicant to the clean-up fund, which satisfies your second condition, that quarterly sampling resume as soon as possible.

Based on our conversation last week, therefore, I understand that the parties will be granted a 45-day extension of time to respond to the Regional Board's August 31 letter and that you will confirm that extension in writing.

Mr. Scott O. Seery October 12, 1995 Page 2

Thank you for your help. If you have any comments or questions, please do not hesitate to call me.

Very truly yours,

ames Wesley Kinnea

cc:

Gil Jensen, Senior Deputy District Attorney

Bernard F. Rose S. Andrew Motozaki Mary J. Swanson

GORDON, DeFRAGA, WATROUS & PEZZAGLIA

A Law Corporation

Allan DeFraga Thomas A. Watrous James A. Pezzaglia Timothy J. Ryan Peter D. Langley Richard S. Bruno Bruce C. Paltenghi Gregory D. Rueb
George R. Gordon
(1910-1993)

Mailing Address: P.O. Box 630 Martinez, CA 94553

October 9, 1995

Mr. Scott Seery, Hazard Materials Specialist Alameda County Health Services Agency Department of Environmental Health State Water Resources Control Board Division of Clean Water Programs UST Local Oversight Program 80 Swan Way, Room 200 Oakland, CA 94612

10/16/95 NEW ADDRESS:

1131 Harbor Bay Parkway, Room 250 Alameda, CA 94502

Re: 15595 Washington Street, San Lorenzo, California

Dear Mr. Seery:

As you know, our law office represents Mr. Don K. Callahan, owner of the real property located at 15563 Washington Avenue, San Lorenzo, California, and on whose behalf this letter is written.

Thank you very much for submitting a copy of the California Regional Water Quality Control Board letter dated August 31, 1995 regarding a legal designation of responsible party and request for submittal of technical reports with respect to the real property located at 15595 Washington Avenue, San Lorenzo, California (hereafter, the "site"). Mr. Callahan's property is located adjacent to and north of the site along Washington Avenue.

This letter is written to request your continuing concern and action to require that the technical reports and corrective action required from the responsible parties also address the migration of gasoline and gasoline constituents onto 15563 Washington Avenue. Specifically, in 1993, by a groundwater sampling and analysis report prepared for 15563 Washington Avenue, groundwater sampling results along the property line with the site indicate that contamination has migrated from the site and now exists in the groundwater under 15563 Washington Avenue. This off-site contamination needs to be addressed in the reports and remedied as part of any overall cleanup associated at the site.

A copy of this letter is also being sent to those designated as responsible parties in the RWQCB letter referenced above, to place those parties on notice of this off-site contamination, to the extent they are not already aware of this migration, and to request that such contamination be addressed in their technical reports, sampling, and remediation efforts at the site.

Mr. Scott Seery, Hazard Materials Specialist Alameda County Health Services Agency, Department of Environmental Health State Water Resources Control Board

Re: 15595 Washington Street, San Lorenzo, California

October 9, 1995

Page 2

Again, thank you for your continuing review of the site and your actions taken to address all issues associated with it. Please continue to keep us advised of any developments in these regards. Should you have any questions, please advise.

Sincerela

BRUCE C. PALTENGHI

Attorney at Law

cc: Don K. Callahan

Lawrence Kolb, Acting Executive Officer State of California, California Regional Water Quality Control Board San Francisco Bay Region 2101 Webster St., Suite 500 Oakland, CA 94612

Mehdi Mohammadian Linda Shell 15595 Washington Ave. San Lorenzo, CA 94580

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attention: Douglas A. Gravelle

Bertram Kubo 5772 Sellers Ave. Oakley, CA 94561

Jessen and Agnes Calleri 10901 Cliffland Ave. Oakland, CA 94605

BCP:scg 01679002

AGENCY DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Parkway Alameda, CA 94502-6577 (510) 567-6777

October 5, 1995

STID 1360

Ms. Mary Swanson, Esq. Law Office of Mary J. Swanson 101 Ygnacio Valley Road, Ste. 350 Walnut Creek, CA 94596

RE: PETITION FOR REVIEW OF THE CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD'S DESIGNATION OF JESSEN AND AGNES
CALLERI AS RESPONSIBLE PARTIES - LINDA SHELL, 15595
WASHINGTON AVENUE, SAN LORENZO, ALAMEDA COUNTY, CALIFORNIA

Dear Ms. Swanson:

As you requested, enclosed are copies of the August 14, 1995 memorandum from the Alameda County District Attorney's Office, Consumer and Environmental Protection Division, presenting legal opinion regarding responsible party issues, among other topics, and the October 4, 1995 revised evaluation of technical data from this office regarding the environmental investigations performed to date at the subject site. The cited documents, marked Exhibit 1 and Exhibit 2, comprise part of the official record used by the Pre-Enforcement Review Panel in making a determination of responsible party in this case.

Please call me at 510/567-6783 should you have any additional questions.

Sincerely,

Scott O. Seeky, CHMM

Senior Hazardous Materials Specialist

enclosures

cc: Jun Makishima, Acting Director

Gil Jensen, Alameda County District Attorney's Office

Kevin Graves, RWQCB

Theodore Cobb, SWRCB, P.O. Box 100 w/ enclosures

Sacramento, CA 95812-0100

EXHIBIT 1

MEMORANDUM

TO: Gil Jensen and Scott Seery

FROM: Jahna McGranahan

RE: Naming Texaco and the Calleris as Responsible Parties

DATE: August 14, 1995

QUESTIONS PRESENTED

- 1. Should Texaco be named as a responsible party for the 15595 Washington Blvd. property where they owned the property and had control over underground storage tanks at the time of or following an unauthorized release of a hazardous substance?
- 2. Should Texaco be given secondary party status where there is no primary party performing corrective action, and where it is unclear that Texaco did not contribute to the contamination?
- 3. Should the Calleris be named as responsible parties for the 15595 Washington Blvd. property where they owned the property and had control of underground storage tanks at the time of or following an unauthorized release, and where there is a reasonable basis to conclude that they were the last people to own the tank immediately before discontinuation of use?
- 4. Does the Calleris' 1984 bankruptcy shield them from being named responsible parties where contamination on the property was not fairly contemplated by the parties at the time the Calleris filed the petition for bankruptcy?

BRIEF ANSWER

- 1. Yes. Texaco should be named as a responsible party as they had control over underground storage tanks following an unauthorized release of a hazardous substance.
- 2. No. They should not be given secondary party status as there is no primary party performing corrective action and it is unclear that they did not contribute to the contamination identified in 1986.
- 3. Yes. The Calleris should be named as responsible parties as they had control over underground storage tanks at the time of or following an unauthorized release of a hazardous substance, and as there is a reasonable basis to find that they were the last people who owned the



tanks before discontinuation of their use.

4. No. The Calleris' 1984 bankruptcy does not shield them from responsibility because the contamination was not fairly contemplated by either of the parties at the time the Calleris filed their petition for bankruptcy.

DISCUSSION

Local agencies operating under an LOP contract must name all persons as responsible parties who meet any of the following four sets of circumstances as listed in Section 2720 of Article 11, Chapter 16, Title 23, of the California Code of Regulations:

- 1. Any person who owns or operates an underground storage tank used for the storage of any hazardous substances.
- 2. In the case of an underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use:
- 3. Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
- 4. Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance.

"The prerequisite for naming a responsible party in a corrective action order is that there be a reasonable basis to conclude that an unauthorized release occurred during or prior to the time a person was an owner, operator, or otherwise had control of the property." Jan. 25 1994 Letter from Mike McDonald, SWRCB, to the Local Oversite Agencies (the "Jan. 1994 McDonald Letter").

A. There Is a Reasonable Basis To Conclude That A Release Happened During Or Prior To Texaco's Control Of The Property and That Texaco Should Be Named A Responsible Party.

Texaco should be named as a responsible party under paragraph 4 of Section 2720. They had control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance. This is by their own admission. It is stated on page 11 of the July 14, 1995 Texaco Memo ("TM"), "there is ample evidence to find that the minor



contamination noted in the GTI 1986 Report occurred prior to August 1983. The Calleris are therefore responsible parties under paragraph 4 of Section 2720's definition of responsible parties." TM p.11. Whether it occurred prior to 1983 or not, the contamination documented by the GTI 1986 Report was present in 1986 and this is enough to name Texaco a responsible party.

B. Texaco Should Not Be Assigned Secondary Responsibility.

Texaco argues that it should be assigned secondary responsibility because although it owned the property after a discharge took place, it did not "initiate or contribute to the actual discharge." TM p. 15. According to the January 6, 1995 Letter from Mike Harper to the Local Oversight Program Agencies, designating secondary responsibility is only appropriate where the primary responsible party is performing corrective action and it is clear that the party-seeking secondary status did not in any way initiate or contribute to the actual discharge. (emphasis added)

Secondary status for Texaco is inappropriate at this time for two reasons. First, no primary responsible party is currently performing corrective action. This is clearly a requirement of giving another party secondary status. Second, it is still not clear that Texaco did not contribute to the actual discharge. There is simply a lack of documentation for the tanks during Texaco's period of ownership to exonerate Texaco. If there was product left in the tanks following the sale in 1983, Texaco may have been contributing to the discharge identified in 1986. There is also the possibility that tank removal by Texaco contributed to any pre-existing contamination. Records documenting this tank removal have not been made available. Hence, the condition of the tanks and any release identified during the tank removal activities cannot be determined. Texaco should be named a responsible party.

C. There Is a Reasonable Basis To Conclude That A Release Happened During Or Prior To Calleris' Control Of The Property and That The Calleris Should Be Named Responsible Parties.

The Calleris can probably be named under paragraph 2 of Section 2720, and should definitely be named under paragraph 4 of Section 2720. To be named a responsible party under paragraph 2, the Calleris need to be found to be the last owner or operator immediately before discontinuation of use. Given the evidence available, they probably were the last owners or operators immediately before the discontinuation of its use and responsible parties under paragraph 2.

In the Jan. 1994 McDonald Letter, the State Board defined "discontinuation of use" to mean that:

(1) product was neither placed in the tank or removed from the tank (except for product



removal at the time of tank closure) and (2) circumstances indicated that there was no further intent to use the tank. Circumstances which indicate no further intent <u>can</u> include such factors as:

- 1. The tank is filled with an inert solid or otherwise rendered unusable;
- 2. The owner abandoned the tank and no one else used if;
- 3. The intakes and vents are paved over;
- 4. The tank was sold to a person who had no use for the tank (such as a residential real estate developer).

Under federal law [42 USC Section 6991 (3) (B)], the person who owned a tank which was not used after November 8, 1984 immediately before the discontinuation of its use may be named a responsible party, even though substantial evidence does not exist to show that the leak occurred before the discontinuance of use.

To not be named under paragraph 2 of Section 2720, Texaco needs to have put product into or removed product from the tanks or have had further intent to use the tanks. Texaco has produced documentation (Texaco Exhibit A- Texaco 1983 surplus property report) that implies that they did not use the property and intended to sell the property. They allegedly purchased it at the foreclosure sale in order to protect their security interest. TM p. 3. They allege that no one operated the property during their ownership, from August 1983 until Kubo acquired the property in 1986, TM p.3, although they have offered no real documentation to this effect. Texaco also alleges that there was no product in the tanks during their ownership. It is unclear how they come to this determination because as of yet, Texaco has produced no records for the tanks during its ownership. The Groundwater Technology Inc. ("GTI") 1986 report states that the tanks were purged of product at that time, but there is no record confirming this for the three years prior. GTI was probably informed by Texaco that the tanks were empty, and may have no direct knowledge. Although there is a lack of documentation concerning usage of the property, it is probable that Texaco did not operate the tanks. The ALCO Dept. of Weights and Measures (W&M), who conducted annual inspections of active retail fueling stations during the mid-1980's, has no record of inspection reports for the property from 1980 until 1987 when Kubo opened "Kubo's Service Center." This suggests that Texaco did not operate a service station on the property. Also, Texaco commissioned an appraisal in June 1983 before purchasing the property that states that the best use of the property would be retail or commercial usage. This appraisal also stated that "the existing service station facilities are old and outdated, and historically the site has not been a productive service station." Letter from Texaco, August 10, 1995. This also suggests that Texaco did not operate a service station on the property.

Assuming that Texaco did not put product into the tanks or remove product from the tanks, there may still be an issue regarding the intent of Texaco regarding further use. If there is further intent to use the tanks, they would be considered "in use." See Jan. 1994 McDonald Letter. Although Texaco may not have intended to use the tanks on the property during their ownership, they may have intended the tanks to be useable by future owners and may have marketed the property as a service station with tanks that could be used. This would be enough

sell them for others to use.

#857 P.06/07

to find that the tanks were "in use" in that they were not considered permanently closed by Texaco. This is not inconsistent with the requirement that the use be "conscious use" under G.J. Leasing Co., Inc. v. Union Electric Co., 825 F.Supp. 1363 (S.D. Ill. 1993). Texaco argues that because the tanks in this case sat idle for a period of time as did the tanks in G.J. Leasing, and moreover because they were purged of product, that the tanks were not in "conscious use". TM p. 9. However, the fact situation in G.I. Leasing is quite different from the one at hand. In that case, the court found that there was not conscious use where the plaintiffs were completely unaware that there tanks on their property. G.J. Leasing, 825 F. Supp. at 1383. Here, Texaco purchased the property with full knowledge of the tanks and may have intended to use them or

All in all, Texaco's intent with regard to the tanks in 1983 is speculative. The possibility exists that the tanks may have been "in use" until they were removed by Texaco in late 1986. Circumstances, however, tend to indicate that there was no further intent to use them after the purchase. Texaco Exhibit A (the Texaco 1983 Surplus property report), the appraisal done June 1983 (August 10, 1995 Letter from Texaco) that recommends retail or commercial usage of the property and states that the facilities are old and outdated, and the fact that the tanks were removed prior to the Kubo purchase at the end of 1986 all support this finding. As the evidence supports the finding that use was discontinued before November 8, 1984, sufficient evidence that the leak occurred before the discontinuance of use does not have to exist to name the Calleris as responsible parties under federal law [42 USC Section 6991 (3) (B)]. However, there is sufficient evidence in this case that the leak occurred before the discontinuance of use. Thus there is more than a reasonable basis to find that the Calleris are responsible parties as the last owners before the discontinuation of use under paragraph 2 of Section 2720.

But regardless of whether the Calleris can be named as the last owners prior to discontinuation of use under paragraph 2, they should definitely be named as responsible parties under paragraph 4. They had control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance. There is sufficient evidence to find that the contamination noted in the GTI 1986 Report occurred prior to August 1983. Evidence supports the finding that Texaco neither placed or removed product in the tanks during their ownership and the GTI 1986 Report indicates the presence of contamination near the pump island. The presence of such contamination in the area where discovered is most reasonably explained by a release associated with a leak in product piping or dispenser during operation of the tank system. This places the time of the contamination around the pump island to be prior to August 1983. As contamination must have happened during or prior to the Calleris' ownership of the property, they are responsible parties under paragraph 4 of Section 2720.

D. The Calleris' Bankruptcy in 1984 Does Not Shield Them From Being Named Responsible Parties.

The Calleris argue that by filing bankruptcy in 1984, they should not be held responsible for contamination that happened before 1984. As outlined in the Calleris' Memo ("CM"), the Ninth Circuit has adopted a fair contemplation approach to decide when contamination from prepetition conduct should give rise to a "claim" that can be discharged in bankruptcy. Under this approach, only future response costs which could be "fairly contemplated" by the parties before the petition in bankruptcy is filed are dischargeable claims. California Department of Health Services v. Jensen, 995 F.2d 925, 930 (9th Cir.1993); In Re National Gypsum, 139 B.R. 397 (N.D. Tex.1992). The National Gypsum court identified four factors relevant to whether response costs were fairly contemplated by the parties when the bankruptcy petition was filed:

- 1. Knowledge that the site was contaminated
- 2. Whether the site was listed on the National Priorities List
- 3. Whether the debtor had been notified that it was a potentially responsible person
- 4. Whether site investigation or cleanup had begun.

It is clear that the contamination at the 15595 Washington Blvd property was not fairly contemplated pre-petition by either the Calleris or any regulatory agency. There was no notice to anyone of a pre-August 1983 unauthorized release until the GTI 1986 Report commissioned by Texaco, and then only to Texaco. Records indicate that the GTI 1986 Report was not known of by the ALCO Dept. of Environmental Health until after March 1993. None of the other factors listed by the National Gypsum court are relevant in this case. Thus the contamination, although a result of pre-petition conduct, is not a "claim" that was discharged in the 1984 bankruptcy.

Furthermore, designation as responsible parties and a corrective action order requiring the Calleris to clean up presently existing contamination are not pre-petition claims for money and are therefore not subject to discharge in bankruptcy. <u>Towrico Electronics. Inc. v. State of New Jersey Department of Environmental Protection and Energy</u>, 8 F.3d 146 (3rd. Cir. 1993), cert. denied 114 S.Ct.1576 (1994).

CONCLUSION

For the foregoing reasons, both Texaco and the Calleris should be named Responsible Parties for the 15595 Washington Blvd. property.

LINDA SHELL 15595 WASHINGTON AVENUE SAN LORENZO

STATEMENT OF FACTS:

On January 15, 1993, the ACDEH, Hazardous Materials Division (as the Environmental Protection Division was known at that time), received a copy of the December 4, 1992 Groundwater Technology, Inc. (GTI) Report of Sampling Activities. This report was submitted under GTI cover dated January 14, 1993. The noted GTI cover indicates this report was sent at the request of Burt Kebo (sic). The noted GTI cover indicates Mr. Kebo (sic) also requested that a copy of the GTI report entitled "Subsurface Hydrocarbon Investigation, Texaco Service Station, 15595 Washington Street, San Lorenzo, California, October 17, 1986" be forwarded to ACDEH, a request GTI refused without approval from Texaco.

[Note: Until receipt of this report, ACDEH was not aware that an environmental investigation had been initiated at this site.]

The cited 12/4/92 GTI report presents the results of the November 12, 1992 sampling and gauging of three (3) existing wells at the site. This work was reportedly performed on behalf of Tracy Federal Bank. Results of this sampling effort, reported in ug/l, or parts per billion (ppb), are as follows:

<u>well</u>	<u>TPH-G</u>	<u>benzene</u>	<u>toluene</u>	<u>ethylbenzene</u>	xylenes
MW-1	720	3	0.5	1	1
MW-2	<10	<0.3	<0.3	<0.3	<0.5
MW-3	69	<0.3	<0.3	<0.3	<0.5

Depth to water (DTW) ranged from 10.55 to 11.37' below grade (BG). Wellheads reportedly had <u>not</u> been surveyed relative to mean sea level (MSL) as of that time; hence, flow directions and gradient were <u>not</u> determined during the 11/92 monitoring event.

GTI recommends: performing quarterly groundwater (GW) monitoring and sampling for one year; and, surveying wellheads to facilitate GW gradient and flow direction determinations. GTI indicates that they were not aware whether ACDEH had been notified of GW conditions at this site.

=====

Linda Shell Statement of Facts Page 2

At some point <u>after March 30</u>, 1993, ACDEH received a copy of the referenced 10/17/86 GTI report, submitted under a hand written cover from Bert Kubo/dated March 30, 1993.

The 10/17/86 GTI report documents the advancement of six (6) soil borings at the site, three of which were converted to GW monitoring wells. Borings SB-2 and SB-3, and wells MW-2 and MW-3, were emplaced near the four corners of the (then) underground storage tank (UST) complex, adjacent to the SW corner of the station building. Boring SB-1 and well MW-1 were emplaced in close proximity to the dispenser islands, located in the northern half of the site.

All borings are reported to have been drilled using a truck-mounted rig with 7.5" O.D. hollow stem augers. Wells were reportedly constructed with 2" diameter PVC pipe. Well screens were comprised of 0.020 inch slotted casing extending from the base of the borings to 5' below grade, with blank casing extending to surface. Well pack was reportedly comprised of #2 Monterey sand.

GW was reportedly encountered in <u>all</u> soil borings at an approximate depth of 11' BG. In addition to the completed wells, ground water samples were also reportedly collected from those borings <u>not</u> converted to wells (i.e., SB-1, -2 and -3) immediately following drilling.

Review of drilling logs indicates "slight" to "strong" petroleum odors were identified during advancement of <u>each</u> boring. Strong odors were particularly evident in wells MW-1 and MW-3 near the apparent capillary fringe (~ 8 - 10' BG), and boring SB-1 from approximately 6 to 16' BG, the total depth explored.

Soil samples, reportedly collected at 5' intervals during boring advancement, beginning at 5' depth and continuing until reaching the "water table," were retained using 2.5" O.D. split spoon samplers with three 2 x 6" brass sample sleeves. Samples were reportedly sealed, capped and packed on ice for delivery to the laboratory (Brown & Caldwell). Although GTI indicates "...[a]ll samples remained in the possession of the project geologist until delivery to the laboratory..., " chain-of-custody forms are not presented in the report. [Note: custody forms received 8/15/95.]

GTI reports that soil samples from each borehole were composited in the laboratory "...by combining one sample tube from each sampling interval..." before analyses were performed for the selected target compounds. Hence, of the approximate three (3) discrete samples from each boring (each discrete sample collected from a different depth as each boring was advanced), only one sample, the composited sample, was analyzed.

Linda Shell Statement of Facts Page 3

Soil samples (composites) were reportedly analyzed for the presence of lead, "total hydrocarbon concentrations" (essentially TPH-G), benzene, toluene, and xylenes (BTX). Reported soil sample results, reported in mg/kg, or parts per million (ppm), were below detection limits (i.e., "ND"), as follows:

<u>Sampl</u>	<u>e</u> .	TPH-G	benzene	toluene	xylenes
MW-1	comp	<10	<0.5	<0.5	<1.0
MW-2	comp	<10	<0.5	<0.5	<1.0
MW-3	comp	<10	<0.5	<0.5	<1.0
SB-1	comp	<10	<0.5	<0.5	<1.0
SB-2	comp	<10	<0.5	<0.5	<1.0
SB-3	comp	<10	<0.5	<0.5	<0.5

[Note: The current acceptable detection limit for BT(E)X analysis is 0.005 ppm, 10^2 times more sensitive than what is reported here.]

Six (6) GW samples were reportedly collected from the completed wells and boreholes. Water samples were analyzed for BTX, only. TPH-G was <u>not</u> sought. Detectable concentrations of fuel hydrocarbons (HC) were identified in water sampled from MW-1 and boring SB-1. GW sample results (in ppb) are indicated below:

well/boring	<u>benzene</u>	<u>toluene</u>	<u>xylenes</u>
MW-1	<50	<50	82
MW - 2	<50	<50	<50
MW-3	<50	<50	<50
SB-1	220	390	680
SB-2	<50	<50	<50
SB-3	<50	<50	<50

[Note: Current BT(E)X analysis standards require a method detection limit of 0.5 ug/l, 10^2 times more sensitive than what is reported here.]

GTI concluded from their investigation that water samples from boring SB-1 and well MW-2 contained only "minor" amounts of HC, and that similar amounts of contaminants are present in site soils in the form of an HC "odor" at depth ranging from approximately 7 to 12/ BG. GTI offers that the GW sample collected from SB-1 was "...drawn prior to developing a good hydraulic communication with the aquifer" and "...that additional contamination could have been introduced [into GW] during drilling."

GTI concluded that both SB-1 and MW-1 were located upgradient of the other wells emplaced during the investigation even though an attempt to determine flow direction was not part of the (apparent) scope of their work at the site at that time. It is this inference, apparently, and the fact that HC were not detected in GW sampled from the other "downgradient" wells (MW-2 and -3), that lead GTI to further conclude that "...a small localized loss likely occurred at the pump island." GTI goes on to interpret the results of this limited, one-time sampling event as representing "...an older leak..."

COMMENTS:

- 1) It is unclear how the presence of **220 ppb benzene** discovered in water sampled from SB-1 could be interpreted as a "minor" impact.
- 2) The data seem to suggest that whatever release had occurred and which was detected most evidently during the course of the 1986 GTI investigation, appears to be associated with the dispenser island area, as opposed to the USTs specifically. Such would suggest a release from the dispensers and/or product lines in that area. Hence, it is reasonable to conclude that such a release <u>must</u> have occurred during the time the UST system was in operation and the product lines charged with product under pressure.
- 3) Compositing of soil samples from discrete depths collected during boring advancement is <u>not</u> an acceptable practice. Samples combined in this fashion can, because of simple dilution, potentially mask the presence of contaminants occurring at discrete sampling intervals which might otherwise be detected if such samples had been analyzed individually. This is particularly true where method detection limits are elevated, as was the case during this 1986 study.
- 4) It appears GW samples were collected from completed wells the same day they were drilled, constructed, and developed 8/8/86. Because drilling, construction, and development

activities significantly agitate and aerate the formation and ground water in the zone surrounding the well, such practice encourages the loss of volatile fuel constituents from formation water prior to it being sampled. Hence, samples collected in this fashion likely are not representative of ambient formation water. Actual dissolved HC concentrations are likely higher than what has been reported.

5) The laboratory method detection limits for both GW and soil sample analyses were significantly <u>lower</u> in completion of the 1986 GTI study than for the same analyses performed following <u>current</u> practical quantitation reporting limits by Department of Health Services Certified Laboratories. The following table illustrates these method detection differences:

		<u>(GTI)</u>) <u>Water (ppb)</u>	<u>Current</u> Soil (ppm) Water (ppk				
TPH-G	10	*	1.0	50.0			
BT(E)X*	0.5	50	0.005	0.5			

* TPH-G was not sought in GW and ethylbenzene was not sought in soil or GW samples collected during 1986 GTI study.

According to current practices, both soil <u>and</u> GW sample method detection limits for BT(E)X analyses are 100 times more sensitive than those employed during the 1986 GTI study. Additionally, TPH-G analysis is 10 times more sensitive currently than during the 1986 study. It is unknown what the 1986 method detection limits were for TPH-G GW analysis as no samples were run for this analyte.

When comparing the 1986 data with that collected more recently, one could conclude at first reading that benzene, for example, was simply not present in GW sampled from well MW-1 at the time of the 1986 study, and that it only "appeared" at a later date, suggesting a subsequent release. However, because of the relatively high laboratory method detection limits in effect during the 1986 study, among other previously discussed sample integrity issues, benzene may have been present in the sample, but at a concentration below period method detection limits.

6) GTI appears to attempt to discount the analytical results of the GW sample collected from boring SB-1 by suggesting that cross-contamination during drilling, and lack of hydraulic communication with the aquifer prior to sampling, skewed the analytical results.

======

Based on review of the SB-1 boring log which indicates the presence of strong HC odors beginning at shallow depth (~6' BG), cross-contamination could have affected the GW sample collected from this borehole by introducing contaminants to GW from soil encountered at shallower depth during boring This phenomenon, commonly referred to as "drag advancement. down, " occurs where contaminated soil penetrated at shallower depths adheres to the auger, (potentially) introducing contaminants to sediments and GW at greater depth as the auger is advanced. If drag down had occurred with respect to boring SB-1, such would indicate, at a minimum, the presence of soil contamination in that area at a depth shallower than that at which GW was eventually encountered. Hence, such shallow soil contamination would more strongly indicate a piping and/or dispenser leak as the source of the release identified at the site in that area.

Understanding the suggested relationship between published sample results and a failure to achieve "good hydraulic communication" is unclear. Communication with the aquifer to any degree will allow GW to enter the sampling point, in this case, boring SB-1. Better communication, in theory, should yield more water at a faster rate. As a GW sample was reportedly collected, communication with the aquifer was apparently adequate enough to achieve the simple (and only) goal of sample collection.

At some point during or after August 1993, ACDEH received a copy of the August 23, 1993 Environmental Geotechnical Consultants, Inc. (EGC) report entitled Groundwater Sampling and Analysis and Comprehensive Asbestos Survey, 15563 Washington Ave., San Lorenzo, California from Mr. Callahan, the owner of that property. The Callahan property abuts the subject site to the north. The scope of the EGC study included the August 9, 1993 installation of three (3) temporary GW sampling points along the southern boundary of the Callahan site which separates his from the subject site.

The sampling probes were reportedly comprised of 5-foot sections of 3/4" decontaminated, perforated, galvanized steel pipe driven pneumatically to approximately a 20' depth. GW samples were reportedly collected using a stainless steel bailer lowered into the sampling probe.

GW samples were analyzed for the presence of TPH-G and -D, and BTEX, the results of which (in ppb) are presented below:

	<u>TPH-G</u>	<u>benzene</u>	<u>toluene</u>	<u>ethylbenzene</u>	xylenes
B-1	50	0.5	0.5	<0.5	0.5
B-2	<50	0.7	<0.5	<0.5	<0.5
B-3	4900 .	18	28	12	26

TPH-D analyses were all below method detection limits (50 ppb).

COMMENTS:

Clearly, a fuel HC release was detected in GW collected during this study, particularly in GW sampled from probe B-3, the western-most of the three sampling points. Based on the GW flow directions calculated during the (to-be-discussed) 1994 Blaine Tech Services, Inc. (BTS) sampling/monitoring report, and by this author based on the 1992 GTI DTW and 1994 well elevation survey data, GW flow has been shown to be towards the WNW based on those two discrete data sets. Hence, based on those two data sets, boring B-3 appears to be positioned down-to-cross gradient of the dispenser islands, and downgradient of GTI boring SB-1. This information is additionally consistent with a release associated with the dispenser island area.

On May 20, 1994, ACDEH received a copy of the (undated) BTS sampling/monitoring report submitted under Texaco cover dated May 3, 1994. This report documents the results of well sampling and monitoring reportedly conducted by BTS on March 24, 1994. Although a surveyor's plat was not presented in this report, ground water elevations are presented as elevations, expressed in terms of feet above MSL, suggesting that the top of the well casings had been professionally surveyed and the specific values presented in terms of elevations relative to MSL.

A comparison of the March 1994 DTW data with that collected during the November 1992 monitoring event indicates GW recovered (rose) an average of 2.66 feet between the two events. Based on DTW measurements, their conversion to elevations above MSL, and the graphical representation of flow direction as presented on Plate 2 of the subject BTS report, GW flow is calculated to be towards the WNW with an approximate gradient of 0.007 ftft⁻¹.

Specific fuel HC constituent concentrations (i.e., TPH-G, benzene, ethylbenzene) in GW sampled from well MW-1 reportedly increased between the 1992 and 1994 sampling events.

A comparison of the two sampling data sets appears below with concentrations expressed in ppb:

		<u>TPH-G</u>	<u>benzene</u>	toluene	<u>ethylbenzene</u>	<u>xylenes</u>
MW-	1				-	
	3/94	1300	110	<0.5	19	<0.5
	11/92	720	3	0.5	1	1
MW-	2					
	3/94	<50	<0.5	<0.5	<0.5	<0.5
•	11/92	<10	<0.3	<0.3	<0.3	<0.5
MW-	-3					
	3/94	<50	<0.5	<0.5	<0.5	<0.5
	11/92	69	<0.3	<0.3	<0.3	<0.5

COMMENTS:

Some have argued that the relative (apparent) increases in certain target analytes between the 1986 and 1992/1994 sampling events indicate an additional release of fuel occurred at some time after the 1986 event, and before the 1992/1994 events. Although the noted argument may be theoretically plausible, an alternative explanation is equally (if not more) plausible, particularly when one considers that the entire UST system was replaced during 1987 with one which is, for all intent and purposes, secondarily-contained, and is both better monitored and cathodically isolated than any of the previous UST systems constructed at this site.

A release associated with its normal operation, although not impossible, is not likely.

It is common for organic compounds such as fuel HC to be readily sorbed to the soil matrix. A number of intrinsic, site-specific soil characteristics, such as texture and composition (e.g., clay vs. sand vs. gravel), moisture and organic carbon content, and distribution (heterogeneity) of each within the soil column, among others, control the equilibrium partitioning of HC within subsurface soils between sorbed, dissolved and vapor phases.

Where dissolved HC are found in GW, and as GW levels rise and fall seasonally due to increased or decreased rainwater infiltration and GW withdrawal, dissolved HC will partition from dissolved to sorbed phases, and visa versa, in the subsurface. In essence, as GW levels drop, some amount of the dissolved HC will sorb onto the soil matrix. As GW levels increase, sorbed HC will dissolve (leach) back into GW. Over time, a "smear zone" will develop in the soil column where this back and forth partitioning occurs in response to GW flux. At some sites this smear zone may be as narrow as several inches in vertical thickness, and at others, as thick as several feet, dependant upon the degree of historic GW flux, whether GW is present under confined or unconfined conditions, contaminant concentrations, the presence or absence of free-phase product, etc.

California recently recovered from a drought which lasted several years, "officially" ending the winter of 1993/1994. As has been seen at this site, GW levels appear to have recovered an average of 2.66 feet between November 1992 and March 1994. Such GW recovery may have resulted in GW rising into a portion of the smear zone, the consequence of which is a marked increase in dissolved HC in GW sampled from well MW-1 during the 1994 event.

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HEALTH CARE SERVICES AGENCY

DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, Director

DEPARTMENT OF ENVIRONMENTAL HEALTH Environmental Protection Division 1131 Harbor Bay Parkway, #250 Alameda, CA 94502-6577 (510) 567-6700

September 18, 1995

STID 1360

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524

Subject:

-Legal basis for requiring the repair of failed Automatic line leak detectors at

Linda Shell, 15595 Washington Avenue, San Lorenzo, CA 94580.

-Required documents to clear the NOTICE OF VIOLATION.

Reference:

-Notice letter from me dated August 31, 1995. Letter of response from

you dated September 2, 1995. My letter of September 11, 1995. Your

response of September 14, 1995.

Dear Mr. Mohammadian:

In response to your September 14 letter the Red Jacket detectors on your piping were not legal as of December 22, 1990. However I did review the Health and Safety Code and the California Code of Regulations which were in force at the time of installation of the line leak detectors in 1987. The rules at that time only required that either the detector be attached to an audible and visual alarm or that the detector be capable of reducing the flow of product by at least 50% when a leak is detected. So from my reading of the law the Red Jacket detectors installed on your system were legal when installed in 1987 but became out of date and illegal by December 22, 1990.

Please note that this problem with the leak detectors does not mean the system has leaked. I have no indication of leakage at this time.

I am still awaiting the documentation from you on the tightness tests on the tanks and the specific information on the new line leak detectors. Please submit the certified tank test results from Scott Company and the certification from Scott that they installed the new

detectors and that the new detectors work. I also want the following information on the detectors:

- 1- Make and model number and serial numbers of the detectors.
- 2- Specification of the detection capability of the detector and the test data proving the detectors are working.

When I receive all of the documentation from you I will send you a letter which clears your notice of violation. Until I receive the documents you are still in violation of the terms of your permit.

If you have any questions please contact me at (510) 567-6734.

Sincerely,

Don Atkinson-Adams Senior Registered Environmental Health Specialist #5485

cc: Gil Jensen, Alameda County District Attorney, Consumer and Environmental Protection Division

Bob Chambers, Alameda County District Attorney, Consumer and Environmental Protection Division

Jun Makishima, Acting Director of Environmental Health

Scott Seery, Local Oversight Program

Bill Raynolds, East Area Manager

Robert Weston, Senior Hazardous Materials Specialist

The following text was in my September 11, 1995 letter.

The law requires you to maintain automatic line leak detectors which are capable of detecting a leak of 3 gph at a test pressure of 10 psi. The specific reference is Health and Safety Code section 25292(e)(1) which requires all existing underground pressurized piping to be equipped with automatic line leak detectors on or before December 22, 1990. The definition of an "Automatic line leak detector" and the specific performance standards are in H&S Code section 25281(a). Since the leak detectors on your piping have been legally required to meet the performance standards since December 22, 1990 then it would not be legal to have a line leak detector on your piping that had manufacturer's specifications which were less stringent than those of H&S section 25281(a). Therefore your assertion that the Red Jacket detectors have a specification of 4.5 gallons per hour just means that the detectors have been out of compliance since **December 22, 1990.** I trust that this will help to explain why your leak detectors are not functioning when they are only capable of detecting a leak of 4+ gallons per hour at a testing pressure of 10 pounds per square inch. Your assertion that the detectors were operating properly and did not need to be repaired is incorrect and failure to repair them is a violation of H&S Code section 25292(b)(4)(C) "...all devices found to not be in conformance with the manufacturer's leak detection specifications shall be promptly repaired or replaced."

PROTECTION

95 SEP 18 PH 4: 46

M.Mohammadian Linda Shell Station 15595 Washington Ave. San Lorenzo Ca.94580 9-13- 1995

Mr. Scott Seery Health Care Services Agency 1131 Harbor Parkway # 250 Alameda Ca. 94022-6577

Dear Scott:

Enclosed you will find a copy of my letter dated 9-6-1995, directed to Mr. Lawrence Kolb of Regional Water Quality Control Board, base of your notice of 9-5-1995.

Yours Sincerely

M. Mo hamma dian

M.Mohammadian

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

AGENCY DAVID J. KEARS, Agency Director



DEPARTMENT OF ENVIRONMENTAL HEALTH Environmental Protection Division 1131 Harbor Bay Parkway, #250 Alameda, CA 94502-6577 (510) 567-6700

September 11, 1995

STID 1360

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524

Subject:

-Legal basis for requiring the repair of failed Automatic line leak detectors at

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Reference:

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September 11, 1995

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Sincerely,

Don Atkinson-Adams

Senior Registered Environmental

Health Specialist #5485

Enclosure: H&S Code sections 25281, 25291, 25292

cc: Gil Jensen, Alameda County District Attorney, Consumer and Environmental Protection Division

Bob Chambers, Alameda County District Attorney, Consumer and Environmental Protection Division

Jun Makishima, Acting Director of Environmental Health

Scott Seery, Local Oversight Program

Bill Raynolds, East Area Manager

Robert Weston, Senior Hazardous Materials Specialist

lindalek.995

ENVIRORMENTAL

95 SEP 18 PM 4: 46

M.Mohammadian Linda Shell Station 15595 Washington Ave. San Lorenzo Ca.94580 9-13- 1995

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Yours Sincerely

M. Mohamma dian

M.Mohammadian

M.Mohammadian Linda Shell station 15595 Washington Ave Sanlorenzo Ca. 94580 9-6-1995

Mr. Lawrence Kolb Acting Executive Officer Ca. Regional Water Quality Control Board 2101 Webster Street Suite = 500 Oakland Ca. 94612

Dear Mr. Kolb:

Re: 15595 Washington Ave Sanlorenzo

I am in receipt of your letter dated August 31,1995 which I have to respond. In page two of your letter you stated:

" 6. M. Mohammadian is the owner of property where an unauthorized release of a hazardous substance from an UST occurred."

Of course me and my wife are the owner of the above contaminated property, which was contaminated before late 1986 by otheres. Early 1990 when we purchased this property, not only we have not been disclosed of this fact by Mr. Kubo or his agent, but also we have been misinformed by Health Department. We have pending litigation and asked the Court for recession, and damages.

Enclosed you will find copies of my letters dated 5-6-93, 6-12-1995, and 8-15-1995, which are only a few of my letters to the Health Care Services Agency in this regard, which I have no respond to none of them.

- as I have expressed my standing, I have to inform you once again that the release has not occurred during our ownership due to:
- 1- The existing tanks are double wall with electronic monitoring system. All the equipment and tanks has been checked during last few months, by experts and there is no evidence of any leak
 - 2-The lines are partially double wall, and during last five years we have never experience the slow in gas flow even to be suspected of any gas leak in the line. All of the line and equipment has been checked by experts completely during last few months, and there is no evidence of any leak.
 - 3- I do have the stick reading and inventory control since 1990 when we purchased this gas station, and there is no evidence of gas shortage.
 - 4- Due to the contamination of property, and extra cost for us we are in financial distress, and not able for any other extra cost.

I hope that the above be of your assistance. Awaiting to hear from you soon.

Yours Sincerely

M.Mohammadian

ALAMEDA COUNTY ENVIRONMENTAL HEALTH DEPARTMENT

ENVIRONMENTAL PROTECTION DIVISION

1131 Harbor Bay Parkway, Suite #250

Alameda, CA 94502-6577

Telephone (510) 567-6700

Fax Number (510) 337-9335

FAX COVER SHEET

DATE: 9-6 1995
TO: Mary Swanson.
FAX # (707) 746-/672
Total number of pages including cover sheet
FROM: Scott Scery
(510) 567-6783
OTE: Attached is a copy of the RWQCB letter we discussed.
Below is the excerpted language from the "Notice of
Requirement to Reimburse" notice to be sent in the
near future:
action or inaction by this local agency associated with corr

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the SWRCB. Patitions was the Tiled Citien 30 days from the date of the action/inaction. To obtain petition procedures, please fax your request to Roni Riley at the SWRCB at (916) 227-4349 or telephone (916) 227-4408

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In R	e The	Property	Known	As	:
1559	5 Wash	.l Static	venue		
San .	Lorenz	o, Calif	ornia		

Notice of Official Action By the San Francisco Bay Regional Water Quality Control Board

Dear Sirs:

The attached Official Notice of Request for Technical Reports pursuant to Water Code Section 13267(b) has been forwarded to this office for legal service, and oversight. As the Agency responsible for enforcing the terms of this Official Action, all communication should continue to be directed to this office. Please make arrangements to comply by calling me at (510) 567-6783 to coordinate all future activities.

Failure to comply could result in liability for civil or administrative penalties of up to \$1000 per day of delinquency.

I <u>Scott Seery</u>, do hereby certify that I served <u>Jessen and Agnes</u>

<u>Calleri</u> with a copy of the attached <u>Notice of Official Action by</u>

the <u>Regional Board</u> by certified mailer # Z 296 048 434.

Dated: 9-5-95

(signature)



Receipt for Certified Mail

No Insurance Coverage Provided Do not use for International Mail (See Reverse)

Street and No. (1980) Clifflam P.O. State and ZIP Code Dahland, C4 9	d Ave
Dahland, C4 9	4605
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Restricted Delivery Fee	
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Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

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delivered. 3. Article Addressed to: Vesseu and Agnes Calleri 10901 Cliffland Ave Bakland, CA 94605	Consult postmaster for fee. 4a. Article Number Z 296 CHS 434 4b. Service Type Registered Insured Certified COD Express Mail Return Receipt for Merchandise 7. Date of Delivery
5. Signature (Agent) 6. Signature (Agent)	8. Addresse's Address (Only if requests and fee is paid)

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In	Rе	The	Property	Known	As	:	

Linda Shell Station 15595 Washington Avenue San Lorenzo, California Notice of Official Action By the San Francisco Bay Regional Water Quality Control Board

Dear Sirs:

The attached Official Notice of Request for Technical Reports pursuant to Water Code Section 13267(b) has been forwarded to this office for legal service, and oversight. As the Agency responsible for enforcing the terms of this Official Action, all communication should continue to be directed to this office. Please make arrangements to comply by calling me at (510) 567-6783 to coordinate all future activities.

Failure to comply could result in liability for civil or administrative penalties of up to \$1000 per day of delinquency.

I <u>Scott Seery</u>, do hereby certify that I served <u>Bertram Kubo</u> with a copy of the attached **Notice of Official Action by the**Regional Board by certified mailer # Z 296 048 433.

Dated: 9-5-95

(signature)



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Complete Series 1 and/or 2 for additional services. Complete Series 3, and 4e & b. Print your name and address on the reverse of this form return this card to you.	so that we can feel:
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6. Signature (Agent)	4
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Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

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I <u>Scott Seery</u>, do hereby certify that I served <u>Douglas A. Gravelle</u> with a copy of the attached <u>Notice of Official Action by the</u>

Regional Board by certified mailer # Z 296 048 432.

Dated: 9-5-95

(signature)

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Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	-

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Complete Campbe and a & b. Print your name and address on the reverse of this form so the return this card to you.	I also wish to receive the following services (for an extra fee):
 Attach this form to the front of the mailpiece, or on the back does not permit. 	if space 1. Addressee's Address
Write "Return Receipt Requested" on the mailpiece below the an The Return Receipt will show to whom the article wastelinged delivered.	ticle number and the date 2. Restricted Delivery Consult postmaster for fee.
3. Article Addressed to:	4a. Article Number
Texaco, Inc.	Z 296 048 032
10 Universal City Plaza, 13th Floor	4b. Service Type ☐ Registered ☐ Insured
Universal City, EA 91608-1006	COD Express Mail Return Receipt for
MTM: Douglas A. Gravalle	7. Date of Delivery
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6. Signature (Agent)	[\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
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Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Property Known As :)
)
Linda Shell Station)
15595 Washington Avenue)
San Lorenzo, California	j
	}

Notice of Official Action By the San Francisco Bay Regional Water Quality Control Board

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I <u>Scott Seery</u>, do hereby certify that I served <u>Mehdi Mohammadian</u> with a copy of the attached **Notice of Official Action by the**Regional Board by certified mailer # Z 296 048 431.

Dated: 7-5-95

(signature)



Receipt for Certified Mail No Insurance Coverage Provided Do not use for International Mail (See Reverse)

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Return Receipt Showing to Whom, Date, and Addressed's Address	
TOTAL Postage & Fees	\$
Postmark or Date	
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Complete immediate 2 for additional services. Complete items 5, and 4a 5 b. Print your name 3nd address on the reverse of this form so the return this card to you. Attach this form to the front of the mailpiece, or on the back does not permit. Write "Return Receipt Requested" on the mailpiece below the a time Receipt will show to whom the address delivered. 3. Article Addressed to: Media Mchammadian Cinda Shell	1. Addressee's Address rticle number 2. Restricted Delivery Consult postmaster for fee. 4a. Article Number 2. 296 048 491 4b. Service Type
Ginda Shell 15595 Washington Ave San Comenzo, CA 94580 M. Rislew	Registered Insured Cortified COD Express Mail Return Receipt for Merchandise 7. Date of Delivery
5. Signature (Addressee) 6. Signature (Agent)	8/Addressee's Address (Only if requeste and fee is paid)

M.Mohammadian Linda Shell Station 15595 Washington Ave, San Lorenzo Ca.94580 9-2-1995

Mr. Don Atkinson Adams Health Specialist # 5485 Health Care Services Agency 1131 Harbor Parkway, # 250 Alameda, Ca. 94502-6577

Dear Mr. Atkinson:

I am in receipt of your notice dated August 31,1995

I am surprised, and disappointed with it too, Due to incorrect statement, which will cause me stress, pain, headachs, and a lot of time and money, because as you know we are in litigation and all of these incorrect statements will cost a lot of attorney fee and expert witness expenses, especially it seems that your agency's policy is that not to respond to my letters, which at least clarifies the facts.

You have stated that the leak detectors need to be repaired. Which is not correct statement.

As you are well aware and observed, all of the system among them the leak detectors have been checked by experts and nothing were wrong with them, to be needed to repair. It seems you do not want to accept the fact that all of the red jacket pump's leak detectors specification are 4.5 G/H and a lot of them are in use at all over the State of California, and by repair you can not change their specification. I am wondering when your Agency supposedly to review the plans and equipment list with their specification, and approve, inspect, and issue the license and permit since early 1987, why they did not objected to these leak detectors. Therefore if anybody should be blame it should be your agency, which approved these equipments and inspected them, and issued permit, since 1987 to Mr. Kubo, and myself, and did not informed me of these facts, for over five years. As I have already informed you by telephone last week, as soon as you called me and expressed your wish to upgrade the leak detectors, I contacted the Scoot Co. to arrange for new vapor leak detectors, which they will replace them with the new system, and their specifications are 3 G/H, on Wed. 6. Sep. 1995, because I wanted to satisfy your Agency though financially it is very difficult for me. Of course I have left for you this messages too.

Furthermore I do not believe it is fair that your agency not to respond to several of my letters, directed to your agency, during last fifteen months.

Awaiting to hear from you soon.

Yours Sincerely M.Mohammadian
H. Ho hammadian

(510) 286-1255

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD JAN FRANCISCO BAY REGION 2101 WEBSTER STREET, SUITE 500 OAKLAND, CA 94612



AUG 3 1 1995

RB File No. 01-1489 (KLG)

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Attn: Douglas A. Gravelle

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

Jessen and Agnes Calleri 10901 Cliffland Avenue Oakland, CA 94605

RE: Legal Designation of Responsible Party and Request for Submittal of Technical Reports Resulting from the Alameda County Department of Environmental Health's Reset Pre-Enforcement Review Panel Meeting of February 28, 1995.

ear Mr. and Mrs. Calleri, and Messrs. Mohammadian, Gravelle and Kubo:

It has been brought to my attention by Regional Board staff that a condition of soil and ground water pollution exists on the property located at 15595 Washington Avenue, San Lorenzo, from an underground storage tank (UST) system release. The Alameda County Department of Environmental Health (ACDEH) staff have requested technical reports from one or more of you to fulfill your obligations per California Code of Regulations, Title 23, Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements.

N Reset Pre-Enforcement Review Panel (PERP) meeting was held at the ACDEH Offices on February 28, 1995, attended by Mr. John Kaiser of my staff, and was the second such meeting to be held regarding this case. It is my understanding that the Panel was presented new information during the February 28th reset meeting, and allowed the record to remain open an extended period of time

Enforcement Review Panel Page 2 of 4

so that all parties would have ample opportunity to comment and present additional information which might shed light on the salient issues of this case.

The Panel, having considered all of the evidence, made the following determinations:

- 1) Texaco had control over the USTs following an unauthorized release of a hazardous substance.
- 2) Texaco cannot be given secondary responsibility status as there is no primary responsible party performing corrective action.
- 3) The Calleris had control over the USTs at the time of or following an unauthorized release of a hazardous substance, and they were the last owners of the USTs immediately before the discontinuation of their use.
- 4) The Calleris' 1984 bankruptcy does not shield them from responsibility because the contamination was not known at the time of the filing, and, therefore, was not fairly contemplated by any of the parties.
- 5) Mr. Kubo was the owner of property where an unauthorized release of a hazardous substance from an UST occurred.
- 6 Mr. Mohammadian is the owner of property where an unauthorized release of a hazardous substance from an UST occurred.
 - 7) Texaco did not file an "UST Unauthorized Release (Leak)/Contamination Site Report" with the State or Regional Boards although a release from an UST was first discovered during August 1986.

Based on these determinations, and pursuant to the Regional Board's authority under Section 13267(b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the UST immediately before the discontinuation of its use" and "any person who had or has control over an UST at the time of or following an unauthorized release of petroleum occurred." A responsible party also includes, among others, any owner of property where an unauthorized release of a hazardous substance from an UST has occurred.

Enforcement Review Panel Page 3 or 4

As a Responsible Party, you are required to conduct both soil and ground water investigations to determine the extent of environmental contamination resulting from any release. You are also required to perform a minimum of monitoring and sampling of any wells presently (or to be) associated with the investigation, perform corrective action where necessary, and submit summary reports documenting the results of each phase of work.

Therefore, within 45 days of the date of this letter, you are requested to submit technical reports specifically addressing the following numbered items:

- 1) Submit a soil and water investigation (SWI) work plan, pursuant to the provisions of Article 11, Corrective Action Requirements, Title 23, California Code of Regulations, detailing proposed tasks associated with determining the extent of soil and ground water contamination resulting from the release(s) from the UST system(s).
- 2) Submit an "UST Unauthorized Release (Leak)/Contamination Site Report," pursuant to Section 2652(c), Title 23, California Code of Regulations.
- 3) Begin adhering to a quarterly schedule of well monitoring, sampling, and reporting, pursuant to Section 2652(d), Title 23, California Code of Regulations.

All proposed assessment work should adhere to the requirements inticulated in The Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - 8/10/90 and Article 11 of Title 23, Waters, California Code of Regulations.

I am hereby transmitting this request for technical reports to ACDEH for service and continued case handling. You should be aware that failure on your part to submit the requested technical reports, or a submittal received after the date specified in this request, may result in fines up to \$1,000 per day of delinquency. Your response to this technical report request should be sent to Mr. Scott Seery, at ACDEH. Please inform Mr. Seery at least three working days in advance of all field activities.

Please be advised that this is a formal request for technical reports pursuant to California Water Code Section 13267(b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the Alameda County Department of Environmental Health, Environmental Protection Division.

Enforcement Review Panel Page 4 of 4

If you have any questions regarding the contents of this letter, please contact Mr. Seery, of ACDEH, at (510) 567-6783.

Sincerely,

wrence Kolb

Acting Executive Officer

CC: Gil Jensen, Alameda County District Attorney's Office,
Consumer & Environmental Protection Division.
Scott Seery, Hazardous Materials Specialist, ACDEH.
Don Atkinson-Adams, Hazardous Materials Specialist, ACDEH
Jim Ferdinand, Alameda County Fire Department

To the standard LAW OFFICES OF JEFFREY P. WIDMAN 84 WEST SANTA CLARA STREET, SUITE 690 SAN JOSE, CALIFORNIA 95113 TELEPHONE (408) 288-6777 FACSIMILE (408) 288-7668 August 31, 1995 Mr. Scott O. Seery, CHMM Senior Hazardous Materials Specialist Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Room 250 Alameda, CA 94502-6577 Mohammadian v. Kubo, Santa Clara County Superior Court case Re: No. CV744664 Linda Shell Station, 15595 Washington Ave., San Lorenzo, CA 94580 Dear Mr. Seery: I represent Mehdi and Fereshteh Mohammadian, owners of the Linda Shell Station located at 15595 Washington Avenue, San Lorenzo, California 94580. I am writing in response to Attorney James Wesley Kinnear's Memorandum of Texaco Inc. Re Designation of Responsible Parties, dated July 14, 1995. Texaco suggests on page three of its Statement of Facts possible discharges from the three generations of tanks, including discharges from the third generation between 1987 and 1994. There is no evidence of any discharge from the current tanks, and the Mohammadians dispute any such suggestion. On page four Texaco states that the 1986 environmental report indicates an isolated discharge before August, 1983. Which portion of the 1986 report suggests such a conclusion? More importantly, the Mohammadians question Texaco's assumptions and conclusion that the true nature and extent of the contamination was solely an isolated discharge which did not require further investigation or Texaco should have reported the finding of remediation. contamination to the Alameda County Health Care Services Agency, or its predecessor with jurisdiction over leaking underground storage The Mohammadians believe that they and the County are entitled to be informed about who removed the tanks, pursuant to which permits, and to receive copies of all relevant documents including those pertaining to the closure of the second generation of tanks. Please instruct Texaco to provide this information and these documents. On page six Texaco suggests that since gasoline contamination was detected in the 1992 report but not in the 1986 report, the current tanks must have leaked after 1986. However, the tanks and Mr. Scott O. Seery, CHMM August 31, 1995 Page Two

part of the lines are double-walled to prevent such discharges. As for those parts of the lines which are single-lined without electronic monitoring, the Mohammadians have conducted regular testing and monitoring without detecting any signs of a discharge or contamination at those points. Texaco also points to the County's first Notice of Violation dated March 21, 1995. However, this Notice was issued to cause the Mohammadians to address the single-lined areas, require testing there, and have some repairs done to various equipment. In no way did these items cause the contamination, nor should the Notice be cited as evidence that a discharge had occurred from the third generation of tanks.

Texaco fails to recognize the obvious. Rather than remaining stable and defined, underground contamination can move through the underground water supply. The extent of such movement may be increased when the water supply and water movement increases after it rains. Clearly the contamination could have shifted in the six years between the two reports.

On page 15 Texaco alleges that it had knowledge of only an isolated spill and limited contamination. The Mohammadians ask how a single isolated surface spill could travel many feet through the ground and enter the groundwater supply in quantities detected by the 1986 report three years after the spill. The more probable explanation is that, apart from the isolated spill, the prior generation of tanks leaked gasoline into the surrounding soil and groundwater causing extensive contamination, which the 1986 report did not fully detect because the areas chosen for sampling may not have hit the center of the plume of contamination as it existed then.

While the Mohammadians, as the current owners of the property, have been designated as responsible parties, they request that Texaco be required to pay for the costs of any investigation, remediation, and monitoring required by the County because they believe that the tanks leaked while Texaco owned the property and because Texaco failed to report the contamination to the appropriate local environmental regulatory agencies. The true

Mr. Scott O. Seery, CHMM August 31, 1995 Page Two

1-11-60

facts will become evident through further investigation and remediation.

Very truly yours,

S. Andrew Motozaki

cc: Mr. Mehdi Mohammadian
 Robert C. Borris, Jr., Esq.
 James Wesley Kinnear, Esq.
 Mary J. Swanson, Esq.

AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, DIRECTOR

August 31, 1995

STID 1360

DEPARTMENT OF ENVIRONMENTAL HEALTH 1131 Harbor Bay Parkway Alameda, CA 94502-6577 (510) 567-6777

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524

NOTICE

Subject:

-Failure of Line leak detectors to pass the state required test on 7/31/95.

Location: Linda Shell, 15595 Washington Avenue, San Lorenzo, CA

94580.

-Permit violations.
-Notice of closure.

Dear Mr. Mohammadian:

This office received a copy of the line tightness and line leak detector tests. Upon review of the results we noted that the leak detectors failed to meet the state requirements. Failure to repair the leak detectors at the time of testing on July 31, 1995 constitutes a violation of the terms of the five year operating permit for the tanks. Replace or repair the detectors with units which can meet the leak detection rate of 3 gallons per hour at 10 psi test pressure. Provide written evidence of replacement or repair of the three units by no later than 5 PM on September 7, 1995.

You are directed to cease operation of the three underground tank systems containing motor vehicle fuel at 5 pm on September 7, 1995 if the leak detectors are not operating as required by law.

or Section 1

Failure to comply is prosecutable and upon conviction the tank owner shall be liable for fines of not less than \$500 or more than \$5000 for each underground storage tank for each day of violation of any of the terms of the permit.

The following terms of the five year permit are being violated.

- Annual tightness testing by a certified tank tester. This office is to be notified 48 hours in advance of the test and a certified copy of the test and the worksheets is to be delivered to this office within 30 days of the date of the test. [Title 23, sec.2643(g)] This office does not have a copy of any tightness test done within the last 12 months. This requirement is being violated.
- 5- Continuously monitor the pressure piping by a line leak detector. The present devices are Red Jacket, mechanical detectors which must be able to shut off the flow of product at a leak rate of 3 gph at ten pounds of pressure. The detectors were tested and failed on 7/31/95. This requirement is being violated.
- 9- Monitoring equipment must be functioning at all times the tank is in use. The falled detectors have not been repaired. This requirement is being violated.
- 15- Maintain financial responsibility certification with this Department and have copies of the documentation on the site. There is not a current certification with this office at this time. This requirement is being violated.

Compliance with the all of the numbered terms is a requirement of the five year permit to operate. Failure to comply is cause for prosecution and revocation of the permit.

Additional violation: The Hazardous Material Business plan which you have on file with this office is dated 12-20-90. Please review your plan and submit a corrected plan within 30 days. You are required by law to do this review at least once every two years and to submit a certification that the review has been done and that no revision is needed or submit a revised plan.

If you have any questions please contact me at (510) 567-6734.

Sincerely,

Don Atkinson-Adáms

Senior Registered Environmental

Health Specialist #5485

Enclosure: HMBP part 2

CC: Gil Jensen, Alameda County District Attorney, Consumer and Environmental Protection Division

Bob Chambers, Alameda County District Attorney, Consumer and Environmental Protection Division

Jun Makishima, Acting Director of Environmental Health

Scott Seery, Local Oversight Program

Bill Raynolds, East Area Manager

Robert Weston, Senior Hazardous Materials Specialist

lindalek.895

M.Mohammadian Linda Shell Station 15595 Washington Ave. San Lorenzo Ca. 94580 8-15-95

(TA

Mr. Scott O. Seery CHMM Senior Hazardous Materials Specialist Alameda County Health Care Services 1131 Harbor Bay Parkway, Room 250 Alameda Ca. 94502-6577

Dear Scott:

. ...

Re: 15595 Washington Ave. San Lorenzo

I have received a copy of Memorandum of Texaco Inc. Redesignation of responsible parties by Mr. James wesley Kinnear attorney for Texaco Inc. dated July 14,1995, which is full of incorrect statements.

which I am discussing some of those statement here.

It is stated on page 3;

"" II. STATEMENT OF FACTS

With the exception of the period from August 1983 to late 1986, when it sat idle, the Property has been operated as a service station from 1964 to the present. During that time, there have been three sets of USTs at the Property and three environmental investigations indicating possible discharges in the periods before August 1983 and between 1987 and 1994.

This is an incorrect statement because there is no evidence of any discharge of gas at least during my operation since June 1990, which witnessed by several testing of all of the equipment during recent months, which we were under the microscope by your agency.

It states on page 4:

" The 1986 Environmental Report Indicates A pre- August 1983 Isolated Discharge

Which part of the Report indicate Pre-August 1983 Isolated discharge? What has been their bases for founding Isolated Discharge rather than complete contamination base of GTI 1986 Report, and why they did not ask for further investigation?

Why Texaco Corporation as an expert did not found the contamination in GTI 1986 Report?

Why not Record this Report with ACHCSA?

How Texaco could be sure that the Tanks were empty of products prior to August 1983? Where is the Tank removal documents?

Who has removed the tanks, and with who's permit?

Where are the tank closure documents?

Why Texaco has not provided with information regarding the tank removal and tank closure?

It states on page 6;

e grand the

"The 1992 and 1994 Environmental Reports Indicate
Discharge From the Third USTs Between 1987 and 1994
In 1992, Mohammadian's prospective lender commissioned a limited environmental investigation of the Property from GTI using the existing groundwater monitoring wells it had installed in 1986. GTI produced this report in December 1992 (the "GTI 1992 report," submitted as exhibit C). Consistent with the result of the GTI 1986 Report, the GTI 1992 Report 3 ppb benzene, 0.5 ppb toluene, 1 ppb ethylbenzene, and 1 ppb xylene at MW-1. GTI 1992 report at Table 2. Thus, where GTI had detected 220 ppb benzene, 390 ppb toluene, and 680 ppb xylene in 1986, by 1992 those levels had decreased drastically, as would be expected from the isolated discharge of volatile BTEX components originally deduced by GTI.

WHERE THE GTI 1986 Report had detected no TPH as gasoline, however, the 1992 Report found between 720 and 69 ppb. This TPH as gasoline contamination did not exist in 1986 and could therefore only have resulted from the operations of Kubo and / or Mohammadian between 1987 and 1994, either from the Third USTs or from discharges in the vicinity of the pump island.

In 1994, Blaine Tech Services Inc. issused a third report on the Property ("BTS 1994 Report," submitted as Exhibit D). In that report, TPH as gasoline had spiked upward at MW-1 to 1,300 ppb, with benzene and ethylbenzene increasing to 110 and 19 ppb, respectively, at the same well. BTS 1994 Report at Table 2. Once again, this increased level of contamination could have only resulted from the operations of Kubo and / or Mohammadian between 1987 and 1994, again either from the Third USTs or from discharge near the pump island.

On March 21, 1995, the Alameda County Health Care Services Agency (ACHCSA) issued its first Notice of Violation to Mohammadian (Exhibit E) listing six pages of deficiencies and required corrective action in his operation of Third USTs, on May 15, 1995, ACHCSA issued its Second Notice of Violation to Mohammadian reiterating deficiencies in his operation of the Third USTs and required corrective actions (Exhibit F). "

This is an incorrect statements, because the Violation Notices to Mohammadian does not to do anything with Discharge of gas, there have been no sign of any discharged after several examination and testing, of all the equipment and lines, and of course the founding of the ACHCSA of the facts that the lines are not completely double walled and are not electronically monitored, and also due to the contamination of site the ACHCSA required the changes of the permit and information on the permit, and also correction of paper work and requiring of Manual inventory reconciliation, (which we did have since

Mid. 1990) Annual integrity test of tank and piping, doing monthly monitoring due to contamination of before 1986, (which unfortunately financially it is not impossible for me.). If the station had vandalizes early March of 1995 and were some damages to the cast iron gas fill or cap and nozzles and hoses, which none of them could cause any discharges, but the repair should be done, if we want to use them, base of the requirement. Some of them are out of service even to day.

Furthermore it seems that they are not knowledgeable that the contamination level could change during the different season with increase or decrease of the level of underground water, and even the contaminated part can move by the change of the under ground water. If they believe the contamination level was minor, and they did not operate this location from 1983, to 1986 why the GTI report 1986 indicated of any contamination?

On page 15 Texaco states that::

"While Wendy's had some knowledge of a pollution at the site, the focus at the time was on a single spill, not an ongoing leak.

Texaco only learned of any contamination just before it sold the property to Kubo and was assured the contamination was minor and the result of an isolated spill."

Base of the above Statement Texaco were well aware of contamination. How come from a single spill after more than three years there should be any contamination on the under ground water? Unless complete contamination of site.

CONCLUSION

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Texaco have had the knowledge of contamination.

Texaco did not report the GTI 1986 Report to ACHCSA.

Texaco concealed the contamination from others by GTI 1986 Report by the sentence; IT IS GROUNDWATER TECHNOLOGY'S OPINION THAT THE INVESTIGATION SHOULD BE CLOSED. while the property were contaminated and they should do further investigation and clean up during and after tanks removal.

Texaco today has not provided the information regarding tank removal and tank closure.

Texaco believes it is not important that they have not filed the GTI 1986 Report with the ACHCSA. In fact they are wrong. If they would filed this Report with the ACHCSA there was proper site contamination file for this site, all their activities were under the microscope, as it is today, there were report of permit for tank removal, and a copy of the tank closure with all of the studies on this file, they have to clean up the site or Mr. Kubo had to clean up before installation of new tanks and lines, I could be aware of the contamination back on Mid. 1990 when I contacted the ACHCSA and asked them about contamination, AND I WOULD NOT PURCHASED IT IF I KNEW THAT THE SITE IS CONTAMINATED. Or the site was clean and there was no head-achs and expanses for anybody.

I hope the above will assist you.

Yours Sincerely

M. Hohammadian

M.Mohammadian

CC. Lisa Kim

Texaco, Inc. 10 Universal City plaza, 13 th floor Universal City, Ca. 91608-1006

CC. Jeffrey Widman 84 West Santa Clara St. # 690 San Jose Ca. 95113



ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE

CONSUMER & ENVIRONMENTAL PROTECTION DIVISION

FACSIMILE TRANSMITTAL

TO: 337-9335	DATE: 14 Avg 15	
Fax Phone Number		
NAME: Scott Seen	1	ĺ.
AGENCY: Hazmat		
FROM:(510) 569-0505 Fax Phone Number		
SENDER: Jahna M	.c Granaham	
SPECIAL INSTRUCT	IONS/COMMENTS:	_
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NUMBEI	R OF PAGES: 7	

IF PROBLEMS, PLEASE CALL: (510) 569-9281

MEMORANDUM

TO: Gil Jensen and Scott Seery

FROM: Jahna McGranahan

RE: Naming Texaco and the Calleris as Responsible Parties

DATE: August 14, 1995

QUESTIONS PRESENTED

- 1. Should Texaco be named as a responsible party for the 15595 Washington Blvd. property where they owned the property and had control over underground storage tanks at the time of or following an unauthorized release of a hazardous substance?
- 2. Should Texaco be given secondary party status where there is no primary party performing corrective action, and where it is unclear that Texaco did not contribute to the contamination?
- 3. Should the Calleris be named as responsible parties for the 15595 Washington Blvd. property where they owned the property and had control of underground storage tanks at the time of or following an unauthorized release, and where there is a reasonable basis to conclude that they were the last people to own the tank immediately before discontinuation of use?
- 4. Does the Calleris' 1984 bankruptcy shield them from being named responsible parties where contamination on the property was not fairly contemplated by the parties at the time the Calleris filed the petition for bankruptcy?

BRIEF ANSWER

- 1. Yes. Texaco should be named as a responsible party as they had control over underground storage tanks following an unauthorized release of a hazardous substance.
- 2. No. They should not be given secondary party status as there is no primary party performing corrective action and it is unclear that they did not contribute to the contamination identified in 1986.
- 3. Yes. The Calleris should be named as responsible parties as they had control over underground storage tanks at the time of or following an unauthorized release of a hazardous substance, and as there is a reasonable basis to find that they were the last people who owned the

tanks before discontinuation of their use.

4. No. The Calleris' 1984 bankruptcy does not shield them from responsibility because the contamination was not fairly contemplated by either of the parties at the time the Calleris filed their petition for bankruptcy.

DISCUSSION

Local agencies operating under an LOP contract must name all persons as responsible parties who meet any of the following four sets of circumstances as listed in Section 2720 of Article 11, Chapter 16, Title 23, of the California Code of Regulations:

- 1. Any person who owns or operates an underground storage tank used for the storage of any hazardous substances.
- 2. In the case of an underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use:
- 3. Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
- 4. Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance.

"The prerequisite for naming a responsible party in a corrective action order is that there be a reasonable basis to conclude that an unauthorized release occurred during or prior to the time a person was an owner, operator, or otherwise had control of the property." Jan. 25 1994 Letterfrom Mike McDonald, SWRCB, to the Local Oversite Agencies (the "Jan. 1994 McDonald Letter").

A. There Is a Reasonable Basis To Conclude That A Release Happened During Or Prior To Texaco's Control Of The Property and That Texaco Should Be Named A Responsible Party.

Texaco should be named as a responsible party under paragraph 4 of Section 2720. They had control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance. This is by their own admission. It is stated on page 11 of the July 14, 1995 Texaco Memo ("TM"), "there is ample evidence to find that the minor

11:30

contamination noted in the GTI 1986 Report occurred prior to August 1983. The Calleris are therefore responsible parties under paragraph 4 of Section 2720's definition of responsible parties." TM p.11. Whether it occurred prior to 1983 or not, the contamination documented by the GTI 1986 Report was present in 1986 and this is enough to name Texaco a responsible party.

B. Texaco Should Not Be Assigned Secondary Responsibility.

Texaco argues that it should be assigned secondary responsibility because although it owned the property after a discharge took place, it did not "initiate or contribute to the actual discharge." TM p. 15. According to the January 6, 1995 Letter from Mike Harper to the Local Oversight Program Agencies, designating secondary responsibility is only appropriate where the primary responsible party is performing corrective action and it is clear that the party seeking secondary status did not in any way initiate or contribute to the actual discharge. (emphasis added)

Secondary status for Texaco is inappropriate at this time for two reasons. First, no primary responsible party is currently performing corrective action. This is clearly a requirement of giving another party secondary status. Second, it is still not clear that Texaco did not contribute to the actual discharge. There is simply a lack of documentation for the tanks during Texaco's period of ownership to exonerate Texaco. If there was product left in the tanks following the sale in 1983, Texaco may have been contributing to the discharge identified in 1986. There is also the possibility that tank removal by Texaco contributed to any pre-existing contamination. Records documenting this tank removal have not been made available. Hence, the condition of the tanks and any release identified during the tank removal activities cannot be determined. Texaco should be named a responsible party.

C. There Is a Reasonable Basis To Conclude That A Release Happened During Or Prior To Calleris' Control Of The Property and That The Calleris Should Be Named Responsible Parties.

The Calleris can probably be named under paragraph 2 of Section 2720, and should definitely be named under paragraph 4 of Section 2720. To be named a responsible party under paragraph 2, the Calleris need to be found to be the last owner or operator immediately before discontinuation of use. Given the evidence available, they probably were the last owners or operators immediately before the discontinuation of its use and responsible parties under paragraph 2.

In the Jan. 1994 McDonald Letter, the State Board defined "discontinuation of use" to mean that:

(1) product was neither placed in the tank or removed from the tank (except for product



removal at the time of tank closure) and (2) circumstances indicated that there was no further intent to use the tank. Circumstances which indicate no further intent can include such factors as:

- 1. The tank is filled with an inert solid or otherwise rendered unusable;
- 2. The owner abandoned the tank and no one else used it;
- The intakes and vents are paved over;
- 4. The tank was sold to a person who had no use for the tank (such as a residential real estate developer).

Under federal law [42 USC Section 6991 (3) (B)], the person who owned a tank which was not used after November 8, 1984 immediately before the discontinuation of its use may be named a responsible party, even though substantial evidence does not exist to show that the leak occurred before the discontinuance of use.

To not be named under paragraph 2 of Section 2720, Texaco needs to have put product into or removed product from the tanks or have had further intent to use the tanks. Texaco has produced documentation (Texaco Exhibit A- Texaco 1983 surplus property report) that implies that they did not use the property and intended to sell the property. They allegedly purchased it at the foreclosure sale in order to protect their security interest. TM p. 3. They allege that no one operated the property during their ownership, from August 1983 until Kubo acquired the property in 1986, TM p.3, although they have offered no real documentation to this effect. Texaco also alleges that there was no product in the tanks during their ownership. It is unclear how they come to this determination because as of yet, Texaco has produced no records for the tanks during its ownership. The Groundwater Technology Inc. ("GTI") 1986 report states that the tanks were purged of product at that time, but there is no record confirming this for the three years prior. GTI was probably informed by Texaco that the tanks were empty, and may have no direct knowledge. Although there is a lack of documentation concerning usage of the property, it is probable that Texaco did not operate the tanks. The ALCO Dept. of Weights and Measures (W&M), who conducted annual inspections of active retail fueling stations during the mid-1980's, has no record of inspection reports for the property from 1980 until 1987 when Kubo opened "Kubo's Service Center." This suggests that Texaco did not operate a service station on the property. Also, Texaco commissioned an appraisal in June 1983 before purchasing the property that states that the best use of the property would be retail or commercial usage. This appraisal also stated that "the existing service station facilities are old and outdated, and historically the site has not been a productive service station." Letter from Texaco, August 10, 1995. This also suggests that Texaco did not operate a service station on the property.

Assuming that Texaco did not put product into the tanks or remove product from the tanks, there may still be an issue regarding the intent of Texaco regarding further use. If there is further intent to use the tanks, they would be considered "in use." See Jan. 1994 McDonald Letter. Although Texaco may not have intended to use the tanks on the property during their ownership, they may have intended the tanks to be useable by future owners and may have marketed the property as a service station with tanks that could be used. This would be enough

to find that the tanks were "in use" in that they were not considered permanently closed by Texaco. This is not inconsistent with the requirement that the use be "conscious use" under <u>G.J. Leasing Co.</u>, Inc. v. Union Electric Co., 825 F.Supp. 1363 (S.D. Ill. 1993). Texaco argues that because the tanks in this case sat idle for a period of time as did the tanks in <u>G.J. Leasing</u>, and moreover because they were purged of product, that the tanks were not in "conscious use". TM p. 9. However, the fact situation in <u>G.J. Leasing</u> is quite different from the one at hand. In that case, the court found that there was not conscious use where the plaintiffs were completely unaware that there tanks on their property. <u>G.J. Leasing</u>, 825 F.Supp. at 1383. Here, Texaco purchased the property with full knowledge of the tanks and may have intended to use them or sell them for others to use.

All in all, Texaco's intent with regard to the tanks in 1983 is speculative. The possibility exists that the tanks may have been "in use" until they were removed by Texaco in late 1986. Circumstances, however, tend to indicate that there was no further intent to use them after the purchase. Texaco Exhibit A (the Texaco 1983 Surplus property report), the appraisal done June 1983 (August 10, 1995 Letter from Texaco) that recommends retail or commercial usage of the property and states that the facilities are old and outdated, and the fact that the tanks were removed prior to the Kubo purchase at the end of 1986 all support this finding. As the evidence supports the finding that use was discontinued before November 8, 1984, sufficient evidence that the leak occurred before the discontinuance of use does not have to exist to name the Calleris as responsible parties under federal law [42 USC Section 6991 (3) (B)]. However, there is sufficient evidence in this case that the leak occurred before the discontinuance of use. Thus there is more than a reasonable basis to find that the Calleris are responsible parties as the last owners before the discontinuation of use under paragraph 2 of Section 2720.

But regardless of whether the Calleris can be named as the last owners prior to discontinuation of use under paragraph 2, they should definitely be named as responsible parties under paragraph 4. They had control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance. There is sufficient evidence to find that the contamination noted in the GTI 1986 Report occurred prior to August 1983. Evidence supports the finding that Texaco neither placed or removed product in the tanks during their ownership and the GTI 1986 Report indicates the presence of contamination near the pump island. The presence of such contamination in the area where discovered is most reasonably explained by a release associated with a leak in product piping or dispenser during operation of the tank system. This places the time of the contamination around the pump island to be prior to August 1983. As contamination must have happened during or prior to the Calleris' ownership of the property, they are responsible parties under paragraph 4 of Section 2720.

D. The Calleris' Bankruptcy in 1984 Does Not Shield Them From Being Named Responsible Parties.

The Calleris argue that by filing bankruptcy in 1984, they should not be held responsible for contamination that happened before 1984. As outlined in the Calleris' Memo ("CM"), the Ninth Circuit has adopted a fair contemplation approach to decide when contamination from prepetition conduct should give rise to a "claim" that can be discharged in bankruptcy. Under this approach, only future response costs which could be "fairly contemplated" by the parties before the petition in bankruptcy is filed are dischargeable claims. California Department of Health Services v. Jensen, 995 F.2d 925, 930 (9th Cir.1993); In Re National Gypsum, 139 B.R. 397 (N.D. Tex.1992). The National Gypsum court identified four factors relevant to whether response costs were fairly contemplated by the parties when the bankruptcy petition was filed:

- 1. Knowledge that the site was contaminated
- 2. Whether the site was listed on the National Priorities List
- 3. Whether the debtor had been notified that it was a potentially responsible person
- 4. Whether site investigation or cleanup had begun.

It is clear that the contamination at the 15595 Washington Blvd property was not fairly contemplated pre-petition by either the Calleris or any regulatory agency. There was no notice to anyone of a pre-August 1983 unauthorized release until the GTI 1986 Report commissioned by Texaco, and then only to Texaco. Records indicate that the GTI 1986 Report was not known of by the ALCO Dept. of Environmental Health until after March 1993. None of the other factors listed by the National Gypsum court are relevant in this case. Thus the contamination, although a result of pre-petition conduct, is not a "claim" that was discharged in the 1984 bankruptcy.

Furthermore, designation as responsible parties and a corrective action order requiring the Calleris to clean up presently existing contamination are not pre-petition claims for money and are therefore not subject to discharge in bankruptcy. <u>Towrico Electronics. Inc. v. State of New Jersey Department of Environmental Protection and Energy</u>, 8 F.3d 146 (3rd. Cir. 1993), cert. denied 114 S.Ct.1576 (1994).

CONCLUSION

For the foregoing reasons, both Texaco and the Calleris should be named Responsible Parties for the 15595 Washington Blvd. property.

COHEN, NELSON & MAKOFF

RICK COHEN* JEFFREY T. MAKOFF* RICHARD J.L. NELSON* CHARLOTTE N. MAKOFF*

EVELYN C. COOPER D. STEVEN STATHATOS CHERYL F. GERTLER JAMES WESLEY KINNEAR

PATRICIA PRINCE MARILYN J. HERLIN ELLEN R. FENICHEL 625 Market Street Suite 1100 San Francisco, California 94105 Telephone: (415) 495-6168 Facsimile: (415) 541-0506

OFFICES ALSO LOCATED IN:

SANTA MONICA WALNUT CREEK TIBURON

* A Law Corporation

August 10, 1995

WRITER'S DIRECT DIAL IS: (415) 284-1450

Scott O. Seery Senior Hazardous Materials Specialist Environmental Protection Division Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Room 250 Alameda, California 94502-6577

> Re: Linda Shell, 15595 Washington Avenue San Lorenzo, Alameda County

Dear Mr. Seery:

This letter responds to your request for information on three subjects: Texaco's "original intentions" with respect to the underground storage tanks at the Property; filing of a UST removal report; and transmittal of the 1986 Groundwater Technology Inc. ("GTI") report to the State or Regional Boards. I have reviewed the information available to Texaco with these questions specifically in mind and believe I can shed some light on at least the first subject.

You asked whether Texaco originally intended to remove the USTs or intended to keep them in place until specifically requested to remove them by a buyer. As you noted on the telephone, Mr. Kubo remembers that the USTs were already gone when he first saw the property. Therefore, Texaco had not removed them at his request.

Bearing in mind that the search for original intentions is always an uncertain venture, I nonetheless conclude that Texaco always intended to remove the tanks. Indeed, some departments in Texaco thought that the USTs had already been removed before we now believe to be the case.¹

That is, the 1986 GTI Report notes that the tanks were still in place, but purged of product, in about August 1986. Mr. Kubo observed that the tanks had been removed when he saw the property later in 1986. From these two facts we infer that the USTs were removed some time in the Fall of 1986. As pointed out below, however, various departments in Texaco thought the tanks had already been removed at least as early as 1985.

Scott O. Seery August 10, 1995 Page 2

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I conclude that Texaco never had any use for the tanks and always intended to remove them based on the following facts.

First, Texaco did not acquire the Property with the intention of operating it as a service station. It bid for the property at auction on the court house steps only to prevent its lien from being foreclosed by the senior lender on the Property. Texaco had to buy the Property or lose the collateral for the debt owed by the Calleris. It also appears that Texaco did not expect to sell the Property to someone else who would operate it as a service station. Before Texaco acquired the Property on June 21, 1983, Texaco commissioned an appraisal of it. Robert N. Evans, an independent appraiser, advised Texaco on June 13, 1983, that the highest and best use of the Property would be for eventual development for retail or commercial usage. Mr. Evans pointed out that, "[t]he existing service station facilities are old and outdated, and historically the site has not been a productive service station." June 13, 1983, letter from Robert N. Evans, M.A.I., to Texaco, page 2 (attached) Indeed, Mr. Evans observed that the Property was not being operated as a service station even before Texaco acquired it. It was being used as an auto repair shop, and the gasoline facilities were not in service. Moreover, the Property was already being considered for retail development before Texaco acquired it. In September 1982, a site plan of the Property was prepared for the Southland Corporation, which develops 7-11 convenience stores. The site plan is not attached due to its large size but is available for inspection.

Even as early as June 1983, when Texaco first acquired the Property, therefore, it was obvious that there was no further use for the tanks: Texaco did not want to own it as a service station and did not expect to sell it to someone else to operate as a service station.

Second, while the Property was on the market in 1984, Texaco briefly considered it for a "raze and rebuild" as a "System 2000," Texaco's then "service station of the future" high volume gasoline outlet. Texaco rejected the location as unsuitable. If Texaco had undertaken a "raze and rebuild" as a System 2000, however, it would have required removal of the tanks along with all the other improvements on the Property. As noted by Mr. Evans, all the improvements, including the tanks, were virtually worthless, and certainly not useable in any new service station.

Third, in August 1985, Texaco found a buyer for the Property, the Shopping Center Development Company. August 15, 1985, Real Estate Authority (attached). The 1985 Real Estate Authority form notes that the USTs had already been semantic they were not removed at the request of this buy.

The Property observes that the tanks had already been removed. July 31, 1985, letter from App & Edwards Company to Texaco (attached). This apparent misconception that the tanks had been removed may account for the delay in the eventual removal of the tanks. That is, Texaco managers did not order the removal of the tanks earlier because they thought the tanks had already been removed.

Scott O. Seery August 10, 1995 Page 3

Unfortunately, this sale was aborted when Alameda County refused to rezone the Property to permit the retail/convenience store envisioned by the prospective buyer. The Property was finally sold to Mr. Kubo in late 1986, by which time Mr. Kubo confirms the tanks had already been removed.

Beginning even before it acquired the Property in June 1983, Texaco's expectation that it would sell the Property to a developer of retail stores, and not a service station operator, confirms that Texaco never had any use for the tanks and always intended to remove them. It is also clear that even a service station operator would have had no use for the tanks, which were old and worthless. See, <u>e.g.</u>, Mr. Evan's appraisal.

With respect to your second and third questions, <u>Texaco has not located</u> documents showing that a tank removal report was filed or that the 1986 GTI Report was transmitted to the State or Regional Board in 1986.

As explained in detail in Texaco's July 14, 1995, memorandum, I submit that Texaco's subjective intent, and the Calleris' subjective intent, with respect to the tanks is not dispositive under the facts of this case. There is no need to divine the parties' subjective intent when their objective conduct determines their responsibility under 23 CCR section 2720. We know that Texaco never used the tanks; we know that the Calleris and their lessees did use the tanks; therefore the Calleris are responsible parties. Nonetheless, Texaco's apparent intent to remove the tanks may supply an additional basis for deeming the Calleris to be responsible parties.

As also set out in the July 21 memorandum, whether Texaco can now prove that it reported the removal of the tanks or the GTI 1986 Report to the State or Regional Board in 1986 does not determine who is a responsible party under 23 CCR section 2720.

To rule otherwise, to impose responsibility on Texaco, which never wanted the Property and never operated the Property, because it now appears to be the most solvent party available, would be to ignore the law, the facts, and basic fairness in favor of convenience.

Scott O. Seery August 10, 1995 Page 4

I remain eager to be of assistance in any way I can. Please do not hesitate to contact me with any comments or questions you may have.

Very truly yours,

Enclosures

cc: Gil Jensen, Senior Deputy District Attorney w/ encls.

S. Andrew Motozaki w/ encls. Mary J. Swanson w/encls. Robert C. Borris Jr. w/ encls. Douglas A. Gravelle w/ encls. LAW OFFICES OF

ROBERT C. BORRIS JR., INC. A LAW CORPORATION

STATE BAR #85415

THE REDWOOD BUILDING, 20200 REDWOOD ROAD CASTRO VALLEY, CALIFORNIA 94546-4316 (510) 581-7111 FACSIMILE (510) 581-9258

08/04/19/5

SCOTT SEERY 1131 HARBOR BAY PRKWY, #250 ALAMEDA CA 94502-6577

SEERV

KUBO

337-9335

RE: MOHAMMADIAN vs KUBO HEARING

DEAR MR. SEERY

As per our phone conversation the set hearing for Mohammadian vs. Kubo, August 7, 1995, was vacated and no new date has been set at this time.

Thank you for your time and assistance in this matter.

Very truly yours,

ROBERT C. BORRIS JR., Esq.

RCB/ms

ROBERT CONRAD BORRIS JR., INC.

CALIFORNIA STATE BAN BESALS

A LAW CORPORATION

REDWOOD BUILDING, 20200 REDWOOD ROAD
CASTRO VALLEY, CALIFORNIA 94546-6316
(\$14) \$11-7111 FACEBOLE (\$10)\$11-9252

Fax Order Form/Cover Sheet

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Very truly yours,

ROBERT & SORRIS JR., INC.

A Law Corporation, by:

RCB/msp

TO: SCOH Seerly

FAX # 337 -9335

FROM: ROBERT POOR'S OUR FAX#

RE: (Kim

Kino mathe

MR. Seery, I DIDHY KNOW If MR ADAMS IS The SAME ADDRESS AS YOL. COULD GOU PLEASE BET him this message.

Ahme you kin

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): 85415 Robert C. Borris Jr., Inc. (510) 581-7111	FOR COURT USE ONLY
A Law Corporation	
The Redwood Building, 20200 Redwood Road	
Castro Valley, California 94546-4316 fax 581-925	8
ATTORNEY FOR (Name): Defendant BERTRAM H. KUBO	4
NAME OF COURT: Superior Court of Santa Clara County STREET ADDRESS: 191 North First Street	
MAILING ADDRESS:	
city and zip code: San Jose, CA 95113	
BRANCH NAME:	
PLAINTIFF/PETITIONER: MEHDI MOHAMMADIAN and	1
FERESHTEH MOHAMMADIAN	
DEFENDANT/RESPONDENT: BERTRAM H. KUBO, SUMITOMO BANK,	
ROBERT CONRAD BORRIS JR., INC.,	CASE NUMBER:
X Duces Tecum	CV 744664
THE PEOPLE OF THE STATE OF CALIFORNIA, TO (NAME):	
Custodian of Records of County of Alameda Health Se	
Environmental Health, 1131 Harbor Bay Parkway #250,	Alameda, CA 94502-6577
1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and	I place shown in the boy helow I INI ESS you
make a special agreement with the person named in item 3:	place shown in the box below GNLESS you
make a openial agreement with the possess same as in terms.	
a. Date: August 7, 1995 Time: 9:00 AM x Dept: TBA	Div.: Room:
b. Address 191 North First Street, San Jose, CA	
2. AND YOU ARE	
a. ordered to appear in person.	
b. not required to appear in person if you produce the records described in the acco	· · · ·
of custodian of records in compliance with Evidence Code sections 1560, 156	
records in an envelope (or other wrapper). Enclose your original declaration wi of this subpena to the envelope or write on the envelope the case name and	
from item 1 (the box above). (3) Place this first envelope in an outer envelope	
at the address in item 1. (4) Mail a copy of your declaration to the attorney or par	
c. x ordered to appear in person and to produce the records described in the accordance to the described of the accordance to the described of the accordance to the described of the accordance to the described of the accordance to the described of the accordance to the described of the accordance to the described of the accordance to	
of the custodian or other qualified witness and the production of the original rec	
dure authorized by subdivision (b) of section 1560, and sections 1561 and 15	
sufficient compliance with this subpena.	
3. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE FOR YOU TO APPEAR, OF	
PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATA a. Name: Robert C. Borris Jr., Esq. b. Telephone	e number: 510 581-7111
a. Name. Robert C. Borris Gr., Haq.	TIMINOT. DEC COE PESS
4. Witness Fees: You are entitled to witness fees and mileage actually traveled both wa	ys, as provided by law, if you request them at
the time of service. You may request them before your scheduled appearance from the pe	
DISOBEDIENCE OF THIS SUBPENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT	, 1
SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAIL	URE TO OBEY.
Date issued: July 15, 1995	
Robert C. Borris Jr., Esq.	
	DEPOSITION OF DEPOSITION
(TYPE OR PRINT NAME)	GNATURE OF PERSON ISSUING SUBPENA)
Robert	C. Borris Jr., Esq.
	(TITLE)
(See reverse for proof of service)	

RE: CIVIL SUBPENA for SCOTT SEERY and DONALD ATKINSON ADAMS

Copies of any and all documents and records (reports, -analyses, tests, permits (as regards construction of underground tanks, fuel/product lines, dispensers, etc. and any and all correspondence to Texaco, KUBO, MOHAMMADIAN, CALLERI, or any other and all persons) as regards real property known as 15595 Washington Avenue, San Lorenzo, California (aka "Kubo's Service Center")

Any and all documents (including permits, permit approvals, analyses, tests, correspondence in relation to, notes of, memoranda, telephone messages, faxes, etc. regarding the property known as 15595 Washington Avenue, San Lorenzo, CA

MEMORANDUM

DATE: July 24, 1995

TO: Gil Jensen

FROM: Scott Seery

SUBJ: Linda Shell, 15595 Washington Ave., San Lorenzo

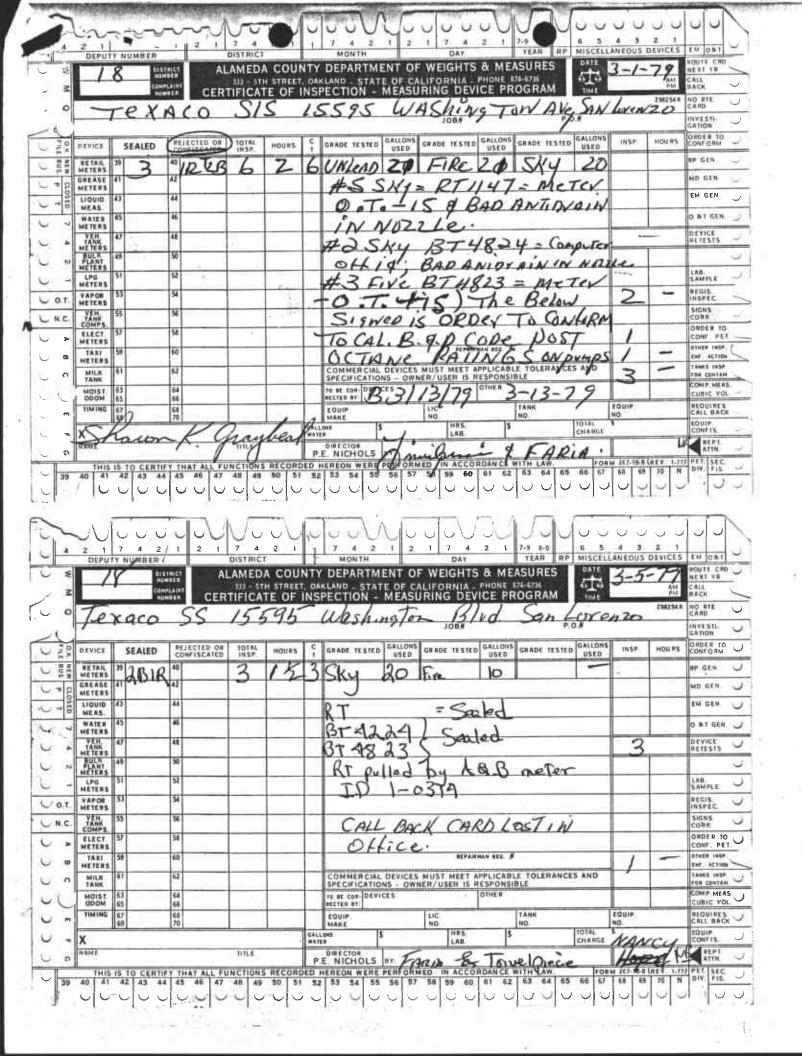
I contacted **Bert Kubo** regarding the former USTs at the site. He indicated that the subject USTs had already been removed by the time he first made contact with Texaco to inquire about purchasing the site. He also indicated that during his initial site visit he observed an asphalt patch covering the area where the former USTs had been.

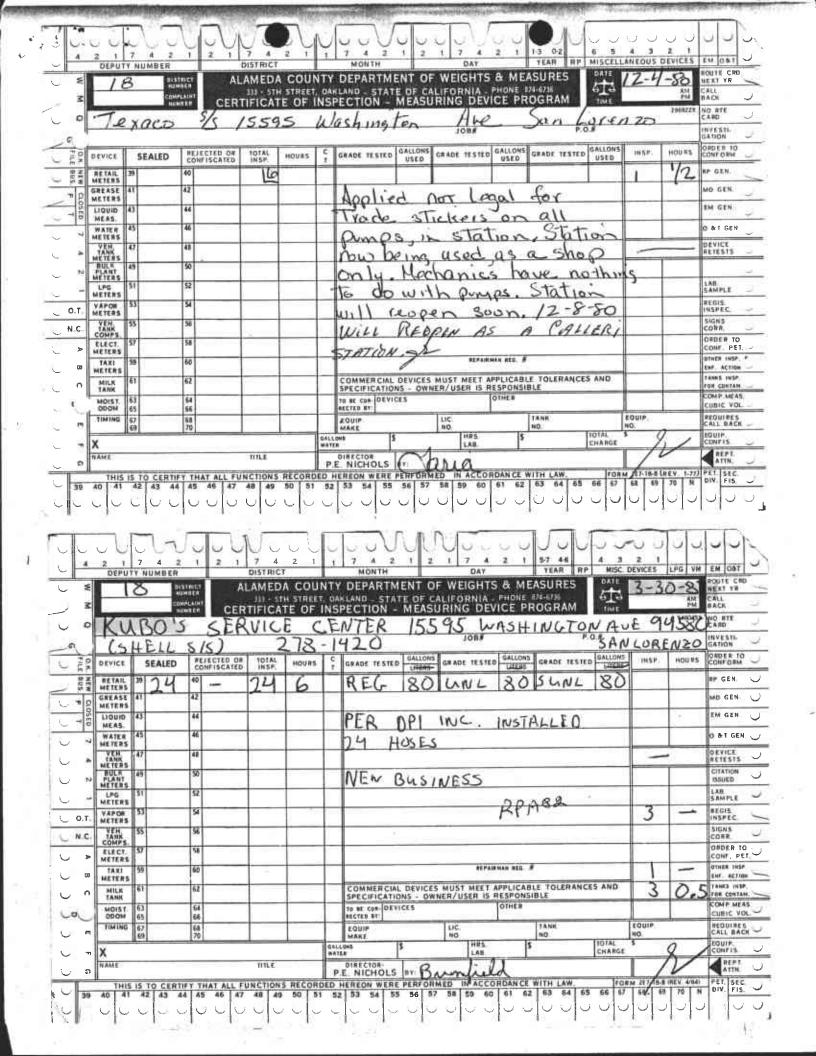
I also spoke with James Kinnear, Texaco's outside council (Cohen, Nelson & Makoff - 415/284-1450), to inquire about Texaco's "intent" with respect to the subject USTs at the time Texaco acquired the site, and during their efforts to market it. He said he would query Texaco about this. I also pointed out that an ULR may not have ever been issued for this site, as it does not appear on the SWRCB January 1992 Report on Releases of Hazardous Substances from Underground Storage Tanks publication. (Note: had an ULR been issued between 10/86 and 12/91, the site should have appeared on this report.) Lastly, I encouraged Mr. Kinnear to (once again) ask Texaco to dig deep into their archives to seek out any records documenting the 1986 UST closures. I told him that we would expect a company as large and insightful as Texaco to have retained such records, particularly where it involved a divested site. A response is pending.

I contacted **Ground Water Technology's** (GTI) Mike Chamberlin (message only) to request copies of the chain-of-custody documents which would have accompanied samples collected during the 10/86 investigation. I also inquired whether GTI was involved in the late 1987 closure of the subject USTs, and, if so, if they had any records documenting that work. A response is pending.

I spent a couple hours at the AlCo Dept. of Weights & Measures (W&M) to seek out inspection records during the period of Texaco's tenure at the site (1983 - 1986). As background, W&M conducted annual inspections of active retail fueling stations during the mid 1980's. Hence, one would anticipate finding inspection documents during Texaco's ownership had the USTs been operated.

The last W&M inspection prior to Texaco ownership was 12/4/80. Annotation on the inspection report indicates the facility was an auto repair shop, only (USTs not being used), and that it would reopen 12/8/80 "...as a Calleri station." The very next W&M report is dated 3/30/87, the site identified as "Kubo's Service Center." It would appear, therefore, that the site was not operated during Texaco's ownership.





COHEN, NELSON & MAKOFF

A PARTNERSHIP OF LAW CORPORATIONS

625 Market Street
Suite 1100
San Francisco, California 94105

JAMES WESLEY KINNEAR

Telephone: (415) 495-6168 Facsimile: (415) 541-0506 Direct Dial: (415) 284-1450 Offices also located in: Walnut Creek Tiburon Santa Monica

June 22, 1995

Scott O. Seery Senior Hazardous Materials Specialist Environmental Protection Division Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Room 250 Alameda, California 94502-6577

> Re: Linda Shell, 15595 Washington Blvd., San Lorenzo, California

Dear Mr. Seery:

This will confirm our telephone conversation of this morning, in which I told you that I expected to provide you with Texaco's response to the Calleris' objections to being named as responsible parties by July 14.

Very truly yours,

James Wesley Kinnear

cc: Gil Jensen, Senior Deputy District Attorney

Sandra R. McIntosh Mary J. Swanson Bertram Kubo Douglas A. Gravelle

FYI DI-9

June 21, 1995

Mehdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580.

Re: Violations of Health and Safety Code

Dear Mr. Mohammadian:

This Office has received complaint from the County of Alameda, Environmental Health Division regarding the operation of the Linda Shell station located at 15595 Washington Avenue, San Lorenzo. Preliminary reports show that several Underground Storage Tanks (UST) located at the above site are not being operated in compliance with the conditions of the five year permit issued for said site. Apparently, repeated attempts by the Department of Environmental Health to remedy the situation have been unsuccessful. We have been asked to initiate an enforcement action in order to compel compliance and protect the community from any potential health hazards.

This Office is prepared to take enforcement action against all Responsible Parties in order to rectify these violations. Typically, such an enforcement action will involve the filing of a court action resulting in the assessment of damages and civil penalties and the issuance of an injunction requiring environmental compliance. It should be noted that a violation of permit requirements can result in a minimum civil penalty of five-hundred dollars per tank, per day of violation.

Before filing any action, we would like to give you and your legal representative the opportunity to address the concerns we have raised. Your participation would help us decide the appropriate nature and level of enforcement action. Accordingly, we invite you, and or your legal representative to discuss the matter at the address below on June 29, 1995 at 10:00 a.m. We will also invite a representative of the Alameda County Environmental Health Division.

Mehdi Mohammadian Linda Shell June 21, 1995 Page 2

Please call or write to confirm your attendance, or to arrange a more convenient time to meet. Our office is in the Airport Corporate Centre located at 7677 Oakport Street, Suite 400, in the city of Oakland. We are located directly across the Nimitz Freeway from the Oakland Coliseum. Our phone number is (510) 569-9281.

Very truly yours,

THOMAS J. ORLOFF District Attorney

By:

Robert F. Chambers

Senior Deputy District Attorney

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Director

June 15, 1995

STID 1360

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524 DEPARTMENT OF ENVIRONMENTAL HEALTH Environmental Protection Division 1131 Harbor Bay Parkway, #250 Alameda, CA 94502-6577 (510) 567-6700

Subject:

Inspection of piping in the pump sumps of the three Underground Storage

Tanks (UST) at 15595 Washington, San Lorenzo 94580.

Reference:

Second Notice of Violation Letter of May 21, 1995.

Dear Mr. Mohammadian:

At the request of Mr. Kubo I met him and the contractors who installed the tank system (Dick Fahey and C.S. O'Connor) at the station at 11:00 am June 9, 1995. We examined the steel product piping which runs from the Red Jacket Leak detectors to the fiberglass piping. Mr. Kubo removed each of the metal plates covering the sumps and removed some of the pea gravel around the steel piping. He was able to show me that the steel piping does connect to fiberglass piping and that the steel piping has some protection from corrosion because it is wrapped with plastic tape. The fiberglass piping does appear to be double wall at the point of junction with the steel because of the "clam shell" type of structure which is only found in a double wall installation. There is a small steel pipe attached to the fiberglass clam shell which could perhaps be used as an insertion point for a monitor of the interstitial space of the secondary piping.

Please note that the only modification required around the steel piping is to remove enough of the pea gravel so the steel portion is not in contact with the backfill material. You may also need to put some sort of buikhead of metal or wood to hold back the pea gravel. This is a simple and inexpensive procedure which would require no modification of the piping itself.

The piping as constructed is not considered double wall for the purpose of monitoring. It is not required to be double wall. If you do no modifications you must do:

-annual tightness tests of the piping and the tanks (by state certified testers) -daily manual inventory reconciliation of the tanks.

If the piping secondary had an interstitial space monitor added to it no annual tightness tests and no daily manual inventory reconciliation would be needed.

Please call me at 510-567-6734 if you have any questions or need assistance.

Sincerely,

Don Atkinson-Adams

Senior Registered Environmental

Health Specialist #5485

cc: Gil Jensen, Alameda County District Attorney, Environmental and Consumer Affairs

Scott Seery, Local Oversight Program

Robert Weston, Environmental Protection

Mee Ling Tung, Acting Chief, Environmental Protection

Lisa Kim Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605 Bertram Kubo 5772 Sellars Avenue Oakley, CA 94561

C.S. O'Çonnor 42 Comistas Ct. Walnut Creek, CA 94598

c:\2llnd2.695

M.Mohammadian Linda Shell Station 15595 Washington Ave. San Lorenzo Ca. 94580 6-12-1995

Mr. Don Atkinson Adams Senior Registered Environmental Health Specialist # 5485 Health Care Services Agency 1131 Harbor Parkway, #250 Alameda, Ca 94502-6577

dear Mr. Atkinson:

By this letter I am going to respond to your letters and notices, and give you some facts.

This site contaminated by Texaco or their dealers prior to 1986. Texaco removed their under ground tanks on or before 1986.

County official and Texaco, should have copies of Permit of tank removal by texaco, on or before 1986. (No record is available.)

Your Agency suppose to have a copy of tank closure report with its finding, as well as Texaco. (No record is available, by any party)

August 1986 texaco hired Ground Water Technology Inc. to do Hydrogeologic investigation. Though the result of their test indicating of contamination, nobody knows why the Ground Water Technology Inc. Concluded and recommended that: "IT IS GROUND WATER TECHNOLOG'S OPINION THAT THE INVESTIGATION SHOULD BE CLOSED." How come they decided to close the Site, and whether they have supplied a copy of their report to your agency is unknown, at least to us (No record is available.). They decided to cap and leave the three monitoring wells, of which we have not been disclosed by Mr. Kubo or his Agent on 1990 when we purchased the gas station.

Your agency should open a file of site contamination for this property back on 1986, (there is no report of any action by your agency at all.).

!987 or late 1986 Mr. Kubo applies for the permit for installation of new double wall tanks, lines, with Electronic Monitoring system, from your agency. Your agency suppose to have a copy of soil report after the tank closure, from Mr. Kubo with any permit application. (No record is available.)

Your agency suppose to review Mr. Kubo's plans in which there should be the location of three monitoring wells, approve it, and have approved plans on your file, (no record is available).

1987 your agency had given permit to Mr. kubo for construction and installation of the new tanks with all the lines and equipments, (There is no record of these approved plans, any where.)

Your agency suppose to inspect the installation, for performance based of approve plans, and your specifications. (No record is available).

Your agency suppose to receive AS BUILT PLAN with all the information regarding the tanks, line, and monitoring system, from Mr. Kubo. Approve it and keep these information on your record before issuing him the Operating permit. (No record is available)

Recently a copy of a plan has submitted by Mr. Kubo to your agency, for as built plan, I DO WISH TO HEAR FROM YOU OF YOUR AGENCY"S STANDARDS AND SPECIFICATIONS FOR AS BUILT PLANS.

I as a Registered Professional Engineer by the State of California, stating that; by no means this plan could be consider as built plan.

It was your agency on 1990 when I wanted to purchase this property, believed that; this site is not contaminated, especially as far as Mr. Kubo had instaled new double wall tanks and lines with Electronic monitoring system, after the site test and permit from your agency, I should be sure that the site was not and is not contaminated. Of course I was not disclosed of any contamination, or existence of the three monitoring wells, by Mr. Kubo or your agency, at the time. Which was a Red Flag.

Late 1993 when I wanted to refinance the loan, for the first time I became aware of the existence of three capped monitoring wells on the property, and after the test, I learned of some under ground water contamination, but minor and no important base Mr. Kubo's opinion and Ground Water Technology Inc.

April 1994, I have been informed by your agency, for the first time, of contamination. Your agency believes that we are the responsible party # 1 for all of the above mess and wrong doing by; Texaco, Ground Water Technology inc., Fire Department, Your Agency, and Mr. Kubo. Even I have been threaten for law suit by my neighbor. Due to Contamination of under ground water in their property. Your agency has misplaced several files, and supplied me with wrong information, now you want to complete your file with this site, and you consider us responsible for some thing which we had no knowledge of it, it has been existed before or ownership, it is not due to our operation, and if we were disclosed of this fact of contamination or even existence of three capped monitoring wells on this site, by your agency or Mr. Kubo we never consider it to buy this property at all.

The existence problem of the gas station, and this very important fact has caused me nervousness, and tense.

April and May of 1994 due to extreme pressure and stress which was caused directly by the events of this gas station, I was experiencing sever chest pain, pressure in my eyes and on top of my head, I went under several test, such as; E.K.G., X-Ray, blood test, Treadmill, eye test, and MRI, it was than that the Doctors told me that base of the MRI of my head I have "Empty Sella Turcica" this I was told compresses the pituitary, which is a Gland in the brain, this Gland controls and releases the hormones to the different part of the body, I am at this time and in the future should be under the care of an Endocrinologist. He has told me to be relax and be in an stress free environment. Due to this disease, when ever I am under pressure, tension, or anxiety I feel sever head aches, and I have to take inedication for some relief, and I will be at risk. I did not have any symptoms of this disease before at all.

As you know, We have asked Superior Court Of The State Of California for rescission, due to the fact of contamination, Mr. Kubo and his attorney have delayed the Court, but I hope soon, we will be heard, Justice will be served, and Your agency which has great relationship with Mr. Kubo could establish all the facts and complete your file onces again, and than hopefully they will find who the responsible party is and how they have to take care of this problem which its cost can not be estimated.

Due to my health situation and also financial inability, and none knowledge of the performance of the installation of tanks and lines and monitoring system, I am sorry that I will not be able to help and satisfy you. If you thing I should close the station I will do so if you let me Know by return. I believe you accept that the health of a human being is more valuable than carry with the business, which causes only headachs to me and your agency. At least this is the believe of my wife and children.

Awaiting to hear from you soon.

Yours Sincerely

Mohammadian

M. Mohammadian

CC. Mr. Scott Seery

ENVIRONHENTAL PROTECTION

95 MAY 30 PM 1: 24

M. MOHAMMADIAN LINUA SHELL STATION 15595 WASHINGTONAS SANLORENZO CA 9458 5-26-95

MR. DON ATKINSON
SENIOR REGISTERED ENVIRONMENTAL
HEALTH SPECIALIST #5485
Dept OF ENVIRONMENTAL HEALTH
1131 HARBOR BAY PARKWAY #250
ALAMEDACA, 94502-6572

Dear Sir.

Enclosed youwill fined copies of invoices which I have Paid for repair and replace of your recovire mand and line test.

I am not able to Fill your form because Thave not been the Person in staled the tanks. I Do have Permit.

please suply me with a copy of as built plan which could be acceptable base of Engineering as built plan.

please call me if for do have

Yours Sincerely

M. Modammadian

95 MAY 30 PM 1: 24

CENTRAL PETROLEUM MAINTENANCE

176 Wyoming Street PLEASANTON, CA 94566 (510) 462-4060 or (510) 462-1877

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7024 All claims and returned goods MUST be accompanied by this bill Thank You

ENVIRONMENTAL PROTECTION

95 MAY 30 PM 1: 24

INVOICE

BAY COUNTIES
SERVICE STATION MAINT. INC.
1096 YERBA BUENA AVE.
EMERYVILLE. CA SIGOS
1416 852 1131

No.

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CENTRAL PETROLEUM MAINTENANCE

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All claims and returned goods MUST be accompanied by this bill.

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CENTRAL PETROLEUM MAINTENANCÉ

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All claims and returned goods MUST be accompanied by this bill.

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Thank You

95 MAY 30 PM 1: 24

CENTRAL PETROLEUM MAINTENANCE

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MUST be accompanied by this bill Thank You

ENVIRONMENTAL PROTECTION 95 MAY 30 PM 1: 24

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All claims and returned goods MUST be accompanied by this bill

Thank You

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95 MAY 30 PM 1: 24

CENTRAL PETROLEUM MAINTENANCE

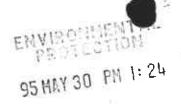
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All claims and returned goods MUST be accompanied by this bill

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CENTRAL PETROLEUM MAINTENANCE

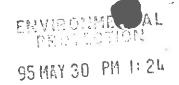
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All claims and returned goods MUST be accompanied by this bill.

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CENTRAL PETROLEUM MAINTENANCE

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All claims and returned goods MUST be accompanied by this bill. Thank You

COHEN, NELSON & MAKOFF

A PARTNERSHIP OF LAW CORPORATIONS
625 Market Street
Suite 1100
San Francisco, California 94105

JAMES WESLEY KINNEAR

Telephone: (415) 495-6168 Facsimile: (415) 541-0506 Direct Dial: (415) 284-1450 Offices also located in: Walnut Creek Tiburon Santa Monica

May 23, 1995

Scott O. Seery
Senior Hazardous Materials Specialist
Environmental Protection Division
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502-6577

Re: Linda Shell, 15595 Washington Avenue, San Lorenzo, Alameda County, California

Dear Mr. Seery:

This firm now represents Texaco, Inc., and Texaco Refining and Marketing, Inc., with respect to the referenced property. I would appreciate your directing all future correspondence and notices relating to the property or to the proceedings now overseen by your agency to my attention. By copy of this letter, I am asking that the other interested parties do the same.

Thank you for your assistance.

Very truly yours,

James Weslev Kinnea

cc: Douglas A. Gravelle, Texaco, Inc.

Sandra R. McIntosh, Trepel & Clark

Mary J. Swanson, Law Office of Mary J. Swanson

Bertram Kubo

Sean B. Absher, Miller, Starr & Regalia



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, Director

DEPARTMENT OF ENVIRONMENTAL HEALTH Environmental Protection Division 1131 Harbor Bay Parkway, #250 Alameda, CA 94502-6577 (510) 567-6700

May 19, 1995

STID 1360

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524

Subject:

Clarification of conditions of the five year permit to operate four

Underground Storage Tanks (UST) at 15595 Washington, San Lorenzo

94580.

Reference:

Notice of Violation Letter of March 21, 1995.

Dear Mr. Mohammadian:

At the request of Mr. Kubo I researched the issue of applicability of Item #14 of the March 21, 1995 Notice of Violation letter which requested the installation of a sump and a monitor for the secondary containment of the piping. According to conversations with David Holtry of the State Water Resources Control Board (SWRCB), the tank system at 15595 Washington, San Lorenzo is considered a "Hybrid" system because only the tank meets the double walled construction standards. The piping does not comply with all of the necessary requirements for it to be considered double walled. Since the system is "hybrid" the aforementioned modifications will not be required, if the following monitoring is done for the tank and the piping.

For "hybrid" installations the requirements for monitoring are as follows (according to the SWRCB):

The Tank:

1-The interstitial space must be continuously monitored. (Your

Pollulert system is sufficient.)

2-The following monitoring option for "existing tanks" must be used. (see Health and Safety Code section 25291(a)(7) and section 25292 (b)(4))

(a)An annual integrity test must be done on the tank. and

May 19, 1995 STID 1360

(b) Manual Inventory Reconciliation must be done on the tank. (see the attached copy of section 2646 of Title 23.)

The Piping: 1-The line leak detector must be able to detect a leak of 3 gallons

per hour. (section 2643(c)(1))

2-An annual line tightness test must be done. (section 2643(c)(3))

One additional requirement is made for the piping. There is a short section of steel piping between the top of the pump and the double wall fiberglass pipe. All of this steel piping must be corrosion protected. Please submit a plan of correction to me for approval. (This requirement was in effect at the time of the installation of the piping, see section 2635 (b)(4) from the August 13, 1985 version of Title 23 of the California Code of Regulations)

Please note that there is a simple way to avoid the classification of the tank system as a "hybrid". If the piping is modified so it meets all of the requirements of California Code of Regulations, Title 23, section 2636(f), then the tank system would be considered to be double contained. The vents and tank risers do not require double containment if section 2636(a)(1) is complied with.

Please call me at 510-567-6734 if you have any questions or need assistance.

Sincerely.

Don Atkinson-Adams

Senior Registered Environmental

Health Specialist #5485

Enclosure

cc: Gil Jensen, Alameda County District Attorney, Environmental and Consumer Affairs

Scott Seery, Local Oversight Program

Robert Weston, Environmental Protection

Bill Raynolds, Acting Chief, Environmental Protection

Lisa Kim Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006 Bertram Kubo 5772 Sellars Avenue Oakley, CA 94561

Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605 Before December 23, 1998 the tank systems at 15595 Washington, San Lorenzo must be upgraded to meet the requirements of section 2665 and section 2666 of Title 23 of the California Code of Regulations.

§2665. Spill and Overfill Prevention Equipment Upgrade Requirements.

By December 22, 1998, all underground storage tank systems shall be retrofitted with an overfill prevention system and a spill container which meet the requirements of section 2635(b). The local agency may waive the requirements for overfill prevention equipment if the conditions specified in section 2635(b)(3) are met.

§2666. Requirements for Upgrading Underground Piping.

- (a) By December 22, 1998, all underground piping containing hazardous substances other than motor vehicle fuel shall be retrofitted with secondary containment meeting the requirements of section 2636.
- (b) By December 22, 1998, all underground piping containing motor vehicle fuel and connected to an existing tank shall be retrofitted with secondary containment unless the owner or operator demonstrates to the local agency that the piping is constructed of fiberglass reinforced plastic, cathodically protected steel, or other materials compatible with stored products and resistant to corrosion. The secondary containment system shall meet the construction, installation, and monitoring requirements of section 2636.
- (c) By December 22, 1998, all automatic line leak detectors for underground pressurized piping which is not secondarily contained shall be capable of shutting off the pump when a release occurs. In addition, the pumping system shall shut down automatically if the automatic line leak detector fails or is disconnected. In lieu of the above, for underground storage tank emergency generator systems, the leak detector must be connected to an audible and visible alarm to indicate a release malfunction of the system.
- (d) All underground piping and secondary containment shall be tested for tightness after installation in accordance with section 2636(e).

Alameda County District Attorney Environmental Case Status Report

5/16/95

10:39:03 AM

Linda Shell Service Station / Mahdi Mohammadian / Bertram Kubo / Lisa Kim 15595 Washington SL / Shell Oil Co / Texaco / Jessen and Agnes Calleri

case#

94FE397

status

administrative action pending

assigned

responsible

Chambers

prior assigned

Jensen

complainant

Alco Hazmat

violations

UST

open date

9/30/94

□ x closed

closure date

last trans date

5/16/95

prior action date

last transactio

docket#

general staff liasion

originating muni ct

TRANSACTION LOG

9/30/94 Open File set for adm hrg 10/25 @ 1pm

11/23/94 reset for January

2/28/95 adm hrg held as built drawings due to Seery in 15 days

3/24/95 Scott says inadequate drawings, inspection shows Mohammadian has alarms shut off on new tanks, no monitoring, lots of violations. Needs enforcement on current opertor not just on cleanup of prior removed tanks. NOV by Adams Atkinson rec'd SC coordinating

5/16/95 no compliance, 2nd notice sent to Chambers to notice operator and Shell oil that they are continuing to provide the operator with an instrument of pollution, and that we consider them a co responsible party subject to penalties etc when we sue. Talk to Blazer re his experiences along these lines in the Kelsoe case. Scott Seery, Kevin T and Don Atkinson-Adams are the players for Hazmat. Scott will call you call Chambers. I'll keep the contamination case for now since it doesn't appear to involve Shell or the current operator at this point. Thanks, Gil

62 MAY 18 AM 8: 43

ALAMEDA COUNTY HEALTH CARE SERVICE AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Director

DEPARTMENT OF ENVIRONMENTAL HEALTH Environmental Protection Division 1131 Harbor Bay Parkway, #250

May 15, 1505 da, CA 94502-6577 (510) 567-6700

STID 1360

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Certified Letter: Z 773 036 455

Certified Letter: Z 773 036 454

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524

SECOND NOTICE OF VIOLATION

Subject:

Compliance with requirements of the Five Year permit for the operation of the four (4) underground storage tanks at 15595 Washington Avenue, San

Lorenzo, CA, 94580.

Dear Mr. Mohammadian:

On March 21, 1995, a Notice of Violation letter was sent to you which specified fourteen (14) items for you to complete before April 21, 1995. We only have evidence of the completion of item 3. (We have accepted the new drawings submitted to us by Mr. Kubo.) You must submit documentation to this office to prove compliance with the other items in the Notice of Violation. The phone calls from you and your lawyer are not sufficient evidence of correction of the problem.

By our observations the underground storage tanks at 15595 Washington Avenue, San Lorenzo are not being operated under the conditions of the five year permit. You have 30 days from May 11, 1995 to either bring the facility into compliance or to close and remove the four tanks.

You must do the following to meet the conditions of the permit:

- 1 Form A- fill out and return an amended copy.
- 2 Form B- fill out and return an amended copy for each of the four tanks.

- Provide us with as built drawings for the station (the drawings that we have do not show adequate detail on the location of the piping.) completed.
- Complete and return a copy of the Consolidated Tank Management Plan. Keep a copy on site.
- 5 Complete and return a Certificate of Financial Responsibility.
- Repair the Pollulert leak detection system for the tanks. Send a copy of the servicing report to this office to confirm operation.
- Obtain an operating manual for the Pollulert system (include training requirements for the leak detection systems in #4 above).
- Service and repair the Red Jacket leak detection systems for the product delivery lines. Send a copy of the servicing report to this office.
- Perform integrity tests on the product delivery lines and send a copy of the test results to this office.
- Repair the (apparently) leaking delivery lines below each of the dispensers. (Provide a signed statement from the repairman.)
- 11 Replace the cast iron cover for the (blue) mid-grade fuel delivery tube.
- 12 Provide proof that there are striker plates below the fill tube of each of the tanks.

Please note that requirements #13 and #14 have been removed because the 1985 version of Title 23 did not specifically require them. (The removal of these requirements was covered in separate letters.)

A new requirement has been added:

One additional requirement is made on the piping. There is a short section of steel piping between the top of the pump and the double wall fiberglass pipe. All of this steel piping must be corrosion protected. (This requirement was in effect at the time of the installation of the piping, see section 2635 (b)(4) from the August 13, 1985 version of Title 23 of the California Code of Regulations.) copy enclosed

Any structural modifications to the tanks or piping must be approved by this office in advance of the work, and the work must be inspected by us. Please call me at 510-567-6734 if you have any questions or need assistance.

Be advised that upon conviction violations of section 25299 of the Health and Safety Code carry possible criminal and civil sanctions and up to \$5000 per day per violation per underground storage tank.

Sincerely,

Don Atkinson-Adams

Senior Registered Environmental

Health Specialist #5485

Enclosure

cc: Gil Jensen, Alameda County District Attorney, Environmental and Consumer Affairs

Scott Seery, Local Oversight Program

Robert Weston, Environmental Protection

Bill Raynolds, Acting Chief, Environmental Protection

Lisa Kim Texaco, Inc. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Bertram Kubo 5772 Sellars Avenue Oakley, CA 94561

Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605

c:\1lind.shl

RAFAT A. SHEMID, Director Department of Environmental Health 1131 Harbor Bay Parkway, Room 250 Alameda, CA 94502-6577 (510) 567-6700

May 11, 1995

David Holtry, UST Program
State Water Resources Control Board
2014 "T" Street
Sacramento, CA 95814

FAX 1-916-227-4349

Dear Mr. Holtry,

Thank you for the voice mail about the tank. I do need to be sure that I am completely clear since my requirements of the operator could be of issue in a litigation hence my continuing questions for clarity and for personal understanding of the code.

May 10, 1995

From your FAX I am inferring that the proper way to handle this case is to consider the installation at 15595 Washington, San Lorenzo to be a "hybrid system". The tanks are double wall with interstitial monitors and the piping is to be considered as single walled since there is no interstitial monitoring. No retrofit of the system to include a sump for the secondary fiberglass piping is required at this time.

The piping will be monitored under the option for single wall piping which includes the line leak detector and an annual line tightness test.

I have thought some more about your response on the requirement for the MIR and the annual integrity test of the tank. The only reason I could come up with for requiring this option would be the fact that there is a significant portion of the tank system which is not double contained and may not be adequately monitored. This would be the area around the pump at the top of the tank. I suppose there could be an overfill situation which could leak out of the pipe above the tank but not be detected during the annual line tightness test and would not be monitored by the line leak detector. Thus if an annual tank tightness test is required, the regulation does not give an option of just doing an annual tank tightness test but must either include MIR or an ATG. So in effect the "hybrid" system is treated the same as a single wall system except for the addition of an interstitial space monitor for the double wall tank.

Please leave me a voice mail or a FAXed response about my interpretation. Am I correct or not.

Sincerely,

Don Atkinson-Adams

Senior Registered Environmental Health Specialist #5485

FAX 1-510-337-9335

phone 1-510-567-6734

(proposed wording to the operator)

According to conversations with David Holtry of the State Water Resources Control Board (SWRCB), this tank system is considered as a "Hybrid" system because only the tank meets the double walled construction standards. The piping does not comply with all of the necessary requirements for it to be considered double walled. For "hybrid" installations the requirements for monitoring are as follows (according to the SWRCB):

The Tank:

1-The interstitial space must be continuously monitored. (Your Pollulert system is sufficient.)

2-One of the monitoring options for "existing tanks" must be chosen from Appendix III. (attached)

For example: (a)An annual integrity test must be done on the

tank. and

(b) Manual Inventory Reconciliation must be done on the tank. (see the attached copy of

section 2646 of Title 23.)

The Piping: 1-The line leak detector must be able to detect a leak of 3 gallons

per hour. (section 2643(c)(1))

2-An annual line tightness test must be done. (section 2643(c)(3))

#14 of the Notice of Violation letter which requested the installation of a sump and a monitor for the secondary containment of the piping will not be required if the above monitoring is done of the tank and the piping.

One additional requirement is made on the piping. There is a short section of steel piping between the top of the pump and the double wall fiberglass pipe. All of this steel piping must be corrosion protected. The easiest method is to excavate the backfill from around the steel piping and install some sort of bulkhead to keep the backfill (peagravel) from coming in contact with the pipe. Please submit a plan of correction to me for approval. (section 2635 (b)(4) from the August 13, 1985 version of Title 23 of the California Code of Regulations)

TREPEL & CLARK A PROFESSIONAL ASSOCIATION FIFTY WEST SAN FERNANDO STREET THIRTEENTH FLOOR SAN JOSE, CALIFORNIA 95113 April 14, 1995

TELEPHONE

(4087 (293-33<u>69</u>

Mr. Don Atkinson-Adams Senior Registered Environmental Health Specialist #5485 Alameda County Department of Environmental Health Environmental Protection Division 1131 Harbor Bay Parkway, Suite 250 Alameda, California 94502-6577

15595 Washington Avenue Re: San Lorenzo, California Linda Shell Station

Dear Mr. Atkinson-Adams:

ANTHONY J. TREPEL

SANDRA R. MCINTOSH

DANIEL CLARK

This law firm has been retained to represent Mr. and Mrs. Mohammadian with respect to contamination issues of the property referenced above. This is intended to respond to your letters of March 21 and 27, 1995.

One point of clarification is needed about your letter of March 21, 1995 and Mr. Mohammadian's purported statement that the water light flashes whenever it rains. To clarify: he observed that some flashes of the water light would occur in the two days prior to your visit which might have been caused by to the heavy rains.

With respect to the conditions of the permit set forth on pages 4 and 5 of your March 21 letter, Mr. Mohammadian has been diligent in pursuing the corrections. Most of the servicing of equipment and mentioned in your letter has been completed. The service reports will be sent by separate cover.

Unfortunately, Mr. Mohammadian is unable to provide you with asbuilt engineering drawings or of any other documents which detail installation of the equipment. He has no knowledge of the installation. He does not have access to any of the plans or details. Mr. Kubo represented that he would obtain such documents but has not done so to date.

Enclosed is a copy of a letter from Mr. Richard Fahey, formerly with Diablo Petroleum. As is set forth in this letter, Ted Gerow from the Health Department approved the plans and gave the permits to Mr. Kubo. Unfortunately, Mr. Kubo will not cooperate to provide us with any of these permits.

Mr. Don Atkinson-Adams April 14, 1995 Page 2

Mr. Mohammadian is making efforts to complete the requested remaining items in order to bring the facility into compliance. Mr. Mohammadian does not want to operate the gas station if it is in violation and we would ask that he be given an additional 30 days to make further attempts to correct the remaining violations. If an additional 30 days is not acceptable, please contact me at the above number as soon as possible.

We are willing to cooperate with you in every way possible. you have any questions, please do not hesitate to contact me.

Very truly yours,

Sandra R. McIntosh Ky

SRM: kg Enclosures

cc: Mr. Mehdi Mohammadian

LTR\MEHDI.ALA

LAW OFFICE OF MARY J. SWANSON

IOI YGNACIO VALLEY ROAD, SUITE 350
WALNUT CREEK, CALIFORNIA 94596-4095
TELEPHONE (5IO) 936-3800
FACSIMILE (SIO) 938-3802

FACSIMILE COVER SHEET

DATE:

APRIL 14, 1995

PAGES: <u>17</u>

TO:

SCOTT O. SEERY

FIRM:

ALAMEDA COUNTY HEALTH CARE SERVICES

RE:

LINDA SHELL (15595 WASHINGTON AVE., SAN LORENZO)

FAX NO.

(510) 337-9335

DOCUMENT: 1. LETTER FROM M. SWANSON TO S. SEERY, DATED 4-14-95

2. MEMORANDUM RE LEGAL ARGUMENTS

LAW OFFICE OF

Mary J. Swanson

IOI YGNACIO VALLEY ROAD, SUITE 350
WALNUT CREEK, CALIFORNIA 94596-4095
TELEPHONE (510) 938-3800
FACSIMILE (510) 938-3802

April 14, 1995

BY FACSIMILE

Scott O. Seery
Hazardous Material Specialist
Alameda County Hazardous
Materials Division
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502

Re: Linda Shell

15595 Washington Avenue San Lorenzo, California

Dear Scott:

The purpose of this letter, and the accompanying documents, is to respond to your letter of February 28, 1995 regarding the above-referenced property.

While I am still in the process of investigating certain issues (i.e., concerning the location of the last known operator of the service station during the Calleris' ownership and the details of Texaco's alleged removal of the second set of tanks), I believe that the information that I have previously provided to you, and that is set forth herein, will be responsive to most of your questions.

Issue No. 1:

Chronology of site ownership, UST ownership and operation, UST replacement and/or removal, etc.

Response No. 1:

A Chronology of Events, which includes the all of the information currently available to me concerning the property ownership, operations and tanks, is enclosed. (Since the Chronology was previously faxed to you with my letter of March 31, 1995, I will only be sending a hard copy).

Scott O. Seery April 14, 1995 Page 2

Issue No. 2:

The Calleris' association with the operation and ownership of the site; business arrangement with Texaco Corporation (i.e., distributorship vs. dealership vs. retailer, etc.), among other possible fuel suppliers.

Response No. 2:

The Calleris owned an interest in 15595 Washington Street, San Lorenzo, California between August 9, 1974 and August 8, 1983. The Alameda County Recorder's office reflects the following title history:

On August 9, 1974, a Grant Deed was recorded by Gulf Oil Corporation conveying its fee interest in the property to "Stanley E. Long and Mildred O. Long, his wife, as to an undivided one-half interest, and Jessen A. Calleri and Agnes J. Calleri, his wife, as to an undivided one-half interest."

On January 3, 1979, the Longs and Calleris conveyed their 100% fee interest in the property to "Jessen A. Calleri and Agnes J. Calleri, his wife, as joint tenants."

On August 8, 1983, The California-Sansome Corporation, as Trustee under a Deed of Trust executed by the Longs and Calleris in favor of The Bank of California, conveyed its interest the property to Texaco, Inc.

While the operation of the property during the Calleris' ownership is still under investigation, it appears that during most of the period, the Calleris were leasing the gasoline

From approximately 1967 to 1982, Mr. Calleri was a distributor of Texaco products. He sold gasoline and other petroleum products to various stations within a 50 mile radius of San Lorenzo, including the station located Street.

Issue No. 3:

The last known operator or lessee of the site during the Calleris' ownership of the site (if not the Calleris).

Scott O. Seery April 14, 1995 Page 3

Response No. 3:

While the operation of the property during the Calleris' ownership is still under investigation, it appears that the last known operator was a Leon Dunn. I will notify you as soon as we have any further information in this regard.

Issue No. 4:

Discussion with respect to the affiliation of the Longs with the Calleris, status of any resulting estates, dates of tenure, etc.

Response No. 4:

As indicated above, the Longs were co-owners of the property between August 9, 1974 and January 3, 1979.

Both Mr. & Mrs. Long are deceased. According to Alameda County Superior Court records:

Stanley died on February 25, 1985 and his probate case was filed on June 19, 1985, as case no. 226912. Final discharge was granted on February 17, 1994.

Mildred died on July 30, 1987 and her probate case was filed on August 26, 1987, as case no. 231805. As of mid-January of 1995, Mildred's case had not yet been discharged. Gerald Schulte was identified as the special administer, and it is believed that he is represented by Ray Sherman, Esq. of Sherman & Feller, 1970 Broadway, Suite 940, Oakland, CA 94612 (510) 452-3222.

Issue No. 5:

Any legal arguments regarding RP definition or designations.

Response No. 5:

A Memorandum re the Calleris' Legal Arguments in Response to Scott O. Seery's Letter to Parties, dated February 28, 1995, is attached.

Scott O. Seery April 14, 1995 Page 4

I hope that the enclosed information will be of assistance to you. Should you need any further information or supporting documentation (such as deeds, copies of cases cited, etc.), please let me know and I will do my best to accommodate you.

In the meantime, I want to thank you again for your granting me the brief extension of time to respond to your February 28, 1995 letter.

Very truly yours,

Mary J. Swanson

MJS:1b Enclosures

cc: Mr. & Mrs. Jessen Calleri

MEMORANDUM

TO: SCOTT O. SEERY

FROM: MARY J. SWANSON

RE: THE CALLERIS' LEGAL ARGUMENTS IN RESPONSE TO SCOTT O. SEERY'S LETTER TO PARTIES, DATED FEBRUARY 28, 1995, CONCERNING 15595 WASHINGTON STREET, SAN LORENZO, CA

I. THE CORRECTIVE ACTION PROVISIONS OF THE BARRY KEENE UNDERGROUND STORAGE TANK CLEANUP TRUST FUND ACT OF 1989 DO NOT APPLY RETROACTIVELY TO THE CALLERIS

Initially, the Calleris contend that since the corrective action provisions of Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 were enacted over six years after the Calleris lost their interest in the subject property, and neither the corrective action provisions, nor the Act itself, expressly or implicitly provide for retroactive application, the corrective action provisions do not apply to them.

A. Summary of Relevant Facts:

The Calleris owned the real property located at 15595 Washington Street, San Lorenzo, California (the "Property") from August 9, 1974 to August 8, 1983. During most of that time, the Calleris leased the property to others to operate as a gasoline service station.

In late 1982, the Calleris' lender, The Bank of California, instituted foreclosure proceedings against them and the service station was closed.

On June 21, 1983, the property was sold at public auction to Texaco, Inc. and, shortly thereafter, on August 8, 1983, a Trustee's Deed Upon Sale was recorded in Texaco's favor with the Alameda County Recorder's office.

B. <u>History of Statutory Provisions</u>:

The Underground Storage of Hazardous Substances Act was enacted on September 23, 1983 -- a little over a month and a half after the Calleris' lost their interest in the subject property. (See Health & Safety Code §§25280-25299.7). Over six years later, on October 2, 1989, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 was enacted, authorizing the establishment and enforcement of corrective action requirements with respect to underground storage tanks then in the state containing petroleum. (See Health & Safety Code §§25299.10-25299.81). It took another two years -- until December 2, 1991 -- before the State Water Resources Control Board adopted regulations implementing the corrective action provisions. (See C.C.R. §§2720 et seq.)

C. Presumption Against Retroactivity:

A statute is retroactive if it affects rights, obligations, acts, transactions and conditions performed or existing prior to adoption of the statute and substantially changes the legal effect of those past events. (See Kizer v. Hanna (1989) 48 Cal.3d 1, 7 [255 Cal.Rptr. 412]).

As a general rule, statutes are not to be given retroactive effect unless the intent of the legislature cannot be otherwise satisfied. (See Balen v. Peralta Junior College District (1974) 11 Cal.3d 821, 828 [114 Cal.Rptr. 589]). "The Legislature, of course, is well acquainted with this fundamental rule, and when it intends a statute to operate retroactively it uses clear language to accomplish that purpose." (DiGenova v. State Board of Equalization (1962) 57 Cal.2d 167, 176 [18 Cal.Rptr. 369]).

retroactivity to statute's silence as authoritative indication the Legislature intended a prospective application. (See Nelson v. A.H. Robins Co. (1983) 149 Cal.App.3d 862, 870 [197 Cal.Rptr. 179]). Consequently, if a statute does not expressly provide that it is to be given retroactive effect, there strong presumption that the statute is to operate prospectively. This presumption is only overcome by a clear indication from the language used in the statute, or, in some cases, from the legislative history of the statute, that the Legislature intended for the statute to apply retroactively. (See In re Marriage of Reuling (1994) 24 Cal.App.4th 1428, 1439 [28 Cal.Rptr.2d 726]). This long-established presumption applies particularly to laws creating new obligations, imposing new duties or exacting new penalties because of past transactions. (See Pignaz v. Burnett (1897) 119 Cal. 157, 160 [51 P. 48]; Wienholz v. Kaiser Foundation Hospitals (1989) 217 Cal.App.3d 1501, 1505 [267 Cal.Rptr. 1]).

D. Application of Statutory Construction to Barry Keene UST Cleanup Trust Fund Act of 1989:

Neither the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, nor the corrective action provisions set forth therein, contain any specific statement regarding retroactivity. (See Health & Safety Code §§25299.10 et seq.) While this fact alone raises a strong presumption that the Act was intended to apply prospectively, rather than retrospectively, this construction is also supported by both the language and legislative history of the Act. (Id.; see also Stats. 1989, c. 1442).

The language used in the Act clearly indicates that the Legislature intended for the provisions to apply prospectively. After finding that "approximately 90 percent of the underground storage tanks in the state contain petroleum", and that "a significant number of the underground storage tanks containing petroleum in the state may be leaking", and that "[i]n recent years, owners or operators of underground storage tanks have been unable to obtain affordable environmental impairment liability

insurance coverage to pay for corrective action . . . ", the Legislature declared, among other things, that:

"(6) It is in the best interest of the health and safety of the people of the state to establish a fund to pay for corrective action where coverage is not available.

.

"(10) It is in the interest of the people of the state, in order to avoid direct regulation by the federal government . . . to authorize the state to implement the provisions of [the federal act] . . . [and]

"(11) It is in the public interest for the state to provide financial assistance . . ., to ensure timely compliance with the law governing underground storage tanks, and to ensure the adequate protection of groundwater."

(Health & Safety Code §25299.10). The operative language used by the Legislature is in the future tense, not the past tense. Furthermore, it is clearly and unambiguously directed to addressing the problems created by the underground storage tanks currently "in the state" which "may be leaking", and not to tanks that have been long since removed and are no longer either "in the state" or in existence. Significantly, this prospective intent is also articulated in the implementing regulations adopted by the State Water Regional Control Board. Section 2620 of the California Code of Regulations provides, for example, that: "The regulations in this chapter are intended to protect waters of the state from discharges of hazardous substances from underground storage tanks.

. . " (See C.C.R. §2620 (emphasis added)).1

While there do not appear to be any cases in California which specifically address the retroactivity of the Act, similar underground storage acts in other states, under less compelling circumstances, have been held not to apply retroactively. In Wilson v. Triangle Oil Company (1989) 566 A.2d 1016, for example, the Delaware Underground Storage Act was held not to apply retroactively to allow recovery of cleanup costs and civil penalties against company which had divested itself of all interest in the real property and underground storage tanks in question prior to enactment of statute. Unlike this case, however, in the Wilson case the underground storage tanks were still in the ground.

The language of the Code of Regulations is also consistent with a legislative intent that the Act and implementing regulations apply only to existing and future tanks, not tanks which have been physically removed before the enactment of the Act. This can be seen, for example, in the way in which the Board has chosen to define the term "decommissioned tank". One would logically assume that if a tank is no longer in existence, and cannot therefore be included under the definition of an "existing underground storage tank", that it should fall within the definition of a "decommissioned tank". But Section 2611 limits the definition of a "decommissioned tank" to "an underground storage tank which cannot be used for one or more of the following reasons: 1) the tank has been filled with an inert solid, 2) the fill pipes have been sealed; or 3) the piping has been removed."

the water where E.

E. Conclusion:

Given that the Legislature did not expressly provide that the Act was to be given retroactive effect, and there is nothing in either the language of the statute, or its legislative history, which supports a finding that the Legislature clearly and unambiguously intended for the Act to be given retroactively effect, the Calleris respectively submit that neither the Act, nor the corrective action provisions contained therein, should be applied retroactively to them. Not only was the Act enacted over six years after the Calleris lost the property to foreclosure, but it was enacted over three years after the subject tanks were purportedly removed from the property.

II. THE COUNTY DOES NOT HAVE AUTHORITY TO ISSUE A CORRECTIVE ACTION ORDER TO THE CALLERIS BECAUSE THEY ARE NOT "RESPONSIBLE PARTIES", AS THAT TERM IS DEFINED IN SECTION 2720 OF THE CALIFORNIA CODE OF REGULATIONS

The Calleris' second contention is that the County does not have any authority to issue a corrective action order against them, because they are not "responsible parties", as that term is defined in Section 2720 of the California Code of Regulations.

A. Statutory Authority for Corrective Action Orders:

Health & Safety Code Section 25299.37(a) requires "each owner, operator, or other responsible party" to take corrective action in response to an unauthorized release. If any of the designated parties fails to take corrective action, subsection (c) of Section 25299.37 authorizes the local regulatory agency to issue a corrective action order to the "owner, operator, other responsible party requiring compliance with this section . . . "

While the Legislature has failed to give any guidance in the Act as to what it meant by "other responsible party", the regulations adopted by the State Water Resources Control Board to implement the corrective action provisions set forth a very specific definition of who the Board considers as "responsible parties." (See C.C.R. §2720).²

B. <u>Definition of "Responsible Party":</u>

Section 2720 of the California Code of Regulations provides that "responsible party" means one or more of the following:

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

The Legislature's failure to clarify what it meant by "other responsible parties" opens the statute up to constitutional challenges, both on vagueness and on improper delegation of powers grounds.

- 2. In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use;
- 3. Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and
- 4. Any person who had or has control over a underground storage tank at the time of or following an unauthorized release of a hazardous substance.

(C.C.R. §2720).

C. Application of Definition to Relevant Facts.

In this case, since the Calleris do not currently own or operate the underground storage tanks or property in question, and it is unknown when the alleged unauthorized release of hazardous substance occurred, they cannot be named as "responsible parties" under Paragraphs 1, 3 or 4 of Section 2720. The question is whether they can be named under Paragraph 2. The County apparently contends they can, while the Calleris adamantly disagree.

In analyzing who is correct, it is important to understand that the State Water Resources Control Board has established a two-tier test for local agencies in evaluating whether a person falls within the scope of Paragraph 2 of Section 2720.

The State Water Resources Control Board has taken the position that if the owner or operator of the tank, which is suspected of being responsible for the unauthorized release, discontinued their use of the subject tank <u>before</u> November 8, 1984, then the regulatory agency <u>does not</u> need to have substantial evidence to show that the unauthorized release occurred before the discontinuance of use.

On the other hand, if the owner or operator of the tank, which is suspected of being responsible for the unauthorized release, discontinued their use of the subject tank on or after November 8, 1984, then the regulatory agency does need to have substantial evidence to show that the unauthorized release occurred during or prior to the time that the person was an owner, operator or otherwise had control of the tank or property. (See Letter from Mike McDonald of the State Water Resources Control Board to Local Oversight Program (LOP) Agencies, dated January 25, 1994, pp. 2-3).

Without "substantial evidence" or a "reasonable basis" for concluding that an unauthorized release occurred during or prior to the time that the person was an owner, operator or otherwise had control of the tank or property, a person cannot be named as a responsible party by the regulatory agency. The

rationale is that it would be fundamentally unfair to name someone simply because they are in the chain of title to the property without sufficient evidence that the person's action contributed to the unauthorized release or that they had any control over the property or tank at the time of or following the release.

> Texaco was the Last Party to Own or Operate the 1. "Second Set" of Tanks Immediately Before the Discontinuation of Their Use:

The Calleris' content that since Texaco marketed the property as a service station with the second set of tanks in place for over three years before deciding to remove the tanks, it was Texaco who was the last party to "own or operate the tanks immediately before the discontinuation of their use".

Significantly, both the Barry Keene Underground Storage Tank Cleanup Trust Fund Act, and the corresponding regulations adopted by the Board, distinguish between the temporary and permanent closure of tanks based on the owner's or operator's "intent" with respect to the future operation or use of the tanks.4 The legislation also make clear that a tank being "in use" is not the same as it "containing or dispensing product". Health & Safety Code §25298, for example, provides that an underground storage tank which has been "temporarily taking out of service, but which the operator intends to return to use, shall continue to be subject to all the permit, inspection, and monitoring requirements" of that chapter. (See Health & Safety Code §25298(b) (emphasis added)). While Sections 2670-2672 of the California Code of Regulations, distinguishes between the "temporary closure" of underground storage tanks, "in which the storage of hazardous substances has ceased but the underground storage tank will again be used for the storage or nazardous substances within the next 12 consecutive months" and the "permanent closure" of underground storage tanks, storage of hazardous substances within the next 12 consecutive_ "in which the storage of hazardous substances has ceased and the tanks will not be used, or are not <u>intended</u> for use, for the storage of hazardous substances within the next 12 consecutive (Id. (emphasis added)). months."

> Since the Calleris were forced from the property by a foreclosure action, and never consciously intended to discontinue their use of the tanks, they do not fall within the second definition of "responsible party" set forth in Code of Regulations Texaco, on the other hand, does fall within that definition. While Texaco has mysteriously misplaced virtually all of its records concerning its ownership and use of the subject property between August 8, 1983 and December 31, 1986, its counsel readily admitted at the Pre-Enforcement Review Panel Hearing on

2 years

As has been previously discussed, there have been at least three sets of tanks on the subject 3 property since 1965. The first set were present from 1965 to 1969; the second set from 1969 to 1986 (according to Texaco); and the third set from 1987 to the present.

See also Alameda County Uniform Fire Code, Section 15.205.

February 28, 1995, that during Texaco's ownership of the property, Texaco actively marketed the property as a service station with the second set of tanks in place. (See also the October 17, 1986 report prepared by Groundwater Technology, Inc., which states at page 5 that the tanks were still on-site). This is overwhelming evidence that Texaco did not intend to discontinue the use of the tanks, at least not until late in its ownership of the property, when it purportedly had the second set of tanks removed.

The Calleris' contention that Texaco was the last party to own or operate the tanks immediately before the "discontinuation of use" is also supported by the interpretation of that phrase adopted by the State Water Resources Control Board. (See Letter from Mike McDonald of the State Water Resources Control Board to Local Oversight Program (LOP) Agencies, dated January 25, 1994). The State Board has defined "discontinuance of use" to mean that:

"(1) product was neither placed in the tank nor removed from the tank (except for product removal at the time of tank closure) and (2) circumstances indicated that there was no further intent to use the tank.

(<u>Id</u>. at page 3 (emphasis added)). According to the Board, <u>among</u> the circumstances which indicate no further intent to use the tank are the following factors:

- (a) The tank is filled with an inert solid or otherwise rendered unusable;
- (b) The owner abandoned the tank and no one else has used it;
- (c) The intakes and vents are paved over;
- (d) Access piping is disconnected or removed; and
- (e) The tank was sold to a person who had no use for the tank (such as a residential real estate developer).

(<u>Id.</u>, <u>citing G.J. Leasing v. Union Electric</u> 825 F. Supp. 1363 (S.D.Ill. 1993)).

According to the Calleris, they never rendered the tanks unusable; never paved over the intakes and vents; and never disconnected or removed the access piping. Nor did they ever intentionally abandon the tanks — their interest in the property was foreclosed upon. While the tanks were sold, along with the underlying property, in the foreclosure action, it can hardly be argued that the tanks were sold to a company that did not have any use for them, since Texaco was in the business of operating service stations. In summary, it was Texaco, not the Calleris, who discontinued the use of the second set of tanks.

While Texaco might argue that it is unfair to hold it responsible for the alleged unauthorized release of product from the second set of tanks when there is not evidence that it actually operated the station during its almost three and a half year ownership of the property, the fact of the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is that Texaco made a conscious decision to related the matter is the conscious decision to related the matter is the conscious decision to related the matter is the conscious decision to related the matter is the conscious decision to related the matter is the conscious decision to related the matter is the conscious decision to related the matter is the conscious decision to related the conscious decision to related the matter is the conscious decision to related the conscious decision the conscious decision to related the conscious decision to related the conscious decision to related the conscious decision to re made a conscious decision to maintain the tanks in operational condition for more than three years, when it could have either decommissioned the tanks or removed them shortly after it purchased the property, thus avoiding the position it now finds itself in. Had Texaco done this, not only would it have been able, but all of the other parties would have been able, to determine whether any contamination existed on the property prior to Texaco's acquiring title to the property in August of 1983. Indeed, much of what Texaco has done suggests that it has not acted with clean hands in Had Texaco's turned over the 1986 Groundwater this matter. Technology report to the County in a timely manner, and maintained its records concerning (i) its ownership (and possible operation) of the property and (ii) its alleged removal of the tanks, the Calleris and all the other parties would be in a much better position then they now are to respond to the County's allegations against them. 5 By not turning over the 1986 Groundwater Technology report and maintaining its records, Texaco's position has been improved. In balancing equities, the scale weighs heavily in favor of the Calleris.

. . .

2. The County Does Not Have a Reasonable Basis for Concluding that an Unauthorized Release of Hazardous Waste Occurred During or Prior to the Calleris' Ownership of the Tanks or Property:

Having concluded that it was Texaco, and not the Calleris, who discontinued the use of the second set of tanks; and that the discontinuation of use occurred after November 8, 1984; the only remaining question as far as the Calleris are concerned is whether the County has a reasonable basis to conclude that an unauthorized release occurred during or prior to the Calleris' ownership of the subject property.

The State Board has defined a "reasonable basis" to include:

". . . such factors as hydrogeologic information, physical evidence, unauthorized release reports and complaints, agency records

1986 GTT. report provide both

6TI never presented gradient information in report.

honever, the paresance of cars alone is not proof of station speration

For example, Groundwater Technology's October 17, 1983 report concludes that "the lack of any detectable contamination in the downgradient wells suggests that a small localized loss likely occurred at the pump island". Had this report been made available to the Calleris shortly after it was prepared in 1986, the Calleris may have been able to determine the cause and source of the alleged contamination. Indeed, they might have even been able to obtain the records, which have now long since been destroyed, to prove that Texaco was operating the service station and/or that the alleged contamination was a resulted Texaco or other people using the service station during Texaco's ownership as a dumping ground for oil and fuel during the three and a half years that Texaco owned the property. As has been previously pointed out to Mr. Seery, the aerial photographs of the property during Texaco's ownership reflect numerous cars and trucks on the property, at least some of which were parked at the pump/station.

of discharges and, in limited cases, circumstantial evidence. In all cases, there must be evidence to support the action taken. A reasonable basis does not include the mere fact that a person owned, operated, or controlled the tank or property at sometime in the past without evidence that the release occurred during or prior to that person's ownership, operation, or control of the property or tank."

(<u>See</u> Letter from Mike McDonald of the State Water Resources Control Board to Local Oversight Program (LOP) Agencies, dated January 25, 1994, at page 2).

In this case, the <u>only</u> basis for the County concluding that an unauthorized release occurred during or prior to the Calleris' ownership of the subject property is the report prepared by Groundwater Technology, Inc. on October 17, 1986 -- over three years <u>after</u> the Calleris' lost the property in foreclosure. The report was prepared at Texaco's request for marketing purposes and terms reflected low levels of contamination on the property.

Significantly, in carefully reviewing the 1986 Groundwater Technology report, it is clear that the methods used by Groundwater Technology for drawing and testing soil and groundwater samples were so flawed that the report has little, if any, evidentiary value in establishing either the origin or extent of the alleged contamination. Out of six soil samples and six groundwater samples, only two of the groundwater samples indicated that there may be low levels of hydrocarbon contamination on the property. Those samples, from SB-1 and MW-1, reflected the following:

SB-1 0.22 ppm benzene 0.39 ppm toluene 0.86 ppm xylene

MW-1 0.82 ppm xylene

actually, Carry high

love 15

2

the Calleris can neither confirm nor deny that the rest of the report is flawed).

Casting further doubt on Groundwater Technology's 1986 report, are the results of the more recent groundwater testing done at the property. Where the 1986 report reflected that xylene concentrations were slightly higher than the concentrations of the more volatile benzene and toluene;6 the more recent reports indicate to the contrary. (See Groundwater Technology Report, dated December 4, 1992 (Table 2) and Blaine Tech Services, Inc. Report, 1992 data dated March 24, 1994 (Table 2)). Since the more volatile indicate substances are allegedly showing up in greater amounts, this suggests that the current actionable levels of contamination are from the third, not second, set of tanks. This theory is bolstered BTX, wet by the recent revelation that the existing underground storage tanks are not being operated in compliance with the owners five year permit and are in violation of Title 23 of the California Code of Regulations, among other laws and regulations. (See Letter from Don Atkinson-Adams to Mehdi Mohammadian and Dan Kirk, dated Mary has been 21, 1995).

The bottom line is that absolutely no credible evidence exists that the contamination which currently exists on the property arose prior to or during the Calleris ownership of the property. Indeed, all of the agency records which are presently available for review from the Eden Consolidated Fire District and the Air Quality Control Board, reflect that during the Calleris' ownership of the property, the service station was properly permitted and in complete compliance with all of the then-existing governmental codes and regulations. The Fire District's records, for example, show that during the random inspections by Captain Scallin and others, no code violations were noted. Nor are there any records of unauthorized release reports and complaints during the 1974-1983 period that the Calleris owned the property. While the Air Quality Control Board records available by telephone only Calleri go back to 1982, they reflect that the station operator held a Texaso permit through the period the station was valid (Permitting records have been requested from archives for prior periods, but they have not yet been made available.) attempt was made to review records with the Department of Weights and Measures, due to the time that has elapsed and the Department's recordkeeping, virtually no information was available for the period covering the Calleris' ownership of the property.

more

no evidence

While in 1986, Groundwater Technology speculated that the higher levels of xylene, than the more volatile benzene and toluene, suggested that the contamination in 1986 was probably due to an older leak; it never defined what it meant by an "older" leak. Nor did it hazard to guess when the leak likely occurred -- during Texaco's three year ownership of the property or before. For the regulatory agencies to attempt to interpret what Groundwater Technology meant by "older leak", nine years after the fact, when Groundwater Technology's opinion as to the age of the contamination was speculative to begin with, would be fundamentally unfair to the Calleris.

D. Conclusion.

Based on the foregoing, the Calleris respectfully submit that the County does <u>not</u> have substantial evidence that they fall within any of the definitions of "responsible party" set forth in Section 2720, and, consequently, the County does not have any authority to issue a corrective action order against them.

III. ANY ACTION BY THE COUNTY AGAINST THE CALLERIS FOR CORRECTIVE ACTION HAS BEEN DISCHARGED IN BANKRUPTCY

The Calleris third contention is that the County is barred from issuing a corrective action order against them because all of the County's environmental claims against the Calleris with respect to the subject property have been discharged in bankruptcy.

A. Summary of Relevant Facts.

On May 21, 1984, Mr. Calleri filed a Chapter 7 bankruptcy proceeding with the United States Bankruptcy Court for the Northern District of California, as Case No. 484-1639 HN. Notice of that bankruptcy filing was given to numerous parties, including the Greg R. Gibson of the District Attorney's office in Hayward and Matthew Walker of the Environmental Protection Agency ("EPA").

Archived Bankruptcy Court records reflect that a Meeting of Creditors was held on June 26, 1984, at which Mr. Calleri appeared with his counsel. Also in attendance with Mr. Walker of the EPA and Jack North.

Mr. Calleri was granted a discharge in bankruptcy on September 20, 1984, and on May 3, 1988 the Trustee issued his report that there were no assets to distribute over and above exempted or abandoned assets. On February 4, 1991, the case was reopened in order to vacate liens and, it appears that it was subsequently re-closed on April 3, 1991.

B. Bankruptcy Code Provisions re Discharge of Claims.

The principal goal of most debtors who seek relief in bankruptcy is to obtain a discharge of their pre-petition debts under the broad discharge provisions contained in Sections 727, 1141 and 1328 of the Bankruptcy Code.

Under those Sections, only "debts" which are defined as "liabilities on claims" which arise before the date of the debtors' order for relief or confirmation orders are discharged. Bankruptcy Code Section 101(5) defines a "claim" as a:

 A right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, legal, equitable, secured or unsecured; or

A right to an equitable remedy for breach of 2. performance if that breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

Because the Bankruptcy Code's definition of "claim" broadly encompasses all legal obligations of the debtor, no matter how remote or contingent, it has often been difficult to apply to environmental liabilities and to define the point at which contamination gives rise to a "claim".

The Ninth Circuit has adopted a fair contemplation Under the fair contemplation approach, only future response costs which are based on pre-petition conduct and which could be "fairly contemplated" by the parties prior to the close of bankruptcy proceedings are dischargeable claims. (See In re Jensen 995 F.2d 925 (9th Cir. 1993); citing In re National Gypsum 139 B.R. 397 (N.D. Tex. 1992)).

Discharge of Environmental Claims against Calleri. C.

In this case, for the County to name the Calleris as responsible parties, it will have to show that an unauthorized release occurred prior to or during the Calleris' ownership of the subject property. (See Part II, above). Since the Calleris lost the property to foreclosure in August of 1983, prior to the May 1984 bankruptcy filing, any of the County's claims against them would have arisen from pre-petition conduct.

Chapter 7 proceeding; knew the locations of the various service stations that the Calleris had owned or provided Texaco fuel to the past; and knew, or should be shoul we go subject property from the permitting and inspection with the subject property from the permitting and inspection records maintained by the County, that any environmental claims were the fairly contemplated by the County before Mr. Calleri's bankruptcy was finally discharged.

D. Conclusion

Based on the foregoing, the Calleris respectfully submit that the County is barred from issuing a corrective action order against them since all pre-petition environmental claims against the Calleris with respect to the subject property were discharged in bankruptcy.

The Calleris contend that, just as the knowledge of a California Water Board employee was imputed to the California Department of Health Services in the <u>Jensen</u> case, the knowledge of the District Attorney's office and EPA are imputed to the Alameda County Health Care Services Agency.

Dear Best Chuck received a copy of the March Elphotter of on Ala County Health to Mehli Mohammadian, which gon 95 200 194 PM 3: 43 We managed to locate some old files pertaining to the station at 15595 Washington Hoc., San Lovenzo. (When you and Mr. Sin asked me for information on the station last month of didn't have the benefit of old files just some photos Taken in Feb. 1957.) One thing I found was that a Mehdi Mohammed of Tinda Shell Service, at the same address, contacted me in Dec 17, 1990 to inquire about gennets for this location Diable Petroleum was no longer in business at that time) I wrote him land gave him all the information on Alomeda County (No. 0278), Eden Fire Protection, (No 00012), and BAAQMD, (No. 10341), permits which had been usued for the Feb. 1987 installation I also learned that the Health Dept. a practice at that time was to review plans, approve them if all was in order and they submit the approved planstithe Country Building Dept for germit issuance. That's the way your installation was hendled. Inspections were made by Mr. Ted Gerow of the Health Dept also. The Blog. Dept. and Fire Marshal also conducted inspections. The application to Mr. Gerow was handdelivered on Jan. 29, 1986. Work commenced on Feb. 9, 1987 On og. 1 of the 3/21/95 letter from Ala. County, Mrs. Albinson - Adams ashs about a 12" dia device next to the Kal. Jacket Purp in the most westerly tank. That is a multi-jet sump used in the Healy Phase II vapor recovery system of an including the Cambridge Engineer Co. 1 Not this item which they manufacture, and you bought from Titan Rubber. The tems Mr. Mohammedian is ordered to comply with by April 21 1995 are on pgs, 4 and 5. I tems 1, 2, 4, 5, 6, 8,

9, 10, 11 & assume Mr. Mohammedian is handling. Items 7 and 8 I assume you are handling. Hens 13 and 14 by Mr. Mohammed (When the touch were installed in 1987, Section 2635 (b)(9) (A), (B or (C) applied to the fills. There was no Section 2636 in Article 3. It ended with 2635 and then went to Article 4, Section 2640 to the best of my recollection.)

On item 3: I have prepared a drawing which is enclosed. I thought I had given similar drawings to Mr. Gerow in 1986 and 1987. As mentioned above, The installation was inspected and approved by Mr. Gerow and the other country and fire deportment representatives during the course of the works, and al the end of the job. and the County Health Dept. Please forgive my hand. written effort. As you know I have been retired from the business for several years, and no longer have access to secretarial help Sincerely, Attachments: Healy System Drawings
Plat Ple & Riging Page 2 of 2 CC: Ala County Health - Dear Mr. Albinson - Adams: I hope This information is helpful. Please call me if you wish anything further. Vid John 4/4/95

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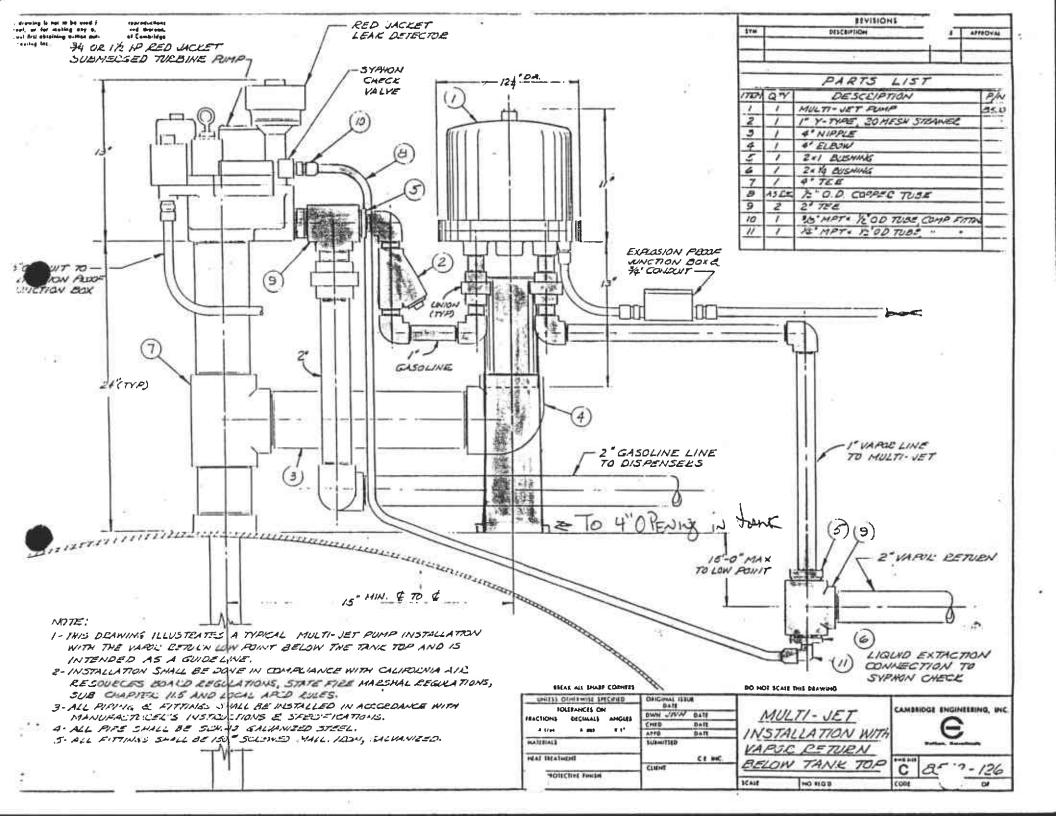
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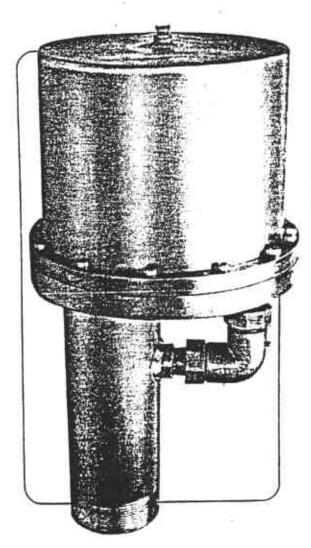
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THE HEALY SYSTEM Multi-Jet Vacuum Pump





DESCRIPTION

The Series 8500 Multi-Jet Vacuum Pump provides a central vacuum source for Healy System vapor recovery nozzle installations. The central vacuum approach eliminates the need to return gasoline from the Model 100 Jet Pumps through underground vapor return piping. A Series 8500 Vacuum Pump will provide vapor recovery for up to fourteen fueling locations. Models with capacity to handle six and ten fueling locations are also available.

Vacuum regulations is factory set at 24 inches water column to insure proper operation of the Healy Nozzle. Unlike mechanical blowers, safety is maximized by producing vacuum with gasoline, thus insuring full saturation of any outside air which may be drawn into the system.

Secondary containment regulations have been fully achieved in the Series 8500. Leak detection equipment will inspect the gasoline supply line to a point within the sealed Multi-Jet pump housing. The housing is drained through the 4" pipe extending from the pump housing to the underground tank, thus providing the required secondary containment.

FEATURES

- Capacities Up to Fourteen Fueling Locations
- Mounts Directly to a 4" Tank Bung
 Full Secondary Containment For Gasoline Elements
- Eliminates Gasoline in Vapor Return Lines
- No Larger Than Turbine Pump Head Assembly
- Built-In Air Bleeds for Ease of System Leak Check

MODEL NO.	ELECTRICAL	POWER	GPM VAPOR	GPM GASOLINE*
8500-06	120 V A C	25 WATTS	60	11.4
8500-10	120 V A C	25 WATTS	100	19.0
8500-14	120 V A C	25 WATTS	140	26.6

*Gasoline Supply to Multi-Jet @ 20 PSI

December 17, 1990

Mr. Mehdi Mohammed Linda Shell Service Station 15595 Washington St. San Lorenzo, CA 94580

Dear Sir,

The permits you inquired about were given to Mr. Bert Kubo in February of 1987 when Diablo Petroleum performed some work for Mr. Kubo at your location.

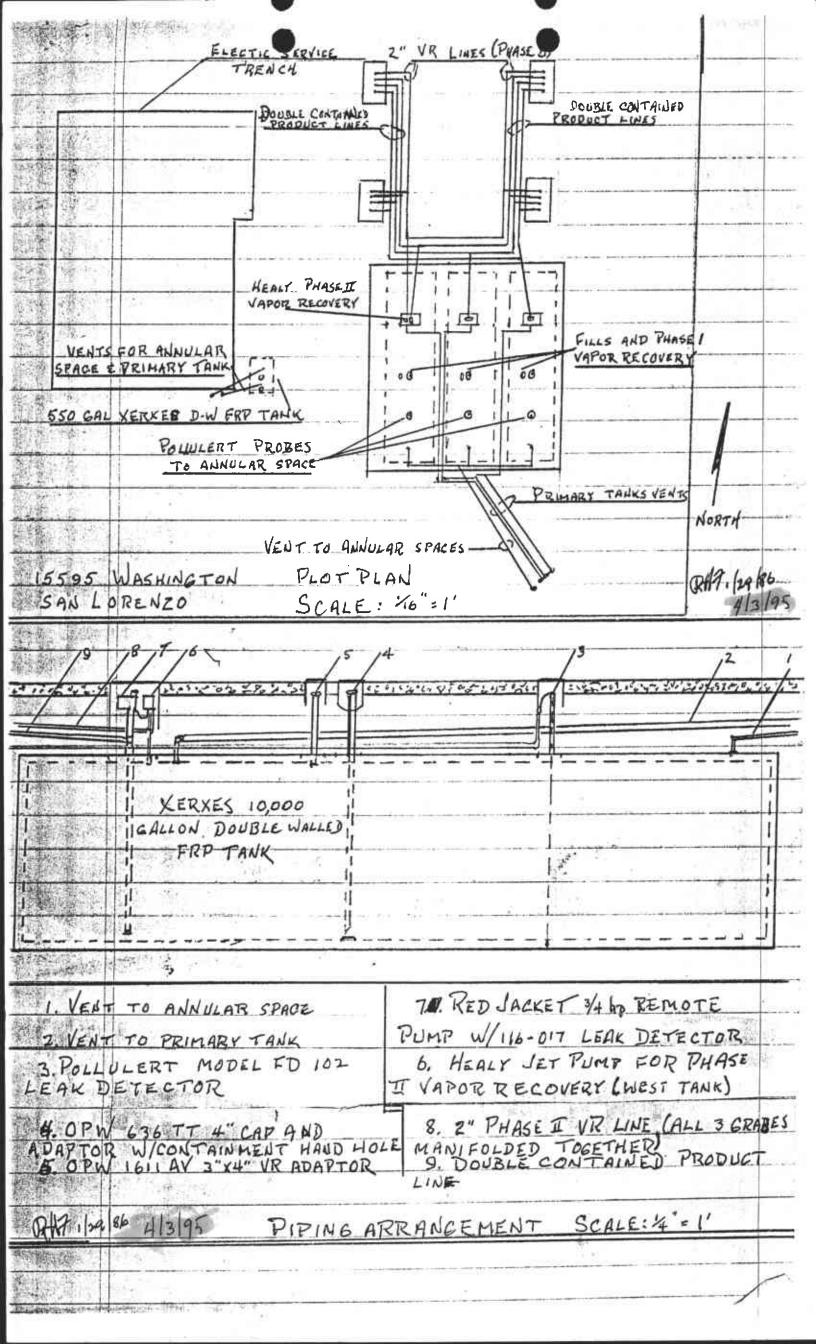
At that time Mr. Ted Gerow was the Health Department representative for Alameda County. His practice was to review plans, approve them if all was in order, and then submit the approved plans to the County Building Department for permit issuance.

That is what happened in this case. County permit no. 0278 was issued and given to Mr. Kubo. The Eden Fire Protection District issued their permit no. 00012, and the B.A.A.Q.M.D. issued permit no. 20341. These permits were also given to Mr. Kubo.

The job was inspected and approved by Mr. Gerow as well as representatives of the other agencies.

Very Truly Yours,

RICHARD H. FAHEY



MARY J. SWANSON

IOI YGNACIO VALLEY ROAD, SUITE 350
WALNUT CREEK, CALIFORNIA 94596-4095
TELEPHONE (510) 938-3800
FACSIMILE (510) 938-3802

FACSIMILE COVER SHEET

DATE:

MARCH 31, 1995

PAGES: 3

TO:

SCOTT O. SEERY

FIRM:

ALAMEDA COUNTY HEALTH CARE SERVICES

RE:

LINDA SHELL (15595 WASHINGTON AVE., SAN LORENZO)

FAX NO.

(510) 337-9335

DOCUMENT: LETTER FROM MARY SWANSON TO SCOTT SEERY, DATED 3-31-95

NOTE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATIONS IN ERROR, PLEASE NOTIFY US BY TELEPHONE IMMEDIATELY AT (510) 938-3800 AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

14 LAW OFFICE OF MARY J. SWANSON IOI YGNACIO VALLEY ROAD, SUITE_350 WALNUT CREEK, CALIFORNIA 94596 PROTECTION AL TELEPHONE (510) 938-3800 PROTECTION FACSIMILE (510) 938-380295 APR -4 AH 8: 19 March 31, 1995 BY FACSIMILE Scott O. Seery Hazardous Material Specialist Alameda County Hazardous

Materials Division 1131 Harbor Bay Parkway, Room 250 Alameda, California 94502

> Linda Shell Re:

> > 15595 Washington Avenue San Lorenzo, California

Dear Scott:

To follow up on our telephone conversation earlier today, this will confirm that you have graciously agreed to grant the Calleris a fifteen day extension of time to respond to your February 28, 1995 letter.

While I expect to have a response to you sooner than the April 14th deadline, I appreciate having the extra time to attempt to obtain information about Texaco's alleged removal of the second set of tanks.

As I mentioned this morning, the address being used by your office for the Calleris is incorrect. The correct address is:

> Mr. & Mrs. Jessen Calleri 10901 Cliffland Avenue Oakland, California 94605

I would appreciate it if you would convey this information to Mr. Atkinson, and also ask that he copy me with any further correspondence from his office.

Scott O. Seery March 31, 1995 Page 2

Thank you again for your cooperation.

Very truly yours,

Mary J. Swanson

MJS:1b

cc: Mr. & Mrs. Jessen Calleri

CHRONOLOGY

DATE **EVENT** Aerial photographs available 07-07-59 First Set of As-Builts - Prepared by Gulf 10-16-64 Oil, Entitled "General Arrangement Plan", showing two 8,000 gal. gas tanks, one 10,000 gal. gas tank and one 280 gal. waste oil tank configured as follows: O WO Station Grant Deed from Mary Lagomarsino, CONVEYANCE 12-29-64 Guiseppina Croce, Lena Ronceni, David Ferro and Jeanette Ferro sold 15595 (and TO GULF OIL 15563) Washington Avenue to Gulf Oil, recorded 1964, reel 1402, images 53-55 Application for building permit 03-10-65 (#2640A & #2641B) Contractor - Michel & Pfeffer Architect - G. Christensen Fire Dept. records show Wilshire Oil 08-09-65 as owner, M.L. Kelly as operator Fire Dept. records show Gulf Oil as 02-20-68 owner, M.L. Kelly as operator Second Set of As-Builts - Prepared by 04-01-69 Gulf Oil, Entitled "General Arrangement Plan", showing three 9,940 gal. gas tanks, and one 280 gal. waste oil tank configured as follows: Station O WO 0 0 0

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DATE		EVENT
05-02-69		Aerial photographs available
04-11-69		Fire Dept. records show Gulf Oil as owner, Clarence R. Light(foot) as operator
09-10-69		Application for building permit (#12009) Contractor - Petroleum Engineering, Inc.
		Demolish exist. station & remove 3 gas tanks, 1 waste oil
09-11-69		Application for building permit (#12030) Contractor - Petroleum Engineering, Inc.
		Install: Set 3 - 9,940 gal. gas tanks Set 1 - 280 gal. waste oil
11-24-69		Notice of Completion recorded by Petroleum Engineering, Inc.
01-19-70		Fire Dept. records show Gulf Oil as owner, Clarence R. Lightfoot as asst
05-19-71		Aerial photographs available
08-24-71		Gulf Oil believed to have sold northern part of parcel (15563 Washington Avenue) to Don Callahan
04-24-73		Aerial photographs available
01-14-74		Fire Dept. letter to Donald Doctor, Gulf Oil re tank closure?
08-09-74	CONVEYANCE GULF OIL TO CALLERI/LONG	
		Also recorded: Deed of Trust with Assignment of Rents in favor of the Bank of California, N.A., as Instrument No. 74-104387
09-03-74		Fire dept. records show Texaco Service, Robert Oarrillo or Garrillo and Jess Calleri

<u>DATE</u>		EVENT
02-05-75		Fire Dept. records show Calleri & Fredson, Tire Distributors, John Pomba as operator, inspected, no code violations noted
02-17-75		Fire Dept. records show Calleri & Fredson as Tire Distributors, John Pomba as operator
05-19-75		Aerial photographs available
07-07-77		Aerial photographs available
07-19-77		Aerial photographs available
01-03-79	CONVEYANCE LONG TO CALLERI	Individual Grant Deed in which the Longs conveyed their interest in property to the Calleris, recorded as Instrument No. 79-019934
09-14-79		Aerial photographs available
06-22-81		Aerial photographs available
02-14-83		Notice of Default recorded by the Bank of California against Calleri/Long Deed of Trust, recorded as Instrument No. 83-024257
06-21-83		Aerial photographs available
06-21-83		Trustee's public auction of property on foreclosure, property sold to Texaco, Inc.
08-08-83	CONVEYANCE CALLERI TO TEXACO	Trustee's Deed Upon Sale - reflecting conveyance after foreclosure to Texaco, Inc.
11-17-83		Action filed by Texaco against Calleri for arrearages
05-21-84		Voluntary Chapter 7 petition in bankruptcy filed by Calleri
06-26-84		First Meeting of Creditors in the Calleri bankruptcy
02-25-85		Stanley E. Long died
05-15-85		Aerial photographs available

DATE	EVENT
06-09-85	Aerial photographs available
06-19-85	Probate opened for estate of Stanley Long in Alameda County Superior Court, case no. 226912-60
01-25-86	Aerial photographs available
08-08-86	Monitoring wells installed at 15595 Washington Avenue by Groundwater Technology, Inc.
10-17-86 REPORT #1	Environmental report by Groundwater Technology, Inc indicates second set of tanks still on premises
Between 10-17-86 & 12-31-86	Second set of tanks believed to have been removed by Texaco, Inc., however there are no records confirming this fact
12-31-86 CONVEYANCE TEXACO TO KUBO	Grant Deed from Texaco, Inc. to Bertram Kubo, recorded as Instrument No. 86-335127
02-06-87	Application for building permit (#0278) Contractor - Diablo Petroleum, Inc.
	Install underground tanks & pumps: three 10,000 gal. gas tanks, one 550 gal. waste oil tank, configured as follows:
	Station
	o wo
	0 0 0
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02-10-87	Fire Dept. records show third set of tanks installed by Diablo Petroleum, Inc.

07-30-87

Mildred O. Long died

DATE		EVENT
08-26-87		Probate opened for estate of Mildred Long in Alameda County Superior Court, case no. 231805-50
03-10-88		Fire Dept. record showing business as Kubo's Service Station - underground tank and piping inspection, Bert Kubo as owner
03-30-88		Aerial photographs available
05-03-88		Aerial photographs available
05-03-88		Final decree entered in Calleri bankruptcy proceeding
09-22-88		Letter from Shell Oil Co. to Fire Dept. Re MSDS levels
06-13-90	CONVEYANCE KUBO TO MOHAMMADIAN	Deed from Bert Kubo to Mehdi and Fereshteh Mohammadian, recorded as Instrument No. 90-161469
07-26-90		Aerial photographs available
10-12-90		Fire Dept. records show inspection of Linda Shell Station, owner Mohammadian, violations noted
01-24-91		Gerald Schulte appointed administer of Long estates, represented by Ray Sherman & Robert Peacock, Sherman & Feller in Oakland, CA
02-04-91		Calleri bankruptcy reopened for lien avoidance
05-22-91		Fire Dept. records show letter from Pamela J. Evans of Alameda County Health Care Services Agency to Mohammadian forwarding five (5) year UST operating permit
04-20-92		Aerial photographs available
04-29-92		Petition filed for discovery in Arbitration between Mohammadian and Kubo re rescission of contract
12-04-92	REPORT #2	Refinancing, environmental report by Groundwater Technology, Inc.

DATE		<u>EVENT</u>
01-14-93		Cover letter from Groundwater Technology, Inc. to County
04-05-93		County's Notice of Requirement to Reimburse
08-23-93	NEIGHBOR'S REPORT	Environmental report by Geotechnical Consultants, Inc. for neighbor, Don Callahan
11-18-93		County notifies Mohammadian that neighboring property owned by Don Callahan (15563 Washington Avenue) has been tested and that contamination discovered along border with 15595 Washington Avenue
02-17-94		Final discharge of Gerald Schulte as administrator in Mildred Long estate
03-22-94		Inventory & Appraisement in Long estate showing assets of \$509,252.47+
03-24-94	REPORT #3	Environmental report by Blaine Tech Services, Inc. done at Texaco's expense
09-28-94		Notice of first Pre-Enforcement Review Panel Hearing served on Mohammadian, Kubo and Texaco
10-18-94		Action filed by the Mohammadians against Kubo in Santa Clara Superior Court
10-25-94		First Pre-Enforcement Panel Review Hearing [Attended by: M. Mohammadian, atty Sandra McIntosh, Marvin Katz (Texaco), atty Lisa Kim, B. Kubo, Scott Seery (Haz-Mat), Thomas Peacock (ACDEH), and Gil Jensen (D.A.)]
12-08-94		Petition filed by Kubo to confirm arbitration award in his favor against Mohammadian
02-28-95		Second Pre-Enforcement Panel Review Hearing Set [Attended by: M. Mohammadian, atty Sandra McIntosh, Marvin Katz (Texaco), atty Lisa Kim, B. Kubo, Diane (w/ Kubo), atty Swanson (Calleri), Scott Seery (Haz-Mat), Thomas Peacock (ACDEH), and Gil Jensen (D.A.)]

ENVIRONMENTAL

LAW OFFICE OF MARY J. SWANSON

95 APR -4 AM 8: 22 IOI YGNACIO VALLEY ROAD, SUITE 350

WALNUT CREEK, CALIFORNIA 94596-4095

TELEPHONE (510) 938-3800 FACSIMILE (510) 938-3802

FACSIMILE COVER SHEET

DATE:

MARCH 30, 1995

PAGES: 9

TO:

SCOTT O. SEERY

FIRM:

ALAMEDA COUNTY HEALTH CARE SERVICES

RE:

LINDA SHELL (15595 WASHINGTON AVE., SAN LORENZO)

FAX NO.

(510) 337-9335

LETTER FROM MARY SWANSON TO SCOTT SEERY, DATED 3-30-95 DOCUMENT:

(DRAFT) CHRONOLOGY OF EVENTS

PHONE NO. : 510 9350390

LAW OFFICE OF

MARY J. SWANSON

IOI YGNACIO VALLEY ROAD, SUITE 350
WALNUT CREEK, CALIFORNIA 94596-4095
TELEPHONE (510) 938-3600
FACSIMILE (510) 938-3602

FACSIMILE COVER SHEET

DATE:

MARCH 30, 1995

PAGES: 9

TO:

SCOTT O. SEERY

FIRM:

ALAMEDA COUNTY HEALTH CARE SERVICES

RE:

LINDA SHELL (15595 WASHINGTON AVE., SAN LORENZO)

FAX NO.

(510) 337-9335

DOCUMENT: LETTER FROM MARY SWANSON TO SCOTT SEERY, DATED 3-30-95

(DRAFT) CHRONOLOGY OF EVENTS

ENVIRONMENTAL LAW OFFICE OF PROTECTION MARY J. SWANSON

95 APR -4 AM 8:19 2 GNACIO VALLEY ROAD, SUITE 350 WALNUT GREEK, CALIFORNIA 94596-4095

TELEPHONE (510) 938-3800 FACSIMILE (510) 938-3802

March 30, 1995

BY FACSIMILE

Scott Seery
Hazardous Material Specialist
Alameda County Hazardous
Materials Division
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502

Re: Linda Shell

15595 Washington Avenue San Lorenzo, California

Dear Scott:

The purpose of this letter is to request a short extension of time to submit the Calleris' response to your letter of February 28, 1995 with respect to the above-referenced site.

In the last few days, I have received a "stack" of paperwork from my client and others which I would like to assimilate before I finalize my clients' response to you. I am also trying to obtain an address for the last operator of the service station before the Calleris' lost the property in foreclosure, but am not having a particularly easy time doing so.

I spoke to John Pomba, the person I thought was operating the station, earlier this week, and he informed me that the only business he was involved with at the station was selling tires. However, he suggested a few different people I might try to talk to concerning the pump operations.

Since you mentioned last week when we talked that you did not have a problem with my taking a bit more time to respond to your letter, I am hoping that a short extension will not be a problem. I tried to call you earlier today, but discovered that you were out for the day. I then called Gil Jensen and he said that he did not have a problem with a brief extension, and that I could certainly wait until tomorrow to send my response to you, but that it was ultimately up to you whether I could have any additional time. Mr. Jensen suggested that I fax you a request for

Scott O. Seery March 30, 1995 Page 2

an extension today and follow up with a telephone call on Friday, which I will do.

As a showing of "good faith", I am enclosing a copy of my current Chronology of Events (subject to change based on the discovery of new information). I assure you that both my client and I have been working diligently to respond to your February 28th letter and are as anxious as you to move this matter along.

I really appreciate your cooperation.

Very truly yours,

Mary J. Swanson

MJS:1b Enclosure TREPEL & CLARK

A PROFESSIONAL ASSOCIATION

ANTHONY J. TREPEL DANIEL CLARK SANDRA R. MCINTOSH

FIFTY WEST SAN FERNANDO STREET
THIRTEENTH FLOOR
SAN JOSE, CALIFORNIA 95113

TELEPHONE
(408) 275-0501
FACSIMILE
(408) 293-3369

March 29, 1995

Scott O. Seery, CHMM Senior Hazardous Materials Specialist Alameda County Health Care Services 1131 Harbor Bay Parkway, Room 250 Alameda, CA 94502-6577

Re: Linda Shell, 15595 Washington Avenue, San Lorenzo, CA

Dear Mr. Seery:

At the February 28, 1995 review panel hearing, you requested that the "as-builts" be provided to you within 15 days of the hearing. Mr. Mohammadian has made numerous efforts to obtain these drawings in the past, but has been unable to do so since he is not the person who had them installed. Mr. Kubo promised at that February 28, 1995 meeting that he would personally obtain the as-builts.

I spoke with Mr. Kubo on March 8, 1995, and he indicated that he had contacted the general contractor who performed the installation and agreed to prepare as-builts for the site as apparently they had never been prepared. He also stated that he had spoken with you about this and obtained your approval for this.

I spoke with Mrs. Kubo on March 10, 1995, and she assured me that the as-builts, along with tests and photographs, would be provided to you by March 14, 1995.

I now understand that the drawings and other documents provided by Mr. Kubo are not "as-builts" and may not even reflect work done on this Property. This is a great concern to Mr. Mohammadian. We request that if any costs are to be incurred in obtaining "as-builts", that Mr. Kubo be ordered to pay those costs. Mr. Kubo can then pass those costs on to the general contractor who should have prepared the as-builts at the time of installation. Mr. Mohammadian should not be responsible for such costs.

I also understand that two employees from the County Health Care Services Agency visited the Property this past week. We are willing to cooperate and make available to you any records or other information required which is in our possession. Scott O. Seery, CHMM March 29, 1995 Page 2

As a "house-keeping" note, I have not received Ms. Swanson's chronology at this time. I assume that we will have two weeks after receipt to comment upon it.

Please feel free to contact me if you have any questions.

Very truly yours,

Sandra R. McIntosh

Sandra R Mashtrak

SRM:1t

cc: Mr. Mohammadian

LTR\MOH-SEER.329

RAFAT A. SHAHID, Director Department of Environmental Health 1131 Harbor Bay Parkway, Room 250 Alameda, CA 94502-6577 (510) 567-6700

STID 1360

March 27, 1995

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524

Subject:

Compliance with requirements of the Five Year permit for the operation of

the four (4) underground storage tanks at 15595 Washington Avenue, San

Lorenzo, CA, 94580.

Reference:

Notice of Violation letter of March 21, 1995.

Dear Mr. Mohammadian:

Today it came to my attention that the overfill protection system is not mandatory for the tanks at the above site until December 22, 1998. All underground storage tanks must be upgraded by that date. (Note: The waste oil tank may be excluded from this upgrade if it meets specified criteria.) {Title 23, section 2665, version effective May 5, 1994} According to the August 13, 1985 version of the California Code of Regulations, Title 23, which was in effect at the time of the installation of the tanks at the above address, an overfill protection system requirement was waived provided the tanks had a spill container around each of the fill pipes and that the tanks were filled in one of the following ways: {Title 23, section 2635(b)(9)(A, or B, or C)}

(A) Both the fluid level is visually monitored and the filling operation is controlled by the facility operator during filling of the underground storage tank;

[note: this would apply to the waste oil tank]

-OR-

(B) The available capacity of the underground storage tank to be filled is

March 27, 1995 STID 1360

determined immediately prior to filling to be at least 103 percent of the volume of the entire tank compartment to be delivered or the volume of the entire tank compartment to be delivered plus 200 gallons, whichever is less, as determined by underground storage tank gauging;

[note: this requires having tank charts which allow you to convert the stick readings to gallons.]

-OR-

(C) The hazardous substance being delivered can be metered into the underground storage tank and the available underground storage tank capacity is determined immediately prior to filling.

[note: this also requires having tank charts which allow you to convert the stick readings to gallons.]

Please call me at 510-567-6734 if you have questions or need assistance.

Sincerely.

Don Atkinson-Adams

Sr. Registered Environmental

Health Specialist #5485

cc: -Gil Jensen, Alameda County District Attorney,
Environmental and Consumer Affairs

-Scott Seery, Local Oversight Program

-Ariu Levi, Chief, Environmental Protection

-Lisa Kim Texaco, Inc. 10 Universal City Plaza, 13th floor Universal City, CA 91608-1006

-Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605 -Robert Weston, Environmental Protection

-Bill Raynolds, Area Manager, East Team

-Bertram Kubo 5772 Sellars Avenue Oakley, CA 94561

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ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY DEPARTMENT OF ENVIRONMENTAL HEALTH ENVIRONMENTAL PROTECTION DIVISION

EAST GROUP

-- MEMORANDUM--

DATE:

March 27, 1995

TO:

Rob Weston, Scott Seery

FROM:

Don Atkinson-Adams / 11- 4

SUBJECT:

Linda Shell, 15595 Washington Avenue, San Lorenzo, 94580

I had a long conversation with Bert Kubo this morning about his copy of the March 21 letter to the owner of Linda Shell. Mr. Kubo is attempting to get:

1 As built drawings.

- 2 Confirmation of strike plates (through the tank supplier who will ask the tank manufacturer).
- Confirmation of his belief that the Pollulert system is hooked up to the annular space of the piping (through the tank installer).

We discussed at great detail the legal requirements of many parts of the letter and I told him that today was my first look at the 1987 regulations which were governing the installation of the tanks. Since the 1987 regulations appear to require a mandatory exemption (for motor vehicle fuel containing tanks) from the requirement to install an overfill prevention system (which was #14 in my letter to Mr. Mohammadian) I told Mr. Kubo that I would notify Mr. Mohammadian that #14 in my letter would not be required of him at this time. {refer to the August 13, 1985 version of Title 23, section 2635(b)(8 and 9) {I read the regulation under subdivision (9) to say either (A), (B), or (C).}

Mr. Kubo also thought that he saw a thick volume on Pollulert in our office when he came by (for the pre-enforcement hearing?).

I also told Mr. Kubo that it is my belief that the secondary around the piping should be running to a collection sump but that I had not yet made a final determination of that point so I had not put that in the March 21 letter.

Mr. Kubo stated that the unidentified structure which we saw beside the Red Jacket pump is a Healey Vapor Return Pump. The system was designed to return all of the vapors to the "regular" gas tank since some of the vapors would have been from leaded and from unleaded and they did not want any contamination of the unleaded fuel from the leaded vapors.

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RAFAT A. SHAHID. Assistant Agency Director

RAFAT A. SHAHID, Director Department of Environmental Health 1131 Harbor Bay Parkway, Room 250 Alameda, CA 94502-6577 (510) 567-6700

STID 1360

March 21, 1995

Mehdi Mohammadian, Owner Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

Certified Letter: Z 196 176 837

Dan Kirk Shell Oil P.O.Box 4023 Concord, CA 94524 Certified Letter: Z 196 176 838

NOTICE OF VIOLATION

Subject:

Compliance with requirements of the Five Year permit for the operation of the four (4) underground storage tanks at 15595 Washington Avenue, San Lorenzo, CA, 94580.

Dear Mr. Mohammadian:

On March 20, 1995, Rob Weston and I made an inspection of your facility to determine if you are operating your underground storage tanks (UST) in compliance with the requirements of your five year permit. We observed a number of deficiencies which must be corrected within the 30 day limit specified on your copy of the inspection report. A more complete description of the problems and the required corrections follows:

When we arrived at your station at 1:00 pm you showed us the Pollulert panel in your office. The Pollulert panel controls the electronic monitoring system and displays its status. The control panel does not indicate which of the four tanks has set off the alarm. All of the lights on the panel were activated including the light which indicates the presence of water on one of the four probes. When Mr. Weston examined the panel he found that the audible alarm had been bypassed using the deactivation button on the front of the panel. You stated that whenever it rains the water light flashes and that the flashing stops once the rains stop. When questioned, you stated that you only had some oral instruction from the previous owner (Mr. Kubo) that the alarm would be loud and very noisy if there was a problem. You informed us that you were not aware of any service to the alarm system since your purchase of the station from Mr. Kubo. We then went outside to inspect the four UST systems (tanks and piping) at this site.

During our survey of the three UST systems containing motor vehicle fuel we saw at each tank:

- A large, square plate which is above the submersible pump.
 - We opened one of the plates nearest the office (mid-grade fuel) and saw what appeared to be the top of a Red Jacket pump and leak detector system for the piping. You stated that the leak detector has not been serviced since you purchased the station.
 - The visible piping was steel and had no visible double containment.
 - There is no containment sump around the pump nor any leak detector in the sump
 - Beside the Red Jacket pump was another device which we were not familiar with and could find no explanation for. This device is connected to what appears to be product conveyance or vapor return piping. Please explain what this 12" diameter device is.
 - There is a plywood structure which keeps some of the pea gravel from filling in around the Red Jacket pump. The pea gravel was all the way up to the bottom of the piping, and we could not see to the surface of the tank.
- A round metal plate near the fill tube cover. This plate covers the Phase II vapor recovery connection to the tank.

Observations of structures common to all four USTs

- A colored, round metal plate which covers the fill tube for the tank. Under the plate is a fill tube with a spill bucket around it. There is what appears to be a release button which (when pushed) would allow any fluid to flow back into the tank. (Note: the waste oil tank did not have this release button).
 - Two of the three spill containers (for the fuel tanks) had standing water and the third appeared to be dry. The blue colored plate (for the mid grade fuel tank) was broken and had allowed the container below to partially fill with rain water. The broken blue cover needs to be replaced. When questioned, you stated that the water was bailed out of the spill containers and allowed to flow to the storm drain. PLACE ANY WATER FROM THE SPILL CONTAINER IN A STORAGE CONTAINER AND DISPOSE OF

IT PROPERLY. The spill container around the waste oil fill tube was partially filled with waste oil. You stated that this would be dipped out of the container and poured into the waste oil tank. Empty this container before any waste oil is poured into the tank because you need the full capacity of the spill container to contain any spillage.

- We looked down the fill tubes into the tanks and could see no evidence of any mechanical overfill prevention system.
- A round metal plate near the southern end of each tank. This plate covers the pipe containing the Pollulert probe. According to our files each of the four tanks has a Pollulert probe in the annular space between the inner and the outer walls of the reported fiberglass tanks. The top of the tube leading to the tank is covered with a testing cap. There is a button to push and three lights. When the button is pushed one of the lights should come on to indicate the status of the probe in that specific tank. One light is for water, one for hydrocarbon and one for "dry". Without the operating manual for the Pollulert it is unclear if the probe tester above each tank would allow the station operator to identify which tank is at fault when the Pollulert panel is in alarm status. When we pushed the test button on each of the four probes, only one of the units functioned (it lit up the "dry" light). The other three probe testers did not activate any of the lights. We do not know if the system has ever been serviced or checked since it was installed in early 1987 so it is reasonable to conclude that the system is probably not functioning properly.

We then examined the dispensers at the four pump islands. Some of the dispensers were not functioning (broken nozzles, missing vapor boot, broken or leaking hose). We had you remove the side panel for three of the four dispenser islands so we could look at the piping. Several of the delivery lines to the bottom of the dispensers were discolored and/or damp as though the joints above the shear valves were leaking. All leaking delivery lines must be serviced and repaired. Since there are no spill pans below the dispensers any leakage from the dispenser piping (or leakage from maintenance of the filters) will spill directly into the pea gravel below the dispenser.

Based on our observations the underground storage tanks at 15595 Washington Avenue, San Lorenzo are not being operated under the conditions of the five year permit and are in violation of Title 23 of the California Code of Regulations, among other laws and regulations, as follows.

• sec. 2630(d) The monitoring of the tanks and piping must be done according to the law. The monitoring system must be maintained and serviced by

a certified technician on an annual basis. Written records must be kept as specified in sec. 2712.

- sec. 2632(c)(2)(A and B) Continuous monitoring of the interstitial space of the tank is required, and the monitoring system must be connected to an audible and visual alarm.
- <u>sec. 2632(d)</u> A written monitoring plan and a written spill response plan is required and must be accepted by this office.
- <u>sec. 2636(c)</u> The secondary containment for the piping must be sloped so all releases flow to a containment sump.
- <u>sec. 2636(f)(1)</u> The secondary containment system for the piping must be continuously monitored.
- sec. 2636(f)(4) The piping must be pressure tested annually.

You have until April 21, 1995 to bring the facility into compliance by completing the following items. {sec. 2712(f)}

You must do the following to meet the conditions of the permit: (sec. 2711, 2712, and 2630)

- Form A- fill out and return an ammended copy. {sec. 2711(b)}
- Form B- fill out and return an ammended copy for each of the four tanks and return. {sec. 2711(b)}
- Provide us with "as built" engineering drawings for the station. (The drawings that were given to us on behalf of Mr. Kubo do not correspond with photos of the construction site nor with our field observations. Thus the drawings are inaccurate and inadequate.) {sec. 2711 (a)(8)}
- 4 Consolidated Tank Management Plan- fill out and return a copy of the plan. Keep a copy on site. {sec. 2711(a)(9), and sec. 2712}
- Financial responsibility- Complete and return a copy of this information (at the end of the consolidated tank management plan). {sec. 2711(a)(11)}

- Service and repair the Pollulert leak detection system for the tanks. Send a copy of the servicing report to this office. (This must be serviced annually or in accordance with the manufacturer's instructions.) {sec. 2630(d), and sec. 2632(d)(1)(F)}
- Obtain a written operating manual for the Pollulert system (include training requirements for the leak detection systems in #4 above). {sec. 2632(d)(1)(F), and sec. 2630(d)}
- Service and repair the Red Jacket leak detection systems for the product delivery lines. Send a copy of the servicing report to this office. (These must be serviced annually.) {sec. 2636(f)(2), sec. 2643(c)(1 and 3), and sec. 2630(d)}
- Pressure test the product delivery lines and send a copy of the test results to this office. This must be done annually. {sec. 2636(f)(4)}
- Repair the apparently leaking delivery lines below each of the dispensers. {sec. 2712(j)}
- Replace the cast iron cover for the (blue) mid-grade fuel delivery tube.
- Provide proof that there are striker plates below the fill tube of each of the tanks. {sec. 2631(c)}
- Install an overfill prevention system on the three fuel tanks which can not be manually overridden. {sec. 2635(b)(2)}
- Install a continuous monitoring system on the piping's secondary containment system. $\{sec. 2636(f)(1)\}$

Please note that any structural modifications to the tanks or the piping must be approved by this office in advance of the work. Please call me at 510-567-6734 if you have questions or need assistance.

Sincerely,

Don Atkinson-Adams

Sr. Registered Environmental

Health Specialist #5485

Enclosure

- cc: -Gil Jensen, Alameda County District Attorney, Environmental and Consumer Affairs
 - -Scott Seery, Local Oversight Program
 - -Robert Weston, Environmental Protection
 - -Bill Raynolds, Area Manager, East Team
 - -Gordon Coleman, Chief, Environmental Protection
 - -Lisa Kim Texaco, Inc. 10 Universal City Plaza, 13th floor Universal City, CA 91608-1006
 - -Bertram Kubo 5772 Sellan About Oakley, CA
 - -Jessen and Apple deleri 1901 Cliffland Apple Oakland, CA: 3466

A:\Lind.shl

ENVIRONMENTAL PROTECTION 95 MAR 14 PM 2: 33 Mr. South Sini Ala County Health Dear Mr. Siri -

March 10, 1945

of Kubo Shell where Diablo Petroleum installed 3 double walled feberglass tanks and lines in Let. 1987.

Sorry I could only reach your recorded voice when I called you at 3:00 P.M. today. As soon as I hear from you with your business address, I will put this in the mail

I am also enclosing a ghoto of the site-taken in Leb. 87, and a transportency of the job in progress - also taken in Leb. 87.

Sincerely,

Dich Jakey

PRODUCT LINES REST ROOMS A WASHINGTON SERVICE BAYS 9 0 00 00 00 a vents NORTH VIA ENRICO

KUBO SHELL , SAN LORENZO, 2-26-87 NTS

07-489

Linda Shell 15595 Washington San Lovenzo, CA

Kubo 2/87

(photo from installer?)
- Dick Faher.



23 15595 Washington San Lovenzo



KUBO 2/87



KUBO'S RACING STABLES

5772 Sellers Avenue Oakley, CA 94561 (415) 625-5191

3-3-95

Dear Scott,

As per your requests in your letter dated Feb 28, 1995.

Please find enclosed copies in reference to pavagraph

two under your 1st request due in 15 days.

It these documents are not sufficient, please

notify me immediately!

from biable letroleum, but an encountering problems as

Now. Church D'Commer who purchased brable retroleum

Now. Church D'Commer who purchased brable retroleum

from Mr. bick Fadey tells are these drawings were

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not required by your department back in 1987,

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as if they were required, the Health Department

would not have placed them stamp of approval

would not have placed them stamp of approval

on the 'Plot-Mam" that was submitted back at

the time. However, I am attensiting to locate Mr.

the time. However, I am attensiting to locate Mr.

Takey to see about resolving this matter.



345 COMMERCIAL STREET SAN JOSE, CALIFORNIA 95112 TELEPHONE (408) 998-8205

QUOTATION

	тс	Mr.	Bert Kubo	December	21 1000
H		149	94 East 14th	DATE	31, 1900
		SCHOOL STATES	Leandro, Ca. 94578		
				PAGE 1 OF 4 PAG	#S
	ATTN	Ben	Kubo	WHEN REPLYING	REFER TO
	BJECT	San	Lorenzo Site		
				4753	
96	NTLEM	ENG		Addend	um
Yes	STATE OF THE PARTY	ANTITY	OUR INQUIRY, WE ARE PLEASED TO SUBMIT THIS PROPOSAL FOR YOUR CONSIDER	RATION	
11	1000000	each	Century Yarvas 30 000 mall of 31	PRICEPERUNIT	AMOUNT
Ħ			Century Xerxes 10,000 gallon x 3' diameter	\$ 9,365.00 ea	\$28,095.00
			manways and (3) 4" NPT fittings on each		
			manway cover.		
				DOUBLE HAVE BEEN	
·			Optional: Hold-down straps are \$150.00 per		
			Spranter. Hold-down straps are \$150.00 per	tank	450.00
2)	1	each	Century Xerxes 550 gallon x 4' diameter		
				2,457.00 ea	2,457.00
			manway and (3) 4" NPT fittings on manway		
			Cover.		
		STATE OF			
	BILLIA		Optional: Hold-down straps are \$60.00 per ta		
			sown straps are 560.00 per ta	ink	60.00
3)	1	each	Freight to Alameda county for above (4)		
	10000		tanks.	1,422.00	1,422.00
y I	1	each	Pollulert model FD102 electronic panel, with		
	Pili i		audible alarm to detect hydrocarbons or	2,915.00	2,915.00
Ħ					
		10 mm	water, with (4) model FD210 tank probes for the annular space.		
	Op	an	Pollydert conduit - th		1000
	T DO		Pollulert conduit cable is \$.65/ft.		
			PRICES QUOTED DO NOT INCLUDE APPLICABLE TAXES	400	
THE PERSON	TERMS	APPROPRIEST STATE	30 days	TITAN RUBBER	
200	1660,0113	Ry 2 We	在数据上推出转换 对比较过度,这种的现在,他们的时候一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个		
	0.6.	Pol	CS: as stated above		
95		回答等	Lulert FOB San Jose, Ca. THIS GUOTATION VALID FOR DAYS FROM DATE OF	QUPTATION.	



346 COMMERCIAL STREET SAN JOSE, CALIFORNIA 95112 TELEPHONE (408) 998-**820**5

QUOTATION

	то	Mr. Bert Kubo	DATE December 3	1, 1986
			PAGE 2 OF 4 PAGE	s
			WHEN REPLYING R	EFER TO
SUB	JECT		4753 Addendum	
ITEM	QUANTITY	UR INQUIRY. WE ARE PLEASED TO SUBMIT THIS PROPOSAL FOR YOUR CONSID	PHICE PER UNIT	AMOUNT
		continued		
5)	4 each	Pomeco model 110-16 16" manholes	\$ 52.00 eas	208.00
		Standard Tank Trim Package:		
1)	4 each	OPW 636TT 4" cap and adapter	44.14 ea	176.56
2)	4 each	OPW 61T 4" x 12' drop tube gapacity	45.10 ea	180.40
[3]	4 each	Pomeco 111 overspill containment manhole	149.00 ea	596.00
4)	3 each	OPW 1611AV 3" x 4" vapor recovery adapter	49.73 ea	149.19
5)	3 each	OPW 1711T 3" vapor recovery cap	17.21 ea	51.63
6)	4 each	OPW 23 2" tank vent	7,50 ea	30.00
7)	4 each	Hardwood gauge stick	16,95 ea	67.80
8)	3 each	OPW 233SDL 2" extractor vent valve	91.68 ea	275.04
9)	3 each	OPW 116 4" cap	18.05 ea	54.15
.0)	3 each	Pomeco 110-12 12" manhole	33.00 ea	99.00
1)	12 each	OPW 10RM 1 1/2" impact valve	44.82 ea	537.84
		Submersible Pumps:		
1)	3 each	Red Jacket model P75S1 3/4 HP remote pump	578.00 ea	1,734.00
2)	3 each	Red Jacket model 116-017 leak detector	119.00 ea	357.00
		(for 3/4 HP pump)		
3)	3 each	Red Jacket model 880-029 control box	64.00 ea	192.00
4)	3 each	Pomeco 30" square manhole	128.00 ea	384.00
20.1				
		PRICES QUOTED DO NOT INCLUDE APPLICABLE TAXE		
Т	FHM2:	t 30 days - 3 weeks	TITAN RUBNER	

THIS QUETATION VALUE FOR

DAYS FROM DATE OF QUOTATION



345 COMMERCIAL STET SAN JOSE, CALIFORNIA 95112 TELEPHONE (408) 998-8205

QUOTATION

то	Mr. Bert Kubo	Date December 31, 1986
		PAGE 3 OF 4 PAGES
	To the state of th	WHEN REPLYING REFER TO
ATTN		MILITALE, ING SELEK 10
SUBJECT		
		4753
GENTLEMEN		Addendum
THANK YOU FOR Y	OUR INQUIRY, WE ARE PLEASED TO SUBMIT THIS PROPOSAL FOR YOUR CONSIDE	
	3,25 2,10 213 2417 1104	PRICE PER UNIT AMOUNT
BURNES E	Alternate	
1) 4 each		212 22 22 22
1) 4 each	200 000 000 000 000 000 000 000 000 000	\$12,361.00 ea \$49,444.0
	grade dispenser, three product, six hose	
	remote, lighted, self-serve, equipped with	
	battery back-up, prepay/post pay operation,	
	and stand-alone capability. Also included	
	are internal spin-on filters, and the Healy	
	vapor recovery system.**	
	**Please note:	
	Prices are based on the quantity of (4)	
	dispensers, and the copper tubing is not	
	included. The installation of the Healy	
	system is also not included in the above	
	price.	
	<u> </u>	
	 	
	PRICES QUOTED DO NOT INCLUDE APPLICABLE TAXES	
TERMS:		FITAN RUBBER
DELIVERY		mercal amplified from contra
F.O.8.		
	THIS QUOTATION VALID FOR DAYS FROM DATE O	F QUOTATION





345 COMMERCIAL STREET SAN JOSE, CALIFORNIA 95112 TELEPHONE (408) 998-8205

QUOTATION

	7	ro	Mr. Bert Kubo	DATE Decembe:	r 31, 1986
		1-		PAGE 4 OF 4 PA	GES
		1		WHEN REPLYING	REFER TO
SUE	DEC	N		4751 Adder	
THA		VOU FOR YOU	SUR INQUIRY, WE ARE PLEASED TO SUBMIT THIS PROPOSAL FOR YOUR CONSIDER	7	
		g E	THE AND DESCRIPTION	PRICE PER UNIT	AMOUNT
			continued		
2)		l each	Dresser Wayne model D2408 (8 fueling position) console.	\$ 2,677.50 ea	\$ 2,677.5
3)		Leach	Dresser Wayne D1000 cash register	\$ 2,955.00 ea	\$ 2,955.0
			Purchase order accepted by		
			on .		
+					
+					
		T 1			
	4				
4	4	- 1			
Н		9			
		18			
			PRICES QUOTED DO NOT INCLUDE APPLICABLE TAXES	Sub-total	\$95,568.1
	EEN	VÉRY	30 days 10 weeks	TITAN NUEL and supply co.	ER
F	.О.В.	rac	tory, full frt. allowed to destination THIS QUOTATION VALID FOR DAYS FROM DATE OF	Diane Moran	



January 19, 1987

Mr. Bert Kubo 18482 Center St. Castro Valley, CA 94526

Dear Mr. Kubo:

To doubte contain the product lines from the three submersible pumps to the four MPD's will add \$3230.00 to our base price.

If this is acceptable, please indicate by signing below and returning one copy.

Thank you.

Richard H. Fahey

ACCEPTED:

DATE:



January 19, 1987

Mr. Bert Kubo 18482 Center St. Castro Valley, CA 94546

Re: Change No. 2

Dear Mr. Kubo:

In accordance with your telephonic request of today, we have figured the price for adding sixteen 4" x 6' guard posts; four cutouts, each 3 feet wide, in the pump islands; and for moving a pump control switch in the sales room approximately ten feet. The guard posts will have 2' below grade, will be concrete filled, and painted yellow.

Material and labor will be \$2580.00. Please sign below and return one copy if this is acceptable.

Very truly yours.

Richard H. Fahey

ACCEPTED:

DATE:

Mr. Dock Valey KNDOS SCHULL CONTIN Diable Retalent ムオンフェ しゃけんかったい オルカ・ 3930 Marie stud. SIN LOHNE (- 94 80 MYLLAN, 14 94553 124.00 g 12 1/18 # Dear Mr. Fakey The Marine O Victor ANDER / 12th additional cost of \$ 1202 all be adjuded in addition The Ma proposal dated January Chers & Att Cha accepted at Their Asyxettic Defes. In surrounting, our agreement per my words timber is as fellows: Base Janic 12 45 \$44 12 # 1 20 - - Toller let summer Attende # 1 # 2 180 14 - Grand Mist. I tout out out, without John 19 proposal - worther water and product bes Jan 19 A1 20121 early as possible from one only me of property starting date. Thene you Sugar, Fred

ro.	II Bert Kuto	
	18482 Center St.	
	Castro Valley, CA	94546

Title.



GENERAL ENGINEERING CONTRACTORS LIC. NO. 306351 3930 PACHECO BLVD MARTINEZ, CA 94553 (415) 228-2222

DESIGN	
We propose to furnish labor and materials as follows:	TANK & PD OF INSTALLATION 15595 Washington Ave. Sen Lotense
1. Pipe and pipe fittings for product 11 lines, and for menually monitories of	nish, fill, went, and vapor recovery maker space of transmit.
1. Per gravel for backfill under, around trenches.	, and over cause to sobgrade and for
1. Concrete for a 30'. x 30' x 6" slab out teat.	er tanks and for extending pump
4. tabor for excavacion; secring chale; pouring congrete; and electrical.	brokfilling; plumbing; forming and
5. Permits for Fire Marshall: BAAOMD; and agencies are included and if required	Health Dept. No other accessate will be responsibility of others.
. Three 10,000 and one 350 ferris plant textster, 4 dispensers, 1 Healy VI System texts 4753 of 11/6/86 and 11/18/86 and the others.	I HER TRUE CLIMING LATERA PARALLE MANUEL
No resting of soil, removal of contact to the proposal.	inuited soil, nor nolkdown levice and
Alternate No. 1 - Taken La Follo ert Horothero). \$1720.00 Atternate No. 2 - Provide and Intellation three fuel traks:	Storing asscent (to be surplied by Sher trenc) for product and VI lines 12,670.00.
3 - 32302 mille without piet	ded 1 3 5 Me 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
This proposal is subject to conditions found on both sides of th Our price is:	is agreement.
Porty Eight Thousand Five Mundred Forty-I	tve and no/10 dollars (\$ 46,545.00)
Payment to be made as follows. 33 1/3% on day work	bugins; 33 1/3% on day subscraible pump
are placed in tanks; balance when system	to ready for startup.
ACCEPTED. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.	Respectfully submitted, DIABLO PETROLEUM, INC.
Date of Acceptance 177-87 Sectable to myself-	Note: This proposal may be withdrawn by us if not accepted within days.

Work will begin within _____ working days of acceptance subject to materials availability.

TIVAN KUBBS

345 COMMERCIAL STREET SAN JOSE, CALIFORNIA 95112 TELEPHONE (408) 998-8205 2190 ENTERPRISE BLVD WEST SACRAMENTO, CA 95691 TELEPHONE (916) 371-3271

Mr. Bert Kubo 14994 East 14th San Leandro, CA 94578

Attn: Bert Kubo

SUBJECT San Lorenzo site

LUUTATION

4753

DATE 11-18-86

PAGE 1 OF 3 PAGES

WHEN REPLYING REFER TO

4753

THANK YOU FOR YOUR INQUIRY, WE ARE PLEASED TO SUBMIT THIS PROPOSAL FOR YOUR CONSIDERATION.

REFERENCE	QUANTITY	SIZE AND DESCRIPTION	PRICE PER UNIT	AMOUNT
1	3 ea	Option 1: Century Xerxes 10,000 gallon x 8' diameter double wall fiberglass tank, with (2) 22" manways and (3) 4" NPT fittings on each manway cover.		
2	1 ea	Optional: Hold-down straps are \$150.00 per tank Century Xerxes 550 gallon x 4' diameter double wall fiberglass tank, with (1) 22" manway and (3) 4" NPT fittings on manway cover.		
3	l ea	Optional: Hold-down straps are \$60.00 per tank Freight to Alameda County for above (4) tanks.		

Jane Barre	Bert Rul	0	
and a			
/			
ATTN			
JECT			

November 6, 1986 DATE_

PRICE PER UNIT

WHEN REPLYING REFER TO 4753

AMOUNT

M QUANTITY	SIZE AND DESCRIPTION
	Alternate
4 each	Dresser Wayne model DLI/390-1L/19G multi-
	grade dispenser, three product, six hose
	remote, lighted, self-serve, equipped with bettery back-up, prepay/post pay operation,
TEM ST	and stand-alone capability. Also included
	are internal spin-on filters, and the Healy
	vapor recovery system. **
	**Please note:
	Prices are based on the quantity of (4)
	dispensers, and the copper tubing is not
	included. The installation of the Healy
	system is also not included in the above price.
) l each	Dresser Wayne model D2408 (8 fueling
	position) console.
) 1 each	Dresser Wayne D1000 cash register.

2190 ENTERPRISE BLVD. WEST SACRAMENTO, CA 95691 TELEPHONE 19161 371-8271 4753

DATE 11-18-86

PAGE 3 OF 3 PAGES

WHEN REPLYING REFER TO

4753

TO: Mr. Bert Kubo

SUBJECT: San Lorenzo site

THANK YOU FOR YOUR INQUIRY, WE ARE PLEASED TO SUBMIT THIS PROPOSAL FOR YOUR CONSIDERATION.

REFERENCE	QUANTITY	SIZE AND DESCRIPTION	PRICE PER UNIT	AMOUNT
1 2 3 4 5 6 7 8 9 10	3 ea 3 ea 3 ea 3 ea 3 ea 3 ea 3 ea 3 ea	Pomeco 110-12 12" manhole OPW10RM impact valve		
1 2 3 4	3 ea 3 ea 3 ea 3 ea	Red Jacket model P75SI 3/4 hp remote pump Red Jacket model 116-017 leak detector (for a 3/4 hp pump) Red Jacket model 880-029 control box Red Jacket model 151-026 24"x24" manhole		
3	1 Page 11 12 To 1 12 T	pad Jacket model 880-029 control box		

Lunda Shap

PERP 2/28/95

Mary Swanson -

- 1) previous UST locations different Than Present locations
- 2 Texaco aequired site in 1983

Gulf (64-69 1st set of USTS Gulf (Calleri) (?) 9/69-12/86(?) 2nd " of USTS Kubo 2/87- 3nd set installed

- 3 Paller i prochased in 8/74; distributed Texaco product only (194-83) (may have learned to another individual; bank reptay finalishin 1958)
- (4) Texaco removed 2nd set of USTS ~12/86 USTS hadn't aperated since ~1983
- (5) "As-builts" still not presented
- 6 Stanley + Mildred Cong (decreased) Mus. Long's estate still again (Cong's did not file bankruptey) 1979 deeded property to Calleris
- Meds: O Chromology (Swanson) @ UST closure report @ 'as-builts" 15 builts operations of site (last) during Calleri's fenure @ welationship between Taxaco and Calleri and leaser (Jealer, distributor, etc.) definitions

Luda Shell options (for Many Swanson)

0	Co	n timue	w	1/24	PERP	and	allow	Calleris
					a win			
		• •		-OR			,	

allow atty to get other parties to entire "consent to the continuance" until The

RP

Atte

Bert Kubo 209-625-5191

Mahdi Mahammadian

Sandra Mc Intosh 408-275-0501

Texaco

<u>Lisa Kim</u> 818-505-3059

Calleri

Mary Swanson 938-3800

RAFAT A. SHAHID, Assistant Agency Director

STID 1360

Alameda County Environmental Protection Division 1131 Harbor Bay Parkway, Room 250 Alameda CA 94502-6577

February 28, 1995

Mahdi Mohammadian LINDA SHELL 15595 Washington Avenue San Lorenzo, CA 94580

Lisa Kim TEXACO, INC. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605

LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO, ALAMEDA RE: COUNTY, CALIFORNIA

Dear Ms. Kim and Calleri and Messrs. Mohammadian and Kubo:

Today a reset Pre-Enforcement Review Panel (PERP) convened during which environmental, responsible party (RP) and current underground storage tank (UST) specification issues were discussed. RP and UST issues remain unresolved.

The Review Panel have requested that the parties submit additional information, as follows:

1) within *15 days* -

- o "As-built" engineering drawing packet depicting the present UST system configuration and locations of all system appurtenances
- o All equipment cutsheets for: USTs and piping; secondary containment (if applicable); sumps, overfill and overspill protection; pumps; system monitoring equipment, including sensors, panels, etc., and their locations.

Ms. Kim and Calleri and Messrs. Mohammadian and Kubo RE: 15595 Washington Ave., San Lorenzo February 28, 1995
Page 2 of 2

2) within 30 days -

- o Chronology of site ownership, UST ownership and operation, UST replacement and/or removal, etc.
- o The Calleris' association with the operation and ownership of the site; business arrangement with Texaco Corporation (i.e., distributorship <u>vs.</u> dealership <u>vs.</u> retailer, etc.), among other possible fuel suppliers
- o The last known operator or lessee of the site during Calleris' ownership of the site (if not the Calleris)
- o Discussion with respect to the affiliation of the Longs with the Calleris, status of any resulting estates, dates of tenure, etc.
- o Any legal arguments regarding RP definitions or designations

Please contact this office should you have any questions. I may be reached at 510/567-6783, or -6700.

Sincerely,

Scott O/ Seery, CHMM

Senibr Mazardous Materials Specialist

cc: Rafat A. Shahid, Assistant Agency Director
Gil Jensen, Alameda County District Attorney's Office
John Kaiser, RWQCB

Sandra R. McIntosh, Trepel & Clark
50 West San Fernando, 13th Floor

San Jose, CA 95113

Mary J. Swanson, 101 Ygnacio Valley Rd., Ste. 350 Walnut Creek, CA 94596-4095

FICE PAGE DERP

Alameda County Health Care Services Agency, Department of Environmental Health, Division of Environmental Protection

In Re The Properties Known As:)	Notice of
•)	Pre-Enforcement
)	Review Panel -
Linda Shell)	Reset Further Hearing
15595 Washington Avenue)	
San Lorenzo)	

Notice is hereby given that upon the motion of the Alameda County Environmental Protection Division, and the San Francisco Bay Regional Water Quality Control Board a <u>reset</u> further hearing of the **Review Panel** will convene on <u>February 28, 1995 at 10:00</u> a.m. in the offices of the Alameda County Environmental Protection Division, located at 1131 Harbor Bay Parkway, Room 250, Alameda, CA 94502. This further hearing of the **Review Panel** will reconvene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above locations.

The Alameda County Environmental Protection Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

Mahdi Mohammadian
 LINDA SHELL
 15595 Washington Avenue
 San Lorenzo, CA 94580

3. **Bertram Kubo** 5772 Sellars Avenue Oakley, CA 94561

Lisa Kim
 TEXACO, INC.
 10 Universal City Plaza, 13th Floor
 Universal City, CA 91608-1006

Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605

Dated: February 6, 1995

(signature)

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

As:)	Proof of Service of
)	Notice of Pre-Enforcement
)	Review Panel - Reset Further
	Hearing
)	
)	
)	
	As:)))))

I <u>Scott Seery</u>, do hereby certify that I served <u>Jessen and Agnes Calleri</u>
with a copy of the attached **Notice of Pre-Enforcement Review Panel** further
hearing to convene on <u>February 28, 1995</u> by certified mailer <u>#Z196 176 800</u>.

Dated: 2-4-95

(signature)

Z 196 176 400



Receipt for Certified Mail No Insurance Coverage Provided Do not use for International Mail (See Reverse)

PS Form 3800, March 1993	Sept to Street and No.	s Calleri
0, ME	P.O. State and ZIP Code Oakland, C+	74605
380	Postage	\$
orm	Certified Fee	
PS F	Special Delivery Fee	
	Restricted Delivery Fee	
	Return Receipt Showing to Whom & Date Delivered	
	Return Receipt Showing to Whom, Date, and Addressee's Address	
	TOTAL Postage & Fees	\$
	Postmark or Date	

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Complete items 1 end/or 2 for additional services. Complete items 3, and 4a & b. Print your name and address on the reverse of this form so that return this card to you. Attach this form to the front of the malipiace, or on the back if does not permit. Write "Return Receipt Requested" on the malipiace below the article The Return Receipt will show to whom the article was delivered and elivered.	1. Addressee's Address
3. Article Addressed to:	4a. Article Number Z (96 (76 800
1901 Cliffland Ave.	
Oakland, G+ 94605	7. Date of Delivery
5. Signature (Addressee) (Ames (Luler) 6. Signature (Agent)	8. Addressee's Address 'Only if requested and fee is paid)

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known	As:)	Proof of Service of
•)	Notice of Pre-Enforcement
)	Review Panel - Reset Further
	•	Hearing
Linda Shell)	
15595 Washington Blvd.)	
San Lorenzo)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Bertram Kubo</u> with a copy of the attached Notice of Pre-Enforcement Review Panel further hearing to convene on <u>February 28, 1995</u> by certified mailer <u>#Z196 176 799</u>.

Dated: 2-6-95

(signature)

Z 1.96 1.76 799

Receipt for Certified Mail No Insurance Coverage Provided Do not use for International Mail (See Reverse)

Street and No. 5772 Sellons Ave P.O. State, and ZIP code Baklay, CA 94561	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	-
Return Receipt Showing to Whom & Date Delivered	<u> </u>
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Complete items 1 and/or 2 for additional services. Complete items 3, and 4a & b. Print your name and address on the reverse of this for return this card to you. Attach this form to the front of the mailpiece, or orf the does not permit. Write "Return Receipt Requested" on the mailpiece below The Return Receipt will show to whom the article was dedelivered.	e back if space 1. Addressee's Address
3. Article Addressed to:	4a. Article Number
Bertram Kubo	Z 196 176 789
5772 Sellars Ave	4b. Service Type ☐ Registered ☐ Insured
Oakley, C+ 94561	☐ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for
Diane Kulo	Date of Delivery
5. Signature (Addressee)	Addressee's Address (Only if requester and fee is paid)
6. Signature (Agent)	

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known .	As:)	Proof of Service of
·)	Notice of Pre-Enforcement
)	Review Panel - Reset Further
		Hearing
<u>Linda Shell</u>)	•
15595 Washington Blvd.)	Ŧ
San Lorenzo)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Lisa Kim</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** further hearing to convene on <u>February 28, 1995</u> by certified mailer <u>#Z-196 176 798.</u>

Dated: 2-6-95 (signature)

Z 146 146 349



Receipt for Certified Mail
No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

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10 Universal City P.O., State and ZIP Code 12 Universal City	7/9/608 5 1006
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Special Delivery Fee	
Restricted Delivery Fee	
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Write "Return Receipt Requested" on the mailpiece below The Return Receipt will show to whom the article was deli	
elivered.	Consult postmaster for fee.
3. Article Addressed to: Hg	4a. Article Number
Lisa Kim	Z 196 176 798
	4b. Service Type
Texaco, Inc.	☐ Registered ☐ Insured
10121 137	Z 🙀 🖳 Certified 🔲 COD
10 universal City Plaza, 137 Universal City, G+ 91608-1	Express Mail Return Receipt for
Universal City C+ 9/608- 1	7. Date of Delivery
	S/36-71/23
i. Signature (Addressee)	8. Addressed a coduces (Only if requests
	and fee is paid > 00 / 2 /
Signature (AgA)	
Signature (Agent)	TIS THUS
on colding and	LADY.

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known A	As :)	Proof of Service of
*)	Notice of Pre-Enforcement
)	Review Panel - Reset Further
	Ť	Hearing
Linda Shell)	
15595 Washington Blvd.)	
San Lorenzo)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Mahdi Mohammadian</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** further hearing to convene on <u>February 28, 1995</u> by certified mailer <u>#Z 196 176 797.</u>

Dated: 2-6-95

(signature)

Z 196 176 797



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No Insurance Coverage Provided Do not use for International Mail (See Reverse)

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• Complete items 1 and/or 2 for additional services. • Complete items 3, and 4s & b. • Print your name and address on the reverse of this form so the return this card to you. • Attach this form to the front of the mailpiece, or on the back does not permit. • Write "Return Receipt Requested" on the mailpiece below the article was delivered additional.	if space 1. Addressee's Address
3. Article Addressed to:	4a. Article Number
Mahdi Mohammadian 5575 Westington 500 San Lovenzo, CA 94580	2 /96 /76 777 4b. Service Type ☐ Registered ☐ Insured ☐ COD ☐ Express Mail ☐ Return Receipt for Merchandise
AD	7. Date of Delivery
5. Signature (Agent)	8. Addressee's Address (Only if requested and fee is paid)
F8 Form 3511, December 1991 #U.S. GPO: 1993-352	-714 DOMESTIC DETINE BOOKER

RAFAT A. SHAHID, Assistant Agency Director

STID 1360

Alameda County CC4580 Environmental Protection Division 1131 Harbor Bay Parkway, Room 250 Alameda CA 94502-6577

February 3, 1995

Mahdi Mohammadian LINDA SHELL 15595 Washington Avenue San Lorenzo, CA 94580

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO, ALAMEDA COUNTY, CALIFORNIA

Dear Messrs. Mohammadian and Kubo:

As you are aware, the Pre-Enforcement Review Panel (PERP) scheduled for January 24, 1995 was, at the request of Ms. Mary J. Swanson, attorney for the Calleri's, postponed until February 28, 1995. A revised notice will be forthcoming.

In preparation for this meeting, this office has become aware that the "as-built" drawings depicting the current underground storage tank (UST) configuration have not, to date, been provided to this agency. Section 2635(d)(8) of Title 23, California Code of Regulations (CCR), states "...[t]he actual location and orientation of the [USTs] and appurtenant piping systems shall be indicated on as-built drawings of the facility. Copies of all drawings, photographs, and plans shall be submitted to the local agency."

Pursuant to the cited section of 23CCR, please be prepared to submit a complete set of engineering as-built drawings at the February 28 meeting.

Please contact this office should you have any questions. I may be reached at 510/567-6783, or -6700.

Sincerely

Scott O. Seery, CHMM

Senior Hazardous Materials Specialist

Messrs. Mahammadian and Kubo RE: 15595 Washington Ave. February 3, 1995 Page 2 of 2

🚁 🔐 Takan 📑 🧎 😘 🛇 🙀

Cc: Rafat A. Shahid, Assistant Agency Director
Gil Jensen, Alameda County District Attorney's Office
Rob Weston, ACDEH
Sandra R. McIntosh, Trepel & Clark
50 West San Fernando, 13th Floor
San Jose, CA 95113
Mary J. Swanson, 101 Ygnacio Valley Rd., Ste. 350
Walnut Creek, CA 94596-4095
Lisa Kim, Texaco Inc., 10 Universal City Plaza, 13th Floor

Universal City, CA 91608-1006

LAW OFFICE OF

MARY J. SWANSON

IOI YGNACIO VALLEY ROAD, SUITE 350

WALNUT CREEK, CALIFORNIA 94596-4095

TELEPHONE (510) 938-3800

FACSIMILE (510) 938-3802

January 19, 1995

Scott Seery
Hazardous Material Specialist
Alameda County Hazardous
Materials Division
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502

Re: Linda Shell

15595 Washington Avenue San Lorenzo, California

Dear Scott:

The purpose of this letter is to confirm the continuance of the Alameda County Environmental Protection Division's and the San Francisco Bay Regional Water Quality Control Board's Pre-Enforcement Review Panel hearing with respect to the above-referenced property from 9:00 a.m. on January 24, 1995 to 10:00 a.m. on February 28, 1995.

Pursuant to your original notice, the hearing will be in the offices of the Alameda County Hazardous Materials Division, located at 1131 Harbor Bay Parkway, Room 250, Alameda, CA 94502.

I appreciate your cooperation, and that of the other parties, in granting my clients' request for a short continuance of the hearing for medical reasons. In the long run, I believe that it will make the hearing much more productive for all concerned.

Very truly yours,

Mary J. Swanson

MJS:1b

cc: Mr. & Mrs. Jessen A. Calleri Sandra R. McIntosh, Esq. Bertram Kubo Lisa Kim, Esq. LAW OFFICE OF

Mary J. Swanson

HAZMAT 95 JAN 23 PM 3: 48

IOI YGNACIO VALLEY ROAD, SUITE 350 **
WALNUT CREEK, CALIFORNIA 94596-4095

TELEPHONE (510) 938-3800 FACSIMILE (510) 938-3802

January 19, 1995

Scott Seery
Hazardous Material Specialist
Alameda County Hazardous
Materials Division
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502

Re: Linda Shell

15595 Washington Avenue San Lorenzo, California

Dear Scott:

The purpose of this letter is to confirm the continuance of the Alameda County Environmental Protection Division's and the San Francisco Bay Regional Water Quality Control Board's Pre-Enforcement Review Panel hearing with respect to the above-referenced property from 9:00 a.m. on January 24, 1995 to 10:00 a.m. on February 28, 1995.

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Very truly yours,

Mary J. Swanson

MJS:1b

cc: Mr. & Mrs. Jessen A. Calleri Sandra R. McIntosh, Esq. Bertram Kubo Lisa Kim, Esq.



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MARY J. SWANSON

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IOI YGNACIO VALLEY ROAD, SUITE 350

WALNUT CREEK, CALIFORNIA 94586-4095

TELEPHONE (510) 938-3800 FACSIMILE (510) 938-3802

January 19, 1995

Scott Seery
Hazardous Material Specialist
Alameda County Hazardous
Materials Division
1131 Harbor Bay Parkway, Room 250
Alameda, California 94502

Re:

Linda Shell

15595 Washington Avenue San Lorenzo, California

Dear Scott:

The purpose of this letter is to confirm the continuance of the Alameda County Environmental Protection Division's and the San Francisco Bay Regional Water Quality Control Board's Pre-Enforcement Review Panel hearing with respect to the above-referenced property from 9:00 a.m. on January 24, 1995 to 10:00 a.m. on February 28, 1995.

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I appreciate your cooperation, and that of the other parties, in granting my clients' request for a short continuance of the hearing for medical reasons. In the long run I helican that

LAW OFFICE OF MARY J. SWANSON IOI YGNACIO VALLEY ROAD, SUITE 350 WALNUT CREEK, CALIFORNIA 94596-4095 TELEPHONE (510) 938-3800 FACSIMILE (510) 938-3802 January 11, 1995 Scott Seery Hazardous Material Specialist Alameda County Hazardous Materials Division 1131 Harbor Bay Parkway Room 250 Alameda, California 94502 Linda Shell Re: 15595 Washington Avenue San Lorenzo, California Dear Scott: To follow up on our telephone conversation on January 3, 1995, I would like to formally request, on behalf of Jessen and Agnes Calleri, that the Pre-Enforcement Review Panel hearing with respect to the above-referenced property to continued for a period of at least thirty (30) days As we previously discussed, the reason for the Calleris' request is that Mr. Calleri was recently involved in a serious car accident and he is physically unable to attend the hearing, despite his desire to do so. Since he is the person with the most knowledge about the events surrounding his ownership and loss of the property, I believe his attendance is critical to his being able to respond to the County's charges. Furthermore, I believe that in his absence, both he and his wife's will be severely prejudiced. While it is my understanding that Mr. Calleri's condition is improving, until he has recuperated further and is able to access his files, my appearance or the appearance of any other representative on his behalf will be of limited value. Mr. Calleri's appearance, or at least his participation in the process, is essential to his and his wife's right to be heard.

Scott Seery January 11, 1995 Page 2

Clearly, your offer, and the offer of Mr. Jensen, to give the Calleris additional time after the currently-scheduled January 24th hearing to submit documents is appreciated. However, given the significance of the upcoming hearing, your proposal simply does not go far enough in addressing the Calleris' situation and concerns.

Thank you in advance for your prompt response to the Calleris' request for a short 30-day continuance of the Pre-Enforcement Review Panel hearing. I will look forward to hearing from you.

Very truly yours,

Mary J. Swanson

MJS:1b

cc: Jessen and Agnes Calleri

RAFAT A. SHAHID, Assistant Agency Director

STID 1360

December 19, 1994

DEPARTMENT OF ENVIRONMENTAL HEALTH Hazardous Materials Division 80 Swan Way, Rm. 200 Oakland, CA 94621 (510) 271-4320

Mr. Mahdi Mohammadian Linda Shell 15595 Washington Avenue San Lorenzo, CA 94580

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO

Dear Mr. Mohammadian:

This correspondence is written in response to your November 11, 1994 request for specific information regarding this agency's receipt and interpretation of the October 17, 1986 Groundwater Technology, Inc. assessment report. I will address your questions in the order that they were presented, first restating each question as I have understood them.

Question 1) Did the health department receive a copy of the October 17, 1986 Groundwater Technology, Inc. report for this site during 1986 or 1987?

Answer

It is unknown whether or not the health department received the cited Groundwater Technology, Inc. (GTI) report during 1986 or 1987. Further discussion of this issue would require conjecture.

However, the case file's first apparent reference to the October 1986 GTI report was in a January 14, 1993 GTI cover letter which accompanied a copy of their December 4, 1992 sampling report. This GTI cover letter indicates that a Mr. Kebo [sic] had requested a copy of the 1986 GTI report be provided to the health department. GTI indicates that approval from Texaco would be required first.

The case file reflects that the health department <u>did</u> receive a copy of the October 1986 GTI report from Mr. Bertram Kubo at some point <u>after</u> March 30, 1993, the date of his hand-written note accompanying a copy of this report.

Question 2) If the health department had received the October 1986 GTI report, would we have considered the site "clean" or contaminated, and would we have opened a case requiring an investigation?

Mr. Mohammadian

RE: 15595 Washington Ave.

December 19, 1994

Page 2 of 3

Answer

The health department was not overseeing the assessment or clean-up of sites contaminated by leaking underground storage tanks (UST) at that time. The San Francisco Bay Regional Water Quality Control Board (RWQCB) was the agency shouldered with that responsibility at that time. During December 1988, the health department entered into an agreement with the RWQCB for such oversight responsibility.

Question 3) When was the first time this office received a copy of the October 17, 1986 GTI report?

As indicated previously, it appears that this office Answer did not receive a copy of the cited GTI report until sometime after March 30, 1993.

Question 4) Do our files indicate, or is it even possible, that during late 1986 or early 1987 our office had informed Mr. Rubo, based on the cited report, that the contamination is so minimal that the health department dropped their investigation?

As indicated previously, our first apparent awareness Answer of the cited GTI report was at some time after March 1993. To answer this question more substantially would require conjecture.

Question 5) Is it true that the health department would have opened a case requiring an environmental investigation if we had been aware of the cited GTI report at that time?

As indicated previously, the health department did Answer not receive authority to be the lead agency in such cases until December 1988. Hence, if a case were opened, the RWQCB would have been the agency requiring the investigation and overseeing the project.

Additionally, review of the State Water Resources Control Board (SWRCB) "Report on Releases of Hazardous Substances From Underground Storage Tanks" dated January 1992 indicates this site does not, as of that document's publish date, appear in the SWRCB database. This would suggest that the release at this site had not been properly reported to the SWRCB. Hence, this agency, as well as the RWQCB and SWRCB, were likely not informed at all until 1993 of the release at this site.

Mr. Mohammadian

RE: 15595 Washington Ave.

December 19, 1994

Page 3 of 3

Please call me at 510/567-6783 should you have any further questions.

Sincerely

Sout O. Seery, CHMM Sensor Hazardous Materials Specialist

Rafat A. Shahid, Assistant Agency Director cc:

Gil Jensen, Alameda County District Attorney's Office

Lisa Kim, Texaco Bertram Kubo

Mr. Scot Stery

December 15, 1994

Dear Scott:

Photosed please field a copy of a transmitted seent by maproblementability attends, sawba & me Toutosh. Her letter states
that 'clearly', clean up will be regimed. How she came to
this conclusion is beginned me, and it must be brought to
attention that such statements falsely construed will ab nothing
but proposedge her integrit, and skell as an atteracy and furthermore,
should this writter be brought to total, I must be colore
that her false beliefs and wisconsecutation of facts be
chocomented. A copy of their enclosures are being sent to
yourself, to but, Setters (my legal coursel), to their the
to Sandar R. Ma Festil (Monomonichiers coursel), and

We spoke on the phone this very day about 3: 00 p.m., and the facts of the matter as we discussed are as follows:

1. Contramited sites and clean-up are serious issues

2. As of the date of this letter, it has not yet been determined that class-up is regimed on the washington primiting

3. Texaco is enseally prenitioning the wells at their expense and to my knowledge, me, makempartian has not incremed any expenses.

4. That the soils report conducted by Treases in 1982 was not reported to the Country.

I have enclosed by t of "Other to Prochase Escrever on structures from Tracero and highlighted in a yellow marker a very inscriting prece of information.

b. That the Plaintill, Mr. Arthumathan was previoled with the 1986 Soils Report ordered by Texaco. His true agent at the time, Mr. At Anisti, can testify to this. Minamental was provided with the report prior to close of escrout

That the Calleris have now been located and introduced into this praction. While my self and probaguanting. Commot apply for the UST. Find, the Calleris can sence they were the last operations of the site while the old undergooned takes and have were still operable and very likely was the cause of confirmation. I believe sandra maintest shouldes this in her second pracyuph where she states "the statutory language closely dullwigs the device of clear-up costs." Fines I and mahamastern operated the stateon using closely contained to graphy it a follular detector, wither of as would graphy to the UST Find.

I look forward to the next hearing.

Smeesely,

JELOTONIU N. KURO

Sucar

ANTHONY J. TREPEL DANIEL CLARK ANDREA L. FORTINO

TREPEL & CLARK

A PROFESSIONAL ASSOCIATION

FIFTY WEST SAN FERNANDO STREET
THIRTEENTH FLOOR
SAN JOSE, CALIFORNIA 95113

TELEPHONE (408) 275-0501 FACSIMILE (408) 293-3369

VIA FACSIMILE

December 1, 1994

Robert C. Borris, Jr., Inc.
The Redwood Building
20200 Redwood Road
Castro Valley, California 94546-4316

Re: Mohammadian v. Kubo, et al

Dear Bob:

I am in receipt of your fax of November 30, 1994. It appears that you are taking the position that the contamination is a very minor issue which will be easily resolved and will potentially not even require clean-up. I am not certain what Mr. Kubo told you regarding the meeting with the Alameda County Health Services Agency, but it was quite clear that clean-up will be required. Monthly monitoring of the wells, at \$1,500 to \$2,500 per month, will be required. In addition, one of Mr. Mohammadian's neighbors has threatened a lawsuit against Mr. Mohammadian for the contamination. Mr. Mohammadian is unable to obtain any type of financing or to find a buyer for the property because of the contamination. This is not a minor issue which will simply "go away" easily and simply.

Finally, there are no guarantees that the UST Fund will cover the expenses as the statutory language clearly authorizes the denial of clean-up costs. When the Fund does cover the costs, it restricts the coverage to those expenses which are deemed, in the government's eyes, as "reasonable and necessary".

It appears that we are not able to reach an agreement on the injunction vis-a-vis Mr. Kubo. At the last hearing, you agreed that the payments made by Mr. Mohammadian to Sumitomo Bank would be credited toward the payment on Mr. Mohammadian's Promissory Note with Mr. Kubo. Are you still willing to stipulate to that?

Robert C. Borris, Jr., Inc. December 1, 1994 Page 2

It appears that we will need to let Judge Fogel determine the issues between Mr. Kubo and Mr. Mohammadian on December 6, 1994.

Please call me to discuss this further.

Very truly yours,

Sandra R. McIntosh

SRM: kg

cc: Mr. Mehdi Mohammadian Kenneth R. Wachtel, Esq

LTR\MOHAM-K.BOR



Loś Angeles Marketing Division Текасо ИЗА

10 Universal City Plaza Universal City CA 91608-1097

AIRBORNE EXPRESS

November 7, 1986

Mr. Basil Christopoulos Grubb and Ellis 475 14th Street, Suite 1250 Oakland, CA 94612

Dear Basil:

But suto

But suto

proportion file.

1781000 = Total pardinge.

Enclosed are eight copies of OFFER TO PURCHASE-ESCROW INSTRUCTIONS covering the property located at 15595 Washington Avenue at Via Enrico, San Lorenzo, California. It is understood that our furnishing you with these forms in no way obligates TRMI to favorably consider or accept any offer you decide to submit; and, further, that acceptance of such offer is subject to the approval of the Texaco Management.

Should your client, Burt Kubo, desire to submit an offer, please sign all copies and initial in the initial boxes provided and return the original and five copies to this office together with a cashiers check payable to C & I Escrow Company as indicated in the form. You may retain the additional copy for your file as well as one copy for Mr. Kubo's file. Also enclosed are eight copies of Exchange and Trust Adreements which give TRMI the option of converting the sale of this property to an Exchange. Please also have the Trust and Exchange Agreements signed by the appropriate signator and return them with the offer to purchase ESCROW INSTRUCTIONS. Please do not fill in the blank dates; they will be filled in in this office. In addition to the foregoing documents, enclosed are four copies of a Licensed And Confidentiality Agreement. Please have Mr. Kubo sign two copies and return them to this office. The additional copies are for yours and his files. Upon receipt of the offer to Purchase Escrow Instructions and the License And Confidentiality Agreements, we will furnish Mr. Kubo a copy of the soils test report.

purchased to accomplish the exchange. In any such event, the parties agree that any additional closing costs resulting from such an exchange shall be borne by the party ultimately receiving title to the property to which such closing costs attached. The failure of any third party ("Exchange Party") to perform shall not be cause to void this Agreement.

- Buyer acknowledges that according to TRLI's records all underground gasoline storage tanks have been removed at this location. Should this not be the actual case, any underground gasoline storage tanks will be removed at TRM 's expense prior to the close of escrew.
 - Buyer acknowledges that soil testing was performed by Groundwater Technology Inc., 4080 Pike Lane, Suite D, Concord, California 94:20-1227, (415) 6:1-2387, on or about October 17, 1986 ed on the scope of its investigations and firstings, Groundwate Technology finds and recommends that no further sile investigations or remedial actions are necessary in that hydrocarbon contaminat on is either not existent or extremely minimal on the Real Property. TRMI agrees to furnish to Buyer a copy of Groundwater Technology Inc.'s report after Buyer signs the License and Confidentiality Agreement, Schedule "B" attached hereto and incorporated herein by this reference.

94 NOV 29 PH 5: 08

M.Mohammadian Linda Shell Station 15595 Washington Ave. San Lorenzo Ca. 94580 11_23_1994

Attn.; Mr. Scott, O' Seery CHMM Alameda County Dept. Of Environmental, Health Environmental, Protection Division 1131 Harbor Bay PRWY, #250 Alameda Ca. 94502-6577

Dear Scott:

Re: Site 1360, 15595 Washington Ave, San Lorenzo, Ca.94580

Re the meeting of Oct. 25,1994 in your office, and information, provided by yourself, which was base of your files and the facts, I will appreciate it if you could respond to the following questions item by item for my record;

- 1- Did the health department received any copy of the Soil and ground water report by Ground water Technology Inc. dated Oct. 17, not in file 1986, for the above site on 1986 or 1987?
- 2- If you would received that report, would you consider the site was clean, or the site was contaminated, and establishing a site review and investigation?
- 3- When was the first time your office received the above report?
- 4_ Does your files indicate that; or even is it possible that; Late 1986 or early 1987 your office had informed Mr. Kubo " that base of the above report, the contamination is minuscule amount and since the amount of contamination so deminimis, the Alameda County Health Service Agency has dropped their investigation."?

unfill after 3-30-53 ZWQ(R would 11 Kaly after 3-30-93 from Kubo

unknown never

Ale doesat indicate a how closed case potented to RUGOS 5- Is it true that if you were aware of this report back on 1986, you would open public file, site review and investigation for this site?

Awaiting to hear from you soon.

probably would have been overseen by RWQCB

Yours Sincerely

H. H. Chammadian

M.Mohammadian

TREPEL & CLARK

A PROFESSIONAL ASSOCIATION

ANTHONY J. TREPEL DANIEL CLARK ANDREA L. FORTINO FIFTY WEST SAN FERNANDO STREET
THIRTEENTH FLOOR
SAN JOSE, CALIFORNIA 95113

TELEPHONE
(408) 275-0501
FACSIMILE

(408) 293-3369

November 22, 1994

Mr. Scott Seery, CHMM
Senior Hazardous Materials Specialist
Alameda County Department of Environmental Health
Environmental Protection Division
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

HĀZMAT 94 NOV 23 PH 2: 5

Dear Mr. Seery:

At the Pre-Enforcement Review hearing on October 25, 1994, an inquiry was made as to the fire marshall who was present when the old tanks were excavated in 1984.

copy of the 1987 Permit, signed by Battalion Chief James Ferinand. Mr. Ferinand is now with the Alameda County Fire Department, Fire Prevention Bureau. It is my understanding that Mr. Ferinand did prepare a report on the excavation of the old tanks, and forwarded that report to the Health Department. Unfortunately, it seems that Mr. Ferinand did not keep a copy of his report. Perhaps you may speak with him for further information.

Very truly yours,

Sandra R. McIntosh

ndra & Mcchitash

SRM: kg

Enclosures

cc: Mr. Medhi Mohammadian

Mr. Bertram H. Kubo

Ms. Lisa Kim

LTR\MEHDI.SEE

00012

EDEN CONSOLIDATED FIRE PROTECTION DISTRICT PERMIT

	February 9, 1987
	(Date)
TO WHOM IT MAY CONCERN:	V2
By virtue of the provisions of the Fire Prevention Code of the Com	nty of Alameda DPI (Nome of Concern)
3930 Pacheco Bl., Martinez	a Petroleum tank installation
(Address)	(Business)
having made application in due form, and as the conditions, surroundings, of the Ordinance can be observed, authority is hereby given and this PERM	MIT is GRANTED for Installation of 3
10,000 gal. underground fuel storage tanks a	t 15595 Washington Ave. SLZ.
	,
This PERMIT is issued and accepted on condition that all Ordinance ed, shall be complied with. THIS PERMIT IS VALID FOR 10 Days Starting, 2-10-8	0 110
This permit does not take the place of any License required by law and is not transferable. Any change in the use or occupancy of premises shall require a new permit.	

THIS PERMIT MUST BE KEPT POSTED AT ALL TIMES ON THE PREMISES MENTIONED ABOVE

Alameda County Health Care Services Agency, Department of Environmental Health, Division of Environmental Protection

In Re The Properties Known As	:)	Notice of
•)	Pre-Enforcement
)	Review Panel -
Linda Shell)	Further Hearing
15595 Washington Avenue)	
San Lorenzo)	

Notice is hereby given that upon the motion of the Alameda County Environmental Protection Division, and the San Francisco Bay Regional Water Quality Control Board a further hearing of the Review Panel will convene on January 24, 1995 at 9:00 a.m. In the offices of the Alameda County Hazardous Materials Division, located at 1131 Harbor Bay Parkway, Room 250, Alameda, CA 94502. This further hearing of the Review Panel will reconvene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above locations.

The Alameda County Environmental Protection Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

4.

Mahdi Mohammadian
 LINDA SHELL
 15595 Washington Avenue
 San Lorenzo, CA 94580

Bertram Kubo
 5772 Sellars Avenue
 Oakley, CA 94561

Lisa Kim
 TEXACO, INC.
 10 Universal City Plaza, 13th Floor
 Universal City, CA 91608-1006

Jessen and Agnes Calleri 1901 Cliffland Avenue Oakland, CA 94605

Dated: November 21, 1994

(signature

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known A	s:)	Proof of Service of
·)	Notice of Pre-Enforcement
)	Review Panel - Further Hearing
<u>Linda Shell</u>)	
15595 Washington Blvd.)	
<u>San Lorenzo</u>)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Jessen and Agnes Calleri</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** further hearing to convene on <u>January 24</u>, <u>1995</u> by certified mailer <u>#P 386 338 405</u>.

Dated: //-21-94

(signature)

• 386 338 4**0**5

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Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known As:)	Proof of Service of
	Notice of Pre-Enforcement
)	Review Panel - Further Hearing
Linda Shell)	
15595 Washington Blvd.)	
San Lorenzo)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Bertram Kubo</u> with a copy of the attached Notice of Pre-Enforcement Review Panel further hearing to convene on <u>January 24, 1995</u> by certified mailer <u>#P 386 338 404.</u>

Dated: 1/-2/-94

(signature

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Alameda County Health Care Services Agency, Department-of Environmental Health, Hazardous Materials Division

In Re The Properties Known As:))	Proof of Service of
•)	Notice of Pre-Enforcement
)	Review Panel - Further Hearing
<u>Linda Shell</u>)	
15595 Washington Blvd.)	
<u>San Lorenzo</u>)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Lisa Kim</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** further hearing to convene on <u>Ianuary 24, 1995</u> by certified mailer <u>#P 386 338 403.</u>

Dated: 11-21-94

(signature)

E 374 328 403



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Lisa Kim	P 3	86 338 403
TEXACO, INC.	46. Ser ☐ Regis	vice Type stered
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TEXACO, INC. 10 Universal City Plaza, 13th Universal City, CA 91608-1206	7. Date	of Delivery
5. Signature (Addressee)	8. Addraged and 1	essee's Address (Only if requested tee is paid)
6. Signature (Agent)		

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known As:)	Proof of Service of
.)	Notice of Pre-Enforcement
)	Review Panel - Further Hearing
<u>Linda Shell</u>)	
15595 Washington Blvd.	
San Lorenzo)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Mahdi Mohammadian</u> with a copy of the attached Notice of Pre-Enforcement Review Panel further hearing to convene on <u>January 24, 1995</u> by certified mailer <u>#P 386 338 402.</u>

Dated: 11-21-54

(signature)

P 386 338 402



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3. Article Addressed to: 94 NOV 29 ATTT: Mahdi Mahammalian	P 386 338 402
Mahde Mohammalian	4b. Service Type ☐ Registered ☐ Insured
Linda Shell 15595 Washingtos	☐ Certified ☐ COD ☐ Express Mail ☐ Return Receipt for
San Corenzo, 04 94580	7. Date of Delivery 23 9
5. Signature (Addressee)	8. Addressee's Address (Only if requests and fee is paid)
6. Signature (Agent)	

11/15/24

mamo to file:

Best Kubo collect to interm me That the attorney representing The current property orinar, Mr. Mahammadian, has filed an injunction to block the pending foreclosure. Mr. Kubo said a foreclosure is occurring because Mr. Maha. was in structed by his attorney to stag payments to Mr. Kubo. Mr. Kubo is apparently financing the sale. The hearing is Nov. 22, 1994, reportedly.



Lisa Kim Attorney

Texaco Inc

10 Universal City Plaza 13th Floor Universal City CA 91608 1006 818 505 3030 FAX 818 505 3059

VIA NEXT DAY MAIL

November 14, 1994

Mr. Scott Seery, CHMM
Senior Hazardous Materials Specialist
Alameda County Department of Environmental Health
Environmental Protection Division
1131 Harbor Bay Pkwy
Suite 250
Alameda, California 94502-6577

RE: 15595 Washington Avenue, San Lorenzo, CA

Dear Mr. Seery:

As I indicated to you verbally last week, Texaco recently retained a private investigative firm to assist in locating, J. A. and Agnes J. Calleri and Stanley E. and Mildred O. Long, the last known retailers at the above location. Recently, Texaco was advised that both Mr. & Mrs. Long are deceased with their estates likely distributed. However, a review of current property records revealed that a J.A. & Agnes J. Calleri reside at 1901 Cliffland Avenue, Oakland, California 94605. Copies of the relevant documents are attached.

Texaco is providing this supplemental information for inclusion in the public record for review by the members of the Pre-Enforcement Review Panel. By copy of this letter, I am also advising Mr. Bertram Kubo and Mr. Mehdi Mohammadian that this information is being provided to Alameda County Department of Environmental Health.

Should you have any further questions, please contact me.

Very truly yours,

isa Mi

Idsa Kim \1001.wp

Attachment

Mr. Scott Seery, CHMM November 14, 1994 Page 2

> cc: Mehdi Mohammadian Linda Shell 15595 Washington Avenue

San Lorenzo, California 94580

Bertram Kubo 5772 Sellers Avenue Oakley, California 94561

1ST RECORD of Level 1 printed in FULL format. *** THIS DATA IS FOR INFORMATION PURPOSES ONLY ***

PROPERTY RECORD FOR ALAMEDA COUNTY, CA

ESTIMATED ROLL CERTIFICATION DATE JULY 1, 1993

Owner: CALLERI J & & AGNES J; Owner Occupied

Mailing Address: 1901 CLIFFLAND AV, OAKLAND CA 94605

Property Address: CLIFFLAND AV, OAKLAND, CA 94605

*********************** SALES INFORMATION

Recorded Date: 10/27/1955

PAGE

Document Number: AK 116929

INFORMATION ****** ASSESSMENT

Assessor's Parcel Number: 048-6240-003-012

Land Use: SFR HOME USED AS SUCH

Assessment Year: 1993

Assessed Land Value: \$ 33,799

Assessed Improvement Value: \$ 53,881

Total Assessed Value: \$ 87,680

INFORMATION TAX

Tax Rate Code: 17001

Exemption: HOMEOWNER

TAPE PRODUCED BY COUNTY: 08/1993

Curtis E. Williams 20420 Greenview Drive Quitland, Ca. 94605	MAY - 5 1989 ALANSON COLUMN REDUCED OF REQUEST OF TAX PAI MAY - 5 1989 ALANSON COLUMN REDUCE C. DAVIDSON
C44 6430 083 AL	
ADS WATTHER COMBINATION Months of Aug	any converse, or the unbrances remaining at time of sale, and at lare or transmissionass remaining at time of sale, and
O. LONG, both decressed beloby GRANT(S) to CURTIS S. VILLIANS, SA STRAFFIED AND THE TOLINHING described real preparty in the GIT County of ALAMEDA State of	TY OF CHELAND
LOT 21, AS BAID LOT IS SHOWN ON THE ME COUNTY, CALIFORNIA FILED OCTOBER 29, IN THE OFFICE OF THE COUNTY RECURDER IN THIS DIED IS MADE, EXECUTED AND BELIVE CONFIRMING SALE DAYED APRIL 18, 1986, I	P ALAMEDA COUNTY.
226512-6 SUPERIOR BOURT OF THE STATE OF OF ALAMEDA, COPIES OF MUICH IS RECORDED	
Multipage 100	MILEN B. CACCIOTTOLI, Executrix of the assure of Stanlay F. Long and Milgred O. Long, With excessed.
Jane & Cyarte	(The pass for efficient refriend street)

NOV 02 '94 05:04PM FATCO PROPERIT

RAFAT A. SHAHID, Assistant Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH Hazardous Materials Division 80 Swan Way, Rm. 200 Oakland, CA 94621 (510) 271-4320

STID 1360

October 25, 1994

Mehdi Mohammadian LINDA SHELL 15595 Washington Avenue San Lorenzo, CA 94580

Lisa Kim TEXACO, INC. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

RE: LINDA SHELL, 15595 WASHINGTON AVENUE, SAN LORENZO, ALAMEDA COUNTY, CALIFORNIA

Dear Ms. Kim and Messrs. Mohammadian and Kubo:

Today a Pre-Enforcement Review Panel (PERP) convened to discuss the current status of the environmental and regulatory issues associated with the referenced site. In addition to yourselves, representatives from the Alameda County District Attorney's Office, and the Alameda County Environmental Health Department, Environmental Protection Division, were in attendance, among others.

The Review Panel have agreed to allow the record to remain open for an additional period of 30 days to provide sufficient time for all parties or their agents to collect and submit supplemental information for consideration before a final decision is rendered. Therefore, the record will remain open until the close of business on November 28, 1994. This deadline supercedes that associated with this agency's May 31, 1994 request for a work plan for the further assessment of the site, pending a final decision by the Review Panel.

Ms. Kim and Messrs. Mohammadian and Kubo RE: 15595 Washington Ave., San Lorenzo October 25, 1994 Page 2 of 2

Please contact this office should you have any questions. I may be reached at 510/567-6783, or -6700.

Sincerely,

Scott O. Seery, CHMM

Senior Hazardous Materials Specialist

cc: Rafat A. Shahid, Assistant Agency Director

Gil Jensen, Alameda County District Attorney's Office

Rob Weston, ACDEH Kevin Graves, RWQCB

Ed Laudani, Alameda County Fire Department

Sandra R. McIntosh, Trepel & Clark

50 West San Fernando, 13th Floor

San Jose, CA 95113

LINDA SHELL

PERP 10-25-94

6/21/83 Texaco purchase site in auction
12/31/86 sold to B. Kubo [2/87 install]
- replaced tanks 3x 10,000

Chevron Gulf Oil was previous owner 1960 - 72

- Texaco removed tanks prior to purchase by Kubo - Kubo installed double walled USTS - Site sold to Mahammadian in 1998

NEED

1 As builts

(e.g., line/annulus press.

INCTIAL PERP

Alameda County Health Care Services Agency, Department of Environmental Health, Environmental Protection Division

In Re The Properties Known As:)	Notice of
•)	Pre-Enforcement
)	Review Panel
Linda Shell)	
15595 Washington Avenue)	
San Lorenzo)	

Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on <u>October 25, 1994 at 1:00 p.m.</u> in the offices of the Alameda County Hazardous Materials Division, located at 1131 Harbor Bay Parkway, Room 250, Alameda, CA 94502. This **Review Panel** will reconvene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above locations.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

Mahdi Mohammadian 3.
 LINDA SHELL
 15595 Washington Avenue
 San Lorenzo, CA 94580

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

2. Lisa Kim

TEXACO, INC. 10 Universal City Plaza, 13th Floor Universal City, CA 91608-1006

Dated: September 28, 1994

(signature)

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known As:)	Proof of Service of
	Notice of Pre-Enforcement
)	Review Panel
Linda Shell)	
15595 Washington Avenue)	
<u>San Lorenzo</u>)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Bertram Kubo</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** to convene on <u>October 25</u>, <u>1994</u> by certified mailer <u>#P 386 338 401</u>.

Dated: 9-22-94

(signature)

🥦 **3**86 338 401

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SERECTOR Complete tems 1 and/or 2 for additional service Complete tems 3, and 4a & b. Print your name and address on the reverse of t	I also wish to receive the following services (for an extra
sturn this card to you. Attach this form to the front of the mailpiece, o oes not permit.	100/.
Write "Return Receipt Requested" on the mailpied The Return Receipt will show to whom the article velivered.	
3. Article Addressed to:	4a. Article Number
Bort Kubo 5772 Sellers Ave	4b. Service Type Registered Insured Certified COD
Oakley, (A 9456/	Express Mail Return Receipt for Merchandise
Daniel Lange	7. Date of Delivery
5. Signature (Addressee)	Addressee's Address (Only if requeste and fee is paid)
S. Signature (Agent)	
Halisala da da da da da da da da da da da da da	16 1 2 3

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known As:)	Proof of Service of
,	Notice of Pre-Enforcement
)	Review Panel
<u>Linda Shell</u>)	
<u>15595 Washington Avenue</u>)	
<u>San Lorenzo</u>)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Lisa Kim</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** to convene on <u>October 25</u>, <u>1994</u> by certified mailer <u>#P 386 338 400</u>.

Dated: 9-28-94

(signature)

P-386 334 400

1	Receipt for Certified W No Insurance Co Do not use for I (See Reverse)	lail overage Provided
	Lisa Kim	
	Street of No	
	P.O., State anni - Li Code	
	Postage	\$
	Certified Fee	
	Special Delivery Fee	
	Restricted Delivery Fee	
3	Return Receipt Showing to Whom & Date Delivered	
2	Return Receipt Showing to Whom, Date, and Addressee's Address	
	TOTAL Postage & Fees	\$
	Postmark or Date	

Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Materials Division

In Re The Properties Known As	:)	Proof of Service of
·)	Notice of Pre-Enforcement
)	Review Panel
<u>Linda Shell</u>)	
15595 Washington Avenue)	
<u>San Lorenzo</u>)	

I <u>Scott Seery</u>, do hereby certify that I served <u>Mahdi Mohammadian</u> with a copy of the attached **Notice of Pre-Enforcement Review Panel** to convene on <u>October</u>

<u>25, 1994</u> by certified mailer <u>#P 386 338 399.</u>

Dated: 9-28-74

(signature)

P 386 338 399

4	
IM.	

Receipt for Certified Mail

No Insurance Coverage Provided Do not use for International Mail (Size Reverse)

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PS Form 3800, June 1991	P.O., State and 38 Code	_	 -	
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the rev	SENDER: Complete Name 1 and/er 2 for additional services. Complete items 3, and 4a & b. Print your name and address on the reverse of this form so that we can return this card to you. Attach this form to the front of the mailpiece, or on the back if space does not permit. Write "Return Receipt Requested" on the mailpiece below the article number. The Return Receipt will show to whom the article was delivered and the date delivered.		1 also wish to receive the following services (for an extra fee): 1. Addressee's Address 2. Restricted Delivery Consult postmaster for fee.		
npleted o	3. Article Addressed to: Mald, Mohammadian	Addressed to: 4a. Articl			
ESS con	LINDA SHEZL 15595 Washington Ave	Registered Insured Cod Express Mail Return Receipt for Merchandise			
N ADDE	San Corenzo, CA 94580	/	of Delivery 0 - / - 94		
our RETUR	5. Signature (Addressee) X ASHALON FONSICA 6. Signature (Agent)		ressee's Address (Only if requested of fee is paid)		
₹	PS Form 3811, December 1991 #U.S. GPO: 1983-352	-714 D(OMESTIC RETURN RECEIPT		

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

May 31, 1994

Lisa Kim Texaco Inc 10 Universal City Plaza 13th Floor Universal City, CA 91608 1006

STID 1360

Re: Investigations at 15595 Washington Avenue, San Lorenzo, California

Dear Ms. Kim,

This office has received and reviewed Texaco's Quarterly Monitoring Report, dated May 3, 1994, for the above site. Due to variations in the ground water gradient in the area, you will be required to conduct monthly water level measurements and corresponding gradient determinations, in addition to the required quarterly ground water sampling, for 12 months, and quarterly thereafter. The calculated monthly elevation contours may be submitted with the quarterly monitoring reports.

Future quarterly monitoring reports shall include an interpretation of the results and recommendations. The whole report must be submitted under the seal of a Registered Geologist or Registered Engineer, and not just the gradient map.

Elevated levels of Total Petroleum Hydrocarbons as gasoline, at 1,300 ppb, and benzene, at 110 ppb, were identified from on-site Well MW-1. Please be reminded that, per Article 11 Title 23 California Code of Regulations, you are required to fully characterize the extent and severity of this ground water contamination, and any potential soil contamination. A work plan addressing this work is due within 60 days of the date of this letter.

If you have any questions or comments, please contact me at (510) 271-4530.

Sincerely,

nazardous Materials Specialist

Lisa Kim

Re: 15595 Washington

May 31, 1994 Page 2 of 2

cc: Bertram Kubo 5772 Sellers Ave. Oakley, CA 94561

> Mr. Mahdi Mohammadian 15595 Washington Ave. San Lorenzo, CA 94580

Edgar Howell-File(JS)

Don K. Callahan Insurance, Inc.

<u>Auto-Life-Health-Home and Business</u>
15250 Hesperian Blvd, Suite 200
San Leandro, CA 94578 Phone (510) 357-6142 FAX (510) 278-2208

April 28, 1994

Alameda County Environmental Dept. of Hazardous Materials C/O Juliet Shin 80 Swan Way Room 200 Oakland, CA 94621

Dear Ms. Shin:

After our recent telephone conversation, I contacted John Hicks of Environmental Geotechnical Consultants, Inc. His firm completed the Phase I and Phase II Environmental Site Assessment at 15563 Washington Avenue, San Lorenzo.

Mr. Hicks sent an addendum to his Phase II report. He is unequivocalble in his report that the gasoline toxics in the soil was caused by the gas station site contiguous to this property. His subsequent report clearly indicates my office site did not and could not cause the pollutants.

I hope this will expedite the process for the responsible party to resolve the problem to your department standards.

I will contact you by telephone in the near future.

Sincerely,

Don Callahan

enlosure: Addendum to Phase II

HAZMAI



ENVIRONMENTAL GEOTECHNICAL CONSULTANTS, MO.

4229 NORTHGATE BOULEVARD, SUTTE #3, SACRAMENTO, CALIFORNIA 95834 TELEPHONE (916) 925-4789 - FAX (916) 925-5973

> Job No. EC-517/E316-02 April 26, 1994

Mr. Don K. Callahan 15250 Hesparian Boulevard San Leandro, California 94578

SUBJECT:

Addendum to Phase II Environmental Site Assessment Report, "Groundwater Sampling and Asbestos Survey, 15563 Washington Avenue, San Lorenzo, California*, dated August 23, 1993 by Environmental Geotechnical Consultants, Inc. (EGC)

Ret:

Phase I Environmental Site Assessment, 15563 Washington Avenue, San Lorenzo, California, dated June 28, 1993 by EGC

Addendum to Phase | Environmental Site Assessment, 15563 Washington Avenue, San Lorenzo, California, dated July 16, 1993

Dear Mr. Callahan:

This letter provides additional discussion regarding the subject site and the neighboring Shell service station in San Lorenzo The above referenced Phase I Environmental Site Assessment (ESA) report and its addendum addressed our concerns that gasoline contamination may have migrated onto the subject site from the neighboring and upgradient Shell service station. The soil and groundwater under the Shell station arc known to have been impacted by gasoline, probably caused by leaks in the station's underground storage tanks (UST) or product piping.

The referenced Phase II report describes the work which we performed to obtain groundwater samples from the subject property and presents the results of the laboratory analyses. In summary, EGC obtained groundwater samples from three locations along the common property line between the Shell station and the subject property. A notable odor of gazoline was detected in our boring no. B-3, at the western end of the property line. Laboratory analyses detected Total Petroleum Hydrocarbons (TPH) as gasoline in the groundwater at a concentration of 4,900 parts per billion, contirming our suspicions that contamination from the Shell station has migrated under the subject property.

Our Phase I review of the subject property did not demonstrate any evidence to suggest that current or past land uses would have contributed to area groundwater contamination in any way. Furthermore, the depth to groundwater (15 feet), nature of the contaminants (gasoline and its constituents benzene, toluene, ethylbenzene and xylene), and the lack of property dependence of groundwater as a resource indicate that off-site petroleum

K-20-94 THU 10:29 JAEGER & SARACCO

No. EC-517/E316-02 Addendum Page 2

contamination of the groundwater is not likely to pose a significant threat to the property. In addition, the neighboring Shell station has been identified as a source of soil and groundwater contamination and is currently being characterized and evaluated in accordance with established regulatory requirements for environmental protection. Therefore, the contaminated groundwater may be considered a disclosure issue.

If you have any questions or require additional information, please contact the undersigned at your convenience.

Very truly yours,

ENVIRONMENTAL GEOTECHNICAL

CONSULTANTS, INC.

John F. Hicks, P.E.

Principal

co: Mr. Matt Jiminez



Lisa Kim Attorney

Texaco Inc.

10 Universal City Plaza 13th Floor Universal City CA 91608 1006 \$1559 5030 FAX 818 505 3059

March 8, 1994

Mr. Mahdi Mohammadian 15595 Washington Boulevard San Lorenzo, California 94580

Quarterly Groundwater Monitoring at 15595 Washington Boulevard, San Lorenzo, CA

Dear Mr. Mohammadian:

Per our telephone conversation today, this is to confirm that Texaco's consultants will be conducting quarterly groundwater monitoring at the above location on March 24, 1994.

Thank you for your assistance. Please call me if you have any questions.

Very truly yours,

Li/sa Kim

. 10701.wp

Julie M. Pose CC: Randick & O'Dea 1800 Harrison, Suite 2350 Oakland, CA 94612

> Ms. Juliet Shin Alameda County Health Care Services Department of Environmental Health 80 Swan Way, Room 200 Oakland, CA 94621

TELEPHONE NO: (510°) 734-0990	CASE NUMBER: 721987
	DEPOSITION SUBPENA
	For Production of Business Records

ALAMEDA COUNTY HEALTH DEPARTMENT, 80 SWAN WAY, SUITE 200, OAKLAND, CA 94621

. YOU ARE ORDERED TO PRODUCE THE BUSINE	ESS RECORDS described in item 3 as follows:
Deposition Officer (name): Major Legal S	Services, Notaries
	Time:10:00 am
Address: 3704 Mt. Diablo Blvd, Su	ite 140, Lafayette, CA 94549
Do not release the requested records to the	deposition officer prior to the date and time stated above.
with the title and number of the action then be enclosed in an outer enveloped by delivering a true, legible, and dural address, on receipt of payment in case Code section 1563(b). c. XX by making the original business reconstruction and permitting copying. The records are to be produced by the date and subpena, or 15 days after service, whichever and postage, if any, are recoverable as set forth of the custodian or other qualified witness pursuant to the custodian or other qualified witness pursuant to the produced are described as followed the custodian or other qualified witness pursuant to the custodian	llows:
Continued on attachment 3. OF	YOU HAVE ANY QUESTIONS, PLEASE CALL THE DEPOSITION FICER (MAJOR LEGAL SERVICES) AT (415) 905-1200 PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE
	L DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.
Pote include March 7 1004	

Date issued: March 7, 1994 MARK L. DAWSON, ESQ. (TYPE OR PRINT NAME)

/S/ MARK L. DAWSON, ESQ.

(SIGNATURE OF PERSON ISSUING SUBPENA) ATTORNEY AT LAW

TITLE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address).		TELEPHONE NO:	CASE NUMBER:
_ CLAPP, MORONEY, et al.	(510)	734-0990	721987
6140 STONERIDGE MALL ROAD			
SUITE 545			
PLEASANTON, CA 94588			
ATTORNEY/REPRESENTATIVE FOR (Name): DEFENDANT (S)			
NAME OF COURT: SANTA CLARA COUNTY SUPERIOR COURT			
POST OFFICE and 191 NORTH FIRST STREET			
STREET ADDRESS: SAN JOSE, CA 95113			PD005 05 050/405
PLAINTIFF/PETITIONER: MOHAMMADIAN			PROOF OF SERVICE
DEFENDANT/RESPONDENT: GRUBB & ELLIS			

PROOF OF SERVICE BY MAIL - CCP 1013a, 2105.5

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

I am employed in the county of San Francisco, I am over the age of eighteen (18) years and not a party to the within action; my business address is 180 Howard Street, San Francisco, CA 94105-1660.

On the date set forth below, I served the within copies of Deposition Subpenas, including Notice to Consumer pursuant to CCP 1985.3 (if applicable), on the following parties in said action, by having placed a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and addressed as follows:

FERRARI, ALVAREZ, et al. TERENCE M. KANE, ESQ. 333 W. SANTA CLARA STREET SUITE 700 SAN JOSE, CA 95113

LAW OFFICES OF MILLER & GIANNINI GARY V. GIANNINI, ESQ. 84 W. SANTA CLARA STREET SUITE 800 SAN JOSE, CA 95113 LICCARDO, ROSSI, et al. ROBERT S. STURGES, ESQ. 1960 THE ALAMEDA 2ND FLOOR SAN JOSE, CA 95126

LAW OFFICES OF ROBERT C. BORRIS, JR. ROBERT C. BORRIS, JR., ESQ. 20200 REDWOOD ROAD THE REDWOOD BUILDING CASTRO VALLEY, CA 94546

and, following ordinary business practice at Major Legal Services, 180 Howard Street, San Francisco, CA 94105-1660 for collection and processing of correspondence for mailing with the United States Postal Service, caused said documents to be mailed the same day in the United States Post Office at San Francisco, California.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 03/07/94 at San Francisco, California.

Daniel J. Wichlan Major Legal Services

NOTICE TO CONSUMER

PURSUANT TO CCP 1985.3

Consumer's Name: MEHDI MOHAMMADIAN

- 1. This notice serves to advise you that those entities or witnesses shown on the Deposition Subpenas are to provide your personal records.
- 2. If you object to the entities or witnesses furnishing the described records as indicated on the attached papers, you must file with the appropriate court prior to the date specified on the subpenas.
- 3. If the party who is seeking the records will not agree in writing to cancel or limit the subpenas, you should consult your attorney about your interest in protecting your right to privacy.

PROOF OF SERVICE RE: NOTICE TO CONSUMER IN ACCORDANCE WITH CCP 1985.3

On March 7, 1994, I complied with the California Code of Civil Procedure Section 1985.3 (b)(1)(3) and (c) by giving prior notice to the consumer named herein whose records are being sought, by having placed a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid and addressed to the consumer or consumer's attorney as follows:

FERRARI, ALVAREZ, et al. 333 W. SANTA CLARA STREET SUITE 700 SAN JOSE, CA 95113

and, following ordinary business practice at Major Legal Services, 180 Howard Street, San Francisco, CA, 94105-1660 for collection and processing of correspondence for mailing with the United States Postal Service, caused said document to be mailed the same day in the United States Post Office at San Francisco, California.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 03/07/94 at San Francisco, California.

Daniel J. Wichlan Major Legal Services



Lisa Kim Attorney Texaco Inc

10 Universal City Plaza 13th Floor Universal City CA 91608 1006 818 505 3030 FAX 818 505 3059

March 1, 1994

Mr. Mahdi Mohammadian 15595 Washington Blvd. San Lorenzo, CA 94580

Dear Mr. Mohammadian:

I have enclosed a copy of an executed License Agreement for your records. I will be contacting you in the near future to discuss coordinating our efforts pursuant to that License Agreement.

Thank you for your assistance. Should you have any further questions, please feel free to call me.

Very truly yours,

ĹISA KIM 2802∖3-7wp

LICENSE AGREEMENT

This Agreement is made as of	by	and	between	the
following entities, referred to herein as The Parties:				

Texaco Refining and Marketing Inc. 10 Universal City Plaza Universal City, CA 91608-1097 Attn: R. Zielinski ("TRMI")

and

Mahdi Mohammadian 15595 Washington Boulevard San Lorenzo, California 94580 ("Licensor")

WHEREAS, Licensor leases/owns the premises commonly known as 15595 Washington Boulevard, San Lorenzo, California 94580, ("Subject Premises"); and WHEREAS, TRMI now desires to enter the Subject Premises for the sole purpose of installing wells, testing, sampling, and monitoring the soil and/or groundwater on, in, or under the Subject Premises;

Now, therefore, the Parties agree as follows:

1. Grant of License. Licensor hereby grants a nonexclusive license for 5 years from the date of this Agreement to TRMI, its employees, authorized agents and contractors to enter the Subject Premises to perform all tests, inspections, borings, engineering studies, surveys, appraisals, environmental studies, operations and activities that TRMI shall deem necessary.

- 2. <u>Renewal</u>: Upon expiration of the term of this License, the License may be renewed by written agreement of the Parties.
- 3. Mutual Cooperation. TRMI agrees to coordinate its activities with
 Licensor to minimize any inconvenience to or interruption of the conduct
 of Licensor's business on the Subject Premises. Licensor agrees to
 cooperate with TRMI so long as TRMI's activities do not unreasonably
 disrupt Licensor's business operation. Licensor further agrees not to
 interfere with the activities conducted by TRMI on the Subject Premises.
 Further, the Parties agree to cooperate and execute any additional
 documents or permit applications which may reasonably be required to
 effectuate the purpose of this Agreement.
- 4. <u>Final Report</u>. TRMI, in consideration for granting of this license, agrees to provide Licensor with a final report outlining results of TRMI's activities performed pursuant to the License.
- 5. Execution of Agreement. Each of the undersigned hereby represents and warrants that it is authorized to execute this Agreement on behalf of the respective Parties to the Agreement and that this Agreement, when executed by those Parties, shall become a valid and binding obligation,

enforceable in accordance with its terms. Licensor further warrants that it has full authority to grant access to the Subject Premises.

- 6. <u>Assignment, Successor and Assigns</u>. This Agreement cannot be assigned by either Party without the prior written consent of the other, which consent shall not be unreasonably withheld. This Agreement shall be binding as to the Parties' respective representatives, successors, heirs and assigns.
- 7. Indemnity. TRMI agrees to indemnify, defend and hold Licensor, and its officers, directors, shareholders, employees, agents, insurers, representatives, successors, and assigns harmless from liabilities, losses, claims, demands or orders arising out of activities performed negligently by TRMI, its employees, authorized agents and contractors pursuant to this Agreement.
- 8. Permits. TRMI, at no expense to Licensor, shall obtain any and all permits which may be required for any activities it desires to conduct under the License granted herein.
- Restoration of Premises. TRMI will promptly repair, at TRMI's expense, any damage to the Subject Premises caused by TRMI's activities thereon.
 Upon completion of activities under this License, TRMI will restore the

Subject Premises to the condition in which it existed prior to TRMI's activities under this License. TRMI is not obligated to repair any damage which is not a direct result of TRMI's activities on the Subject Premises.

- 10. Denial of Liability. By entering into this Agreement neither TRMI nor

 Licensor admits any liability or responsibility for any contamination or

 other environmental condition of the Subject Premises, and neither this

 Agreement nor the activities conducted pursuant to this Agreement may be

 construed as such an admission or offered as evidence of such an admission

 in any court or legal proceeding.
- 11. <u>Continuing Obligations</u>. The rights and obligations under paragraphs 7, 9 and 10 shall survive the termination or expiration of this License.

12. Notice. Any notice, consent, request, report, demand, or other document given to or made upon the parties hereto shall be in writing and be delivered to or mailed to the receiving party at its address, referenced in the agreement hereof.

IN WITNESS WHEREOF, the parties have executed this License on the dates set forth below.

By: Name:	Date: 2/23/51
LICENSOR	,
By: M.Mohammadian Name: MEHDI MOHAMMADIAN	Date: 2-14-1999

120392DJMR



KUBO'S RACING STABLES

5772 Sellers Avenue Oakley, CA 94561 (415) 625-5191

Feb 8, 1994

Dear meholi.

As per your telephine message I received today concerning Texago's license agreement with you, it is my opinion that this agreement be carried out. It seems that Texago Dil Company has finish, recliqued the gravity of this situation.

Thank you for sending me likes of their requests in this agreement since this agreement is between you and Texaco only, since you are the property owner.

Please let me know how your locus on the note owed me is coming along.

Smurdy,

M. MOHAMMA DIAN LINDA SHELL STATION 15595 WASHINGTON AG SAN LORENZO CA.945& 2-3-94

MR. B. KUBO.

577 2 SELLERS AVE.

OAKLEY CA. 94561

Dear HIKUbo:

Per your telephone reduest of yesterday, enclosed, please find a copy of Texace inc. letter tome dated Jan. 12.19a4 with a complete copyies of license. AGreement Pie Pared by Them. I will appreciate it if you review them and lot me know what I should do.

A waiting to hear from you soon.

Yours sincerely

M. Mohammadian

ALCO LAW OFFICES RANDICK & O'DEAHAZMAT TELEPHONE 1800 HARRISON, SUITE 2350 ROBERT A. RANDICK, JR. OAKLAND, CALIFORNIA 93NOV 29 AM 11: 56 (510) 636-355 BRIAN M. O'DEA SUSAN M. TEEL BERNARD F. ROSE, PH.D. TELECOPIER JULIE M. ROSE (5(0) 834-4748 WILLIAM J. TRINKLE November 23, 1993 Ms. Juliet Shin Alameda County Health Care Services Department of Environmental Health 80 Swan Way, Room 200 Oakland, CA 94621 RE: 15595 Washington Street, San Lorenzo, California Dear Ms. Shin: Enclosed is a copy of grant deed showing that Gulf Oil Corporation (now Chevron) took title to the above-referenced property in 1964. The other deeds show various conveyances of the property by Gulf to other individuals. It is my understanding that the lot adjacent to 15595 was also formerly owned by Gulf. The two lots may have been one parcel at one time and these other conveyances may have been a transfer of only part of the property. Gulf conveyed the portion of the property containing the service station to Mr. and Mrs. Long and Mr. and Mrs. Calleri in 1974. Very truly yours, RANDICK & O'DEA Julie M. Rose JMR:mj cc: Lisa Kim Encl. 3537.1

November 18, 1993

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

STID 1360

Re: 15595 Washington Avenue, San Lorenzo, California

Dear Mr. Kubo,

On April 27, 1993, this office wrote you a letter requiring you to continue quarterly ground water monitoring and reporting at your site. To this date, this office has received no quarterly reports.

You are required to conduct quarterly ground water monitoring at the site, and submit a quarterly report to this office within 45 days of the date of this letter. The referenced quarterly reports must describe the status of the investigation and must include, among others, the following elements:

- o Details and results of all work performed during the designated period of time: records of field observations and data, water level data, chain-of-custody forms, laboratory results for all samples collected and analyzed, tabulations of free product thicknesses, if any, and dissolved fractions, etc.
- o Status of ground water contamination characterization.
- o Interpretation of results: water level contour maps showing gradients, free and dissolved product, plume definition maps for target components, etc.

Samples collected must be analyzed for the appropriate fuel contaminants, potentially available for release, listed in Table 2 of the RWQCB's <u>Staff Recommendations for the Initial Evaluation</u> and Investigation of <u>Underground Tanks</u>.

Recently a site assessment was conducted at 15563 Washington Avenue, adjacent to your property, with the intent to sell this property. Three borings were installed along the southern boundary of that property (Please refer to the attached figure). Groundwater "grab" samples were collected from all three of these borings, and analyzed for Total Petroleum Hydrocarbons as gasoline (TPHg) and benzene, toluene, ethylbenzene, and xylenes.

November 18, 1993

Ms. Lisa Kim Texaco Inc. 10 Universal City Plaza 13th Floor Universal City, CA 91608 1006

STID 1360

Re: 15595 Washington Avenue, San Lorenzo, California

Dear Ms. Kim,

This office has received your letter, dated September 23, 1993, expressing Texaco's arguement as to why they should not be considered a Responsible Party for investigations and cleanup at the above site. This office discussed your letter with the State Clean Water Program's Legal Counsel and the Alameda County District Attorney's Office, and it was determined that, based on the State's regulations, Texaco will still be considered a Responsible Party. If you wish to discuss this matter further, this office is willing to hold a meeting between Texaco, Alameda County, the Alameda County District Attorney's Office, and the Regional Water Quality Control Board in what has been coined a "Review Panel".

Per our conversations on October 25, 1993 and November 8, 1993, the whereabouts of the last operators of the underground storage tanks before the release is unknown.

On April 27, 1993, this office wrote you a letter requiring you to continue quarterly ground water monitoring and reporting at your site. To this date, this office has received no quarterly reports. You are required to conduct quarterly ground water monitoring at the site, and submit a quarterly report to this office within 45 days of the date of this letter. The referenced quarterly reports must describe the status of the investigation and must include, among others, the following elements:

- Details and results of all work performed during the designated period of time: records of field observations and data, water level data, chain-of-custody forms, laboratory results for all samples collected and analyzed, tabulations of free product thicknesses, if any, and dissolved fractions, etc.
- o Status of ground water contamination characterization.

Ms. Lisa Kim Re: 15595 Washington Ave. November 18, 1993 Page 2 of 3

> o Interpretation of results: water level contour maps showing gradients, free and dissolved product, plume definition maps for target components, etc.

Samples collected must be analyzed for the appropriate fuel contaminants, potentially available for release, listed in Table 2 of the RWQCB's <u>Staff Recommendations for the Initial Evaluation</u> and Investigation of <u>Underground Tanks</u>.

Recently a site assessment was conducted at 15563 Washington Avenue, adjacent to your property, with the intent to sell this property. Three borings were installed along the southern boundary of that property (Please refer to the attached figure). Groundwater "grab" samples were collected from all three of these borings, and analyzed for Total Petroleum Hydrocarbons as gasoline (TPHg) and benzene, toluene, ethylbenzene, and xylenes. Upto 4,500 parts per billion (ppb) TPHg and 18 ppb benzene were identified from the ground water samples (Please refer to attached lab analysis results).

Information was recently made available to this office indicating that the property at 15563 Washington was never used for hydrocarbon operations. It appears that this property was part of a farm until the 1960s, when the property was purchased by Gulf Oil along with your property. According to Building Permit documentation and a blue print, Gulf Oil developed your site into a service station, and left the site at 15563 undeveloped for "Surplus Property" until the site was sold to Mr. Don Callahan, the current property owner, in 1972. Since that time, that site has only been used for office space.

Therefore, it appears that the observed contamination at the neighboring property may be resulting from releases at your site. If ground water gradient is determined to be flowing from your site towards the 15563 Washington site, you may be required to investigate for off-site migration of groundwater contamination.

If you have any questions or comments, please contact me at (510) 271-4530.

Sincerely,

Juliet Shin Hazardous Materials Specialist Ms. Lisa Kim

. .

Re: 15595 Washington Ave.

November 18, 1993

Page 3 of 3

cc: Bertram Kubo

5772 Sellers Avenue Oakley, CA 94561

Mr. Mahdi Mohammadian 15595 Washington Ave. San Lorenzo, CA 94580

Don Callahan

15250 Hesperian Blvd., Ste 200

San Leandro, CA 94578

Edgar Howell-File(JS)

November 18, 1993

Mahdi Mohammadian 15595 Washington Ave. San Lorenzo, CA 94580

STID 1360

Re: 15595 Washington Avenue, San Lorenzo, California

Dear Mr. Mohammadian,

On April 27, 1993, this office wrote you a letter requiring you to continue quarterly ground water monitoring and reporting at your site. To this date, this office has received no quarterly reports, or any communication as to why the quarterly reports have not been submitted.

You are required to conduct quarterly ground water monitoring at the site, and submit a quarterly report to this office within 45 days of the date of this letter. The referenced quarterly reports must describe the status of the investigation and must include, among others, the following elements:

- o Details and results of all work performed during the designated period of time: records of field observations and data, water level data, chain-of-custody forms, laboratory results for all samples collected and analyzed, tabulations of free product thicknesses, if any, and dissolved fractions, etc.
- o Status of ground water contamination characterization.
- o Interpretation of results: water level contour maps showing gradients, free and dissolved product, plume definition maps for target components, etc.

Samples collected must be analyzed for the appropriate fuel contaminants, potentially available for release, listed in Table 2 of the RWQCB's <u>Staff Recommendations for the Initial Evaluation and Investigation of Underground Tanks</u>.

Recently a site assessment was conducted at 15563 Washington Avenue, adjacent to your property, with the intent to sell this property. Three borings were installed along the southern boundary of that property (Please refer to the attached figure). Groundwater "grab" samples were collected from all three of these borings, and analyzed for Total Petroleum Hydrocarbons as gasoline (TPHg) and benzene, toluene, ethylbenzene, and xylenes.

Mr. Mahdi Mohammadian Re: 15595 Washington Ave. November 18, 1993 Page 2 of 2

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Therefore, it appears that the observed contamination at the neighboring property may be resulting from releases at your site. If ground water gradient is determined to be flowing from your site towards the 15563 Washington site, you may be required to investigate for off-site migration of groundwater contamination.

If you have any questions or comments, please contact me at (510) 271-4530.

Sincerely,

Juliet Shin Hazardous Materials Specialist

CC: Lisa Kim
Texaco Inc
10 Universal City Plaza 13th Floor
Universal City, CA 91608 1006

Bertram Kubo 5772 Sellers Avenue Oakley, CA 94561

Don Callahan 15250 Hesperian Blvd., Ste 200 San Leandro, CA 94578

Edgar Howell-File(JS)



We Make The Difference

A	FAX COVER SHEE	1	
DATE: 18 NOU		TIME:	
PLEASE DELIVER THE FOLI	LOWING TO:		
NAME: CFUEST	E		
FIRM: RANDICK	* 0 DAY		
fax no.: <u>834</u>	4748	Triner \199	93.
FROM:	Ī	Priest The Valley To The	Γ
Premier'.	TITLE COMPANY		
RANDAL Customer	LL J. KINLOCH Service Supervisor		
1038 A Street Telephone 1 (800) & Voice Mali:	 Hayward, CA 94541 34-5263 • Fax (510) 537-9238 510) 537-3424 ×223 		
We are transmitting 8 pages, please call as soon as po	ages including this cover sissible.	Sheet. If you do not receive a	all the
NOTES: TUSOCOTED	GUC, CIT		
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1/4	LANIC - YOU!	Kandy	
This message is intended only for	or the use of the individual	or entity to which it is addresse	ed and

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



Corporation Grant Deed

FOR A VALUABLE CORRIDERATION reside of which is bereity and

GULF OIL CORPORATION

1.86

福祉

\$7.

11

domnia Pennsylvania a corporation organion hereby GRANTS to

-EDWARD C. MEIN, a married man and PORERT P. SURDEZ, a married man

the following described real property in the Township of Eden County of Almeda Sameda Samed California County of

SER EXHIBIT "A" ATTACHED HERETO AND MADE A PART THEREOF

No part of the real property covered hereby shall be used by the No part of the real property covered hereby shall be used by the Grantees, their heirs, successors and assigns for the purpose of conducting thereon any business of dealing in, selling, or handling, at wholesale or retail, gasoline, diesel fuel, or any fuel to be used for internal combustion engines or for the purpose of conducting thereon any sutomotive repair business.

thereon any sutomotive repair business.

Grantor reserves all aineral rights below five hundred (500) feet from the surface, without the right of surface entry to explore or develop, as follows: Excepting and Reserving, however, to Grantor all of Grantor's right, title and interest in and to that portion of the land described herein situated more than five hundred (500) feet helper the surface thereof, anguidely including the right to of the land described herein situated more than five hundred (500) feet below the surface thereof, specifically including the right to explore, drill for, produce, extract, treat, remove and market oil, gas, other hydrocarbons and all other minerals therefrom but without any right to enter upon or to utilize the surface of the land herein described or any part thereof above the denth of five hundred (500) feet below the surface.

In Witness Wheteof, and impossion has caused its compensate many and well as he affect and the instance of the company of the c

thereuse duly authorized. Daird: April 25, 1966

STATE OF CUITORSIA COUNTY OF Los Angeles April 25 1966 ... OR OPIN POLICY TO THE PROPERTY OF THE PROPERTY

Elevi & fright

Name - Expert on Frances

OCCIONAL FLAS CLOISE S. LOZDILOR

1966 - OR

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BENEFIT "A"

AL 1760 IN 847

No building. Improvement of structure shall be simultanted with the Southerly virtues (illigest at the southerly virtues (illigest at the Southerly design to be southerly design to the souther southerly resource the southerly resource the southerly resource that the southerly resource the southerly resource the southerly southerly like the southerly resource the southerly southerly like the southerly resource the southerly resoutherly resource the southerly ESCRIPTION

County of Alameda, State of California, described as Follows:

portion of lot 5, as said let is shown on the "Map #3, a Persion of the Mielson Treat in the Sobe Rancho, Alameda Co., Cal., Burveyed May, 1900", filed June 25, 1900 in book 16 of Maps, page 9, in the office of the Dounty Recorder of Alameda County, described as follows:

COMMUNICIPE At a point on the search of the country hand he. Sold commonly known as tachington a various of feet vide as said line was established under the country for the state of California dated January 10, 1655 and country, page 11 to the Country of disseds a political subdivision of the State of California dated January 10, 1655 and country, page 11 to the country of California dated January 10, 1655 and country on the are of a curve to the right having a rediume of the southeastern line of said live 5; rum thence southwastery) on the are of a curve to the right having a redium of 56, 17 feet to the country asserted him of Via Burice, as said line was established in the Grant of Right of Vay by Luigi Ferrins, the country flaments, thence along the line drawn page 12 to the Country of Alameda, doted March 31, 185,0657 along: South 63° 08' 80' west 91 feet, more of less, as follows: south 63° 08' 80' west 91 feet, more of less, as follows: south 63° 08' 80' west 91 feet, more of less, to a line drawn pageliel with said western line of Washington Avenue and distant at right angles 120 feet westerly therefore, and the actual point of beginning of the percel of land to be described; running thence along said horthwastern line of Via Enrice, as follows: south 63° 08' 20' west 105.83 feet; westerly and northwaster acuth 63° 08' 20' west 105.83 feet; westerly and northwaster him on the are of a curve to the right having a radius of 80 feet, tangent to the last manufacture of the last manufacture of the said line for 111 hor west 20.67 feet to the northwastern line of said lot 5; thance slong the last named line, north 111 hor west 20.67 feet to the northwastern line of said lot 5; thance slong the last named line, north 111 hor west 20.67 feet to the northwastern line of said lot 5; thance slong the last named line, north 11 line of washington learner and distant at right angles 120 feet of beginning.



4

MANGE COUNTY

Corporation Grant Deed 1750924

FOR VALUE RECEIVED. - GULF-OIL ON: FORATION, a Pennsylvania corporation. (Successor by merger to Gulf Oil Corporation of California, a Delaware corporation)

CRANTSIO

CRANTSIO

LOUIS CALLMAR and NAUCY L. CALLMAN, his wife, as

Joint tenents

If that not property situate is the "Township of Eden

County of presents Alemode

. State of California, described as follows:

Les exhibit "A" for description and exhibit "R" for conditions.

DOCUMENTARY WANTED THE R. Covers to carrain day the control of X W.T.

> And the IN WITNESS WHEREOF, said corporation has executed these presents by he officers thereunto duly authorized, this 2nd dayof August ,1971.

E. F Eisemann, Attorney-in-Fact

STATE OF CALIFORNIA

On this / 3.6/ day of ATICHES | 187]

On this / 3.6/ day of ATICHES | 187]

believe now. Due undereigned, a hereafy Politic, personnelly appeared E. F. ERECLAPIN. Above to more to be the persons where names is pulsely thind to the unblan interpendent of the other names is pulsely thind to the unblan interpendent of the control of the unblan interpendent, and acknowledged to me that south a perpendicular nancount of the within interpendent.

THO SE S. POSICION

FOR HOTARY SEAL OR STAMP

Va Orientesian 7 14. A. a. 2 1953

2931 706

L 2931 IN 706

H-750924-1

EMPRIT A. 1-10/929 CASSELL

That parcel of land in the Township of Eden; unincorporated, County of Alameda; State of California, described as follows:

Commencing at a point on the Western line of County Road No. 80%5, commonly known as Washington Avenue, 54 feet Wide, as said line was established under "Parcel 5" in that certain deed from Louis Parina, a widower, et al., to the County of Alameda, a political subdivision of the State of California, dated January 19, 1955, and recorded in Book 7575 pR, page 31, Alameda County Records, distant thereon north 10 and 27' west 83.35 feet from the southeastern line of said Lot 5, running thence on the arc of a curve to the left having a radius of the feet, tangent to last mentioned course, a distance of 54.17 feet to the northwestern line of Via Enrico, as said line was established in the grant of right of way by Luigi Farina, et al., to County of West Alameda, dated March 31, 1961, recorded April 26, 1961, Instrument West Alameda, dated March 31, 1961, recorded April 26, 1961, Instrument West Alameda, dated March 31, 1961, recorded April 26, 1961, Instrument West Alameda Instrument a distance of 67.00 feet to the northwestern line of the last named line south 63° 08' 20" east 90.72 feet; thence north 18° 27' 00" west a distance of 67.00 feet to the northwestern line of said Lot 5; thence north 63° 08' 20" east along last said northwestern line of said Lot 5; thence north 63° 08' 20" east along last said northwestern line of the land described in the Deed to Teresa Masnata, dated March 30, 1954, recorded December 23, 1955 in Book 7888 OR, page 429, Instrument No. AK/180668, Alameda County Records; thence along the direct extension of said last mentioned line, south 26° 55' east 2.00 feet; thence parallel with said northwestern line, north 63° 08' 20" east 83.52 feet to the western line of Washington Avenue; thence along the last mentioned line south 14° 27' 00" east 67.00 feet; thence south 64° 04' 29" west a distance of 122.15 feet to the true point of beginning.

RESERVING THEREPROW all oil, petroleum, natural gas, mineral rights and other hydrocarbon substances lying below a depth of 500 vertical feet from the surface of said land for the purpose of exploring for, extracting, mining, boring, removing or marketing said substances, however, without any right of any entry upon the surface of said land.

 $2931 \quad 707$

Sale of Surplus Property ad NWC Washington & VID Earl Alameda County, California SS No. 1106

A Property of the State of the Land

STATE OF THE BUILDING

BUT THE THE PERSON OF THE PERS

As additional consideration to induce the undersigned to sign the within Grant Deed, Grantees covenant for themselves, their heirs and assign that no part of the real property first described herein, which is that no part of the real property first described herein, which is conveyed to Grantees, shall be used by Grantees, their heirs and assigns for the purpose of conducting thereon any business of selling.

As additional consideration as a purpose of the purpose of the handling or dealing in gasoline, or otherwise, for the purpose of the handling or dealing in gasoline, or otherwise, for the purpose of operating a business commonly referred to as a "gasoline service operating a business commonly referred to as a "gasoline service station". The foregoing restriction shall terminate and be of no force and effect twenty-five (25) years from the date of the recording of the herein Grant Deed from Granter to Grantees.

Grantees, fur hoirs and assigns, agrees not to construct nor maintain any building, wall, fonce or other structure within twenty (20) feet of the net property line on Washington Avonue, however, Granter retains the right to approve the position of any signs placed by Grantess within the right to approve the position of any signs placed by Grantess within said twenty (20) foot set-back area. This set-back restriction shall be perpetual and binding forever upon Grantees, this hairs and assigns.

It is understood by Grantees, their heirs and sesting. That upon a breach of any of the foregoing restrictions, and in the event of failure to remedy said breach within thirty (30) days after receipt of written notice from Grantor, its successors and assigns, said real property shall immediately revert to Grantor, its successors and assigns, and Grantor shall have the right of immediate re-entry upon said real property upon the event of such breach.

Provided, however, that a breach of any of the foregoing provisions or covenants, or re-entry by reason of such breach, shall not defeat or render invalid the tien of a mortgage or deed of trust made in good faith and for value; and provided, further, that in the event of any sale of said property by reason of foreclosure or sale or any mortgage or deed of trust, the foregoing restrictions as to the use of said property shall remain in full force and effect.

Grantor reserves all oil, petroleum, natural gas, mineral rights and other hydrocarbon substances lying below a depth of 500 vertical feet from the surface of said land for the purpose of exploring for, extracting, mining, boring, removing or marketing said substances, however, without any right of any entry upon the surface of said land.

Subject to casements, conditions, restrictions and reservations of record and subject to 1971 - 1972 taxes and assessments, if any,

11-107723





We Make The Difference FAX COVER SHEET

DATE: 16 NOV	TIME:	
PLEASE DELIVER THE FOLLOWING TO: NAME: CELESTE CRAWFORD		
FAX NO.: <u>834 4748</u>	ĸ:	The 1993
FROM:		From the kolon In the Has
PREMIER TITLE COMPANY		
RANDALL J. KINLOCH Customer Service Supervisor		
1035 A Street • Hayward, CA 94541 Telephone 1 (800) 634-5263 • Fax (510) 537-9235 Voice Matt. (510) 537-3424 x223		
We are transmitting pages including this cover sheet. pages, please call as soon as possible. NOTES: REQUESTED DOCUMENTS	If you do :	not receive all the
HANK- YOU!	5	
	Koune	sky
This message is intended only for the use of the individual or ent	ity to which	it is addressed and disclosure under

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



RECORDING REQUESTED BY

RE-1402 INT 53

RECORDED at REQUEST OF Title Insurance & Triant Co. At 9.30 A.M.

DEC 29 1984

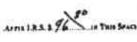
Gulf Dil Corporation F. O. Ben 64727 Les Angeles, Calif. 90064

W207316

DIFFERENCE OF CHICAGO OF CHICAGO COLUMN COLUMN COLUMN COLUMN CALIFORNIA CALIF











Grant Deed

FOR A VALUABLE CONSIDERATION, receipt of which is breaky acknowledged. LOUIS FIRERAL, a SIGNIFIED, MARY LAGOMARSINO, GUISEPFINA CROCK, LANA RORCORI, DAVID FERRO and HEADETTE FERRO, his wife

hereby GRANT(S) to

QULF OIL CORPORATION OF CALIFORNIA

the following discribed real property in the Township of Eden County of Alassed 6. , State of California: County of Alameda

For the description of the property herein conveyed, see attached Exhibit "A".

December 16, 1954

STATE OF CHIPORNIA COUNTY OF Alemeda On December 18, 1904 Louis Parista, Mary Lagonaraino Otsisappina Groce, Lens Honconi, David Farro, and Jaspette Farro,

Hutmann_..

F. E. HOFMANN NOTARY PUBLIC ALAMEDA CO., CALIFORNI

Da parte de la serie

Tale Order No.

Enrow or Loan No.

1984 OR

RE.1402 IN: 54

EXHIBIT A

DESCRIPTION

REAL PROPERTY in the Township of Eden, County of Alameda, State of California, described as follows:

A PORTION of Lot 5 of "Map f3, a portion of the Misison Tract in the Soto Rancho, Alameda Co., Cal., Surveyed May 1900", filed June 25, 1900 in book 16 of Maps, page 9, in the office of the County Recorder of Alamada County, described as follows:

BEGINNING at a point on the western line of
County Road No. 8045, commonly known as Nashington Avenue, &4
feet wide, as said line was established under "Parcel 3" in that
certain deed from Louis Farina, a widower, et al, to the County of
Alameda, a political subdivision of the State of California, dated
January 19, 1955, and recorded in book 7578 of Official Necet. 01
Alameda County, page 31, distant thereon north 1677 etal for the southeastern line of said Lot 5; running thence
Southeasterly on the arc of a curve to the right having a radius
of 40 feet, tangent to last mentioned course, a distance of
fa.17 feet to the northwestern line of Via Enrico, as said line
was satablished in the Grant of Right of May by Luigi Farina, et al,
to County of Alameda, dated March 31, 1961, recorded April 26, 1961
on Real 317, Image 942, (AS/Sous7) Alameda Lounty Records; thence
on Real 317, Image 942, (AS/Sous7) Alameda Lounty Records; thence
along the last named line, as follows: South 63 02 20" Mest 196.43
feet westerly and northerly on the arc of a curve to the right
having a radius of 20 feet, tangent to last mentional coursé, a
distance of 40.38 feet to a point on a line of tangency which bears
south 1" 40" east; and thence south 28" 48" 20" west 6.15 feet
to the eastern line of Lorenzo Avenue, as said eastern line now exists;
thence along the last named line, north 1" 11" 40" west 202.67
feet to the northwestern line of said lot 5; thence along the last
named.line, north 63" 08" 20" east 127.30 feet to the northeastern
line of the land dearribed in the deed to Torena Masnata, dated March 30,
1954, recorded December 23, 1955 in book 78x8 of Official Records of
Alameda County, page 429, (AX/140668); thouse along the direct extension of said last mentioned 1"ne, south 28" 55' east 2 feet;
thence parallel with said northwestern line of suid lot 5, North 63"
08" 20" east 35 feet, more or less, to said western line of suid lot 5, North 63"
00" 20" east 35 feet, more or less, to said western line of suid lot 5, North 63"

1964 OR

1402

55

THEOGRAPHIE REQUESTED BY

AN207317

Title Insurance & Trust Co. 16 b.Franklifist. Schlong delifemia RE:1402 IN: 55

RECORDED A REQUEST OF Title leavesnes & fruit v4-At 8:30 A.C.

DEC 2 9 1964

DATICAL RECORDS OF MACHINE PRINTY, CALIMANA UACK G. BLUE

STATE ABOVE THE LINE POR SECONDER'S USE



Grant Deed

THIS PORT FLAMING BY TITLE IMPLEMENT AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, recipt of which is bereity acknowledged.

JOSEPHINE CROCE, LOUIS CROCE, ARRA CROCE LOPEZ and NORMA CROCE LUKSIC

hereby GRANT(S) to

OULF OIL COMPORATION of CALIFORNIA

the following described real property in the Township of Eden County of Alexaedu , Sasse of Californies

For the description of the property herein conveyed, see attached

E. 533

Derd ___ De paster 16, 1964....

or Represent 18, 1964 below to missing 1, 1964

FE Hofmans

Jaryshine Croce



Tale Chiler No.

Farrow or Luan No.

1964 OR

1402 56

EXIMIBIT A

DESCRIPTION

REAL PHOPERTY in the Township of Eden. County of Alameda, State of California, described as follows:

A PORTION of Lot \$ of "Map #3, a portion of the Mielron Tract in the Soto Rancho, Alameda Co., Cal., Surveyed May 1900", filed June 25, 1900 in book 16 of Maps, page 9, in the office of the County Recorder of Alameda County, described as follows:

BEGINNING at a point on the western line of
County Road No. 3045, commonly known as Mashington Avenue, 24
feet wide, as said line was established under "Parcel 5" in that
certain deed from Louis Farina, a widower, et al, to the County of
Alameda, a political subdivision of the State of California, dated
January 10, 1055, and recorded in book 7578 of Official Records of
Alameda County, page 31, distant thereon north 14*27 wast \$3.35
Alameda County, page 31, distant thereon north 14*27 wast \$3.35
feet from the southeastern line of said Lot 5; running thence
Southwesterly on the arc of a curve to the right having a radius
of 40 foet, tangent to last mentioned course, a distance of
40 foet, tangent to last mentioned course, a distance of
40 foet, tangent to last mentioned course, a distance of
40 foet, tangent to last mentioned course, a distance of
40 foet, tangent to last mentioned course, a distance of
40 foet, tangent to last mentioned fourty Records, thence
on Reel 312, lasge 942, (AS/50857) Alameda County Records; thence
on Reel 312, lasge 942, (AS/50857) Alameda County Records; thence
along the last named line, as follows: South 63 of 20" wost 196.43
along the last named line, as follows: South 63 of 20" wost 196.43
having a radius of 26 feet, tangent to last mentioned course, a
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 11" 40" east; and thence south 88 as 20" west 6.15 feet
south 1" 11" 40" east; and thence south 88 as 20" west 6.15 feet
south 1" 11" 40" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet
south 1" 10" east; and thence south 88 as 20" west 6.15 feet

M207317

A-104386 RECORDED A REQUEST OF BEOTAS IN 372 Tansamerica Title Insurance Co. AND WHEN RECORDED MAIL TO Stanley B, Long Alidrid O. Long Towns A. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri & Agnes J. Calleri San Leandro, California 94578 94578 BPACE ABOVE THIS LINE FOR PECONGER'S TO STATEMENTS TO DOCUMENTARY TEAMSTER TAX 1 __ 84. 70 V Z COMPUTED ON PULL YALVE OF PROMETY CONVEYED Same an above. OF COMPUTED ON PULL VALUE LIES UPINS AND P INCOMPRANCES SEMANING AT TIME OF SALE. Transamerice Title Infunce Con UNINCORPORATED GRANT DEED 4088247 July 31, 1974 GULF OIL CORPORATION, a Pennsylvania corporation, (successor by merger to Gulf Oil Corporation of California, a Delaware corporation), GLANTS II STANLEY E. LONG and MILDRID O. LONG, his wife, as to an undivided one-half interest, and JESSEN A. CALLERI and AGNES J. CALLERI. his wife, as to an undivided one-half interest, described in the Exhibit "A" attached Township of Eden hereto and made a part hereof. SUBJECT TO: (1) Any facts and conditions that an accurate survey or personal inspection of the premises would reveal; (2) any and all easements, covenants, conditions, restrictions, reservations and rights of record, soning laws and regulatory or lineaces in effect at title transfer, and 1974-1975 taxes and assessments, if any. DATE: GULF OIL CORPORATION, a Pennsylvania corporation, W. B. Anderson, Vice President and Cenera Manager of Gulf Oli Company-California, a Division of Gulf Oil Corporation STATE OF CALIFORNIA COUNTY OF LOS ANGELES Ou 1974, before me, a Metery Public in and for said State, personally appeared W. B. ANDERSON, known to me to be the person who executed the within lastrument on helpful of the cerparation therein named, and acknowledged to me that such appearation accorded the within instrument persons to its by-laws or a resolution—of its based of directors. ELOIST & DUERFLIR 7-104366 FRITAL PAR DIFFEE I WITHESS my hand and addeds seal. My Caminana Lignes April 2, 19

1974 OR

A-101386

E.3749 W.373

Exhibit A

- Flecher 721-79

A portion of Lot 5, Map No. 3, a portion of the Niclson Tract in the Soto Rancho, Michoela Co., Cal., surveyed Hay 1900, filed June 25, 1900, Hap Book 16, Page 9, Alameda County Records, described as follows:

BEGINNING at a point on the Western line of County Road No. 80-15, commonly known as Washington Avenue, 84 feet wide, as said line as established known as Washington Avenue, 84 feet wide, as said line as established under "Parcel.5" in that certain deed from Louis Farina, a widower, at al., to the County of Alomeda, a political subdivision of the State of Calife 14, dated January 19, 1955, and recorded in Book 7578 OR, Page 31, Alaneda County dated January 19, 1955, and recorded in Book 7578 OR, Page 31, Alaneda County Records, distant thereon Morth 14-27. West 83.35 feet from the Southeastern Records, distant, thereon Morth 14-27. West 83.55 feet from the Southeastern line of was 12 feet to the left of the Southeastern line of a curve to the left of having a radius of 40 feet, tangent to last mentioned course, a distance of 15 having a radius of 40 feet, tangent to last mentioned a said line was 54.17 feet to the Northwestern line of Via Enrice, as said line was 54.17 feet to the Northwestern line of right of way by buigi Parina, or al. to County established in the grant of right of way by buigi Parina, or al. to County As/50857, Real 312 OK, Image 942, Alameda County Records, thomas along the As/50857, Real 312 OK, Image 942, Alameda County Records, thomas along the 27 last mentioned line South 63 OG: 20" West 90.72 feet; thene North 14 27 last mentioned line of land described in the deed to Don K. Callahan, et ux, recorded parcel of land described in the deed to Don K. Callahan, et ux, recorded hap and the last mentioned line North 64 O4 29" Hast 122.45 feet to the said Western line of Washington Avenue; thomas along the last mentioned line south 14 27 00" East 117 feet, more or less, to the point of beginning.

ORANTOR RESERVES all oil, petroleum, natural gas, mineral rights and other hydrocarbon substances lying below a depth of 500 vertical feet from the surface of said land, for the purpose of exploring for, extracting, mining, boring, removing or marketing said substances, however, without any right of any entry upon the surface of said land.

Don K. Callahan Insurance, Inc., <u>Auto-Life-Health-Home and Business</u> 15250 Hesperian Blvd, Suite 200 San Leandro, CA 94578 Phone (510) 357-6142

OCTOBER 19, 1993

ALAMEDA COUNTY HEALTH AGENCY MS. PAMELA J. EVANS 80 SWAN WAY, ROOM 200 OAKLAND, CA 94621

DEAR MS. EVANS.

MY MEETING WITH YOU AND JULIET SHIN ON OCTOBER 14, 1993 WAS INFORMATIVE AS TO MY COURSE OF ACTION REGARDING MY GROUND WATER BEING IMPACTED BY GASOLINE.

AS I STATED AT OUR MEETING, MY PROBLEM IS A RESULT OF GAS TANKS LEAKING FROM THE SHELL SERVICE STATION WHICH IS CONTIGUOUS TO MY PROPERTY.

ON FRIDAY, OCTOBER 15, 1993, I SPOKE WITH DOMINGO RINCONI, ONE OF THE LAND OWNERS IN THAT AREA SINCE 1929. HE ADVISED THAT MY PARCEL AND THE SHELL PROPERTY WAS PART OF THEIR FARM UNTIL IT WAS SOLD IN THE EARLY 1960'S. THE PROPERTY WAS DEVELOPED INTO A GAS STATION IN 1965 (SEE ATTACHED). THE FILE FOR THIS PARCEL STARTED IN 1965. THE ENCLOSED PLAN FOR DEVELOPMENT SHOWS MY OFFICE SITE "SURPLUS PROPERTY DO NOT IMPROVE". ENCLOSED IS MY BUILDING PERMIT WHICH IS THE BEGINNING OF THE 15563 WASHINGTON AVENUE PROPERTY. IN MY CONVERSATION WITH DOMINGO RINCONI HE STATED THE SHELL STATION AND MY OFFICE WERE THE FIRST AND ONLY DEVELOPEMENT OF THAT PROPERTY.

I WENT TO THE MAP AND AERIAL DEPARTMENT AT THE COUNTY OF ALAMEDA AND LOCATED A 1958 PHOTO (SECTION 5-25-27) SHOWING FARMLAND AND NO STRUCTURES ON MY PROPERTY OR THE SHELL GAS STATION. AS ANOTHER POINT OF INFORMATION, WASHINGTON AVENUE WAS NOT A STREET UNTIL 1954.

I BELIEVE THIS INFORMATION AND THE ENCLOSED DOCUMENTS VERIFY THERE ARE NO FUEL TANKS OR FUEL LINES ON MY PROPERTY AND THERE NEVER HAS BEEN.

I AM REQUESTING FROM YOU AND YOUR DEPARTMENT COOPERATION IN EXPEDITING A SATISFACTORY SOLUTION TO THE PROBLEM OF GASOLINE IN MY GROUND WATER.

DON CALLAHAN

SHNCERELY.

ENCLOSURES: 1 - GULF OIL PLANS

2 - GULF DIL PERMITS

3 - CALLAHAN OFFICE BUILDING PERMIT



Lisa Kim Attorney

Texaco inc

10 Universal City Plaza 13th Floor Universal City CA 91608 1006 818 505 3030 FAX 818 505 3059

93 OCT -4 PM 2: 28

September 23, 1993

Juliet Shin
Hazardous Materials Specialist
Alameda County Health Care Services Agency
80 Swan Way, Room 200
Oakland, California 94621

RE: 15551 Washington, San Lorenzo

Dear Ms. Shin:

In response to the County's request that Texaco Refining and Marketing Inc. ("TRMI") undertake groundwater monitoring at the above mentioned property, TRMI does not believe it is appropriately within the category of Responsible Parties.

First, TRMI never owned or operated a service station at this location. TRMI acquired this property at a non-judicial foreclosure auction on June 21, 1983 in order to protect a security interest. A copy of the Trustee's Deed Upon Sale is attached for your information. The Trustee's Deed indicates that the last owners and operators of the service station located at this site was Stanley E. Long, Mildrid O. Long, Jessen A. Calleri and Agnes J. Calleri. As TRMI did not intend to operate a service station at this location, the property was immediately placed on the market for sale. The property remained closed until the property was sold to Bertram H. Kubo on December 31, 1986.

Second, Section 2720, Article 11 of Title 23 California Code of Regulations defines a "Responsible Party" as:

- (1) Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
- (2) In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use

TRMI's attempts to determine the whereabouts of the Longs and Calleris have been unsuccessful.

Juliet Shin September 23, 1993 Page 2

storage tank immediately before the discontinuation of its use

(3) Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and

(4) Any person who had or has control over a underground storage tank at the time of or following an unauthorized

release of a hazardous substance.

TRMI is not appropriately within the category of Responsible Party as 1) TRMI did not engage in any commercial activities at this site; and therefore, TRMI never owned or operated an underground storage tank used for the storage of any hazardous substance; 2) the use of the tanks were discontinued prior to TRMI's purchase of the property at the foreclosure sale; 3) TRMI was not an owner of property at the time of an unauthorized release; and 4) TRMI did not cause or permit the activity which led to an unauthorized release.

As TRMI did not cause or permit an unauthorized release, TRMI requests that its name be removed from the County's list of Responsible Parties.

Thank you for your consideration of this matter. Please contact me if you have any further questions.

Very truly yours,

Lisa Kim

\1601.wp

LAW OFFICES RANDICK & O'DEA 1800 HARRISON, SUITE 2350 ROBERT A. RANDICK, JR. TELEPHONE BRIAN M. O'DEA OAKLAND, CALIFORNIA 94612 (510) 836-3555 SUSAN M. TEEL BERNARD F. ROSE, PH.D. TELECOPIER REBECCA T. DIXON JULIE M. ROSE (510) 834-4748 WILLIAM J. TRINKLE June 11, 1993 Ms. Juliet Shin Mr. Scott Seery Alameda County Health Services Agency Department of Environmental Health 80 Swan Way, Room 200 Oakland, CA 94621 15595 Washington Street, San Lorenzo, CA - Shin 14994 East 14th Street, San Lorenzo, CA - Seery Dear Ms. Shin and Mr. Seery: Mr. Bert Kubo has hired this firm to assist him in addressing the contamination found at the above-referenced locations. I would like to set up an appointment to send in a copying service company to make copies of your files on these two sites. Please contact either Celeste Crawford or myself at the above number to set up a time and date for our copying service to copy the files. I understand that an hourly fee is charged by your office for overseeing the file review and copying. That fee can be billed directly to this office. If you have any questions, please contact me. Thank you for your assistance in this matter. Very truly yours, RANDICK & O'DEA Julie M. Rose JMR:mj 3537.1

M.Mohammadian Linda Shell Station 15595 Washington Ave. San Lorenzo Ca. 94580 5-6-93

Thomas F. Peacock, Supervising HMS Hazardous Material Division Alameda County Health Care Services Agency:

Dear Sir:

Re; Your letter dated Nov.2/1993 About above Site

I have received the above letter of yours with the letter dated 4/5/93 from your office.

Early 1990 by the time I wanted to buy the above property I have been informed, that from your office point of view this site is not contaminated, and especially as far as they have done the site test and they have issued permit for new tanks after the sit investigation we can be sure that the site is not contaminated. As they have installed new double wall tanks with electronic monitoring system, I was sure that we will not face any problem.

Unfortunately during last few months, I have received information, which surprised me. With the letters dated April 27,1993 from Juliet Shin and notice of requirement to reimburse dated 4/5/93 by Edgar B. Howell, III, chief. For your information, the samples of water taken from the monitoring wells, which were capped till Nov.1992 are located were the old tanks had been before 1987. By early 1987 they did instal the new double wall tanks in the other side of the property. Now I have questions.

- Why your office provided incorrect information by 1990?

 If the property was contaminated and needed clean up or monitoring, how did you approve the permit to instal the new tanks?
- _ How you will consider me the Responsible party #1, for something I have not done. And I had been mis informed by your office.

I will appreciate your respond. Awaiting to hear from you soon.

Yours Sincerely

M.Mohammadian

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

April 27, 1993

Mr. Robert Robles
Texaco Refining &
Marketing, Inc.
10 Universal City Plza, 13th Fl.
Universal City, CA 91608

STID 1360

Re: 15595 Washington Street, San Lorenzo, California

Dear Mr. Robles,

In August 1986, Groundwater Technology, Inc., under the direction of Texaco, placed six borings at the above site and converted three of these borings into monitoring wells. It appears that soil samples were collected from the borings at 5-foot intervals, and analyzed for Total Petroleum Hydrocarbons (TPH), lead, and BTEX, and ground water samples were collected from the three newly installed monitoring wells and borings SB-1 and SB-2, and analyzed for BTEX. The analysis of the ground water sample collected from SB-1 identified 220 ppb Benzene.

In 1992, Groundwater Technology was contacted by Tracy Federal Bank to conduct a limited investigation of the site. On November 12, 1992, Groundwater Technology collected water level measurements and ground water samples from the three on-site wells. Water samples were analyzed for BTEX and TPH as gasoline. Analysis of the ground water samples identified 720 ppb TPH as gasoline, 3 ppb Benzene, and traces of toluene, ethylbenzene, and xylenes from Well MW-1. Additionally, 69 ppb TPH as gasoline was identified from Well MW-3. Well MW-1, the well currently showing the highest levels of TPH and BTEX, is located near the former boring SB-1 which identified the levels of benzene observed in 1986.

Per Section 2652, Article 5, Title 23 California Code of Regulations, you are required to continue conducting quarterly monitoring and reporting at this site. The referenced quarterly reports must describe the status of the investigation and must include, among others, the following elements:

o Details and results of all work performed during the designated period of time: records of field observations and data, water level data, chain-of-custody forms, Mr. Bob Robles

Re: 15595 Washington St.

April 27, 1993 Page 2 of 2

laboratory results for all samples collected and analyzed, tabulations of free product thicknesses, if any, and dissolved fractions, etc.

- o Status of ground water contamination characterization.
- o Interpretation of results: water level contour maps showing gradients, free and dissolved product, plume definition maps for target component, etc.
- o Recommendations or plans for additional investigative work or remediation.

Samples collected must be analyzed for the appropriate fuel contaminants, potentially available for release, listed in Table 2 of the RWQCB's <u>Staff Recommendations for the Initial Evaluation and Investigation of Underground Tanks</u>.

If you have any questions or comments, please contact me at (510) 271-4530.

Sincerely,

Juliet Shin

Hazardous Materials Specialist

cc: Richard Hiett, RWQCB

Mahdi Mohammadian 15595 Washington St. San Lorenzo, CA 94580

Bert Kubo 5772 Sellers Ave. Oakley, CA 94561

Edgar Howell-File(JS)

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

April 27, 1993

Mahdi Mohammadian 15595 Washington St. San Lorenzo, CA 94580

STID 1360

Re: 15595 Washington Street, San Lorenzo, California

Dear Mr. Mohammadian,

In August 1986, Groundwater Technology, Inc., under the direction of Texaco, placed six borings at the above site and converted three of these borings into monitoring wells. It appears that soil samples were collected from the borings at 5-foot intervals, and analyzed for Total Petroleum Hydrocarbons (TPH), lead, and BTEX, and ground water samples were collected from the three newly installed monitoring wells and borings SB-1 and SB-2, and analyzed for BTEX. The analysis of the ground water sample collected from SB-1 identified 220 ppb Benzene.

In 1992, Groundwater Technology was contacted by Tracy Federal Bank to conduct a limited investigation of the site. On November 12, 1992, Groundwater Technology collected water level measurements and ground water samples from the three on-site wells. Water samples were analyzed for BTEX and TPH as gasoline. Analysis of the ground water samples identified 720 ppb TPH as gasoline, 3 ppb Benzene, and traces of toluene, ethylbenzene, and xylenes from Well MW-1. Additionally, 69 ppb TPH as gasoline was identified from Well MW-3. Well MW-1, the well currently showing the highest levels of TPH and BTEX, is located near the former boring SB-1 which identified the levels of benzene observed in 1986.

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laboratory results for all samples collected and analyzed, tabulations of free product thicknesses, if any, and dissolved fractions, etc.

- o Status of ground water contamination characterization.
- o Interpretation of results: water level contour maps showing gradients, free and dissolved product, plume definition maps for target component, etc.
- Recommendations or plans for additional investigative work or remediation.

Samples collected must be analyzed for the appropriate fuel contaminants, potentially available for release, listed in Table 2 of the RWQCB's <u>Staff Recommendations</u> for the Initial Evaluation and Investigation of Underground Tanks.

If you have any questions or comments, please contact me at (510) 271-4530.

Sincerely,

Juliet Shin

Hazardous Materials Specialist

cc: Richard Hiett, RWQCB

Mr. Robert Robles
Texaco Refining &
Marketing, Inc.
10 Universal City Plza, 13th Fl.
Universal City, CA 91608

Bert Kubo 5772 Sellers Ave. Oakley, CA 94561

Edgar Howell-File(JS)

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY

DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

April 27, 1993

Bert Kubo 5772 Sellers Ave. Oakley, CA 94561

STID 1360

Re: 15595 Washington Street, San Lorenzo, California

Dear Mr. Kubo,

In August 1986, Groundwater Technology, Inc., under the direction of Texaco, placed six borings at the above site and converted three of these borings into monitoring wells. It appears that soil samples were collected from the borings at 5-foot intervals, and analyzed for Total Petroleum Hydrocarbons (TPH), lead, and BTEX, and ground water samples were collected from the three newly installed monitoring wells and borings SB-1 and SB-2, and analyzed for BTEX. The analysis of the ground water sample collected from SB-1 identified 220 ppb Benzene.

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Per Section 2652, Article 5, Title 23 California Code of Regulations, you are required to continue conducting quarterly monitoring and reporting at this site. The referenced quarterly reports must describe the status of the investigation and must include, among others, the following elements:

 Details and results of all work performed during the designated period of time: records of field observations and data, water level data, chain-of-custody forms, Mr. Bert Kubo

Re: 15595 Washington St.

April 27, 1993 Page 2 of 2

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- Recommendations or plans for additional investigative work or remediation.

Samples collected must be analyzed for the appropriate fuel contaminants, potentially available for release, listed in Table 2 of the RWQCB's <u>Staff Recommendations for the Initial Evaluation and Investigation of Underground Tanks</u>.

If you have any questions or comments, please contact me at (510) 271-4530.

Sincerely,

Juliet Shin

Hazardous Materials Specialist

cc: Richard Hiett, RWQCB

Mr. Robert Robles Texaco Refining & Marketing, Inc.

10 Universal City Plza, 13th Fl.

Universal City, CA 91608

Mahdi Mohammadian 15595 Washington St. San Lorenzo, CA 94580

Edgar Howell-File(JS)



KUBO'S RACING STABLES

5772 Sellers Avenue Oakley, CA 94561 (415) 625-5191

4-16-93

Dear mehdi-

Enclosed please find copies of Texaco's response regarding monitoring responsibilities of the wells on the washington property. Shortly, you should be receiving a letter from the Alaneda Co. Heath Services Dep 4. that will name (4) parties that are responsible for monitoring these wells. These parties are:

- 1. Texaco Oil
- 2. Gulf oil
- relicte mohammedian
- 4. Bestian Kubo

As we discussed earlier, please pursue your loan immediately, and should your bank sequire that someone take responsibility for the wells. I agree to be that party. Please inform me of your bank and what their requirements will be.

Thank you ford

BURTEAM H. KUBO



a Kim

Texaco Inc

10 Universal City Piaza 13th Floor Universal City CA 91608 1006 818 505 3030 FAX 818 505 3059

March 26, 1993

Mr. Bertram H. Kubo 5772 Sellers Avenue Oakley, CA 94561

RE: 15595 Washington Avenue, San Lorenzo, CA

Legal File # 250G.7.452

Dear Mr. Kubo:

As stated in my December 30th, 1992 letter, Texaco Refining and Marketing Inc. ("Texaco") has been actively engaged in locating and reviewing its records to assess its past relationship with regard to the above-referenced site.

Upon completion of its investigation, Texaco reviewed its records for evidence of past commercial activities at this location. Our records do not provide any indication that Texaco ever conducted commercial activities at the subject location. Rather, our records reveal that Texaco purchased the subject property at a non-judicial foreclosure auction on June 21, 1983. I have attached a copy of the pertinent documents for your reference.

Our records do not indicate that prior to the purchase of the property, Texaco had any interest in the property. Further, it is clear that from the time of purchase to the eventual sale of the property to Bertram H. Kubo on December 31, 1986, Texaco did not engage in any commercial activities on the subject property. Lastly, prior to the sale of the property, Texaco provided the Buyer with a copy of a Groundwater Technology, Inc. Subsurface Hydrocarbon Investigation Report, dated October 17, 1986. Groundwater Technology report concluded that "(n)o detectable levels of BTX or total petroleum hydrocarbon were reported in the composite soil samples" and that groundwater levels were "within EPA standards for safe drinking water." (Groundwater Technology, Inc. Report, October 16, 1986, page 8, 10). Based upon the results of their investigation, Groundwater Technology recommended that no further remedial action was required and that the investigation be closed.

As Texaco never engaged in commercial activities at the subject property and as Texaco sold an uncontaminated property, Texaco

Mr. Bertram H. Kubo March 26, 1993 Page 2

cannot assume responsibility for the financing and monitoring of any wells located on the property.

Should you have any further questions regarding this matter, please contact me at 818/505-3030.

Very truly yours,

Lisa Kim

Attachments

3-30-93

To . Juliet Shin

Enclosed please find subscurlace operate on property at: 15595 washington tre. San tenengo, a

My name (5: Best Kubs)
5772 Sellers Ave.

Oakley, ch 9456;

ph # (510) 625-5191

white -env.health yellow -facility pink -files



80 Swan Way, #200 Oakland, CA 94621 (415) 271-4320

Hazardous Materials Inspection Form

11,111

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	6, Emergency Response	2730 25504(b)	City -2	ian Lover	60	ZIp	94580	Phone	481-02e0
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	9. Modification	25505(b)	1	Inspectio	n Categori	es:			
1.B	ACUTELY HAZ. MAT'LS		1	I. Haz. i	Mat/Waste G	SENERA			
	10. Registration Form Filed	1		ess Plans, Act ground Tank		zardous M	1aterlais		
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	14, OffSite Conseq. Assess	25524(c) 25534(d)	· Cal	lf. Administrati	on Code (C	AC) or	the Health	& Safaty C	Code (HS&C)
	16. Persons Responsible	25534(g) 25534(f)		III. Admir istidii	OIT CODE (C)	(C) (I	IIIO HOCIII	Tot Screeny C	JOGB (HS&C)
	18. Exemption Request? (Y/N)	25536(b) 25538	Comp	nents:	00				
			3	underan	ound Au	ul to	anks	operati	d muite installed
III.	UNDERGROUND TANKS (Title	23)	198	- 11	ently de	VA 1 40	HAIDIA	Shrea	POAL
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Genera	2. Pipeline Leak Defection 3. Recards Maintenance	25292 (H&S) 2712		10,000	300	1 cay	La Cal	. Les de l	-
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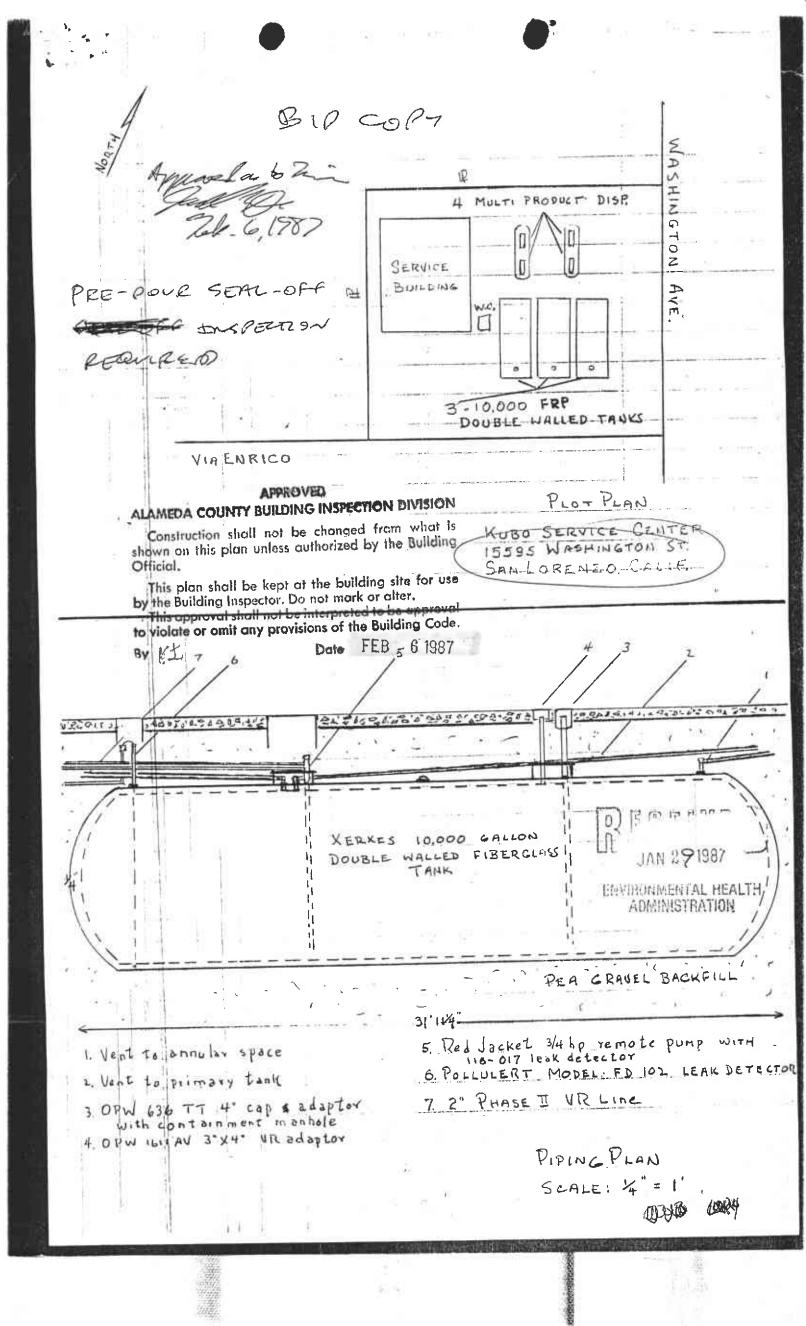
Linda Shell 15595 Washington San Lovenzo, CA

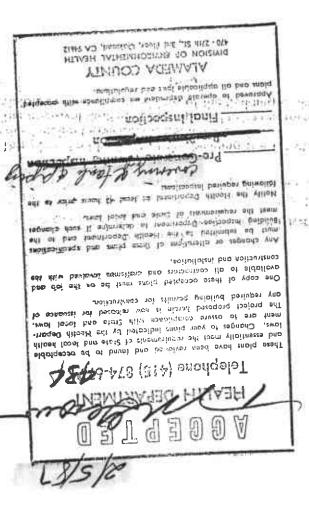
Kubo 2/87

(photo from installer?)
- Dick Faher-



COUNTY OF ALAMEDA BUILD 399 ELMHURST ST. DM 141, HAYWARI	DING INSPECTION CA 94544 TELEF	DEPARTMENT
24 HOUR INSPECTION REQUEST		
MHITE INSPECTOR'S COPY TO THE CANARY AUDITOR'S COPY	PINK - OFFICE COPY	
(BOB)		35 0278
BUILDING ADDRESS 15595 WASHINGTON 57	CITY SAN LOK	PENSO PERMIT NO. # 6278
BETWEEN CROSS STREETS VIA ENRICO		APPLICATION 2-6-87
APPLICANT: OWNER CONTRACTOR DRIVER'S LIC.	HOME PHONE	SSUE 2-9-87
I OWNERS NAME BERT KUBO (KUBO SERVKE CE	V TEX PHONE	EXPIRATION Z-9-88
ADDRESS JAME		RECEIPT NO.
ADDRESS 3930 PACHES BLVD. CITY M	HARTING2	
Y ARCHITECT OR ENGINEER'S NAME ADDRESS CITY	PHONE	STATE 306351 A-1
LICENSED CONTRACTOR'S DECLARATION	VI LEGAL DESCRIPTION (FILL IN ONE	OF THE FOLLOWING):
I hereby aftern that I am icensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.	A BOOK . PAGE	PARCEL SUB.P.
icense Class A - / License 306 35 /	B. TRACT BLOC	
late 2/3/87 Contractor Ol N. Faller	C PARCEL MAP	PARCEL
OWNER BUILDER DECLARATION	(NEW) (ADDITION X) (ALTERATION) (REPAIR) (MOVED) (DEMOLISH) (RENEWAL
1 hereby efform that I am exempt from the Contractor's License Law for the following reason (Sec. 703.1.5 thairness and refeasions Code. Any city or county which requires a permit to construct, after improve, demokshi or repair any structure, vice to the seasons also requires the applicant for such permit to the a signed statement that he is increased partially.	A. DESCRIBE NEW BUILDING GROSS	
a the provisions of the Contractor's License Law (Chapter 9 commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he is exempt therefrom and the busis for the alleged exemption. Any violation of Section	NUMBER OF STORIES	EXTERIOR WALL COVERING
133.5 by any applicant for a permit authorits the applicant to a third penulty of not recent than the functed dollars (\$500))	B. DESCRIBE PRESENT BUILDING G	ROSS AREA
I as swiver of the property, or my employees with wages as their sole compensation, will do the work, and we structure is not intended or othered for sale (Sec. 7044, Business and Professions Code. The Contractor's License are does not apply to an owner of property who builts or exposure. Before, and who does such work trimself or	NUMBER OF STORIES	EXTERIOR WALL COVERING
resugh his own employees, provided that such improvements are not intended or offered for sale. If however, the building is improvement to sold within one year of completion, the invente builder will have the burden of proving that he did	C. DESCRIBE ADDITION:	SO NO
of build or imprise for the purpose of size.) I as owner of the purpose of size.) I as owner of the purpose of size.) I as owner of the purpose, an exclusively commanding with Remised contractors to construct the project (Sec. 7044, Isainess and Professions Code. The Contractor's License Law door not apply to an owner of purposity who builds not improves nearon and who contracts for such projects with a commanding's Remised purposes in the Contractor's License Law.)	GROSS AREA D. IS BUILDING/ADDITION HEATED? VIII DESCRIBE ALTERATION OF REPA	Account to the same of the sam
Tam exempt under Sec. B & P.C. for this reason	INSTALL THE	BR U.S. EUSOUNE
Jale Owner Owner	THUKS & FUMPS.	-3-10,000 GAL TAVES.
WORKERS' COMPENSATION DECLARATION I hereby affirm that I have certificate of consent to self-insure, or a certificate of Workers' Compensation	1-330 GAL W	ST OIL TANK.
surance, or a certified copy thereof (Sec 3500, Lab. C.) tilicy No. MHK B85012 Company Rep. 14d		
Certified copy is hereby furnished. Expiration Date 11-1-87		
Certified copy is filed with the county building inspection department.		
wite = 2/5/67 - Applicant Hille Stehen William	7	
COMPENSATION INSURANCE	/	
This section need not be completed if the permit is for one hundred dollars (\$100) or less.) I certify that in the performance of the work for which this permit is issued. I shall not employ my person in any manner so as to become subject to the Workers' Compensation Laws of California.	IX PROPOSED USE OF BUILDING:	Gas Station.
hate Applicant	PROPERTY OF THE PROPERTY OF TH	7
NOTICE TO APPLICANT: If, after making this Certricale of Exemption, you should become subject to ne Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions in this permit shall be deemed revoked.	X PRESENT USE OF BUILDING:	Gus Station
CONSTRUCTION LENDING AGENCY I hereby affirm that there is a construction lending agency for the performance of the work for which	777	MATERIALS) \$ 48,225.00
nis pernit is issued (Sec. 3097, Cv. C.).	GROUP \$2	DIS EXC. PERMIT NO ENCROACH
ender's Nameender's Address	TYPE VN SPRINKLED	PERMIT NO. GRADING
cartify that I have must this application and state that the above information is corner is come to consist with all de-	OVER 60 CNEL	PERMIT NO. FLOOD HAZARD
red county profrances and state laws relating to building construction and hereby authorize representatives of this county is arear upon the above-mentioned process-joi inspecting our poses.	WATER EBLUS	SEWER DIO LOVICE
Date / Signature of Applicant or Agent	SUPPLY PGE	
CONDITIONS OF APPROVAL:		PERMIT FEE 325.50
7-11-7:		ENERGY SURCHA
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13

APPLICATION FOR BUILDING PERMIT

COUNTY OF ALAMEDA - LILDING INSPECTION DIVISION Room 166, 224 W. Winton Ave., Hayward, Calif.

537-5800, 357-0844

FOR APPLICANT TO FILL IN		2 3	CSD41 Passage	
1. 108 ADDRESS WASHINGTON AND EVER ENRICO	INSPECTOR'S	P.C.2-70	26413 2550	
	COPY	149 10-65	1-2640A*= +#457.00	
ADDRESS		8.9 3-13	2640 A 5700	
RICHMOND SALIF PHONE			500000 F00000	
3. CONTRACTOR MICHAL & PERFORM				
ADDRESS 212 - SWALL JOHO	- · · · ·			
SO. JAN MANCISCE	When properly vo	alidated in the space	above this is your permit	
STATE UC. # 3/657 PHONE 26/-0522		FOR OFFICE USE		
4. Architect, Engineer or Designer G. CHIZISTENSEN	JOB ADDRESS	TT nex	, a.e. 0	
ADDRESS 2/3 - SHOW AD.		75	· · · · ·	
Sc. SAN ERANCISCO	21.11.12			
STATE LIC. = 5901 PHONE 761-0527	GROUP /-/	TYPE	USE ZONE	
5. LEGAL DESCRIPTION (Fill in one of the following)	ENCROACHMENT P			
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B. BOOKBLOCKPARCEL				
C. METES & BOUNDS			PVT. RD.	
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	GROSS LIVING ARE			
6. DESCRIPTION OF WORK TO BE DONE	PLAN CHECK	5 0	MIT FEE = 7 60	
New Addition Alterotion Repair Moved Demolish	DEC'D	PER	MII FEE	
A. DESCRIBE NEW BUILDING	REC'D			
Gross AreaNo. StoriesO.N.E.	APPROVED	INSPECTION R		
Exterior Wall Covering STEEL				
B. DESCRIBE PRESENT BUILDING				
Gross AreaNo. Stories	(4.100-	E- 11/2	7411 4-65	
Extenor Wall Covering	CHACIT	F12.5, C. P.	MILA 4-6 63	
C. DESCRIBE ADDITION				
Gross AreaNo. Stories			17,765	
Exterior Wall Covering			- 6	
D. DESCRIBE AMERATION OF REPAIR WORK	FIRST			
STOCKED AFTERATION OF REPAIR WORK				
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THOUSED USE OF SUILDING DENOTE STATION	1 ***	1.0		
	50	Iding Official		
PRESENT USE OF BUILDING	A	emede County,	California	
PARSENT USE OF BUIEDING	B.	2 Calan	110000	
		- couper		
2 VALHATION Carl de care de 11 de care				
3. VALUATION finclude costs of all labor and material 18995	1			
2. I certify that I have read this application and state that the above information	1	100000111		
is correct. I agree to comply to all County Ordinances and State laws relating to building construction. I certify that in the performance at the apove work		APPROVALS		
I shall not employ any person in Judiation of the Japon Loge of California re-		Inspector	Date	
Lating to Workmen's Compensation Insurance CONTRACTORS SIGN BELOW	· Gundarion	1) illus	-1-5-65	
certify that train a licensed contractor and that have feetile is the cores and	Under Floor		100000000000000000000000000000000000000	
MICHEL CPFEFFER A Physics	Prame .	Jan X	1-21-65	
ONTRACTOR CONTRACTOR CONTRACTOR CONTRACTOR	in: Lath or Drywarl	1 368 0		
OWNER BUILDER SIGN SELOW	Exterior Late		1	
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and the Sales of the above strategy and a strate to lave up at	211464	Munique	10-24 - NO	

VALIDATE HERE

\$ 262494 APPLICATION F BUILDING PERMIT

JNTY OF ALAMEDA - STILDING INSPECTION DIVISION Room 141, 399 Elmhurst St., Hayward, Calif. 94544
783-5800, 357-0844

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VALIDATE HERE

APPLICATION FOR BUILDING PERMIT

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6.

COUNTY OF ALAMEDA - HEDING INSPECTION Room 141, 399 Elmhurst St., Hayward, Calif. 9783-5800, 357-0844	ON DIVISIO
1. JOB SITE ADDRESS Washington to	

VALIDATE HER

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4. Architect. Engineer or Designer William C Calaci	REC'D 9-77	TYPE V-W	Ean Lovenzo
ADDRESS	GROUP F - 7	TYPE V- A	LISE ZONE
Hayward	RESOLUTION # 1/	1-5428 =-	TOO ZONE CO
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B. BOOK 411 BLOCK 21 PARCEL 4- POT OF	DRAINAGE FEE	RECEIPT	12
	PLAN CHECK FEE	RECEIPT	FEE 103 00
	APPROVED Y 4	ISSUED	Pattie favere
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The Aprilan Magnet System Market System (Aprilan System)			
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CONTRACTOR AUTHORIZED AGENT	Under Floor		

OWNER-BUILDER SIGN BELOW

certify that I am exempt from the provisions of Chap 9. Div. 3, 8. and P. Code (Contractor's license Law) because: (Check applicable statement :

- I am the owner of the above property and I will perform the above work personally or through my employees whose sole compensation is wages, and the above-described structure will not be affered for sale, within one year other compension of the same.
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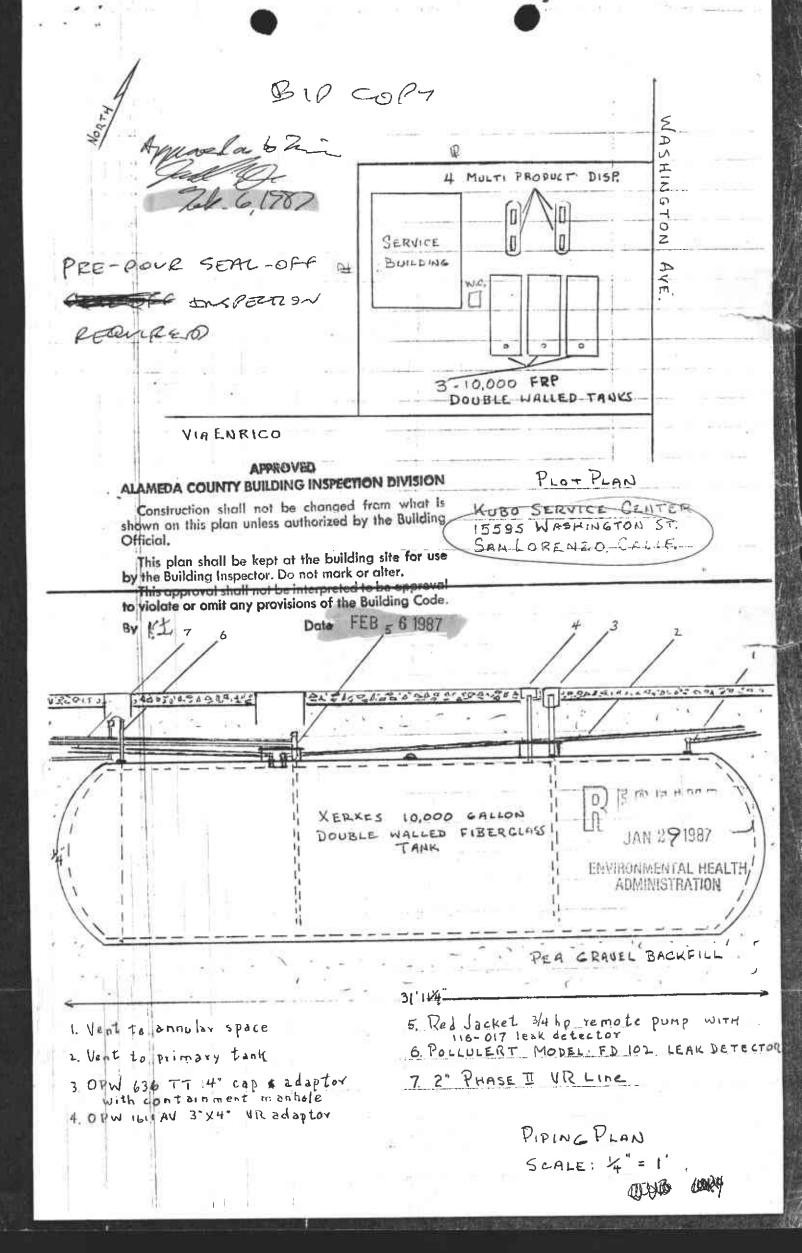
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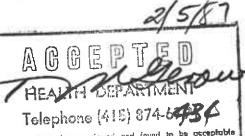
Y OF ALAMEDA - BLUIDING INSPECTION DIVISION Room 141, 399 Elmhur Hayward, Calif. 94544 VALIDATE HERE 783-5800, 357-0844 JOB SITE ADDRESS 15595 WASHINGTON AUE INSPECTOR'S COPY 2. OWNER'S NAME COLFOIL COEP ADDRESS 1801 AUS OF THE STORES PHONE 213 -875-0560 LOS ANGLES 3. CONTRACTOR FETRELEUM ENGINEERINGE FAIC When properly validated in the space above this is your permit. ADDRESS SEC 445 ST. SONTA FOSA. FOR OFFICE USE ONLY STATE LIC. # 22 435 8 PHONE 707-545-036-6 Washingto 15595 JOB SITE ADDRESS 4. Architect, Engineer or Designer_ MASTER PLAN NO. REC'D._ USE ZONE ADDRESS _____ TYPE GROUP + PHONE_ RESOLUTION # REGISTRATION #_ 5. LEGAL DESCRIPTION (Fill in one of the following) SBL FWL_ SEWER TRACT_ WATER BLOCK_ SLOCK Z PARCEL_C GROSS LIVING AREA RECEIPT # DRAINAGE FEE_ PERMIT FE PLAN CHECK LEE 6. DESCRIPTION OF WORK TO BE DONE ISSUED. APPROVED_ __Repair_____Maved____Demolish _Addition____Alteration__ REMARKS_ A. DESCRIBE NEW BUILDING No. Stories Gross Area_ Exterior Wall Covering_ INSPECTION RECORD B. DESCRIBE PRESENT BUILDING No. Staries_ Exterior Wall Covering_ C. DESCRIBE ADDITION _No. Stories_ Gross Area ___ Exterior Wall Covering.... D. DESCRIBE ALTERATION OR REPAIR WORK. 7. FROPOSED USE OF BUILDING PRESENT USE OF BUILDING 3. VALUATION (include costs of all labor and material) 9. I certify that I have read this application and state that the above information is correct. I agree to comply to all County Ordinances and State laws relating to building construction. I certify that in the performance of the above work I shall not employ any person in violation of the Labor Code of California relating to Workmen's Compensation Insurance. APPROVALS Date Inspector CONTRACTORS SIGN BELOW I certify that I am a licensed contractor and that my license is in full force and Foundation Under Floor PETECTION ENGNU FERENCY AV HORIZED/ GENT Frame OWNER-BUILDER SIGN BELOW I certify that I am exempt from the provisions of Chap. 9, Div. 3, 8, and P. Cade (Contractor's Int. Lath or Drywall License Law) because; (Check applicable statement.) 1 am the owner of the above property and 1 will perform the above work personally ar Exterior Lath through my amployees whose sale compensation is wages, and the above-described structure will not be affered for sale within one year after completion of the same. I am the owner of the above property and I will contract to have all of the above work FINAL performed by licensed contractors. Service OK AUTHORIZED AGENT P.G & E. Notified

ATY OF ALAMEDA - BUILDING INSPECTION DIVISION VALIDATE HERE Hayward, Calif. 94544 Room 141, 399 Elmhurst 57-0844 783-5800 FOR APPLICANT TO FILL IN P.C. INSPECTOR'S 1. JOB SITE ADDRESS 15595 LUASTING TON COPY 12009 2. OWNER'S NAME GULF CIL ADDRESS 1801 AUECF THE LES ANGLES GOOTY PHONE 213-879-6566 3. CONTRACTOR PETROLEUM E, COMEELING. INC. ADDRESS 300 444 ST. SAWMACSA When properly validated in the space above this is your permit. FOR OFFICE USE ONLY PHONE 707-545-0360 5595 STATE UC. # JOB SITE ADDRESS 4. Architect, Engineer or Designer.... MASTER PLAN NO. 4-45-69 ADDRESS_ REC'D: V- N USE ZONE GROUP + PHONE REGISTRATION #_ RESOLUTION # 5. LEGAL DESCRIPTION (Fill in one of the following) FWL. __TRACT_ A. LOT_____BLOCK__ SEWER WATER __PARCEL_A B. BOOK 411 BLOCK 1 GROSS LIVING AREA RECEIPT # DRAINAGE FEE PERMIT FEE 6. DESCRIPTION OF WORK TO BE DONE PLAN CHECK ISSUED _ APPROVED_ New___Addition____Alteration____Repair__ REMARKS. A DESCRIBE NEW BUILDING Gross Area 1300 Sa FT. No. Stories Exterior Wall Covering METAL INSPECTION RECORD B. DESCRIBE PRESENT BUILDING No. Stories Exterior Wall Covering___ C. DESCRIBE ADDITION No. Stories Gross Area_ Exterior Wall Covering_ D. DESCRIBE ALTERATION OR REPAIR WORK PROPOSED USE OF BUILDING ASMICLEH EXIST. PRESENT USE OF BUILDING_ B. VALUATION (include costs of all labor and material) 1200 9. I certify that I have read this application and state that the above information is correct, I agree to comply to all County Ordinances and State laws relating to building construction. I certify that in the performance of the above work I shall not employ any person in violation of the Labor Code of California relating to Workmen's Compensation Insurance.

CONTRACTORS SIGN BELOW

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These plans have been reviewed and found to be acceptable and essentially meet the requirements of State and local health laws. Changes to your plans indicated by the Health Department are to assure respirance with State and local laws. The project proposed herein is now released for issuance of any required building permits for construction.

One copy of these accepted plans must be on the job and available to all contractors and arestrances. Sevelved with the construction and installation.

Any changes or alterations of force plans and specifications must be submitted to the Health Department and to the Healthing Heapartless Department to determine it such changes meet the requirements of Cartie and Joseph

Notify the Hoolth Department at Jesse 40 house prior to the following required Impections:

Pro- Covering & tank of of

445

Final inspection

Approved to operate dispendent on exequiumics with paperted plans and all applicable laws and requisitions.

ALAMEDA COUNTY DIVISION OF ENVIRONMENTAL HEALTH 470 - 27th St., 2nd Floor, Carlond, CA 5462

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APP & EDWARDS COMPANY

REAL ESTATE APPRAISERS AND CONSULTANTS

July 31, 1985

Mr. Paul Dalwigk Texaco, Inc. 3350 Wilshire Blvd. Los Angeles, CA 90010 The writer has reviewed the Agertals of the captioned proverty and captions with the north his section of the Captions of the

RE: Texaco Service Station Property, 15595 Washington Avenue, San Lorenzo, California. App & Edwards File #5-C-074.

Dear Mr. Dalwigk:

In accordance with your request for an update of my appraisal of the above referenced property made in June of 1983, I have re-inspected the property and have made a careful and detailed analysis of all factors pertinent to updating the value estimate. In my original appraisal, the property rights appraised were the unencumbered fee simple interest, and this update shall be appraising the same legal interests.

I note from your letter of instruction that the underground gasoline tanks have been removed and that no equipment will be sold with the property. These factors will be taken into account in this appraisal update.

Since my original appraisal there have been no significant physical or economic changes in the subject neighborhood; it remains a pocketcommercial area oriented towards the local residential community. The area remains stable and in good demand. The only significant change is occurring some six blocks northerly of the subject neighborhood around the intersection of Washington Avenue and Lewelling Boulevard. northeasterly quadrant of this intersection comprises a large tract of land that was formerly used for agricultural purposes, being largely improved with several greenhouses. The property is now being developed with a large shopping center to be known as the Greenhouse Marketplace. This development typifies the strength of the retail market; in the last year or so retail development has been on an upswing, especially in areas where there is a good residential back-up in place to support the retail facilities. This specific development is also a major indication of the tenant and investor confidence in the San Lorenzo/San Leandro area. During my inspection of the area I noted that the main commercial development activity is occurring in the established commercial areas, such as along Hesperian Boulevard in San Lorenzo. Secondary locations, such as the subject neighborhood, have tended to remain relatively static in economic terms, as there has been very little development activity in pocket commercial areas.

Mr. Paul Dalwigk July 31, 1985 Page Two

The physical characteristics of the subject site have remained per my original appraisal, and it remains a developable parcel, in my opinion. The service station improvements are still in place and they are essentially in the same condition as per my original inspection in June of 1983, i.e. they are in poor condition with many items of deferred maintenance; the asphalt paving is worn and cracked in many areas, and the building is suffering from the usual effects of wear and tear due to age. As noted earlier in this letter, the underground gasoline tanks and other gasoline dispensing equipment have been removed and therefore this is no longer a functioning service station. Currently, the facility is entirely vacant and is not used for any purpose. In considering the economic trends in the area, I feel that the subject improvements contribute little or no value to the subject site; they may be used as a carrier pending more suitable improvement of this site, however, any carrier value would mostly be offset by the cost to demolish, in my opinion.

The San Lorenzo community is under the jurisdiction of the Alameda County Planning Authority and, according to their planners, the subject site is still zoned CN, Neighborhood Commercial zone. The uses permitted under this zoning classification are basically low intensity retail commercial uses, such as grocery stores, laundromats, real estate offices, and so forth. Service station use is a conditional use in the CN zone, and would require a use permit. A suitable use for the site, as improved, would be for an automobile tune-up shop; this would again be permitted under the zoning classification and would not require a use permit. The highest and best use of the subject site is unchanged since my original appraisal; in the original appraisal I felt that development of a retail commercial building for occupancy by a business oriented towards the local community was the best use of the subject site.

The valuation methodology used to update my original appraisal is the market approach; essentially, the main component of the value of the subject property lies in the value of its site. As noted above, the improvements represent a carrier value and contribute nominal value to the site, in my opinion. In the market approach for estimating the value of the land I shall be using the price per square foot as the unit of comparison. Sales of similar commercial sites in the San Lorenzo/San Leandro area have been analyzed and compared with the subject in terms of location, physical characteristics, zoning, date of sale, etc., in order to estimate a reasonable range of value for the subject site. From the range of indicated values a final value estimate is selected. The following sales are the most pertinent, in my opinion, for the evaluation of the subject.

Mr. Paul Dalwigk July 31, 1985 Page Three

Sale Number One

In my original appraisal this sale was included as Sale Number 5. I feel it is appropriate to reincorporate this sale for two reasons; firstly, it is the most recent sale in close proximity to the subject, and secondly, the new owners of the property have recently received offers to purchase. In February of 1982, Desert Oil purchased the property for \$168,500. This 14,869 square foot site, that is located at the northwesterly corner of Washington and Fargo, was improved with an older service station facility that was owned by Desert Oil. Desert Oil informed me that they recently received an offer to purchase the site from a fast food franchisee. offer was \$275,000, or \$18.50 per square foot on a unit basis. The original purchase price equated to \$11.33 per square foot. As one can see, this is a dramatic increase in price/value over a relatively short time. The reason for this is that the land opposite the service station, which is at the southwesterly corner of Washington Avenue and Fargo, is being developed with a new Greenhouse Marketplace shopping center. Essentially, this locality is undergoing a dramatic improvement. I feel that the original purchase is still a valid indicator of land value for the subject as the subject is not influenced by any dynamic changes in the economic composition of the surrounding area. As before, I feel that the Desert Oil location is superior to the subject as it has freeway offramp influence, and I have adjusted accordingly. I do not feel that a major upward adjustment for time is warranted, as real estate values in - secondary locations such as the subject have not appreciated significantly.

Sale Number Two

This is in fact a listing of a vacant site comprising approximately 1/2 acre at the northeasterly corner of Manor Boulevard and Farnsworth. The property is on the market for \$9.60 per square foot on a unit basis, and has been available for some considerable time. Its location is somewhat similar to the subject in that it is within a pocket commercial area oriented towards a similar residential neighborhood. The main adjustment I feel warranted in this case is purely to reflect the listing nature of this information.

Sale Number Three

A former Shell service station located at the southeasterly corner of Hesperian Boulevard and Bollero sold in February of 1985 to the Naugles fast food restaurant chain. The price paid was \$210,150, which equates to a unit price of \$12.87 per square foot for this 16,328 square foot site. This property is in somewhat superior location, as it is on a major, heavily trafficked thoroughfare, and is surrounded by a larger

Mr. Paul Dalwigk July 31, 1985 Page Four

neighborhood retail center and a Kaiser Hospital facility. Essentially, this site has higher economic use potential than the subject. Accordingly, I feel that a major downward adjustment is appropriate for this factor. As it is a recent sale of a similar sized property no other adjustments are necessary.

Sale Number Four

This relates to two transactions that recently occurred at the intersection of Hesperian Boulevard and Hacienda in San Lorenzo. The northwesterly corner was ground leased earlier this year by a group that have developed a "Popeye's" restaurant. The ground lease is for twenty years and indicates a basic land value of \$396,000, or \$15.50 per square foot for this 25,533 square foot parcel. The second transaction relates to a 20,894 square foot parcel at the southwesterly corner of the intersection; Arco have renewed their ground lease at this location, and the ground rent equates to a land value of \$390,000, or \$18.66 per square foot on a unit basis. In reviewing these two transactions I feel they indicate the upper level of prices for prime commercial corner sites in San Lorenzo and this part of the East Bay. This location is considerably superior to the subject, and major downward adjustments are warranted.

Sale Number Five

In the last two years several small industrially zoned sites along Doolittle Drive and Wicks Boulevard have sold for prices in the range of \$5 to \$6 per square foot. Typically, these are 1 to 2-acre industrial sites that have been improved subsequently with light industrial type buildings. I am including this information in this report and analysis as I feel it is useful in setting the lower value parameters for the subject site; in general terms, commercial land parcels sell for higher prices than industrial property. I have also included these sales due to the lack of sales of property in the same type of location as the subject.

The foregoing sales show a range of prices/land values from \$5.00 per square foot up to \$18.50 per square foot. Of the sales presented, I feel that Sale Number 2, which is in fact a listing in a similar neighborhood for \$9.60 per square foot, is perhaps the most appropriate indicator of value. In this case, a downward adjustment is appropriate for the listing nature of the information, which leads me to believe that a \$9.00 land value for the subject is reasonable. The \$9.00 per square foot land value indicated by this information is in the lower part of the range, which I feel is appropriate due to the secondary location of the subject in comparison with the sales selling for \$12 to \$18 per square foot.

Mr. Paul Dalwigk July 31, 1985 Page Five

Therefore, I have re-evaluated the subject at \$9.00 per square foot and it is more precisely evaluated as follows:

18,000 S.F. @ \$9.00/S.F. = \$162,000

In the case of the subject, I have rounded the value up to \$165,000, i.e. adding \$3,000 to reflect the carrier value of the improvements. As noted earlier, the carrier value is somewhat nominal, and generally indicates that the improvements have reached the end of their economic life. The foregoing final value conclusion of \$165,000 for the unencumbered fee simple interest is based upon the assumption of a 6 month marketing sales period, an all cash to seller transaction, and seller paying normal sales commissions, i.e. typically 6% of sales price.

Should you have any comments or questions regarding the foregoing, please do not hesitate to contact me. Thank you for the opportunity of serving your appraisal needs.

Very truly yours,

Andrew C. Plaine, A.R.I.C.S.

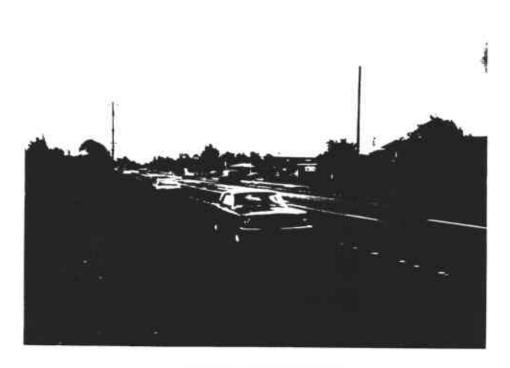
lvan C. Plaine

APP AND EDWARDS COMPANY

ACP/sccn



SUBJECT PROPERTY



SUBJECT NEIGHBORHOOD

REAL ESTATE AUTHORITY

San Lorenzo, CA PROPERTY LOCATION: 15595 Washington Blvd. LOCATION CODE: 62-488-0	00200
SIZE: 18,000 Sq. ft TYPE: 3 Bay S/S DATE LAST REHAB: N/A SURPLUS:	
PROPOSITION: Sell to Shopping Center Development Company for \$240,00	
less a commission of \$14,400 to Grubb & Ellis Brokerage Compan	
or a net of \$225,600 to Texaco. No equipment to be included in	
sale. Underground tanks have been removed.	
	180,198
DATE	TOTAL 178,935
APPRAISED VALUE:	TOTAL
COST OF RETENTION: \$ 1,241. \$ 367 \$ 34,404 \$	36,012
TAX BENEFIT: \$ FROM DEFERRAL FROM L	
ALLOCATION OF PRICE: \$ Not Allocate\$ (SALE	i)
APPRECIATION (DEPRECIATION) RATE:0_ % DEED RESTRICTION: None	
MARKETING EFFORT: This location is properly signed. It is inconsurplus property lists. It has been offered to local broker well as a variety of strip shopping center developers with whom have done business. This buyer's initial offer was at \$188,000 to Texaco.	s as
HIGHEST AND BEST USE: Retail or commercial usage.	
SURROUNDINGS: Spot commercial. Across the street is a large profession of vacant land utilized by a nursery. Back up is older heavily developed single family and multi-family residential. Washingt Ave. does intersect with the freeway to the north. This site is approximately 1 mile south of any new development.	,
ZONING: CN, Commercial type which permits most types of retail & commercial use.	
COMPARABLES: App & Edwards Company see appraisal update dated July 31, 1985.	
ASSET REDEPLOYMENT:	
1. Offer exceeds appraisal by 39%.	į
2. Cost of retention is \$36,012 per year. X HANDLE V No	O:E
3. No appreciation anticipated.	-
4. This offer is the highest offer received in the 6 mont we have been marketing the property. It other offer received by \$20,600.	nly · 0
FINAL APPROVAL AUTHORITY: BD.OF DIR./EXEC. COMM. RECOMMEND: RECOMMEND:) '
CHAIRMAN/ CHIEF EXEC. OFFICER)
/ICE CHAIRMAN/ PRESIDENT	8-15-85 Date
EXEC/SENIOR Date	. 1
/ICE PRESIDENT Date APPROVED: General Manager APPROVAL E	8/19/85
* RSB WMV Date 1 YEAR FROM	M DATÉ
OF ADDROVA	

ALAMEDA COUNTY

At 10:30 A.M. AUG - 81983 ALAMEDA COUNTY, CALIFORNIA RENE C. DAVIDSON COUNTY RECORDER



Tenaco Inc. 3 hire Blvd. 90010 eg, CA

SPACE ABOVE THIS LINE FOR RECORDERS USE lares under penalty of perjury that the following declaration

erein was not the foreclosing beneficiary of the unpaid debt together with costs was --- \$ paid by the grantee at the trustee's sale was \$

54,807.55 80,500.00

Sentary transfer tax is ----- \$ 5) Said property is in unincorporated area, County of Alameda TOWNSHIP OF EDENS

28.60

AP#411002100413

The world

in.

3)

Dated June 22, 1983

By_

TRUSTEE'S DEED UPON SALE

Loan No. 119-8/CALLERI & LONG

T.S. No. P-00715

UNIT CODE P

This Indenture is made with reference to the Deed of Trust hereinafter described and is made between

THE CALIFORNIA-SANSOME CORPORATION

(herein called Trustee), and the Grantee hereinafter named.

TRUSTOR: STANLEY E. LONG

MILDRID O. LONG JESSEN A. CALLERI AGNES J. CALLERI

BENEFICIARY: THE BANK OF CALIFORNIA, NATIONAL ASSOCIATION

recorded August 9, 1974 as Instr. No.74-104387 In Book RE:3749 page IM:374 of Official Records in the office

of the Recorder of Alameda

and re-recorded on in Book RE: 3759 and Page IM: 149

ameda County;
as Instr. No. 74-110648 August 22, 1974

said deed of trust describes the following property: SÉE ATTACHED EXHIBIT

TOWNSHIP OF EDEN, AN UNINCORPORATED ARETA, COUNTY OF ALAMODA

Whereas, the above named trustor did, by the trust deed referred to above, grant and convey to the trustee named therein, the property heretofore described to secure, among other obligations, payment of a note or notes with interest according to the terms thereof and Whereas, the holder of said note did execute and deliver to trustee written declaration of default and demand for sale and notice of default and election to cause the undersigned to sell said property which notice was

recorded February 14, 1983 as Instr. No.83-024257 In Book page

of Official Records in the office of the Recorder of Alameda

Thereafter, a notice of trustee's sale, stating that said trustee would sell the above described property at public auction to the highest bidder for cash on

Tuesday, June 14, 1983, at 11:00 a.m. On the steps to the County Courthouse, 1225 Fallon Street, Oakland, CA

At which time and place, said Sale was postponed to June 21, 1983, at the same time and place.

said notice was posted for not less than twenty days before the date of sale ther fixed, as follows: In one public place in the said city of Oakland

wherein said property was to be sold, to wit: on a bulletin board

INSIDE THE COUNTY COURTHOUSE

and also in a conspicuous place on said property to be sold; and said Trustee did cause a copy of said Notice to be published once a week for twenty days before the date of sale therein fixed in

THE DAILY REVIEW

a newspaper of general circulation printed and published in the city or district in which said real property is situated, the first date of such publication being May 24, 1983; and

Said notice was also recorded at least 14 days prior to the sale in the office of the county recorder of the county in which the property heretofore described is located.

Whereas, copies of said recorded Notice of Default and of said Notice of Sale were mailed, served or published in accordance with Section 2924b of the Civil Code to or upon all those who were entitled to special notice of said sale as in said section provided; and

Whereas, all applicable statutory provisions of the state of California and all of the provisions of said Deed of Trust have been complied with as to acts to be performed and notices to be given; and

Whereas Trustee did at the time and place of sale fixed as aforesaid, then and there sell, at public auction, to said Grantee, being the highest bidder therefore, the property hereinafter described, for the sum of \$80,500.00 paid in cash, lawful money of the United States

Now, therefore, Trustee in consideration of the premises recited and of the sum above mentioned bid and paid by Grantee, the receipt whereof is hereby acknowledged, and by virtue of the authority vested in it by said Deed of Trust, does, by these presents GRANT AND CONVEY without any covenant or warranty, express or implied all that certain property herein before described, to

TEXACO INC.

Signature

Dated June 30, 1983

In Witness Whereof, the undersigned caused its corporate name and seal to be hereunto affixed

THE CALIFORNIA-SANSQME CORPORATION

딟	By Maria A. Loera, Assistant Secretary By
STATE OF CALIFORNIA COUNTY OF Alameda On June 30, 1983 before me,	the undersigned, a Notary Public in and for said Loera , known to me to be the
State personally appearedPresident and =	, known to me to be the
Assistant Secretary of the known to me to be the persons who exe Corporation therein named, and acknow	Corporation that executed the within Instrument, cuted the within Instrument, on behalf of the reledged to me that such Corporation executed the laws or a resolution of its board of directors

WITNESS my hand and official seal

Beverly J. Stanford

Name (Typed or Printed)

OFFICIAL SEAL
BEVERLY J. STANFORD
NOTARY PUBLIC - CALIFORNIA
ALAMEDA COUNTY
My Commission Expires Fab. 6, 1987

(This area for official notarial seal)

All that certain real property situated in the Unincorporated Area, County of Alameda, State of California, described as follows:

A portion of Lot 5, Map No. 3 a portion of the Nielson Tract in the Soto Rancho, Alameda Co., Cal., surveyed May 1900, filed June 25, 1900, Map Book 16, Page 9, Alameda County Records, described as follows:

BEGINNING at a point on the Western line of County Road No. 8045, commonly known as Washington Avenue, 84 feet wide, as said line as established under "Parcel 5" in that certain deed from Louis Farina, a widower, et al., to the County of Alameda, a political subdivision of the State of California, dated January 19, 1955, and recorded in Book 7578 OR, Page 31, Alameda County Records, distant thereon North 14° 27' West 83.35 feet from the Southeastern line of said Lot 5, running thence on the arc of a tangent curve to the right with a radius of 40 feet, through a central angle of 77° 35' 20", an arc length of 54.17 feet to the Northwestern line of Via Enrico, as said line was established in the grant of right of way by Luigi Farina, et al. to County of Alameda, dated March 31, 1961, recorded April 26, 1961, Instrument No. AS/50857, Reel 312 OR, Image 942, Alameda County Records, thence along the last mentioned line South 63° 08' 20" West 90.72 feet to the Eastern line of the parcel of land described in the deed to Edward C. Mein, recorded May 3, 1966 on Reel 1760, Image 846, official records of said County, thence North 14° 27' 00" West a distance of 152.12 feet to the Southeastern line of the parcel of land described in the deed to Don K. Callahan, et ux, recorded August 24, 1971 on Reel 2931, Image 705 official records of said County; thence along the last mentioned line NOrth 64° 04' 29" East 122.45 feet to said Western line of Washington Avenue; thence along the last mentioned line South 14° 27' 00" East 117.92 feet to the point of beginning.

ROBERT N. EVANS M.A.I.

161 West 25th Avenue San Mateo, California 345-8880

Mailing Address P.O. Box 6233 San Mateo, California 94403

June :13 : 1985

Texaco, Inc. 3350 Wilshire Boulevard Room 300 Los Angeles, California 90010-9990

Attention: Mr. Richard N. Laughton

Re: 15595 Washington Avenue - San Lorenzo - California (NWC Washington Avenue and Via Enrico)

Dear Mr. Laughton:

In accordance with the request of Mr. Fred Ackers this letter expresses my opinion of the current estimated market value, land, improvements and equipment, of the above-captioned property as of June 13, 1983.

Market value is defined as the highest price estimated in terms of money which a property will bring if exposed for sale on the open market allowing a reasonable time to find a purchaser buying with full knowledge of all the uses and purposes to which the property is best adapted and for which it is capable of being used.

The subject property is improved with an older service station facility that is currently operated as a Honday auto repair shop. The gasoline facilities are not being utilized.

The subject property is located in an unincorporated section of Alameda County known as San Lorenzo. As shown on the attached map, San Lorenzo is located immediately south of San Leandro, and is part of a large unincorporated area between the cities of San Leandro and Hayward, and also covers the communities of Ashland and Castro Valley.

Washington Avenue is a major north-south arterial extending from Grant Avenue, 1 block south of the subject property, northerly to an intersection with East 14th Street in the downtown section of San Leandro. As shown on the attached map, a short distance north of the subject property Washington Avenue has a major interchange with the Nimitz Freeway. Via Enrico is a short residential arterial.

Adjoining the subject property on the northerly side is a small office building utilized as an insurance agency. On the southeast corner is a real estate office and 7-11 Market. Opposite the subject is a large parcel of land utilized for nursery purposes.

The subject property is located in a heavily developed single family and multi-family neighborhood. Washington Avenue carries a heavy volume of local transient traffic.

The subject property is zoned CN, a commercial type zone that permits most types of retail and commercial uses.

Texaco, Inc. 15595 Washington Avenue, San Lorenzo Page 2.

The highest and best use of the subject property would be for eventual development of the site for retail or commercial useage. The existing service station facilities are old and outdated, and historically the site has not been a productive service station.

The subject property is rectangular in shape having a frontage along Washington Avenue of 117 feet plus a 40 foot radius, and 90.72 feet along Via Enrico. The westerly lot line measures 152.12 feet, and the northerly line 122.45 feet. The site contains approximately 19,736 square feet. The site is level and at street grade; curbs, gutters, and sidewalks have been installed; all utilities are available to the site. There is a stop sign on Via Enrico.

For the purpose of valuing the land the following sales have been investigated and analyzed:

Texaco, Inc. 15595 Washington Avenue, San Lorenzo Page 3.

Sale <u>No.</u>	Address	Lot Size sq.ft.	Sales Price	Price per sq.ft.
1.	SWC Hesperian and Lwelling Boulevards,	31,792	\$325,000	\$10.22
	San Leandro - Sold 1/81.		0.00	

This was the sale of a former Exxon service station a short distance north of the subject property. The site will be improved with a new paint store. This location is superior to the subject, being located within the intersection of 2 heavily traveled major arterials.

2. NEC East 14th Street 20,400 225,000 11.03 and Bancroft Avenue, Ld.&Imps. San Leandro - Sold 12/81.

This was the sale of a former Shell Oil service station. The property is now operated as a Datsun sales agency. The sales price included land and improvements. The site was improved with a 2 bay, Ranch style service station building. This location is superior to the subject.

3. SWC Washington and 14,869 168,500 11.33
Fargo Avenues, San
Leandro - Sold 2/82.

This was the sale of an older service station facility to Desert Petroleum Company. This site is located a short distance north of the subject property.

4. E/Line East 14th 31,302 250,000 8.00 Street, opposite Lillian Avenue, San Leandro - Sold 3/82.

This was the sale of a commercially zoned parcel of land. The site was improved with an older residence that was converted to offices. No value would be attributed to the improvements.

Analyzing the above sales indicates a price range for commercially zoned land in this area ranging from \$8.00 to \$11.33 per square foot. The higher range included improvements. Adjusting the above sales for the factors of time, size, location, and utility, it is my opinion that the subject property, land only, should have a current estimated market value as follows -

19,736 sq.ft. @ \$9.00 per s/f =\$177,624

Texaco, Inc. 15595 Washington Avenue, San Lorenzo Page 4.

The subject property is improved with a 3 bay, Ranch style service station building. There is a canopy over 2 pump islands. The improvements were constructed about 1958 and have been maintained in poor condition. The depreciation estimate was based on the age and observed condition of the improvements. Following is the estimated value of the subject property by the Cost Approach -

Service Sta. Bldg 1,624 sq.ft. @ \$65.00 per s/f Canopy - 1,056 sq.ft. @ \$25.00 per s/f Sewer & Water Connections Underground power to Bldg.	=\$105,500 = 26,500 = 5,000 = 5,000
Total Estimated Replacement Cost - Serv. Sta. Bldg. Less 90% depreciation	\$132,000 = 119,000
Estimated Depreciated Replacement Cost - Serv. Sta. B	31dg. \$ 13,000
Onsite Improvements -	
Concrete & asphalt paving - 18,000 sq.ft. @ \$2.00 per s/f Yard lighting = 1,500 2 - concrete pump islands = 1,000	
Total Onsite Improvements $$38,500$ Less 90% depreciation $= 34,500$	S.
Estimated Depreciated Replacement Cost - Onsite Impro	oves. = 4,000
Equipment -	
3 - 10,000 gallon underground tanks 1 - 500 gallon waste oil tank 2 - 30,000 3 - submerged pumps 1 - air compressor 3 - frame contact hoists 6 - single dispensers air, electrical & product lines = \$30,000 = 1,500 = 9,000 = 15,000 = 10,000	
Total Equipment \$71,500 Less 90% depreciation = 64,500	
Estimated Depreciated Replacement Cost - Equipment	= 7,000
Estimated Depreciated Replacement Cost - All Improvem	nents \$ 24,000
Roun	ided to \$ 25,000
Plus Land Value by Comparison	175,000
Estimated Value by the Cost Approach	\$200,000.

Texaco, Inc. 15595 Washington Avenue, San Lorenzo Page 5.

The American Institute of Real Estate Appraisers conducts a voluntary program of continuing education for its designated members. MAI's and RM's who meet the minimum standards of this program are awarded periodic educational certification. "I am certified under this program through ~ 12/31/83."

I hereby certify that, except as otherwise noted in this letter of opinion:

- 1. I have no present or contemplated future interest in the real estate that is the subject of this letter of opinion.
- 2. I have no personal interest or bias with respect to the subject matter of this letter of opinion or the parties involved.
- 3. To the best of my knowledge and belief the statements of fact contained in this letter of opinion, upon which the analysis, opinions and conclusions expressed herein are based are true and correct.
- 4. I have personally inspected the subject property.
- 5. This letter of opinion has been made in conformity with and is subject to the requirements of the Code of Professional Ethics and Standards of Professional Conduct of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards.

Robert N. Evans

RNE/jhb Atts.



Overall View - Subject Property NWC Washington Avenue and Via Enrico San Lorenzo, California



View looking north past the Subject on Washington Avenue



View looking south past the Subject on Washington Avenue



View looking west past the Subject on Via Enrico



View looking east past the Subject on Via Enrico

