

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



November 26, 2003

Mr. Kelly Engineer
All Star Inc.
1791 Pine Street
Concord, CA 94620

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

Dear Mr. Engineer:

Subject: Fuel Leak Case RO0000089, 3820 San Leandro St., Oakland, CA 94601

Alameda County Environmental Health, Local Oversight Program (LOP) staff has received and reviewed the October 3, 2003 *Limited Subsurface Soil Boring Investigation* prepared by ACC Environmental Consultants. We request that you address the following technical comments and submit the technical reports requested below.

TECHNICAL COMMENTS

1. Per the County's 5/8/03 letter, please provide a cross-section diagram minimally including borings B-9, 10, 12 and 14.
2. The report recommends two additional wells. Our office concurs with this recommendation. You should include well locations and construction information in the work plan requested below. Interim remediation should also be proposed in the work plan based upon recent and historic groundwater sample results.
3. No electronic submission of monitoring or surveying reports has been submitted to the Geotracker database in accordance to AB2886. Please submit such reports as previously requested.
4. Our office has not received the fourth quarter 2003 monitoring report for this site, due on 11/17/03. Please submit this report and resume the reporting schedule stated in our 5/8/03 letter.
5. An evaluation of the oxygenate release should be provided. This should include sources, migration pathway(s) and remediation options.
6. Please provide a Site Conceptual Model (SCM) for the site. Your SCM should include elements such as the nature and extent of the source, the dominant fate and transport mechanism, potential exposure pathways and potential receptors. This evaluation will enable you to focus on collection of appropriate data and evaluation of remediation goals and options.

TECHNICAL REPORT REQUEST

- December 29, 2003- Work plan for monitoring well installations and minimally one cross-section diagram. Interim remedial options should be evaluated and recommended.
- January 30, 2004- Site Conceptual Model including an evaluation of the oxygenate release.
- Quarterly monitoring reports and electronic data submission should be performed immediately and continued according to schedule in 5/8/03 letter.

Mr. Kelly Engineer
Fuel Leak Case RO0000089
3820 San Leandro St., Oakland, CA 94601
November 26, 2003
Page 2 of 2

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

Sincerely,



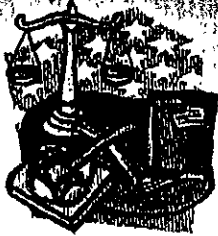
Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, D. Drogos

Mr. D. Dement, ACC Env. Consultants, 7977 Capwell Drive, Suite 100, Oakland, CA 94621
Ms. S. Torrence, Alameda County DA Office, 7677 Oakport St., Suite 400, Oakland, 94621
Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland, CA 94612
Mr. Paul Rosenstein, Attorney at Law, 55 Santa Clara Ave., Suite 250, Oakland CA 94610

3820San Leandro St_11-25-03

**ALAMEDA COUNTY
DISTRICT ATTORNEY'S OFFICE
CONSUMER & ENVIRONMENTAL PROTECTION DIVISION
7677 Oakport Street, Suite 650
Oakland, California 94621**



**FACSIMILE TRANSMITTAL
COVER SHEET**

W 89

DATE: August 6, 2003

TO: Hernan Gomez @ Oakland Fire Services - (510) 238-7761
Barney Chan @ Alameda County Environ. Health - (510) 337-9234
Karl Busche @ City of San Leandro - (510) 577-6019

FROM: Jennifer Rios for DDA Susan Torrence

SPECIAL INSTRUCTIONS/COMMENTS:

Transmitted herewith please Susan's Memo dated August 5, 2003 regarding Kelly Engineer.

NUMBER OF PAGES (Including Cover Sheet) - 6

**IF YOU DO NOT RECEIVE ALL PAGES OR HAVE ANY PROBLEMS WITH THIS FAX
PLEASE TELEPHONE (510) 569-9281
FAX (510) 569-0505**

MEMORANDUM

Date: August 5, 2003

To: Barney, Hernan, and Karl

From: Susan

Re: Kelly Engineer, Financial Responsibility Status with the State Tank Cleanup Fund

Please find attached the second letter to KEngineer and his associates, stating yet again that he is not eligible to use the Fund as a source of Financial Responsibility (FR) until all corrective action has been taken at the Hayward site. Please note that the letter says that the fed law requires that the sites cannot be split, i.e. he cannot get Hayward cleaned up and become eligible there as long as San Leandro and/or Oakland is not in compliance.

Therefore, it looks like he cannot open the Hayward station until he gets ALL his stations cleaned up. This is, of course, not considering that he COULD get private insurance. He tried, that seems to be a dead end as well (would you insure uncharacterized and dirty sites?).

This is a VERY large stumbling block for him. I will keep you posted.

HAZARDOUS WASTE GENERATOR INSPECTION REPORT

STID #: R089 FACILITY NAME: GUY'S SERVICE PG. OF

SUPPLEMENTAL FORM 3820 San Leandro St 94601

On site to verify the # & location of borings
Spoke with Ed of Ace. They completed boring
prior day (8/6/03).

Observations:

- Contamination observed in B-10
- B16 produced plenty of water @ ~16' bgs, all other borings were difficult to obtain water samples
- Offsite borings - only B-13 yielded any water
- Some odors observed in soils in B-11 although I couldn't see the location of B-11 because it was covered w/ trash today.

PRINT NAME: _____ INSPECTED BY: BChan
SIGNATURE: _____ DATE: 8/7/03



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Financial Assistance

1001 I Street Sacramento, California 95814
P.O. Box 944212 Sacramento, California 94244-2120
(916) 341-5661 FAX (916) 341-5806 www.swrcb.ca.gov/owphome/ustof



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

JUL 28 2003

Mr. Kelly Engineer
Allstar Service, Inc.
1791 Pine Street
Concord, CA 94520

~~Handwritten signature~~ 2841
3820 San Leandro
+ W Tennyson St Site

Dear Mr. Engineer:

UNDERGROUND STORAGE TANK (UST) CLEANUP FUND (FUND)

This is in response to an inquiry made on your behalf by Mr. Bruce Whiteson, of CCC Tax Resolution Corporation, requesting further clarification of the ability to use the Fund as a mechanism to demonstrate financial responsibility (FR) for your facility at 1220 West Tennyson Road, Hayward, California. This letter adds to previous correspondence I have recently provided on this matter.

As previously stated, you are currently unable to use the Fund to demonstrate FR because you are not eligible to participate in the Fund for the existing occurrence due to various circumstances. Mr. Whiteson asked whether you may use the Fund to demonstrate FR for a future release at this site or at another site you may own/operate. The brief answer is that when corrective action for the existing occurrence is complete, you may use the Fund to demonstrate FR if at that time you are otherwise eligible to participate in the Fund. Until corrective action for the existing occurrence is complete, you must use another mechanism for demonstration of FR requirements because you are not eligible to the Fund for this occurrence and therefore cannot use the Fund as a FR mechanism.

Fund regulations require a tank owner or operator at all times to maintain eligibility to the Fund in order to use the Fund to demonstrate FR for taking corrective action. [Cal. Code Regs., title 23, sec. 2808.1, subd. (a)]. Therefore, an owner or operator who is not eligible to the Fund may not use the Fund to demonstrate compliance with federal FR requirements. That owner/operator must use one of the other FR mechanisms specified in the federal regulations.

Federal law requires FR to be demonstrated on an owner/operator basis, as opposed to a facility basis. (40 CFR 280.93.) Financial responsibility need only be demonstrated per owner/operator, not for each facility owned or each occurrence (i.e., owners/operators of 100 USTs or fewer need to demonstrate that they have a total of \$1 million annual aggregate available for corrective action and third party compensation costs that the owners/operators may incur due to one or more occurrences involving their tanks). Therefore, if an owner/operator is unable to use the

can't do just one site!

California Environmental Protection Agency

Recycled Paper

JUL 28 2003

Mr. Kelly Engineer

-2-

Fund to demonstrate FR because the owner/operator is ineligible to the Fund at one site, the owner/operator must use a mechanism other than the Fund to show FR for all of that owner/operator's sites. Though the federal rules permit using separate mechanisms or a combination of mechanisms to demonstrate FR for different petroleum USTs, Fund regulations do not permit an owner/operator to use the Fund as one of those mechanisms if the owner/operator did not at all times maintain eligibility to the Fund.

Under federal law, an owner or operator is no longer required to maintain FR for a UST after the UST has been properly closed or, if corrective action is required, after corrective action has been completed and the UST has been closed. (40 CFR 280.113.) Because the circumstances of the existing occurrence at your site are causing you to be ineligible to the Fund, you cannot "cure" the problems that cause Fund ineligibility for this occurrence until cleanup of the occurrence is complete and there is site closure. Once you finish the cleanup, then you will presumably be in compliance with statutory requirements and become eligible to participate in the Fund. Once you are able to maintain eligibility to participate in the Fund, you will also be able to use the Fund to meet FR requirements.

The Fund has at least two purposes: (1) to be used as a mechanism to assist UST owners or operators to meet federal FR requirements, and (2) to reimburse eligible claimants for specified UST corrective action and third party compensation costs. The regulations describe conditions for administration of the Fund for each of its purposes. Fund laws and regulations regarding FR requirements and the reimbursement program are implemented independently and, when applied to the variety of factual situations encountered in real life, may sometimes mean that an owner/operator may use the Fund for one purpose but not another. For instance in this situation, because Fund regulations require you to maintain Fund eligibility at all times in order to use the Fund to meet federal FR requirements, you will not be able to use the Fund to meet FR requirements until corrective action for the existing occurrence is complete and the owner/operator otherwise satisfies Fund eligibility requirements. That is because you will never be eligible to the Fund for reimbursement of costs for the existing occurrence. Therefore, you will be required to obtain some other form of FR assurances until cleanup of the existing occurrence is complete.

On the other hand, it is possible that sometime in the future you might be able to use the Fund for the purpose of reimbursement, even though the Fund is not available to you to demonstrate FR. For instance, you might be very near to completion of corrective action on the existing occurrence, and then experience a second occurrence at this site or at some other site you own or operate. If you satisfy Fund eligibility requirements for the second occurrence, you could receive reimbursement on a claim for the second occurrence. However, until cleanup of the first occurrence is complete, you still could not use the Fund to satisfy federal FR requirements because you continue to be ineligible to the Fund for the first occurrence.

In summary, you may not use the Fund as a mechanism for demonstrating compliance with financial responsibility requirements if you are not eligible to the Fund. Here, for a variety of reasons you are ineligible to the Fund for an existing occurrence at the subject site.

California Environmental Protection Agency

 Recycled Paper

JUL 28 2003

Mr. Kelly Engineer

-3-

If/when you finish corrective action for the existing occurrence and are otherwise in compliance with Fund eligibility requirements, you then could use the Fund as a mechanism to demonstrate compliance with federal financial responsibility requirements.

If you have any questions, please give me a call at (916) 341-5661.

Sincerely,



Allan V. Patton, Manager
UST Cleanup Fund

cc: Mr. Hugh Murphy
Hayward Fire Department
777 B Street
Hayward, CA 94541

Mr. Bruce Whiteson
CCC Tax Resolution Corporation
1700 N. Broadway, Suite 404
Walnut Creek, CA 94596

CITY OF HAYWARD

Fire Department

FAX TRANSMITTAL FORM

FAX (510) 583-3641

DATE: 8/5/03

TO: Susan Terrence

Organization: Alco DA

FAX Number: (510) 569-0505

FROM: Hugh Murphy

Urgent

Per your request

Please Reply

Recycle

Fire Prevention Office
Tel. (510) 583-4900

Hazardous Materials Office
Tel. (510) 583-4910

Number of pages including this cover:

COMMENTS:

Susan,
Sorry for not sending
this Friday.
OHJ

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



July 21, 2003

Mr. Kelly Engineer
All Star Inc.
1791 Pine Street
Concord, CA 94620

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

Dear Mr. Engineer:

Subject: Fuel Leak Case RO0000089, 3820 San Leandro St., Oakland, CA 94601

Alameda County Environmental Health, Local Oversight Program (LOP) staff has received and reviewed the July 1, 2003 Revised Work Plan- Limited Subsurface Soil Boring Investigation for the referenced site prepared by ACC Environmental Consultants. This work plan responds to my May 8, 2003 letter, which commented on the original May 1, 2003 Work Plan by ACC. It appears that the Revised Work Plan has addressed our office's technical comments and therefore the work plan is approved.

Technical Report Request

Based upon the approval of the Revised Work Plan, please submit the following technical reports according to the following schedule:

- August 18, 2003- Third quarter 2003 monitoring report
- September 23, 2003- Soil and Groundwater Investigation report
- November 17, 2003- Fourth quarter 2003 monitoring report
- February 18, 2004- First quarter 2004 monitoring report
- May 15, 2004- Second quarter 2004 monitoring report

It appears that there have been significant delays in the submission of reports and performance of requested investigations. The District Attorney Office shall be informed of such delays in report submission for possible enforcement actions.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, D. Drogos

Mr. D. Dement, ACC Env. Consultants, 7977 Capwell Drive, Suite 100, Oakland, CA 94621

Ms. S. Torrence, Alameda County DA Office, 7677 Oakport St., Suite 400, Oakland, 94621

Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland, CA 94612

Mr. Paul Rosenstein, Attorney at Law, 55 Santa Clara Ave., Suite 250, Oakland CA 94610

RevWp3820SanLeandroSt

Environmental, Energy & Software Services
Northern California Office
7977 Capwell Drive, Suite 100
Oakland, CA 94621
(510) 638-8400
Fax: (510) 838-8404



2089

Facsimile

To: Mr. Barney Chan / ACHCSA **From:** Trevor Bausman / Proj. Administrator

Fax: (510) 337-9335 **Pages:** 1 (excluding coversheet)

Phone: (510) 567-6765 **Date:** June 26, 2003

Re: 3820 San Leandro Street **CC:**

Urgent For Review For Comment Please Reply Other: _____

Attached is the Notice of Violation dated June 13, 2003. This Notice cites your May 8, 2003 letter with technical comments that needed to be addressed. ACC would like a copy of this May 8 letter and a copy of the enclosures sent recently to Mr. Kelly Engineer with the Notice, if applicable to the case. Thank you.

You can contact me at (510) 638-8400 ext. 113 or by email at tbausman@accenv.com.

ACC provides the following services:

- Asbestos Consulting
- Lead-paint Consulting
- Indoor Air Quality Consulting
- Mold & Water Intrusion Inspections
- Health & Safety Training
- Compliance Software
- Environmental Site Assessments
- Soil & Groundwater Remediation
- Underground Storage Tank Services
- Energy Consulting

Original to follow by:

- _____ No Hard Copy to Follow
- _____ Via US Mail
- _____ Via Express
- _____ Via Courier

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) 667-6700
FAX (510) 337-9335

June 13, 2003

Mr. Kelly Engineer
All Star Inc.
1791 Pine Street
Concord, CA 94520

Dear Mr. Engineer:

Subject: Fuel Leak Case R00000089, 3820 San Leandro St., Oakland, CA 94601

NOTICE OF VIOLATION

Alameda County Environmental Health, Local Oversight Program (LOP) requested in their May 8, 2003 letter, copy enclosed, that you provide specific technical reports according to a stated schedule. This notice confirms that you are delinquent in providing a written comment to the Technical Comments in the May 8, 2003 letter by the requested date, June 9, 2003. Please provide the requested technical comment letter to our office, within two weeks or no later than June 30, 2003. You are also reminded that the soil and groundwater investigation report is due by July 7, 2003, therefore, you should be making progress in obtaining the required permits for this work.

You are also notified that our office has taken over the oversight of your 1220 W. Tennyson Road, Hayward site from the City of Hayward Fire Department. Our office recently sent you a Notice of Responsibility letter informing you of this administrative action. This letter was returned to our office and marked refused by the addressee at 5:41pm on June 9, 2003. Please explain why this occurred. I have enclosed this document in this letter.

It appears that there have been significant delays in the submission of reports and performance of requested investigations. The District Attorney Office shall be informed of such delays in report submission for possible enforcement actions.

Please contact me at (510) 567-6763 if you have any questions.

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

Enclosures (Mr. Engineer only)

C. B. Chan, D. Drogos

- Mr. D. Dement, ACC Env. Consultants, 7977 Capwell Drive, Suite 100, Oakland, CA 94621
- Ms. S. Torrence, Alameda County DA Office, 7677 Oakport St., Suite 400, Oakland, CA 94621
- Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland, CA 94612
- Mr. Paul Rosenstein, Attorney at Law, 35 Santa Clara Ave., Suite 250, Oakland CA 94610
- Mr. E. Murphy, Hayward Fire Dept., 777 B St., Hayward, CA 94541-300

NOV 19 2003 10:58 AM

Post-Net brand fax transmittal memo 7571		# of pages 1	
To: Mr. P. Rosenstein	From: B. Chan		
Co:	Co: ACEH		
Dept:	Phone #: 510 67-6705		
Fax #: 510-452-4881	Fax #:		

Per request of S. Torrence ALCO DA

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

June 13, 2003

Mr. Kelly Engineer
All Star Inc.
1791 Pine Street
Concord, CA 94620

Dear Mr. Engineer:

Subject: Fuel Leak Case RO0000089, 3820 San Leandro St., Oakland, CA 94601

NOTICE OF VIOLATION

Alameda County Environmental Health, Local Oversight Program (LOP) requested in their May 8, 2003 letter, copy enclosed, that you provide specific technical reports according to a stated schedule. This notice confirms that you are delinquent in providing a written comment to the Technical Comments in the May 8, 2003 letter by the requested date, June 9, 2003. Please provide the requested technical comment letter to our office, within two weeks or no later than June 30, 2003. You are also reminded that the soil and groundwater investigation report is due by July 7, 2003, therefore, you should be making progress in obtaining the required permits for this work.

You are also notified that our office has taken over the oversight of your 1220 W. Tennyson Road, Hayward site from the City of Hayward Fire Department. Our office recently sent you a Notice of Responsibility letter informing you of this administrative action. This letter was returned to our office and marked refused by the addressee at 5:41pm on June 9, 2003. Please explain why this occurred. I have enclosed this document in this letter.

It appears that there have been significant delays in the submission of reports and performance of requested investigations. The District Attorney Office shall be informed of such delays in report submission for possible enforcement actions.

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

Sincerely,

A handwritten signature in cursive script that reads "Barney M. Chan".

Barney M. Chan
Hazardous Materials Specialist

Enclosures (Mr. Engineer only)

C: B. Chan, D. Drogos

Mr. D. Dement, ACC Env. Consultants, 7977 Capwell Drive, Suite 100, Oakland, CA 94621
Ms. S. Torrence, Alameda County DA Office, 7677 Oakport St., Suite 400, Oakland, CA 94621
Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland, CA 94612
Mr. Paul Rosenstein, Attorney at Law, 55 Santa Clara Ave., Suite 250, Oakland CA 94610
Mr. H. Murphy, Hayward Fire Dept., 777 B St., Hayward, CA 94541-500

NOVWp3820SanLeandroSt

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



May 8, 2003

ENVIRONMENTAL HEALTH SERVICES

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

Mr. Kelly Engineer
All Star Inc.
1791 Pine Street
Concord, CA 94620

Dear Mr. Engineer:

Subject: Fuel Leak Case RO0000089, 3820 San Leandro St., Oakland, CA 94601

Alameda County Environmental Health, Local Oversight Program (LOP) staff has received and reviewed the recent submittal of four groundwater reports (May 19, 2001, August 17, 2001, February 26, 2003, April 30, 2003) and the May 1, 2003 Work Plan-Limited Subsurface Soil Boring Investigation, all by ACC Environmental Consultants, for the referenced site. We request that you address the following technical comments and submit the technical reports requested below.

Technical Comments

Seven borings with an option of two additional borings are proposed using the Geoprobe technique. Selective borings are proposed for soil and groundwater sampling. Borings are proposed at depths ranging from 20-28' bgs. Borings B9, B10, B12 and B14 will be continuously cored in order to prepare a cross section in the presumed groundwater flow direction. The Drilling Program states that borings B9, B12 and B14 will be advanced to approximately 28' for soil characterization purposes. Soil samples from 2-4 foot intervals will be screened using a PID instrument to characterize and help select soil samples for laboratory analysis. Borings B9 through B12 propose to collect soil samples, while borings B11-B16 propose to collect water samples.

- 1. Our office concurs with locations of the proposed borings, however, we request that the optional boring proposed in the corner of 39th St. and San Leandro St. be advanced, while the other boring, southwest of B14, can be optional.
- 2. Since B9, B12 and B14 are being advanced for soil characterization purposes, a cross section of these borings and a cross section of boring B9, B10, B12 and B14 should be included in your report.
- 3. Groundwater samples are not proposed for borings B9 and B10. We assume, B10, due to its proximity to MW-3 is also expected to have elevated petroleum contamination. However, a groundwater sample should be collected from B-9 to determine the up-gradient extent of the plume and determine if residual benzene in soil identified in this area has impacted groundwater.
4. For those borings scheduled for soil sampling, please use the fielding screening results to determine those samples that will be analyzed by the laboratory. Your boring logs should note the PID readings. Do not limit the number of borehole soil samples analyzed.
5. It is noticed that the fuel oxygenates are not proposed for analysis in samples from B9 and B10. Please justify this omission or add these to the analysis.
6. It is noticed that though the other ether oxygenates (besides MTBE) were reported as <detection limits, the detection limits are quite high. Please determine whether these

Mr. Kelly Engineer
RO0000089
3820 San Leandro St., Oakland, CA 94601
May 8, 2003

detection limits need to be reduced based on the health based action limits for each compound.

7. Our office wishes to clarify that though we concur in general with the work plan, additional well(s) will be required, minimally to confirm the extent of the petroleum plume. Your recommendation section of the investigation report should include proposed location(s) for additional monitoring wells.
8. Please also address options for groundwater remediation from MW-3 or from the general area of MW-3. Historic groundwater concentrations indicate the need for remediation based upon human health risk and plume control. Include a remediation proposal in your investigation report.
9. You are reminded that in order to comply with AB2886 you are required to submit electronic submission of laboratory reports, location data (latitude and longitude) for groundwater monitoring wells, surveyed elevation relative to MSL of the groundwater in the monitoring wells sampled and a site map with well information.

Technical Report Request

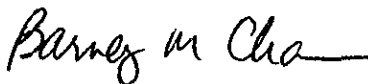
Please submit the following technical reports according to the following schedule:

- June 9, 2003- Written comment to the above Technical Comments
- July 7, 2003- Soil and Groundwater Investigation report
- August 18, 2003- Third quarter 2003 monitoring report
- November 17, 2003- Fourth quarter 2003 monitoring report
- February 18, 2004- First quarter 2004 monitoring report
- May 15, 2004- Second quarter 2004 monitoring report

It appears that there have been significant delays in the submission of reports and performance of requested investigations. The District Attorney Office shall be informed of such delays in report submission for possible enforcement actions.

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

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

C. B. Chan, D. Drogos

Mr. D. Dement, ACC Env. Consultants, 7977 Capwell Drive, Suite 100, Oakland, CA 94621
Ms. S. Torrence, Alameda County DA Office, 7677 Oakport St., Suite 400, Oakland, 94621
Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland, CA 94612
Mr. Paul Rosenstein, Attorney at Law, 55 Santa Clara Ave., Suite 250, Oakland CA 94610

Wp3820SanLeandroSt

Chan, Barney, Env. Health

10/8/02

From: Chan, Barney, Env. Health
Sent: Wednesday, October 16, 2002 3:07 PM
To: Torrence, Susan, DA
Subject: RE: 10-15 re Kelley Engineer

Susan:

I received a copy of the Tank Closure Report today 10/16/02. It appears that some of the report is missing, either this or the contractor was very brief in describing the tank removals. What I received was a one page description of actions taken during the removal, analytical data and manifests for disposal. The copies of the manifests for the liquid waste, used oil and underground tanks were of poor quality. There was no signature of the author of the report (which indicates part of the report is missing). I am still missing the documentation for the disposal of the contaminated soil generated during the tank removals. Although technically I have received the tank closure report, I'd say it's not acceptable. This is the UST removal report listed in your spread sheet.

Let me know if you need any additional information.

Barney

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

From: Torrence, Susan, DA
Sent: Wednesday, October 16, 2002 12:51 PM
To: Chan, Barney, Env. Health
Subject: 10-15 re Kelley Engineer

Apparently Attorney Rosenstein sent you a letter 10/11 re the "tank closure report". Was it in fact submitted to you? Was it complete/acceptable? Is this the same thing as a "UST removal report" (my Item 10)?

I need to know when items have been submitted/completed so as to cross them off my demand list. Thanks.

Susan.

1 THOMAS J. ORLOFF
District Attorney
2 County of Alameda
Susan M. Torrence (Bar No. 132585)
3 Deputy District Attorney
Consumer & Environmental Protection Division
4 7677 Oakport Street, Suite 650
Oakland, CA 94621
5 (510) 569-9281

8 SUPERIOR COURT, WILEY W. MANUEL COURTHOUSE
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

10 PEOPLE OF THE STATE OF CALIFORNIA)

No. 454319

11 v.)

**DECLARATION OF
BARNEY CHAN**

12 KELLY ENGINEER)

13 Defendant)

14 _____)
15
16 I, Barney Chan, am a Hazardous Materials Specialist in the Local Oversight Program (LOP) for
17 Alameda County Environmental Health. I have been in this position for nine years, the last six of which
18 have been in the LOP. In this capacity, I work as an agent of the Regional Water Quality Control Board
19 to oversee the investigation and cleanup of environmental contamination of soil and groundwater, most
20 commonly releases from underground tanks.

21 Guy's Service Station, located at 3820 San Leandro Street in Oakland, is operated by Kelly
22 Engineer. The site was transferred to the LOP on March 1998 from the City of Oakland, who oversaw
23 the removal of four underground tanks (2-8,000 gallon diesel, 1-8,000 gallon gasoline and 1-4,000
24 gallon gasoline). Significant levels of contamination from gasoline, benzene, toluene, ethyl benzene and
25 xylenes were found in soil samples after removal of the tanks and were confirmed upon further
26 investigation by way of soil boring samples and three monitoring wells. These results came from Mr.
27 Engineer's consultants, Brunsing Associates.

1 The County wrote a letter on August 13, 1998, that requested Mr. Engineer to initiate quarterly
2 groundwater monitoring and to submit his reports within 45 days of monitoring. Our office also
3 requested a copy of his underground storage tank removal report.

4 Having not received any of the above requested reports, our office wrote the following letters:

- 5 • February 1, 1999, Request for Technical Reports for Guy's Diesel
- 6 • May 18, 1999, Notice of Violation
- 7 • June 30, 1999, Second Notice of Violation
- 8 • August 13, 1999, Final Notice of Violation

9 To date, our office has not received either written or verbal communication from Mr. Engineer.

10 Currently, this site is in violation of the following regulations:

- 11 • California Code of Regulations, Title 23, §2650, requires the owner or operator to record
12 *9/25/00* or report any unauthorized release from an underground storage tank.
- 13 • California Code of Regulations, Title 23, §2652, requires the owner or operator to submit
14 reports to the Water Board or local agency, every three months or more frequently as
15 specified by the agency.
- 16 • Due to the lack of the submission of an underground tank closure plan, our office is not
17 aware that residual liquid, solids, sludge or underground tank system have been properly
18 disposed or recycled and may comprise a violation of Health and Safety Code, Chapter
19 6.5, Hazardous Waste Control Act.
- 20 • California Code of Regulations, Title 23, §2722 requirements for Preliminary Site
21 Assessment, Soil and Groundwater Investigation, Corrective Action Plan Implementation
22 and Verification Monitoring reports.
- 23 *submitted
9/25/00* Health and Safety Code Chapter 6.7, §25299(a)(4) - Failure to report an unauthorized
24 release.
- 25 • Health & Safety Code, Chapter 6.7, §25299(a)(5) - Failure to properly close an
26 underground tank system.
- 27 • Health & Safety Code, Chapter 6.7, §25299(a)(7) - Failure to permit inspection or to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

perform any monitoring, testing, or reporting.

Because of inadequate investigation and monitoring at this site, the extent of groundwater contamination is unknown. In my experience, the residual concentrations of petroleum hydrocarbon could result in unacceptable human health risk and a potential risk to the environment.

I declare that the above statements are true and made under the penalty of perjury.

Executed on this 29 day of July, 2002, at Oakland, California.



BARNEY M. CHAN
Hazardous Materials Specialist



Alameda County
District Attorney's Office
Thomas J. Orloff, District Attorney

4055
3820 S.L St 94601

March 1, 2001

MAR 06 2001

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

Re: **Mr. Kelly Engineer Strike Force Meeting**

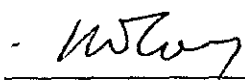
Dear Mr. Chan:

On March 1, 2001, a strike force meeting was held to discuss enforcement options regarding Mr. Kelly Engineer and his current violations. The attendees of this meeting included, Mr. Chris Bergland and Mr. Ron Pilkington with the BAAQMD and Mr. Danilo Galang and Mr. Steven Buscovich with the Hayward Fire Department. Although Mr. Barney Chan of the Alameda County Health Care Services was unable to attend this meeting, he has expressed his concerns regarding Mr. Engineer to this office.

After a discussion of Mr. Engineer's long standing permit violations with the BAAQMD and his remediation violations with the City of Hayward, we have decided to pursue legal action to close Mr. Engineer's stations until he comes into compliance with the above agencies' requirements. We would like to bring a comprehensive action involving all affected agencies and compliance issues. If your agency has compliance concerns regarding Mr. Engineer and his stations and would like to join our enforcement action, please contact Mary Wilke at (510) 569-9281 x441, within the next few weeks, to discuss having your issues addressed in this action.

Very truly yours,

THOMAS J. ORLOFF
DISTRICT ATTORNEY

By: 
Micheal O'Connor
Deputy District Attorney

TJO:MOC:jcr

PAUL S. ROSENSTEIN

ATTORNEY AT LAW

FINANCIAL CENTER BUILDING

405 14TH STREET, NINTH FLOOR

OAKLAND, CALIFORNIA 94612-2706

PAUL S. ROSENSTEIN*

*MEMBER OF THE BAR
IN CALIFORNIA, FLORIDA AND NEW YORK

TELEPHONE
(510) 465-5782

FAX
(510) 452-4881

January 16, 2001

Michael O'Connor, Esq.
Alameda County District Attorney's Office
7677 Oakport Street, Suite 400
Oakland, California 94621

Re: Guy's Diesel, 3820 San Leandro Street, Oakland, CA 94621

Dear Mr. O'Connor :

Confirming our telephone conversation before the holidays, I represent Kelly Engineer in civil matters. You indicated that you had received a letter from Barney M. Chan, a hazardous materials specialist with the Alameda County Health Care Services, regarding the above-referenced station, and that you would be reviewing that matter and other matters and that I would hear from you.

I understand from speaking with Mr. Chan and with my client that the issue regarding the above-referenced station is the tank closure report. As I mentioned to you during our conversation, ACRC Inc., a licensed contractor (License Number 669264), was hired to remove tanks at the above-referenced location. As part of resolution of a civil dispute arising out of construction at the station, which was reached in or about August 2000, ACRC Inc. agreed to provide, among other things, the tank closure report for the above-referenced location. I am transmitting herewith a copy of letter that I received on January 15, 2001 from counsel for ACRC, Inc. in response to my latest request to ACRC Inc. for tank closure reports.

I am following up with counsel for ACRC Inc. regarding the tank closure report. You may rest assured that the tank closure report will be provided to Mr. Chan as soon as ACRC provides it.

Please call me if you have any questions or wish to discuss this matter.

Sincerely,


PAUL S. ROSENSTEIN

PSR/M-ENCLOSURE AS NOTED

cc: Barney M. Chan
cc: Kelly Engineer

COPY

LAW OFFICES OF
GAGEN, MCCOY, MCMAHON & ARMSTRONG
A PROFESSIONAL CORPORATION

WILLIAM E. GAGEN, JR.
GREGORY L. MCCOY
PATRICK J. MCMAHON
MARK L. ARMSTRONG
LYNN K. COOMBS
STEPHEN W. THOMAS
CHARLES A. KOSS
MICHAEL J. MARKOWITZ
RICHARD C. RAINES
VICTOR J. CONTI
BARBARA DUVAL JEWELL
ROBERT M. FANUCCI
ALLAN G. MOORE
PATRICIA E. CURTIN
STEPHEN T. BUEHL
AMANDA JUDGE
ALEXANDER L. SCHMID
FRANCISCA J. M. BROUWER
ANDREW S. GUSTAFSON
MARTIN LYBONS

DANVILLE OFFICE
278 FRONT STREET
P. O. BOX 218
DANVILLE, CALIFORNIA 94526-0218
TELEPHONE: (925) 837-0685
FAX: (925) 838-5985

NAPA VALLEY OFFICE
THE OFFICES AT SOUTHBIDGE
1030 MAIN STREET, SUITE 212
ST. HELENA, CALIFORNIA 94574
TELEPHONE: (707) 963-0900
FAX: (707) 963-8527

January 15, 2001

PLEASE REPLY TO:

Danville

Via Facsimile (510) 452-4881

Paul Rosenstein, Esq.
Financial Center Building
405 - 14th Street, Ninth Floor
Oakland, CA 94612-2705

Re: *Berkeley Cement v. ACRC, Inc., et al.*

Dear Mr. Rosenstein:

Thank you for your letter dated January 12, 2001. As I previously communicated to you, my client's computer crashed and he is expecting to have it returned today or tomorrow. Mr. Orwig has committed to reload the necessary information to complete the reports and have them available as soon as possible. Please feel free to forward a copy of this letter to the District Attorney's Office, to explain the delay in your client's compliance with the work done at the station. I suggest the monthly payments be maintained so as too not further exasperate this situation. As you know, the payments are forwarded directly to Berkeley Cement in satisfaction of their claim. In consideration of the delay tank closure reports, I have suspended any further claim by my client for attorney fees and other entitlements.

Sincerely,



Victor J. Conti

VJC/el
cc: Client

PA\LVIC\30807\Rosenstein011501-Ltr.wpd

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



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

December 13, 2000

Mr. Micheal O'Connor
Alameda County District Attorney Office
7677 Oakport St., Suite 400
Oakland CA 94621

Re: Guy's Diesel, 3820 San Leandro St., Oakland CA 94601

Dear Mr. O'Connor:

This letter is to inform you of the environmental status of the above referenced site. My September 25, 2000 letter to Mr. Kelly Engineer requested the submission of a number of technical reports (tank removal report, groundwater gradient map and work plan for off-site investigation). Because of your June 5, 2000 letter and the continuance allowed, I requested that these reports be submitted by October 24, 2000. To date, our office has not received the requested reports. By way of copy of this letter, Mr. Hernan Gomez of the City of Oakland is being notified of this status. I understand that the City of Oakland may, therefore, take steps to revoke the underground tank operating permit for the above site.

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

Sincerely,

A handwritten signature in cursive script that reads "Barney M. Chan".

Barney M. Chan
Hazardous Materials Specialist

✓ C: B. Chan, files
Mr. K. Engineer, 1791 Pine St., Concord, CA 94520
Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland CA 94612
Mr. D. Dement, ACC Env. Consultants, 7977 Capwell Drive, Suite 100, Oakland CA 94621

2-3820SanLeandroSt

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

September 25, 2000
StID # 4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

Re: Technical Reports for Guy's Diesel, 3820 San Leandro St., Oakland CA 94601

Dear Mr. Engineer:

This letter acknowledges the receipt of the September 19, 2000 Groundwater Sampling Letter Report and the completed Unauthorized Release (Leak) Report for the above site both prepared by ACC Environmental Consultants (ACC). It is unfortunate that you did not provide ACC with the historic records and reports for this site, therefore, they were not able to make any significant conclusions or recommendations for the site. In fact, without the prior Brunsing Associates' reports, they were unable to determine groundwater gradient and even the names of the monitoring wells are different in the two reports.

Minimally, ACC states that the highest concentration of petroleum in groundwater is found in their well, MW-2. As you may recall, Brunsing Associates identification of wells, MW-1, MW-2 and MW-3 are equivalent to ACC well numbers MW-3, MW-1 and MW-2, respectively. The September 2000 results are similar to the 7/98 Brunsing Associates' results as both identify high TPHg, BTEX and MTBE concentrations in the same well. Further off-site characterization is necessary as is an evaluation of remediation alternatives.

Please refer to my June 12, 2000 letter where I listed the outstanding items needed for your site to come into compliance. You will note that you still are required to submit a complete underground tank removal report, provide a groundwater gradient map for the monitoring report and provide a recommendation section in the report. Your recommendation section should provide a work plan for additional off-site investigation and a review of potential remedial actions. Please provide this information by the continuance date stated by the Alameda County District Attorney's Office, October 24, 2000.

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

Sincerely,

A handwritten signature in cursive script that reads "Barney M. Chan".

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Mr. D. DeMent, ACC Env. Consultants, 7977 Capwell Dr., Suite 100, Oakland CA 94621

Mr. M. O'Connor, Alameda County District Attorney Office

Mr. H. Gomez, City of Oakland Fire Services, 1605 MLK Jr. Dr., Oakland, CA 94612

3820SLSt

UNDERGROUND STORAGE TANK UNAUTHORIZED RELEASE (LEAK) / CONTAMINATION SITE REPORT

EMERGENCY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		FOR LOCAL AGENCY USE ONLY I HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM.	
REPORT DATE 0 9 1 9 0 0 <small>M M D D Y Y</small>		CASE #		SIGNED: <u>9/25/00 Barney Chan</u> DATE:	
REPORTED BY	NAME OF INDIVIDUAL FILING REPORT Neil Doran		PHONE 510)638-8400		SIGNATURE
	REPRESENTING <input type="checkbox"/> OWNER/OPERATOR <input type="checkbox"/> REGIONAL BOARD <input type="checkbox"/> LOCAL AGENCY <input checked="" type="checkbox"/> OTHER <u>consultant</u>		COMPANY OR AGENCY NAME ACC Environmental Consultants		
	ADDRESS -43-Mont 7977 Capwell Drive Oakland CA 94612				
RESPONSIBLE PARTY	NAME Kelly Engineer <input type="checkbox"/> UNKNOWN		CONTACT PERSON Kelly Engineer		PHONE (510) 536-2721
	ADDRESS 1791 Pine Street Concord CA 94520				
SITE LOCATION	FACILITY NAME (IF APPLICABLE) Guy's Diesel		OPERATOR Kelly Engineer		PHONE 510)536-2721
	ADDRESS 3820 San Leandro Boulevard Oakland Alameda 94601				
	CROSS STREET 39th Avenue				
IMPLEMENTING AGENCIES	LOCAL AGENCY Alameda County Health Care Services		AGENCY NAME Alameda County Health Care Services		CONTACT PERSON Barney Chan
	REGIONAL BOARD SF Bay Regional Water Quality Cont. Board		REGIONAL BOARD SF Bay Regional Water Quality Cont. Board		CONTACT PERSON Chuck Headlee
SUBSTANCES INVOLVED	(1) NAME Gasoline		QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN		
	(2) NAME Diesel		QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN		
DISCOVERY/ABATEMENT	DATE DISCOVERED 01 1 2 0 9 8 <small>M M D D Y Y</small>		HOW DISCOVERED <input type="checkbox"/> INVENTORY CONTROL <input type="checkbox"/> SUBSURFACE MONITORING <input type="checkbox"/> NUISANCE CONDITIONS <input type="checkbox"/> TANK TEST <input checked="" type="checkbox"/> TANK REMOVAL <input type="checkbox"/> OTHER		
	DATE DISCHARGE BEGAN <input checked="" type="checkbox"/> UNKNOWN		METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) <input type="checkbox"/> REMOVE CONTENTS <input checked="" type="checkbox"/> CLOSE TANK & REMOVE <input type="checkbox"/> REPAIR PIPING <input type="checkbox"/> REPAIR TANK <input type="checkbox"/> CLOSE TANK & FILL IN PLACE <input type="checkbox"/> CHANGE PROCEDURE <input type="checkbox"/> REPLACE TANK <input type="checkbox"/> OTHER		
	HAS DISCHARGE BEEN STOPPED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, DATE 0 1 2 0 9 8 <small>M M D D Y Y</small>				
SOURCE/ CAUSE	SOURCE OF DISCHARGE <input checked="" type="checkbox"/> TANK LEAK <input type="checkbox"/> UNKNOWN <input type="checkbox"/> PIPING LEAK <input type="checkbox"/> OTHER		CAUSE(S) <input type="checkbox"/> OVERFILL <input type="checkbox"/> RUPTURE/FAILURE <input type="checkbox"/> SPILL <input type="checkbox"/> CORROSION <input checked="" type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER		
	CHECK ONE ONLY <input type="checkbox"/> UNDETERMINED <input type="checkbox"/> SOIL ONLY <input checked="" type="checkbox"/> GROUNDWATER <input type="checkbox"/> DRINKING WATER - (CHECK ONLY IF WATER WELLS HAVE ACTUALLY BEEN AFFECTED)				
CURRENT STATUS	CHECK ONE ONLY <input type="checkbox"/> NO ACTION TAKEN <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT WORKPLAN SUBMITTED <input type="checkbox"/> POLLUTION CHARACTERIZATION <input type="checkbox"/> LEAK BEING CONFIRMED <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT UNDERWAY <input checked="" type="checkbox"/> POST CLEANUP MONITORING IN PROGRESS <input type="checkbox"/> REMEDIATION PLAN <input type="checkbox"/> CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY) <input type="checkbox"/> CLEANUP UNDERWAY				
	CHECK APPROPRIATE ACTION(S) (SEE BACK FOR DETAILS)				
	<input type="checkbox"/> EXCAVATE & DISPOSE (ED) <input type="checkbox"/> REMOVE FREE PRODUCT (FP) <input type="checkbox"/> ENHANCED BIO DEGRADATION (IT) <input type="checkbox"/> CAP SITE (CO) <input type="checkbox"/> EXCAVATE & TREAT (ET) <input type="checkbox"/> PUMP & TREAT GROUNDWATER (GT) <input type="checkbox"/> REPLACE SUPPLY (RS) <input type="checkbox"/> CONTAINMENT BARRIER (CB) <input checked="" type="checkbox"/> NO ACTION REQUIRED (NA) <input type="checkbox"/> TREATMENT AT HOOKUP (HU) <input type="checkbox"/> VENT SOIL (VS) <input type="checkbox"/> VACUUM EXTRACT (VE) <input type="checkbox"/> OTHER (OT)				
COMMENTS	COMMENTS				

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 2800 Meadowview Road, Sacramento, CA 95832. 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 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.

REPORTED BY

Enter your name, telephone number, and address. Indicate which party you represent 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 tank 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 hazardous 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 abatement of the leak.

SOURCE/CAUSE

Indicate source(s) of leak. Check box(es) indicating cause of leak.

CASE TYPE

Indicate the case type category for this leak. Check one box only. Case type is based on the most sensitive resource affected. For example, if both soil and ground water have been affected, case type will be "Ground Water". Indicate "Drinking Water" only if one or more municipal or domestic 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 further 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 Water", 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:

No Action Taken - No action has been taken by responsible party beyond initial report of leak.

Leak Being 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 remediation plan.
Post Cleanup Monitoring in Progress - periodic ground water or other monitoring at site, as necessary, to verify 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 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 leak. 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 site.
Excavate and Treat - remove contaminated soil and treat (includes spreading or land farming).
Remove Free Product - remove floating product from water table.
Pump and Treat Groundwater - generally employed to remove dissolved contaminants.
Enhanced Biodegradation - use 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.

DISTRIBUTION

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
2. 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
4. Local Health Officer and County Board of Supervisors or their designee to receive Proposition 65 notifications.
5. Owner/responsible party.

UNDERGROUND STORAGE TANK UNAUTHORIZED RELEASE (LEAK) / CONTAMINATION SITE REPORT

EMERGENCY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		FOR LOCAL AGENCY USE ONLY I HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM.		
REPORT DATE 0 9 1 9 0 0 <small>M M D D Y Y</small>		CASE # _____		SIGNED _____ DATE _____		
REPORTED BY	NAME OF INDIVIDUAL FILING REPORT Neil Doran		PHONE (510) 638-8400		SIGNATURE _____	
	REPRESENTING <input type="checkbox"/> OWNER/OPERATOR <input type="checkbox"/> REGIONAL BOARD <input type="checkbox"/> LOCAL AGENCY <input checked="" type="checkbox"/> OTHER consultant		COMPANY OR AGENCY NAME AGC Environmental Consultants			
	ADDRESS 43 Mont 7977 Capwell Drive Oakland, CA 94612					
RESPONSIBLE PARTY	NAME Kelly Engineer <input type="checkbox"/> UNKNOWN		CONTACT PERSON Kelly Engineer		PHONE (510) 536-2721	
	ADDRESS 1791 Pine Street Concord, CA 94520					
SITE LOCATION	FACILITY NAME (IF APPLICABLE) Guy's Diesel		OPERATOR Kelly Engineer		PHONE 510 536-2721	
	ADDRESS 3820 San Leandro Boulevard Oakland, Alameda 94601					
	CROSS STREET 39th Avenue					
IMPLEMENTING AGENCIES	LOCAL AGENCY Alameda County Health Care Services		AGENCY NAME Alameda County Health Care Services		CONTACT PERSON Barney Chan	
	REGIONAL BOARD SF Bay Regional Water Quality Cont. Board		CONTACT PERSON Chuck Headles		PHONE (510) 622-2433	
SUBSTANCES INVOLVED	(1) NAME Gasoline				QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN	
	(2) NAME Diesel				QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN	
DISCOVERY/BATEMENT	DATE DISCOVERED 01 1 2 0 9 e <small>M M D D Y Y</small>		HOW DISCOVERED <input type="checkbox"/> INVENTORY CONTROL <input type="checkbox"/> SUBSURFACE MONITORING <input type="checkbox"/> NUISANCE CONDITIONS <input type="checkbox"/> TANK TEST <input checked="" type="checkbox"/> TANK REMOVAL <input type="checkbox"/> OTHER			
	DATE DISCHARGE BEGAN _____ <input checked="" type="checkbox"/> UNKNOWN		METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) <input type="checkbox"/> REMOVE CONTENTS <input checked="" type="checkbox"/> CLOSE TANK & REMOVE <input type="checkbox"/> REPAIR PIPING <input type="checkbox"/> REPAIR TANK <input type="checkbox"/> CLOSE TANK & FILL IN PLACE <input type="checkbox"/> CHANGE PROCEDURE <input type="checkbox"/> REPLACE TANK <input type="checkbox"/> OTHER			
	HAS DISCHARGE BEEN STOPPED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, DATE 01 2 0 9 8 <small>M M D D Y Y</small>					
SOURCE/ CAUSE	SOURCE OF DISCHARGE <input checked="" type="checkbox"/> TANK LEAK <input type="checkbox"/> UNKNOWN <input type="checkbox"/> PIPING LEAK <input type="checkbox"/> OTHER		CAUSE(S) <input type="checkbox"/> OVERFILL <input type="checkbox"/> RUPTURE/FAILURE <input type="checkbox"/> SPILL <input type="checkbox"/> CORROSION <input checked="" type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER			
	CHECK ONE ONLY <input type="checkbox"/> UNDETERMINED <input type="checkbox"/> SOIL ONLY <input checked="" type="checkbox"/> GROUNDWATER <input type="checkbox"/> DRINKING WATER - (CHECK ONLY IF WATER WELLS HAVE ACTUALLY BEEN AFFECTED)					
CURRENT STATUS	CHECK ONE ONLY <input type="checkbox"/> NO ACTION TAKEN <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT WORKPLAN SUBMITTED <input type="checkbox"/> POLLUTION CHARACTERIZATION <input type="checkbox"/> LEAK BEING CONFIRMED <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT UNDERWAY <input checked="" type="checkbox"/> POST CLEANUP MONITORING IN PROGRESS <input type="checkbox"/> REMEDIATION PLAN <input type="checkbox"/> CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY) <input type="checkbox"/> CLEANUP UNDERWAY					
	CHECK APPROPRIATE ACTION(S) <small>(SEE BACK FOR DETAILS)</small> <input type="checkbox"/> CAP SITE (CD) <input type="checkbox"/> EXCAVATE & DISPOSE (ED) <input type="checkbox"/> REMOVE FREE PRODUCT (FP) <input type="checkbox"/> ENHANCED BIO DEGRADATION (IT) <input type="checkbox"/> CONTAINMENT BARRIER (CB) <input type="checkbox"/> EXCAVATE & TREAT (ET) <input type="checkbox"/> PUMP & TREAT GROUNDWATER (GT) <input type="checkbox"/> REPLACE SUPPLY (RS) <input type="checkbox"/> VACUUM EXTRACT (VE) <input checked="" type="checkbox"/> NO ACTION REQUIRED (NA) <input type="checkbox"/> TREATMENT AT HOOKUP (HU) <input type="checkbox"/> VENT SOIL (VS) <input type="checkbox"/> OTHER (OT)					
COMMENTS	_____					

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 2800 Meadowview Road, Sacramento, CA 95832. 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 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.

REPORTED BY

Enter your name, telephone number, and address. Indicate which party you represent 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 tank 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 hazardous 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 abatement of the leak.

SOURCE/CAUSE

Indicate source(s) of leak. Check box(es) indicating cause of leak.

CASE TYPE

Indicate the case type category for this leak. Check one box only. Case type is based on the most sensitive resource affected. For example, if both soil and ground water have been affected, case type will be "Ground Water". Indicate "Drinking Water" only if one or more municipal or domestic 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 further 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 Water", 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:

No Action Taken - No action has been taken by responsible party beyond initial report of leak.

Leak Being 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 remediation plan.

Post Cleanup Monitoring in Progress - periodic ground water or other monitoring at site, as necessary, to verify 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 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 leak. 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 site.

Excavate and Treat - remove contaminated soil and treat (includes spreading or land farming).

Remove Free Product - remove floating product from water table.

Pump and Treat Groundwater - generally employed to remove dissolved contaminants.

Enhanced Biodegradation - use 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.

DISTRIBUTION

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
2. 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
4. Local Health Officer and County Board of Supervisors or their designee to receive Proposition 65 notifications.
5. Owner/responsible party.

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY

DAVID J. KEARS, Agency Director

June 12, 2000
StID # 4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

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

**Re: Request for Technical Reports for Guy's Diesel, 3820 San Leandro St.,
Oakland CA 94601**

Dear Mr. Engineer:


Our office has been instructed to advise you of your requirements necessary to bring this site back into regulatory compliance. Though this information has previously been stated and requested in several notices of violation, our office will again provide it.

The following items are requested for regulatory compliance:

- Completion and submittal of the enclosed Unauthorized Release (Leak) Report (initially provided to you in my 3/11/98 letter). **Please submit this form within 10 days of receipt or no later that June 23, 2000.** *Rec'd 9/25/00*
- **Provide a complete underground tank removal report within 45 days or no later than July 24, 2000.** The report should include, at a minimum: a description of the removal and sampling process, a figure showing the location of all samples, a complete set of analytical data signed by the certified laboratory performing the work and copies of the disposal receipts for waste materials generated, including tanks, soil, sludge and liquid. *Not provided*
- Perform a groundwater monitoring sampling event on the three existing monitoring wells. The groundwater samples should be analyzed for Total Petroleum Hydrocarbons as diesel, as gasoline, BTEX and MTBE. MTBE concentrations detected should be confirmed using EPA Method 8260. **Please submit a groundwater monitoring report to our office within 45 days or no later than July 24, 2000.** Please insure that your report has an evaluation and recommendation section for next quarter actions. *Rec'd 9/25/00*
- Perform groundwater monitoring on a regular quarterly schedule unless a schedule change has been approved by our office or that of the Regional Water Quality Control Board. Your reports are due within 45 days of the monitoring event. *No reports subsequent to 9/19/00 ACC report.*

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

Sincerely,


Barney M. Chan
Hazardous Materials Specialist

✓ C: B. Chan, files

Mr. Micheal O'Connor, Alameda County District Attorney's Office

Reps3820SLSt



Alameda County
District Attorney's Office
Thomas J. Orloff, District Attorney

ENVIRONMENTAL
PROTECTION
00 JUN -6 PM 4: 51

4055

June 5, 2000

Barney Chan
Environmental Health Services
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502

RE: ***People v. Kelly Engineer*** Docket Number 454319
(Guy's Diesel, 3820 San Leandro St.; Oakland, CA 94621)

Dear Mr. Chan:

This is to inform you that Kelly Engineer has been convicted of a misdemeanor for wilful disobedience to a court order regarding his failure to comply with UST closure requirements imposed by your office.

As a result of his conviction, the defendant was placed on probation for a period of three years. As a condition of probation, the defendant was sentenced to one day in the county jail and a modest fine. The defendant is also required to bring his service station into compliance with air quality regulations, ground water clean up requirements, and other environmental regulations. I anticipate that it will cost the defendant tens of thousands of dollars to bring his station into compliance with the terms and conditions of his probation.

The matter has been continued to October 24, 2000 to evaluate the defendant's compliance with his probationary terms. I have specifically told him that he must comply with your directives, and that

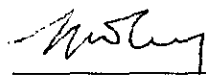
groundwater monitoring must be in place at the time of the next court date. Please keep me advised of his progress, or the lack thereof. I will be asking you for a written report of his status in early October.

Thank you for your cooperation.

Sincerely,

Thomas J. Orloff
District Attorney

By:



Micheal O'Connor
Deputy District Attorney

TJO:MO:baf



Alameda County
District Attorney's Office
Thomas J. Orloff, District Attorney

~~1/18/00~~ 95

January 18, 2000

Kelly Engineer
1791 Pine Street
Concord, CA 94520

Dear Mr. Engineer:

This letter is being forwarded to notify you of your failure to comply with conditions stated in the court order endorsed and filed on February 5, 1999 (copy attached). This office has been in correspondence with your attorney, Paul S. Rosenstein, concerning the instances of nonpayment and continuing regulatory violations (see copies of September 19, 1999 and October 15, 1999 letters, also attached). As stated in our prior letters, in addition to the insufficient and late payments, we understand you remain in violation of regulatory requirements for submittal of technical reports and that you are committing new violations of state environmental laws (enclosures to Rosenstein letters).


As you are aware, on January 26, 1999 you entered into a stipulated judgment (see attached) with this office wherein you were ordered by the court to pay a total of \$10,000 in civil penalties in 22 monthly payments. As of this date, a balance of \$8,500 remains outstanding. The last payment received from you was on June 16, 1999. Inasmuch as we have had no contact with you since that time, we are now demanding the payment in full as authorized by paragraph 11 of the said agreement. Payment in full is to be tendered to this office within thirty (30) days of receipt of this notice.

In addition, the order specifically required that you comply with all regulatory directives issued in regard to your facilities in Oakland and Hayward. To date, several regulatory issues remain outstanding (see attached documents). You are hereby given notice that these regulatory requirements must be met within the same thirty (30) day period.

Please send the payment, as well as verification of compliance, to this office within thirty (30) days of receipt of this letter. Please be advised that willful failure to comply with a lawful court order is punishable as a criminal offense. (California Penal Code section 166.4).

Very truly yours,

THOMAS J. ORLOFF
District Attorney

By: 
Robert F. Chambers
Senior Deputy District Attorney

cc: Barney M. Chan, Hugh Murphy and James J. Morgester



Alameda County
District Attorney's Office
Thomas J. Orloff, District Attorney

January 18, 2000

Perrin Engineer
95 Palm
Union City, CA 94520

Dear Ms. Engineer:

This letter is being forwarded to notify you of your failure to comply with conditions stated in the court order endorsed and filed on February 5, 1999 (copy attached). This office has been in correspondence with your attorney, Paul S. Rosenstein, concerning the instances of nonpayment and continuing regulatory violations (see copies of September 19, 1999 and October 15, 1999 letters, also attached). As stated in our prior letters, in addition to the insufficient and late payments, we understand you remain in violation of regulatory requirements for submittal of technical reports and that you are committing new violations of state environmental laws (enclosures to Rosenstein letters).


As you are aware, on January 26, 1999 you entered into a stipulated judgment (see attached) with this office wherein you were ordered by the court to pay a total of \$10,000 in civil penalties in 22 monthly payments. As of this date, a balance of \$8,500 remains outstanding. The last payment received from you was on June 16, 1999. Inasmuch as we have had no contact with you since that time, we are now demanding the payment in full as authorized by paragraph 11 of the said agreement. Payment in full is to be tendered to this office within thirty (30) days of receipt of this notice.

In addition, the order specifically required that you comply with all regulatory directives issued in regard to your facilities in Oakland and Hayward. To date, several regulatory issues remain outstanding (see attached documents). You are hereby given notice that these regulatory requirements must be met within the same thirty (30) day period.

Please send the payment, as well as verification of compliance, to this office within thirty (30) days of receipt of this letter. Please be advised that willful failure to comply with a lawful court order is punishable as a criminal offense. (California Penal Code section 166.4).

Very truly yours,

THOMAS J. ORLOFF
District Attorney

By: 

Robert F. Chambers
Senior Deputy District Attorney

cc: Barney M. Chan, Hugh Murphy and James J. Morgester



Alameda County
District Attorney's Office
Thomas J. Orloff, District Attorney

4055
ENVIRONMENTAL
PROTECTION
99 SEP 21 PM 2:55

September 19, 1999

Paul S. Rosenstein
Attorney at Law
Financial Center Building
405 14th Street, Ninth Floor
Oakland, CA 94612-2706

Re: People v Kelly Engineer et al.
No. 784444-9

Dear Paul:

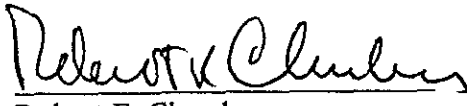
As stated in our July 6, 1999 letter, on June 16, 1999 we received your check in the amount of \$500.00 representing the March and April payments due this office from Mr. Engineer. Mr. Engineer is now five (5) months in arrears (see attached). In addition to the insufficient and late payments, I understand Mr. Engineer remains in violation of regulatory requirements for submittal of technical reports and is committing new violations of state environmental laws (also attached).

As of this date, a balance of \$8500 in penalties for past violations remains outstanding. As previously discussed, it is in nobody's best interest to have to wrestle over each and every future payment. Again, your client's failure to make timely payments constitutes a breach of our settlement agreement and at the least could render the entire balance due immediately. In addition, compliance with regulatory requests is an ongoing legal requirement to avoid additional civil penalties.

Please call me at 639-7205 no later than October 4, 1999 so that we can discuss resolution of these violations of the settlement agreement and the new compliance issues for this site.

Very truly yours,

THOMAS J. ORLOFF
District Attorney

By: 
Robert F. Chambers
Senior Deputy District Attorney

cc: Barney M. Chan, Hugh Murphy and James J. Morgester

Payment Schedule - Case No. 784444-9 (as of September 17, 1999)

<i>Payment Number</i>	<i>Payment Due</i>	<i>Amount</i>	<i>Balance Remaining</i>	<i>Payment Received</i>
(initial)			(\$10,000)	
1	1-Jan-99	\$500	\$9,500	3-Feb-99
2	1-Feb-99	\$500	\$9,000	7-May-99
3	1-Mar-99	\$250	\$8,750	16-Jun-99
4	1-Apr-99	\$250	\$8,500	16-Jun-99
5	1-May-99	\$250	\$8,250	
6	1-Jun-99	\$250	\$8,000	
7	1-Jul-99	\$500	\$7,500	
8	1-Aug-99	\$500	\$7,000	
9	1-Sep-99	\$500	\$6,500	
10	1-Oct-99	\$500	\$6,000	
11	1-Nov-99	\$500	\$5,500	
12	1-Dec-99	\$500	\$5,000	
13	1-Jan-00	\$500	\$4,500	
14	1-Feb-00	\$500	\$4,000	
15	1-Mar-00	\$500	\$3,500	
16	1-Apr-00	\$500	\$3,000	
17	1-May-00	\$500	\$2,500	
18	1-Jun-00	\$500	\$2,000	
19	1-Jul-00	\$500	\$1,500	
20	1-Aug-00	\$500	\$1,000	
21	1-Sep-00	\$500	\$500	
22	1-Oct-00	\$500	\$0	
	TOTAL:	\$10,000		

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)

August 13, 1999
StID # 4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

FINAL NOTICE OF VIOLATION

**Re: Request for Technical Reports for Guy's Diesel, 3820 San Leandro St., Oakland CA
94601**

Dear Mr. Engineer:

Our office has not received the previously requested technical reports regarding the above site per my May 18, 1999 and June 30, 1999 letters. These reports were to include a complete underground tank closure report and all prior and current monitoring reports for the wells at the above site.

Please submit these documents to our office within 30 days or by September 14, 1999.

This site will be referred to the Alameda County District Attorney's Office for enforcement if the requested documents are not provided by the above deadline.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Ms. Jill Duerig, Alameda County District Attorney Office
Mr. H. Gomez, City of Oakland Fire Services, 505 14th St., Suite 702, Oakland CA 94612
FNOV3820SL



Winston H. Hickox
Secretary for
Environmental
Protection

Air Resources Board

Alan C. Lloyd, Ph.D.
Chairman

2020 L Street • P.O. Box 2815 • Sacramento, California 95812 • www.arb.ca.gov



Gray Davis
Governor

August 25, 1999

Kelly Engineer, Owner
Guy's Service Station
3820 San Leandro
Oakland, CA 94601

Dear Mr. Engineer:

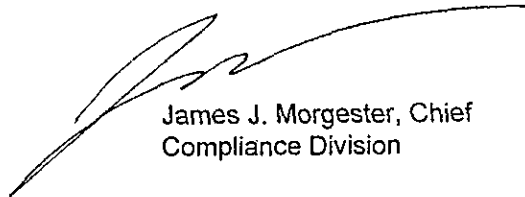
Report of Violation F99-8-1

As you know, routine sampling at your service station on May 4, 1999, revealed that you were selling gasoline with Reid vapor pressure exceeding the maximum allowed by State law. A Report of Violation has been prepared, and a copy is enclosed for your review.

Prior to referring the case to the Office of Legal Affairs for litigation or settlement, it is my policy to offer the company in violation an opportunity to meet and discuss the circumstances of the alleged violation. However, since you have failed to respond to my requests for documents, I am referring the case to our General Counsel immediately.

If you have any questions or concerns, please telephone Janice Ross of my staff. She can be reached at (916) 327-1526.

Sincerely,



James J. Morgester, Chief
Compliance Division

Enclosure

cc: K. Walsh, General Counsel



CITY OF
HAYWARD
HEART OF THE BAY

*** NOTICE OF NONCOMPLIANCE NO. 99-ES91002 ***

ISSUED PURSUANT TO SEC. 3-8.55 OF THE HAYWARD MUNICIPAL CODE TO:

ALL STAR, INC.
1220 TENNYSON ROAD, WEST
HAYWARD, CA 94544

In March 1998, we required that you submit a written plan for the investigation and remediation of contamination at your facility, discovered in October 1990. To date, we have not received any such plan from you or your consultants.

You are hereby required to submit a comprehensive action plan summarizing any and all past work completed at this site regarding the contamination, and detailing all activities that will delineate the lateral and vertical extent of the contamination, monitor groundwater data, and remediate the contamination, once defined.

Failure to comply with any provisions of local, state or federal regulations enforced by the Hayward Fire Department, including the requirements contained in inspection reports and/or notices of noncompliance issued by the Hazardous Materials Office, may be subject to criminal and/or civil penalties. We have also reported this violation to the District Attorney's Office and the San Francisco Bay Regional Water Quality Control Board for appropriate action.

Contact this Office at (510) 583-4925 to make arrangements for the prompt submittal of your investigation, monitoring, and remediation plan.

NOTICE ISSUED BY Hugh Murphy
 Hazardous Materials Program Coordinator
 September 13, 1999
ON

NOTICE SERVED TO BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:

All Star, Inc.
Kelly Engineer, Vice President
362 Riviera Drive
Union City, CA 94587

FIRE DEPARTMENT

777 B STREET, HAYWARD, CA 94541-5007
TEL: 510/583-4900 • FAX: 510/583-3640 • TDD: 510/247-3340



CITY OF
HAYWARD
HEART OF THE BAY

*** NOTICE OF NONCOMPLIANCE NO. 99-ES91001 ***

ISSUED PURSUANT TO SECTION 3-8.55 OF THE HAYWARD MUNICIPAL CODE TO:

*ALL STAR, INC.
1220 TENNYSON ROAD, WEST
HAYWARD, CA 94544*

On June 1, 1999, the Hazardous Materials Office sent you a notice with an invoice to obtain a Unified Program Consolidated Permit and Registration for the above named facility. To date, we have not received your completed Permit form and the corresponding annual permit fee. The continued operation of your business without the required Unified Program Permit is a violation of Section 3-8.34 of the Hayward Municipal Code. This has also precluded us from renewing the Operating Permit for your Underground Storage Tanks, as required by State law. You are therefore operating your tanks without the proper permit.

You are hereby required to submit a completed Permit form with the required permit fee and any accumulated late charges and penalties on the original invoice.

Failure to comply with any provisions of local, state or federal regulations enforced by the Hayward Fire Department under the Unified Hazardous Material and Hazardous Waste Management Regulatory Program, including the requirements contained in inspection reports and/or notices of noncompliance issued by the Hazardous Materials Office, may be subject to criminal and/or civil penalties. We have also reported this violation to the District Attorney's Office.

Contact this Office to make arrangements for the prompt issuance of your Unified Program Consolidated Permit and of the Operating Permit for your underground storage tanks.

NOTICE ISSUED BY Hugh Murphy
 Hazardous Materials Program Coordinator
ON September 13, 1999

NOTICE SERVED TO BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:

*All Star, Inc.
Kelly Engineer, Vice President
362 Riviera Drive
Union City, CA 94587*

FIRE DEPARTMENT

777 B STREET, HAYWARD, CA 94541-5007
TEL: 510/583-4900 • FAX: 510/583-3640 • TDD: 510/247-3340

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)

August 13, 1999
StID # 4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

FINAL NOTICE OF VIOLATION

Re: Request for Technical Reports for Guy's Diesel, 3820 San Leandro St., Oakland CA 94601

Dear Mr. Engineer:

Our office has not received the previously requested technical reports regarding the above site per my May 18, 1999 and June 30, 1999 letters. These reports were to include a complete underground tank closure report and all prior and current monitoring reports for the wells at the above site.

Please submit these documents to our office within 30 days or by September 14, 1999.

This site will be referred to the Alameda County District Attorney's Office for enforcement if the requested documents are not provided by the above deadline.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Ms. Jill Duerig, Alameda County District Attorney Office
Mr. H. Gomez, City of Oakland Fire Services, 505 14th St., Suite 702, Oakland CA 94612
FNOV3820SL



Alameda County
District Attorney's Office
Thomas J. Orloff, District Attorney

July 6, 1999

Paul S. Rosenstein
Attorney at Law
Financial Center Building
405 14th Street, Ninth Floor
Oakland, CA 94612-2706

Re: People v Kelly Engineer et al.
No. 784444-9

Dear Paul:

We have received your check dated April 14, 1999 in the amount of \$500.00 representing the March payment due this office from Mr. Engineer. I appreciate your efforts in securing this payment but note that at this point Mr. Engineer is five (5) months in arrears. Hopefully some effort is being made by Mr. Engineer to bring his account up to date and then remit payments to us on a regular basis. In addition to the insufficient payments, I understand Mr. Engineer is in violation of regulatory requirements for submittal of technical reports (see attached).

As of this date, 19 payments of \$500 each remain outstanding. As previously discussed, it is in nobody's best interest to have to wrestle over each and every future payment. Again, please remind your client that his failure to make timely payments constitutes a breach of our settlement agreement and at the least could render the entire balance due immediately. In addition, compliance with regulatory requests is an ongoing legal requirement to avoid additional civil penalties.

I would appreciate your thoughts on the above matter. Please call me at 639-7205.

Very truly yours,

THOMAS J. ORLOFF
District Attorney

By:

Robert F. Chambers
Senior Deputy District Attorney

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)

June 30, 1999
StID #4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

SECOND NOTICE OF VIOLATION

Re: Request for Technical Reports for Guy's Diesel, 3820 San Leandro St., Oakland 94601

Dear Mr. Engineer:

Our office requested in my May 18, 1999 letter that the underground storage tank closure report and a current groundwater monitoring report be submitted to our office by June 21, 1999. To date, our office has not received any of the requested reports.

Please perform groundwater monitoring and submit a monitoring report, as well as your underground tank closure report, to our office **within 30 days or by July 30, 1999**.

This is a formal request for technical reports, pursuant to Title 23 of the California Underground Storage Tank Regulations and Section 13267 (b) of the Water Code. The failure to submit the requested documents will result in civil liability and enforcement by referral to Alameda County District Attorney Office.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Mr. J. Bruxvoort, BACE Environmental, 760 Market St., Suite 344, San Francisco, CA 94520

Ms. J. Duerig, Alameda County District Attorney Office, 7677 Oakport St., Oakland
CA, 94621

Mr. H. Gomez, City of Oakland, 505 14th St., Suite 702, Oakland CA 94612

2NOV3820SanLeandro

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



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

May 18, 1999
StID #4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

NOTICE OF VIOLATION

Re: Request for Technical Reports for Guy's Diesel, 3820 San Leandro St., Oakland 94601

Dear Mr. Engineer:

Our office has requested twice previously in my August 13, 1998 and February 1, 1999 letters, technical reports regarding the tank removals and subsurface investigation at the above site. To date, our office has not received any reports. You were requested to submit a copy of the underground tank closure report by March 8, 1999. After the installation of monitoring wells in July 1998, you were requested to initiate quarterly groundwater monitoring. Monitoring reports were to be submitted within 45 days of the sampling event.

Please perform groundwater monitoring and submit a monitoring report, as well as your underground tank closure report, to our office **within 30 days or by June 21, 1999.**

This is a formal request for technical reports, pursuant to Title 23 of the California Underground Storage Tank Regulations and Section 13267 (b) of the Water Code. The failure to submit the requested documents will result in civil liability and enforcement.

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

Sincerely,

Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Mr. J. Bruxvoort, BACE Environmental, 760 Market St., Suite 344, San Francisco, CA 94520

Mr. Bob Chambers, Alameda County District Attorney Office, 7677 Oakport St., Oakland
CA, 94621

Mr. H. Gomez, City of Oakland, 505 14th St., Suite 702, Oakland CA 94612

NOV3820SanLeandro

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



February 1, 1999
StID #4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

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

Re: Request for Technical Reports for Guy's Diesel, 3820 San Leandro St., Oakland 94601

Dear Mr. Engineer:

In my last letter to you dated August 13, 1998, I provided comment on the August 10, 1998 Soil and Groundwater Investigation report for the above site. I noted that it appeared that there had been a site-wide release of gasoline and diesel fuel, which had impacted either or both soil and groundwater. Because of these results, you were requested to initiate quarterly groundwater monitoring. Your monitoring reports were to be submitted within 45 days of each monitoring event. Since this time, our office has not received any additional reports from you.

The results of the sampling are to be used to verify the initial sampling results, determine if additional investigation is necessary and determine the potential risk to human health. All of this information is necessary prior to recommending the appropriate remediation for the site.

You are also requested to provide our office with a copy of the referenced ACRC's "Tank Closure Report". This report should include a narrative of tank closure activities, sampling description and map, analytical reports and copies for the disposal of the underground tanks, soil and groundwater.

Please send the tank closure report and all monitoring reports to our office **within 45 days or by March 8, 1999**. This will allow you enough time to perform groundwater monitoring if none has been done since the well installations in July 1998.

This is a formal request for technical reports, pursuant to Title 23 of the California Underground Storage Tank Regulations and Section 13267 (b) of the Water Code. Substantial civil liability may result for the failure to submit the requested reports. You may contact me at (510) 567-6765 if you have any questions.

Sincerely,


Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

Mr. T. Allan, BACE Environmental, 760 Market St., Suite 344, San Francisco, CA 94520
Mr. Bob Chambers, Alameda County District Attorney Office, 7677 Oakport St., Oakland
CA, 94621

Mr. H. Gomez, City of Oakland, 505 14th St., Suite 702, Oakland CA 94612

Mon&clrep3820

CITY OF OAKLAND FIRE SERVICES AGENCY

Issue Date November 20, 1998

STID#

UNDERGROUND STORAGE TANK OPERATING PERMIT Expir. Date November 20, 2003

This permit is issued to the underground storage tank owner. It must be kept at the UST location at all times.

An application for the renewal of this permit must be filed with this office prior to the expiration date.

UST Facility Name **Guy's Service**
 Tank Owner's Name **Kelly Engineer**
 Tank Operator's Name **Kelly Engineer**

Address (Tank Location) **3820 San Leandro St., Oakland, CA 94601**
 Address **1791 Pine St., Concord, CA 94520**
 Address **1791 Pine St., Concord, CA 94520**

Phone (510) 261-6090
 Phone (925) 674-9798
 Phone (925) 674-9798

Total Number of USTs **3**
 Emergency/Spill Response Plan- **Yes**
 BOE # **TY HQ-44 001029**

24-Hour Emergency Contact Person **Kelly Engineer**
 Certification of Financial Responsibility-**Yes**

Phone (Pager) **678-3232**

Current Plot Plan **Yes**

	Tank #1	Tank #2	Tank #3	Tank #4
State UST I.D.	001029-011801	001029-011802	001029-011803	
Capacity (gallons)	6,000	6,000	20,000	
Hazardous Substance stored	Motor Vehicle Fuel	Motor Vehicle Fuel	Diesel	
Monitoring method for tank	Interstitial	Interstitial	Interstitial	
Frequency	Continuous	Continuous	Continuous	
Alarm?	Visible/Audible	Visible/Audible	Visible/Audible	
Tank Integrity Test	None	None	None	
Monitoring method for piping	Line Leak Detector	Line Leak Detector	Line Leak Detector	
Frequency?	Continuous	Continuous	Continuous	
Alarm?	Visible/Audible	Visible/Audible	Visible/Audible	
Slow Flow?	No	No	No	
Pump Shutdown?	Yes	Yes	Yes	
Piping Precision Test	None	None	None	
Overfill	Auto Shutoff	Auto Shutoff	Auto Shutoff	
Spill Container/Size (gallons)	15	15	15	
Cathodic Protection				
Special Conditions				
Corrosion Protection				

This operating permit is subject to the following conditions:

1. All applicable state UST requirements contained in the California Code of regulations, Title 23, Division 3, Chapters 16 and 18, the California Health & Safety Code, Division 20, Chapters 6.7 and 6.75, and all applicable local requirements.
2. The owner or operator must report any unauthorized releases to the environment to Fire Services Agency, Office of Emergency Services within 24 hours after the release has been detected or should have been detected. [call (510)238-3938 M-F from 8 to 5, and (510) 444-3322 after hours]. The owner or operator must comply with the approved routine monitoring and response plans attached to this permit.
3. Monitoring and maintenance records shall be maintained on-site for 3 years.

Issued by *[Signature]*

Date *11/19/98*

**CITY OF OAKLAND FIRE SERVICES AGENCY
UNDERGROUND STORAGE TANK OPERATING PERMIT**

This operating permit is subject to the following conditions:

- existing* (1) All applicable state UST requirements contained in the California Code of Regulations, Title 23, Division #, Chapters 16 and 18, the California Health and Safety Code, Division 20, Chapters 6.7 and 6.75, and all applicable local requirements. *ada 1997 Fire Code*
- existing* (2) The owner or operator must report any unauthorized releases to the environment to Fire Services Agency, Office of Emergency Services within 24 hours after the release has been detected or should have been detected.
3. The owner or operator shall comply with all site investigation and/or remedial action orders required by the lead implementing agency.
4. The owner or operator must comply with the approved routine monitoring and response plans attached to this permit.
- existing* (5) Monitoring and maintenance records shall be maintained on-site for 3 years.

*1997
6/11/97
[Signature]*

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



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

August 13, 1998
StID # 4055

Mr. Kelly Engineer
1791 Pine St.
Concord, CA 94520

Re: Soil and Groundwater Investigation for Guy's Diesel, 3820 San Leandro St., Oakland 94601

Dear Mr. Engineer:

Thank you for the submitting the August 10, 1998 Soil and Groundwater Investigation report prepared by Brunsing Associates, Inc. The work described in this report concludes the necessary sampling to complete the underground tank removal project and also initiated a groundwater investigation by installing three monitoring wells. Our office has completed the review of this report. As concluded in the report, the site has experienced a site-wide impact of petroleum hydrocarbon to groundwater by the release of gasoline. In addition, significant diesel has impacted the soil but has yet to impact groundwater. Because some of the soil contamination is in moist soil, there is some difficulty determining if there is a groundwater or soil problem or both.

The highest petroleum contamination concentration was exhibited in both soil and groundwater samples from MW-3. Not only is the soil and groundwater significantly impacted, but all of the potential contaminants were found; gasoline, diesel, benzene and methyl tert-butyl ether (MTBE). Assuming the southerly groundwater gradient, this would indicate that the fuel release came from the fuel islands and piping, the former 4000 gallon gasoline tank or both. We can further assume that groundwater contamination has migrated beyond the property boundary beneath San Leandro St. Because initial monitoring results can be atypical of true groundwater conditions, you should initiate a quarterly groundwater monitoring program. Please submit your monitoring reports to our office **within 45 days of each monitoring event**. After groundwater concentrations trends have been identified, you will need to perform an off-site investigation to adequately characterize the site. Each monitoring report should contain a section for conclusions and recommendations for next quarter's actions.

After the site has been adequately characterized, you should have your consultant perform a human health risk assessment consistent with ASTM RBCA methodology. This information will be useful when determining which method is most practical for site remediation. Following the risk assessment, you should perform a feasibility study to evaluate and determine which remediation method(s) are most effective for the site based on economics and effectiveness. Finally the method(s) chosen for site remediation should be proposed in a Corrective Action Plan (CAP) along with a time schedule for implementation.

Please provide our office with a copy of your underground storage tank removal report. This report should contain at a minimum:

Mr. Kelly Engineer
StID # 4055
3820 San Leandro St.
August 13, 1998
Page 2.

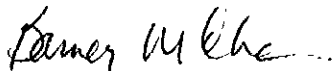
- A description of all activities associated with the tank removal
- A site map indicating the location of former tanks, piping, dispensers, samples, etc.
- Copies of all analytical results for samples collected and analyzed
- Copies of the disposal receipts for the tanks, soil, water or any other waste generated

You are encouraged to apply for the State Water Resources Control Board Cleanup Fund. You may get information regarding the Fund by calling 1-800-813-3863. Please keep in mind, eligibility for the Cleanup Fund requires compliance with the requirements of the local agency overseeing your site cleanup.

You are further reminded that the permitting of your new underground tanks and thus their operation is under the jurisdiction of the City of Oakland, Fire Services Agency, Office of Emergency Services. Mr. Hernan Gomez remains your inspector for this.

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

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

C: B. Chan, files

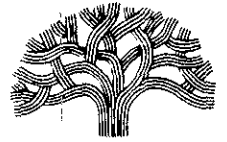
Mr. H. Gomez, City of Oakland, 505 Fourteenth St., Suite 702, Oakland CA 94612

Mr. T. Allan, BACE Environmental, 760 Market St., Suite 344, San Francisco, CA 94520

Mr. Bob Chambers, Alameda County District Attorney Office, 7677 Oakport St., Oakland
CA, 94621

#4055

CITY OF OAKLAND



FIRE SERVICES AGENCY • 505 FOURTEENTH STREET • SUITE 702 • OAKLAND, CALIFORNIA 94612

Office of Emergency Services

(510) 238-3938
FAX (510) 238-7761
TDD (510) 839-6451

August 10, 1998

Jeff Orwig
ACRC Inc.
2491 San Ramon Valley Blvd., Suite 1-430
San Ramon, CA 94583

Dear Mr. Orwig:

To confirm our conversation regarding the status of remedial activity at 3820 San Leandro Street I am writing and faxing this letter to you . The City of Oakland, Fire Services Agency/ Office of Emergency Services and the Alameda County Environmental Health are still waiting for the analytical results of the additional sampling requirements before any activity could be started at 3820 San Leandro Street.

Both agencies need to review these results to determine the extent of the pollution at the site mentioned above. No final inspection will be carried out for the new installed underground storage tanks until a review and analysis of the results is made by both agencies.

If you have any questions, please contact me at (510) 238-7253

Sincerely,

A handwritten signature in cursive script that reads "Hernán E. Gómez".

Hernán E. Gómez
Hazardous Materials Inspector

cc: Kelly Engineer, All Star Inc.
Barney Chan, Hazardous Materials Specialist
Bob Chambers, Alameda County District Attorney's Office
Leroy Griffin, Hazardous Materials Supervisor

white -env.health
yellow -facility
pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Pkwy
Alameda CA 94502
510/567-6700

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name Cruz's Service Station Today's Date 7/1/98
Site Address 3820 San Leandro St
City Oak Zip 94601 Phone _____

____ MAX AMT stored > 500 lbs, 55 gal., 200 cft.?
Inspection Categories:
____ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
____ II. Hazardous Materials Business Plan, Acutely Hazardous Materials
____ III. Under ground Storage Tanks

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Present to witness of borings / MW installation
Boring B-5 was moved west approx 5' to avoid overhead power lines.
The location of MW-2 will also need to be moved SE slightly to again avoid the power lines.
J. Bousfort (Bussing), Mr. K. Engerer, H. Gomez present @ site.
Expect to complete borings/wells by 7/2/98.
I will expedite a "draft" of SPL locations and analytical results prior to tank permitting.
As a minimum quarterly groundwater monitoring will be required.

Contact _____
Title _____
Signature _____

Inspector B. CHAN
Signature B. Chan

II, III

white - env. health
yellow - facility
pink - files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Pkwy
Alameda CA 94502
510/567-6700

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name Onyx Service Station Today's Date 7/1/98
Site Address 3820 San Leandro St
City Pak Zip 94601 Phone _____

____ MAX AMT stored > 500 lbs, 55 gal., 200 cft.?
Inspection Categories:
____ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
____ II. Hazardous Materials Business Plan, Acutely Hazardous Materials
____ III. Under ground Storage Tanks

* Calif. Administration Code (CAC) or the Health & Safety Code (HS&C)

Comments:

Present to witness 2 borings / MW installation
Boring B-5 was moved west approx 1' to avoid
overhead power lines.
The location of MW-2 will also need to be moved
SE slightly to again avoid the power lines.
(Contract: Bruning) Mr & Engineer, H Gomez
present @ site.
Expected to complete borings/wells by 7/2/98.
Will provide a "draft" of SPL locations and
analytical results prior to tank permitting.
If a minimum quarterly groundwater monitoring
will be required.

Contact _____
Title _____
Signature _____

Inspector B. Miller
Signature _____

II, III

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



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

May 7, 1998
StID # 4055

Mr. Kelly Engineer
All Star, Inc.
1791 Pine St.
Concord CA 94520

Re: Workplan Addendum for Guy's Diesel, 3280 San Leandro St.,
Oakland CA 94601

Dear Mr. Engineer:

Our offices have received and reviewed the May 4, 1998 Workplan Addendum addressing the items in our April 23, 1998 letter. The work plan incorporates all of the items mentioned in the letter and is, therefore, accepted. Please notify our offices when the sampling and well installation is scheduled so someone from our offices can be present.

You may contact either Hernan Gomez at (510) 238-7253 or myself at (510) 567-6765.

Sincerely,

Barney Chan
Hazardous Materials Specialist
Alameda County Environmental Health

C:B.Chan, files

Mr. H. Gomez, City of Oakland OES, 505 14th St., 7th Floor,
Oakland, CA 94612

Mr. Carl Schwab, BACE Environmental, P.O. Box 588, Windsor, CA
95492

Mr. Bob Chambers, Alameda County District Attorney Offices, 7677
Oakport St., Oakland, CA 94621

Wpad3820



BACE Environmental
A Division of Brunsing Associates, Inc.

ENVIRONMENTAL
PROTECTION
98 MAY -6 PM 4:22

May 4, 1998

Project No. 581.1

Mr. Barney Chan
Hazardous Materials Specialist
Alameda County Environmental Health
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

Workplan Addendum
Soil and Groundwater Investigation Workplan
Guy's Diesel
3820 San Leandro Street
Oakland, California

Dear Mr. Chan:

This workplan addendum serves to make changes to Brunsing Associates, Inc.'s (BAI's) "Soil and Groundwater Investigation Workplan" for the Guy's Diesel site, dated April 9, 1998. The changes discussed below are intended to address the requests made in our telephone conversation, and outlined in your letter of April 23, 1998.

- Boring B-3 (see attached Plate 2) will not be used to collect a deep sample at approximately 16 feet. The boring will still be advanced as a shallow boring, to investigate the former fuel dispenser and piping area, along with borings B-6, B-7 and B-8.
- Boring B-1 will be moved to a location approximately 10 feet south of the location shown in BAI's original workplan. The new location is shown on the attached Plate 2.
- All soil and groundwater samples collected will be analyzed for methyl tertiary butyl ether (MTBE) by EPA Test Method 8020 (EPA 8020). The groundwater sample which reports the highest MTBE concentration will be submitted for confirmation oxygenate analysis by EPA 8260M.
- The locations of monitoring wells MW-1 and MW-3 will be moved approximately 10 feet northwest of the locations shown in BAI's original workplan, and monitoring well MW-2 will be moved approximately 10 feet

Mr. Barney Chan
May 4, 1998
Page 2

to the southeast. New monitoring well locations are shown on the attached Plate 2. The new location of monitoring well MW-2 will place it in the sidewalk or street (depending on utility line locations) which will make it necessary to obtain an encroachment permit prior to drilling. BAI will submit a copy of the encroachment permit along with the monitoring well permit application and will forward a copy to Alameda County Environmental Health Services and the City of Oakland Fire Services Agency upon receipt.


- BAI will construct monitoring wells such that well screens extend approximately 5 feet above and 10 feet below first encountered groundwater or static water level inside the boring, depending on site conditions. Assuming a groundwater level approximately 15 feet below ground surface (bgs), this would result in a 25 foot deep well with the top of the well screen at 10 feet bgs.

We trust this addendum adequately addresses the points outlined in your letter of April 23, 1998. Should you have any questions regarding this addendum please do not hesitate to contact Carl Schwab at (707) 838-3027.

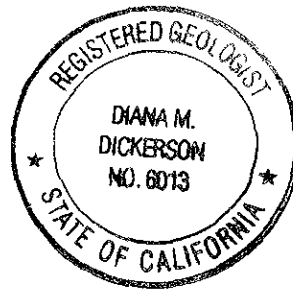
Sincerely,



Carl Schwab
Project Geologist



Diana M. Dickerson, R.G., R.E.A.
Environmental Manager



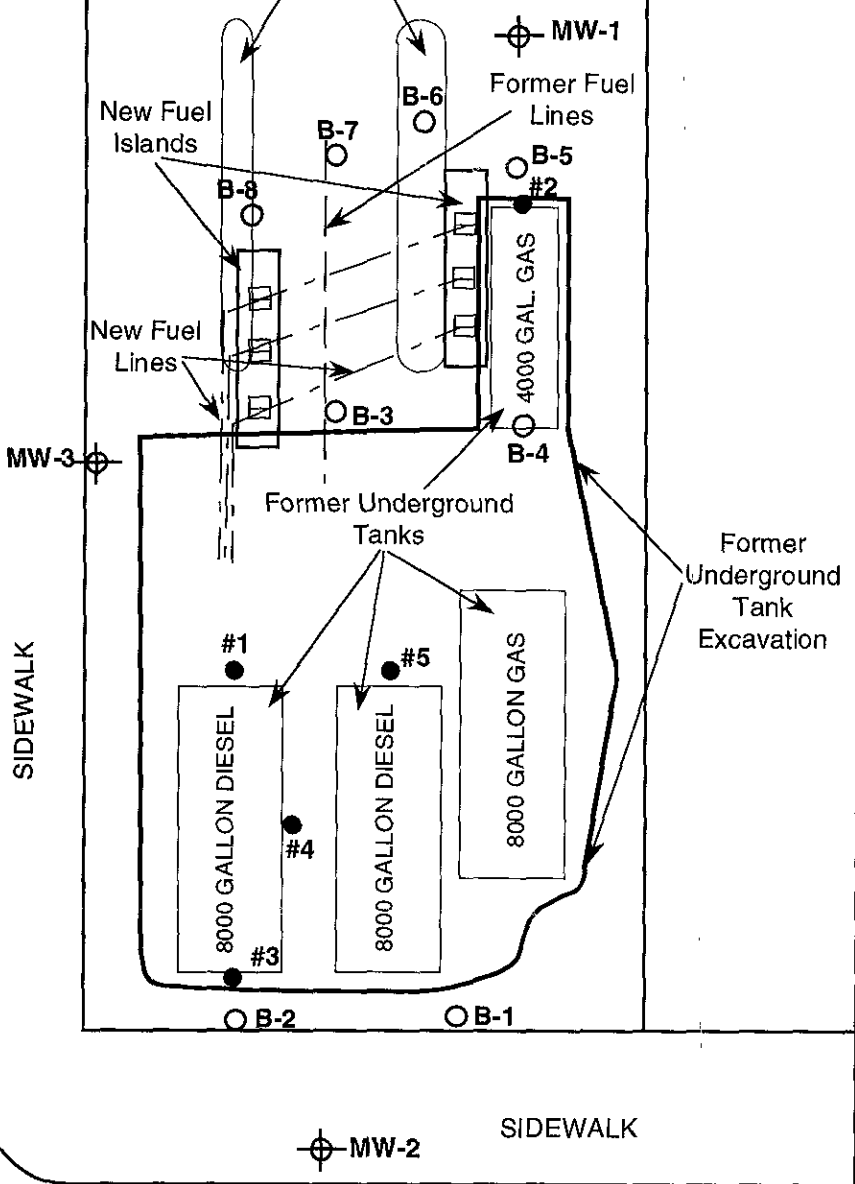
cc: Mr. Hernan Gomez, City of Oakland FSA
Mr. Kelly Engineer, All Star, Inc.
Mr. Robert Chambers, Senior Deputy District Attorney



SAN LEANDRO STREET

Office

Former Fuel Islands

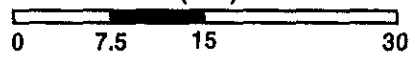


LEGEND:

- #1 Soil Sample Collected During Underground Tank Removal
- B-1 Proposed Boring Location for Additional Soil Sample Collection
- ⊕ B-2 Proposed Soil Boring and Groundwater Monitoring Well (MW-2)
- ⊕ MW-3 Proposed Groundwater Monitoring Well



APPROXIMATE SCALE
(feet)



PROJECT NO.: 581.1		
DRAWN BY:	CES	4/3/98
CHECKED BY:		
APPROVED BY:		
REVISED:		

BACE Environmental
A Division Of
Brunsing Associates, Inc.

PLATE 2
SITE MAP
Guy's Diesel
3820 San Leandro Street
Oakland, California

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



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

April 23, 1998
StID # 4055

Mr. Kelly Engineer
All Star, Inc.
1791 Pine St.
Concord CA 94520

**Re: Soil and Groundwater Investigation Workplan for Guy's Diesel,
3280 San Leandro St., Oakland CA 94601**

Dear Mr. Engineer:

Our offices have received and reviewed the Brunsing Associates, Inc. (BAI) April 9, 1998 Soil and Groundwater Workplan for additional sampling and monitoring well installation at the above site. This work plan was meant to address the additional sampling requirements of the City of Oakland and the subsurface investigation requirements of Alameda County Environmental Health. We have discussed our concerns and comments with Mr. Carl Schwab of BAI. Based upon our discussion we have the following comments and requirements:

- To address the City's request to resample at the former locations of samples #2,3 and 5, borings B-2 and B-5 will be advanced. The area near former sample #5 was overexcavated to a depth of approximately 16' as required for the installation of the new underground tanks and therefore will not require resampling.
- The location of boring B-1 should be moved to the south approximately 10' to represent the ends of both the former 8000 gallon diesel and 8000 gallon gasoline tanks.
- The analyte MTBE should be added to the other proposed analytes; TPHg, TPHd and BTEX. You are reminded, if MTBE is detected in any of the samples, please confirm its presence by analyzing the sample with the highest concentration using EPA Method 8260 as recommended by the Water Board.
- Monitoring wells MW-1 and MW-2 should not be located within borings B-5 and B-2. To gather information regarding the extent of contamination and obtain more representative monitoring data, the locations of these two wells should be moved approximately 10' north and 10' southeast, respectively. In addition, the location of MW-3 should also be moved approximately 10' northwest to monitor any release from the former 4000 gasoline tank, piping and/or dispensers. To account for seasonal groundwater elevation changes, our office recommends screening the wells 5' above and 10' below the first encountered groundwater level.

Mr. Kelly Engineer
StID #4055
3820 San Leandro St.
April 23, 1998
Page 2.

Please provide our offices with a work plan addendum addressing the above requirements within 30 days or by May 25, 1998.

You may contact either of us if you have any questions.

Sincerely,

Barney Chan for

Hernan Gomez (510) 238-7253
Hazardous Materials Inspector
City of Oakland OES

Barney Chan

Barney Chan (510) 567-6765
Hazardous Materials Specialist
Alameda County Environmental Health
wpap3920

~~CFB.Chan~~ files

Mr. H. Gomez, City of Oakland OES, 505 14th St., 7th Floor,
Oakland, CA 94612

Mr. Carl Schwab, BACE Environmental, P.O. Box 588, Windsor, CA
95492

Mr. Bob Chambers, Alameda County District Attorney Offices, 7677
Oakport St., Oakland, CA 94621

Mr. Kelly Engineer
StID #4055
3820 San Leandro St.
April 23, 1998
Page 2.

Please provide our offices with a work plan addendum addressing the above requirements within 30 days or by May 25, 1998.

You may contact either of us if you have any questions.

Sincerely,

Barney Chan for

Hernan Gomez (510) 238-7253
Hazardous Materials Inspector
City of Oakland OES

Barney Chan

Barney Chan (510) 567-6765
Hazardous Materials Specialist
Alameda County Environmental Health
vpap3820

C:B.Chan, files

Mr. H. Gomez, City of Oakland OES, 505 14th St., 7th Floor,
Oakland, CA 94612

Mr. Carl Schwab, BACE Environmental, P.O. Box 588, Windsor, CA
95492

Mr. Bob Chambers, Alameda County District Attorney Offices, 7677
Oakport St., Oakland, CA 94621

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES

ENVIRONMENTAL PROTECTION (LOP)

1131 Harbor Bay Parkway, Suite 250

Alameda, CA 94502-6577

(510) 567-6700

FAX (510) 337-9335

March 11, 1998
StID # 4055

Mr. Kelly Engineer
362 Riviera Dr.
Union City, CA 94587

Re: Guy's Service Station, 3820 San Leandro St., Oakland 94601

Dear Mr. Engineer:

Our office has received and reviewed the analytical results from soil samples taken during the removal of the four underground fuel tanks at the above referenced site on January 20, 1998. These results were provided to our office from Mr. Hernan Gomez of the City of Oakland. Because of the analytical results and his observations, this site has been transferred to the Local Oversight Program (LOP), within Alameda County Environmental Health, Hazardous Materials Division. Our office has been delegated by the Regional Water Quality Control Board (RWQCB), to be the local agency to oversee the investigation and remediation of fuel releases sites which impact soil and/or groundwater. A Notice of Requirement (NOR) letter will be sent to your attention informing you of this administrative action.

The City of Oakland remains the permitting agency for the underground tanks and you should work with them to meet their requirements. I understand that additional soil and possibly groundwater sampling has been requested by the City of Oakland to complete the underground tank removal process. Please be aware, this sampling also serves in part to characterize the site.

Our office will also require a soil and groundwater investigation to determine the extent of the petroleum contamination. You may want to consider incorporating additional soil and/or groundwater sampling to satisfy both the City of Oakland and Alameda County Environmental Health's requirements. Should you decide to do this, please contact me at your earliest convenience. A groundwater investigation might include sampling from boreholes or the installation of groundwater monitoring wells.

Enclosed, please find an Unauthorized Release (Leak) Report (ULR). Please fill out this form and return to our office **within 10 days of receipt.**

Please submit your work plan for subsurface investigation **within 30 days or by April 20, 1998.**

Mr. Kelly Engineer
StID # 4055
Guy's Service Station, 3820 San Leandro St.
March 11, 1998
Page 2.

This is a formal request for technical reports pursuant to both the Water Code and the California Health and Safety Code. Failure to submit the requested reports may subject you to civil liability.

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

Sincerely,



Barney M. Chan
Hazardous Materials Specialist

enclosure (Mr. Engineer)

c: B. Chan, files
Mr. H. Gomez, City of Oakland, OES, 505 14th St., Suite 702,
Oakland CA 94612
Mr. Bob Chambers, Alameda County District Attorney Office

wprq3820

Facsimile Transmission Face Sheet



City of Oakland



FIRE DEPARTMENT
OFFICE OF EMERGENCY SERVICES

TO: Bernney Chan FAX: 337-9335

FROM: Herman Gomez PHONE: 238-7253

NOTES: Mr. Chan I'm sending a draft letter
& analyses of the tank removal at 3820
San Leandro St. - Let me know what
you think.

Prop owners:

STUD # 4055 Guis Service Station

Engineer Phiroze S. & Perrin P.

1220 W. Tennyson Ave
Hayward CA 94544

29696 Dickson Apt 36
Hay 94544

362 Riviera Dr.
Union City 94587

NO. PAGES INCLUDING THIS: 6 DATE: 3/5/98 TIME: 9:00 a.m.

CITY OF OAKLAND
FIRE DEPARTMENT
OFFICE OF EMERGENCY SERVICES DIVISION
505 14th Street, 7th Floor
Oakland, CA 94612
PHONE (510) 238-3938
FAX (510) 238-7761

March , 1998

DRAFT

Mr. Carl Schwab
Project Geologist
Brunsing Associates
P.O. Box 588, 930 Shiloh Rd., Bldg. 44
Windsor, CA 95492

Subject: 3820 San Leandro Street, Oakland

Dear Mr. Schwab:

The City of Oakland, Fire Services Agency/ Office of Emergency Services (FSA/OES) has reviewed the results from the removal of ~~three~~^{four} underground storage tanks at the above site. At this time, FSA/OES requires additional sampling and analyses for the site. The FSA/OES also requires sampling of the tank pit water to establish if the levels of contamination are leading to deterioration of groundwater quality.

Within forty five days from the date of this letter you are required to present a workplan to identify the source and extent of the pollution.

If you have any questions, please contact me at 238-7253

Sincerely,

Hernán E. Gómez
Hazardous Materials Inspector

cc: Jeff Orwig, ACRC Inc.
Leroy Griffin, Hazardous Materials Supervisor

Tank Removal Information

- **Date of removal:** 01/20/98
- **Personnel involved:** ACRC Inc. - Jeff Orwig site foreman
Ernesto Martinez
John's Excavating - John & Mike
Erickson Inc. - Transport and disposal of tanks
Oakland Fire Department - Hernan Gomez, Hazardous
Materials Inspector

- **Tanks:**
 - 2 - 8000 gallon diesel tanks - single wall, steel
 - 1 - 8000 gallon gasoline tank - single wall, steel
 - 1 - 4000 gallon gasoline tank - single wall, steel

Tank Removal Process

All City of Oakland Fire Department, State of California and California Regional Water Quality Board procedures and regulations were followed during the tank removal and disposal process.

Site excavation and demolition took place on January 19 - 20. All concrete was removed from over the tanks. In addition, the concrete drive slabs were removed in order to complete station upgrades as required. Concrete was hauled to a recycle site. Tanks were pulled on 01/20/98. Hernan Gomez, Hazardous Materials Inspector was present during the tank pull operation and soil sampling. Tanks were loaded on a truck from Erickson Inc. and hauled to their plant for disposal. Soil had been excavated from the pit area using an excavator. Soil was stock piled next to the pit area. Ground water flowed into the pit area from the adjacent ground at a depth of approximately 12'. Soil samples were taken at the direction of Inspector Gomez. One sample was taken from the bottom of the tank pit at approximately 14'6", which was 2' below the bottom of the tanks before they were removed. Samples were taken in the side walls of the pit above the water line. Additional samples were taken from the stock piled dirt for composite analysis. Please refer to site plan for locations of samples. The excavator was used to grab a bucket full of soil from under the ground water that was draining into the pit. Samples were taken using brass tubes. The tubes were labeled and placed into a cooler which had blue ice in it. The cooler was taken to the lab by a courier as soon as the sampling was completed. The tank pit was excavated to a depth of 16' for the new tanks which were installed at a later date. No water samples were taken in the pit. New tanks were installed on 01/23/98. Pea gravel was used for back fill material. All dirt excavated from the tank pit was stockpiled on the site. After the soil samples have been analyzed and results provided to the Fire Department, soil will be removed in an acceptable manner to the Department.

Entech Analytical Labs, Inc.

CA ELAP# 2224

525 Del Rey Avenue, Suite E • Sunnyvale, CA 94086 • (408) 735-1550 • Fax (408) 735-1554

ACRC, Inc.
2491 San Ramon Valley Blvd.
Suite 1-430
San Ramon, CA 94583


Date:	1/21/98
Date Received:	1/20/98
Date Analyzed:	1/20/98
Project:	3820
Sampled By:	Client

Certified Analytical Report

Soil Sample Analysis:

Test	#1	#2	#3	#4	Units	PQL	EPA Method #
Sample Matrix	Soil	Soil	Soil	Soil			
Sample Date							
Sample Time	11:30						
Lab #	E1902	E1903	E1904	E1905			
DF-Diesel	1	50	50	1			
TPH-Diesel	180	3,200	3,700	7 11 ²	mg/kg	1.0 mg/kg	8015M
DF-Gas/BTEX	10	1,250	1,250	125			
TPH-Gas	34	2,600	1,400	170	mg/kg	1.0 mg/kg	8015M
Benzene	0.11	34	5.0	0.88	mg/kg	0.005 mg/kg	8020
Toluene	ND	5.3	3.5	0.48	mg/kg	0.005 mg/kg	8020
Ethyl Benzene	0.12	47	26	1.5	mg/kg	0.005 mg/kg	8020
Xylenes	0.24	170	6.5	0.71	mg/kg	0.005 mg/kg	8020

- DLR=DF x PQL
- TPH-Diesel chromatogram for Lab#E1905, although within the reporting limits, does not match the typical Diesel pattern
- Analysis performed by Entech Analytical Labs, Inc. (CAELAP #2224)


Michael N. Golden, Lab Director

DF=Dilution Factor
DLR=Detection Reporting Limit

PQL=Practical Quantitation Limit
ND=None Detected at or above DLR

Entech Analytical Labs, Inc.

CA ELAP# 2224

525 Del Rey Avenue, Suite E • Sunnyvale, CA 94086 • (408) 735-1550 • Fax (408) 735-1554

ACRC, Inc.
2491 San Ramon Valley Blvd.
Suite 1-430
San Ramon, CA 94583

Date:	1/21/98
Date Received:	1/20/98
Date Analyzed:	1/20/98
Project:	3820
Sampled By:	Client

Certified Analytical Report

Soil Sample Analysis:

Test	#5	Composite (A,B,C)	Composite (D,E,F)	Units	PQL	EPA Method #
Sample Matrix	Soil	Soil	Soil			
Sample Date						
Sample Time						
Lab #	E1906	E1907	E1908			
DF-Diesel	10	20	20			
TPH-Diesel	510	1,700	1,200	mg/kg	1.0 mg/kg	8015M
DF-Gas/BTEX	62	25	25			
TPH-Gas	130	260	750 ²	mg/kg	1.0 mg/kg	8015M
Benzene	0.82	0.16	0.14	mg/kg	0.005 mg/kg	8020
Toluene	0.42	0.40	0.34	mg/kg	0.005 mg/kg	8020
Ethyl Benzene	2.2	1.0	1.5	mg/kg	0.005 mg/kg	8020
Xylenes	8.6	4.2	7.0	mg/kg	0.005 mg/kg	8020

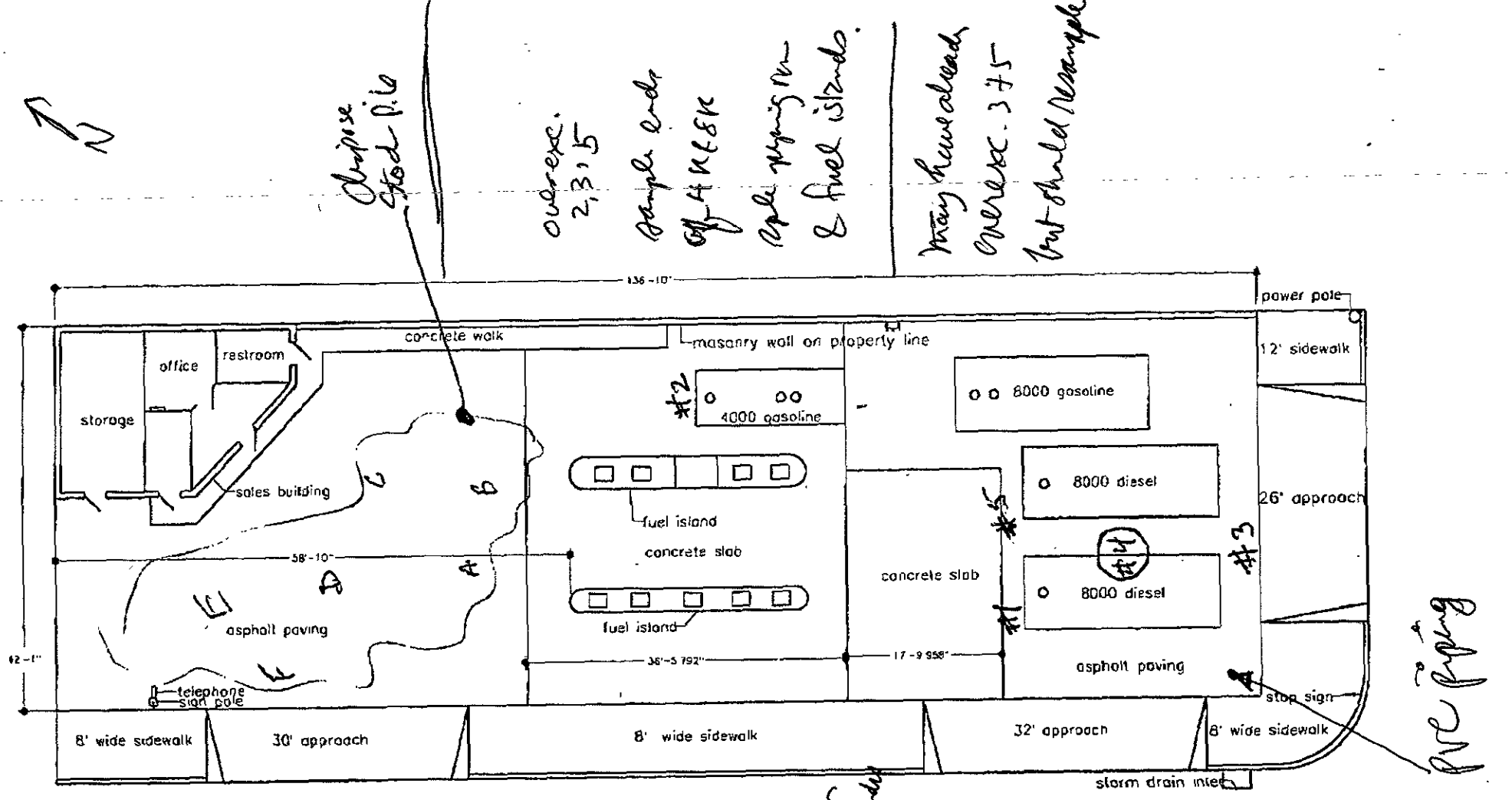
1. DLR=DF x PQL
2. DF=62
3. Analysis performed by Entech Analytical Labs, Inc. (CAELAP #2224)


Michael N. Golden, Lab Director

DF=Dilution Factor
DLR=Detection Reporting Limit

PQL=Practical Quantitation Limit
ND=None Detected at or above DLR

Environmental Analysis Since 1983



1. The building, sign and pole and telephone will remain.
2. The concrete slab at the west end of the property between the building and the sidewalk will remain.
3. The underground tanks, pump islands and equipment and all concrete and asphalt paving is to be removed.
4. The fuel piping is to be removed.
5. The concrete walk at the building is to be removed.
6. The island booth is to be removed.
7. The newer of the island light poles and rectangular fixtures are to be salvaged and reused.

*San
Lander
56*

PVC piping

DEMOLITION PLAN

Transfer of Eligible Local Oversight Case

Property Owner: (RP?) Kelly
~~Phiroze S. & Perrin P.~~ Engineer
7220 W. Tennyson Ave
Hayward CA 94544

STID 4055 Date of input/By: NA (3/10/98)

Entry 3/4/98

H. Gomez City of Oakland

Date: 3/4/98 From: To B. Chan - ACEH

Site Name: Guy's Service Station

Address: 3820 San Leandro St. City: Oakland Zip: 94601

To be eligible for LOP, case must meet 3 qualifications:

1. N Tanks Removed? # of removed? 4 Date removed: 1/20/98
2. N Samples received? Contamination level: 3700 ppm diesel
2600 ppm gasoline
Type of test TPHd, TPHg
Contamination should be over 100 ppm TPH to qualify for LOP
3. N Petroleum? Circle Type(s): • Avgas • leaded • unleaded • fuel oil • jet
• diesel • waste oil • kerosene • solvents

Procedure to follow should your site meet all the above qualifications:

1.
 - a. Close the deposit refund case.
 - b. Account for ALL time you have spent on the case.
 - c. Turn in account sheet to Leslie.

If there are funds still remaining it is still better to transfer the case to LOP as the rate for LOP allows more overhead. DO NOT attempt to continue to oversee the site simply because there are funds remaining!

Remaining DepRef \$'s: _____
DepRef Case Closed with Candyce/Leslie? Y N (If no, explain why below.)

2. Submit the completed A and B permit application forms to NORMA.
3. Give the entire case to the proper LOP staff.

CASE CLOSURE SUMMARY

Leaking Underground Fuel Storage Tank Program

I. AGENCY INFORMATION

~~Date: July 23, 1997~~

Agency name: Alameda County-Hazmat

Address: 1131 Harbor Bay Parkway
Rm 250, Alameda CA 94502

City/state/zip: Alameda

Phone: (510) 567-6700

Responsible staff person: Barney Chan Title: Hazardous Materials Spec.

II. CASE INFORMATION

Site facility name: Roy Hatton Project

Site facility address: 752 High St., Oakland CA 94621

RB LUSTIS Case No.: N/A Local Case No./LOP Case No.: 4440

SWEEPS No: N/A

ULR filling date: 3/8/89

Responsible Parties:

Addresses:

Phone Numbers:

1. Roy Hatton

22985 Valley View Dr. (510) 537-5840

2. John Bacon Sr.

P.O. Box 184
So. San Francisco, 94080

Tank No: Size in gal.:

Contents:

Closed in-place

Date:

or removed?:

Tank No	Size in gal.	Contents	Closed in-place	Date
1	3,000	standard solvent	Removed	4/4/89
2	3,000	"	"	"
3	3,000	"	"	"
4	2,500	standard sludge	"	"
5	550	waste oil ?	"	"

III RELEASE AND SITE CHARACTERIZATION INFORMATION

Cause and type of release: likely from holes in bottom of solvent USTs

Site characterization complete? Yes

Date approved by oversight agency:

Monitoring wells installed? Yes Number: ~~1 MW, MW14~~
Installed by Exxon on adjacent downgradient property