

PORT OF OAKLAND

RECEIVED
95 JAN 26 AM 7:53

KOT 3335

January 13, 1995

BY REGISTERED MAIL, RETURN RECEIPT REQUESTED

TO: THE FOLLOWING ALLEGED VIOLATOR AND
ATTACHED ADDRESS LIST ON PAGE 7

Paul Bojanower
President
Keep On Trucking Company, Inc.
30412 Miradour Court
Laguna Niguel, CA 92677

Re: Notice of Discharge, Notice of Intent to File
Suit Pursuant To Solid Waste Disposal Act
§7002(a)(1) and Federal Water Pollution
Control Act §505(a)(1), and Notice Pursuant to
the Oil Pollution Act, 33 U.S.C. § 2701

Dear Mr. Bojanower:

This letter constitutes notice by the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Port"), of (1) a violation by Keep On Trucking, Inc. ("KOT"), of an effluent standard or limitation pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1311 et seq. (2) intent by the Port to initiate suit against KOT for violations of section 7002(a)(1) of the Solid Waste Disposal Act (33 U.S.C. § 1365 ("CWA § 505(a)(1)")); and (3) the obligation of KOT to compensate the Port for removal costs and damages resulting from an oil pollution incident.

This notice to file suit under RCRA § 7002(a)(1) is being given pursuant to 40 C.F.R § 254.2 and 254.3, which set forth the requirements for notice prior to filing a RCRA § 7002(a)(1) suit.

This notice to file suit under CWA § 505(a)(1) is being given pursuant to 40 C.F.R § 135.2 and 135.3, which set forth the requirements for notice prior to filing a CWA § 505(a)(1) suit.

This notice of the obligation of KOT to compensate the Port for removal costs and damages resulting from an oil pollution incident is being tendered pursuant to the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq., 40 C.F.R. Part 136.

I. NOTICE OF INTENT TO FILE SUIT PURSUANT TO SOLID WASTE DISPOSAL ACT § 7002(A)(1)

A. Sufficient Information To Permit The Recipient To Identify The Specific Permit, Standard, Regulation, Condition, Requirement, Or Order Which Has Allegedly Been Violated

On October 21, 1992, Petty Officer Joseph Ramos, U.S. Coast Guard ("USCG"), notified Jon Amdur, formerly of the Port, of a significant spill of diesel into Clinton Basin, San Francisco Bay. Tides, wind and currents moved the diesel to the North Basin and Central Basin Marinas. On October 27, 1992, Mr. Amdur observed a significant amount of diesel fuel in Clinton Basin.

On November 2, 1992, Mr. Amdur observed extensive diesel fuel contamination in the 9th Avenue Marine Terminal storm drain. The Port retained Reidel Environmental Services, Inc. ("Reidel"), to implement immediate measures to prevent the discharge of this diesel fuel into the San Francisco Bay. Reidel alternately blocked the storm drains further up the system until a single storm drain line was isolated as the source of the diesel contamination. The Port retained Uribe & Associates ("Uribe") to assist the Port in its further investigation to isolate the source of the contamination, which investigation included the introduction of a red dye into KOT's fuel dispensing system which was located so as to be a potential source of the discharge into the subject storm drain line. The red dye was observed in this drain line and further investigation by Uribe identified a leaking underground fuel pipeline that lead from KOT's former above-ground storage tank to the fuel dispenser pump as the source of the diesel spill. The diesel has been, and continues to be, released into San Francisco Bay. Specifically, a release of this diesel contamination into San Francisco Bay which the Port attributes to the KOT facility was reported on January 4, 1995.

B. The Activity Alleged To Constitute A Violation

Reference is made to paragraph I.A. herein which is hereby incorporated by this reference in its entirety.

C. The Person Or Persons Responsible For The Alleged Violation

KOT

D. The Date Or Dates Of The Violation

On, or before, November 2, 1992, and continuing through to the present.

E. The Full Name, Address And Telephone Number Of The Person Giving Notice

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

F. The Full Name, Address And Telephone Number Of The Legal Counsel Giving Notice Representing The Person Giving Notice

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

II. NOTICE OF INTENT TO FILE SUIT PURSUANT TO FEDERAL WATER POLLUTION CONTROL ACT § 505(A)(1)

A. Sufficient Information To Permit The Recipient To Identify The Specific Standard, Limitation Or Order Which Has Allegedly Been Violated

On October 21, 1992, Petty Officer Joseph Ramos, U.S. Coast Guard, notified Mr. Amdur of a significant spill of diesel into Clinton Basin, San Francisco Bay. Tides, wind and currents moved the diesel to the North Basin and Central Basin Marinas. Attached as Exhibit "A" and incorporated herein is a map showing the location of the Clinton Basin, the North Basin Marina and the

Paul Bojanower, President

Notice of Discharge, Notice of Intent to File Suit Pursuant To Solid Waste Disposal Act §7002(a)(1) and Federal Water Pollution Control Act §505(a)(1), and Notice Pursuant to the Oil Pollution Act, 33 U.S.C. § 2701

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January 13, 1995

Central Basin Marina. On October 27, 1992, Mr. Amdur observed a significant amount of diesel fuel in Clinton Basin.

On November 2, 1992, Mr. Amdur observed extensive diesel fuel contamination in the 9th Avenue Marine Terminal storm drain. The Port retained Reidel to implement immediate measures to prevent the discharge of this diesel fuel into the San Francisco Bay. Reidel alternately blocked the storm drains further up the system until a single storm drain line was isolated as the source of the diesel contamination. The Port retained Uribe to assist the Port in its investigation to further isolate the source of the contamination, which investigation included the introduction of a red dye into KOT's fuel dispensing system which was located so as to be a potential source of the discharge into the subject storm drain line. The red dye was observed in this drain line and further investigation by Uribe identified a leaking underground fuel pipeline that lead from KOT's former above-ground storage tank to the fuel dispenser pump as the source of the diesel spill. The diesel has been, and continues to be, released into San Francisco Bay. Specifically, a release of this diesel contamination into San Francisco Bay was reported on January 4, 1995.

The Port is informed and believes and thereupon alleges that this discharge and release of diesel into San Francisco Bay as alleged to be caused by KOT constitutes a violation by KOT of an effluent standard or limitation including, without limitation, one or more of the following: an unlawful act under 33 U.S.C. § 1311; an effluent limitation under 33 U.S.C. § 1311; and a prohibition, effluent standard or pretreatment standard under 33 U.S.C. § 1317.

B. The Activity Alleged To Constitute A Violation

Reference is made to paragraph II.A. herein which is hereby incorporated by this reference in its entirety.

C. The Person Or Persons Responsible For The Alleged Violation

KOT

D. The Location Of The Alleged Violation

KOT
370 Eighth Avenue
Oakland, California

E. The Date Or Dates Of The Violation

On, or before, November 2, 1992, and continuing through to the present.

F. The Full Name, Address And Telephone Number Of The Person Giving Notice

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

G. The Full Name, Address And Telephone Number Of The Legal Counsel Giving Notice Representing The Person Giving Notice

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

III. NOTICE OF TENDER OF CLAIM TO KOT FOR REMOVAL COSTS AND DAMAGES RESULTING FROM AN OIL POLLUTION INCIDENT

Attached to this notice as Exhibit "A" is a letter dated October 21, 1992, notifying the Port of an oil pollution incident in violation of the Federal Water Pollution Control Act, 33 U.S.C. § 1321 involving the Port on October 21, 1992, at the Oakland Estuary, California ("Incident"). Investigation by the Port and the USCG has revealed that the Incident was caused by discharges of diesel from the KOT facility. Attached as Exhibit "B" and incorporated herein is a letter dated January 8, 1993, from the USCG to KOT notifying KOT that KOT has been identified as the owner of the designated source of the diesel release pursuant to the Oil Pollution Act of 1990, 33 USC §2714, and that KOT is responsible

Paul Bojanower, President

Notice of Discharge, Notice of Intent to File Suit Pursuant To Solid Waste Disposal Act §7002(a)(1) and Federal Water Pollution Control Act §505(a)(1), and Notice Pursuant to the Oil Pollution Act, 33 U.S.C. § 2701

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January 13, 1995

for removal costs and damages as specified in 33 USC §2702. The Port has incurred costs of approximately \$950,000.00 to date in investigating and removing the source of the contamination to prevent further violations of the Federal Water Pollution Control Act and other costs related to spills from the incident in the shoreline areas adjacent to the KOT facility, and continues to incur costs in this regard. The Port hereby tenders a claim to KOT for reimbursement of such past costs, and requests that KOT promptly notify the Port, not later than 30 days after the date of this letter, whether it will accept tender of this claim and reimburse the Port for these incurred costs and future related costs, which the Port expects to exceed approximately \$1,000,000.00.

Very truly yours,

STANLEY P. HEBERT
Port Attorney

By


Michele Heffes
Deputy Port Attorney

cc: Thomas D. Clark, Esq.
Leo Brien
Jonathan W. Redding, Esq.
Dan Schoenholz
Neil Werner

Paul Bojanower, President

Notice of Discharge, Notice of Intent to File Suit Pursuant To Solid Waste Disposal Act §7002(a)(1) and Federal Water Pollution Control Act §505(a)(1), and Notice Pursuant to the Oil Pollution Act, 33 U.S.C. § 2701

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January 13, 1995

ADDRESS LIST

Ms. Carol Browner
Administrator
United States Environmental
Protection Agency
Washington, D.C. 20460

Ms. Felicia Marcus
Regional Administrator
United States Environmental
Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Mr. James Strock
Chief Administrative
Officer of Solid Waste
California Environmental
Protection Agency
555 Capitol Mall, Suite 235
Sacramento, CA 95814

Barney Chan
Alameda County Health Care
Services Agency
80 Swan Way, Room 200
Oakland, CA 94621

Walt Pettit
State Water Resources
Control Board
901 "P" Street
Sacramento, CA 95814

Steve Ritchie
Regional Water Quality
Control Board
San Francisco Region
210 Webster, Suite 500
Oakland, CA 94612

Petty Officer Joseph D. Ramos
U. S. Coast Guard
Building 14
Coast Guard Island

Alameda, CA 94501

Mr. Craig Johns, Esq.
Crosby, Heafey, Roach & May
1999 Harrison Street
P.O. Box 2084
Oakland, CA 94604-2084

Mr. Richard Padovani
Terminal Manager
Keep On Trucking Company, Inc.
370 8th Avenue
Oakland, CA 94606

U.S. Department
of Transportation
**United States
Coast Guard**



Commanding Officer
U. S. Coast Guard
Marine Safety Office
San Francisco Bay

Building 14
Coast Guard Island
Alameda, CA 94501-5101
510-437-3073

NOTICE OF FEDERAL INTEREST FOR
AN OIL POLLUTION INCIDENT

16465 UCN: 4-17-92
21 OCT 92
(Date Issued)

PORT OF OAKLAND
SPRINGS - TRAIL
OAKLAND, CA 94607

Gentlemen:

On or about 21 OCT 92, an oil pollution incident occurred or threatens to occur at SPA BREEZE MARINA. You may be financially responsible for that incident. Under federal statutes, the United States Government may take appropriate action to minimize or mitigate damage to the public health or welfare that is threatened or that may be caused by this incident.

Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this incident. The failure or refusal to provide all reasonable cooperation and assistance requested by the Federal On-Scene Coordinator (FOSC) will eliminate any defense, or entitlement to limited liability, which otherwise might be available under the Act.

You are advised of the following, which may result from your failure to properly carry out the removal of the discharge as ordered by the Federal On-Scene Coordinator, or to comply with any administrative orders necessary to protect the public health and welfare. For such failure, owners, operators or persons in charge of the vessel or facility from which the oil is discharged are subject under the Federal Water Pollution Control Act (FWPCA), as amended, to a civil penalty of up to \$25,000 per day of violation or up to 3 times the costs incurred by the Oil Spill Liability Trust Fund. Should you require further information concerning this matter please contact MR. RIVAS at the above address and telephone number.

As long as the FOSC determines that you are taking adequate actions in this matter, federal removal action will usually be limited to monitoring the progress of your actions, providing guidance as necessary. Under the FWPCA, as amended, your response actions may be taken into account in determining the amount of any penalty assessed as a result of the discharge.

Sincerely,

[Signature]
On-Scene Coordinator's
Representative

[Signature]
Received and Acknowledged
[Signature]
Witness(es)

1:30 pm 10/21/92
Time and Date
1:30 pm 10/21/92
Time and Date

EXHIBIT
A

U.S. Department
of Transportation

United States
Coast Guard



Commanding Officer
U.S. Coast Guard
Marine Safety Office
San Francisco Bay

Bldg. 14
Coast Guard Island
Alameda, CA 94501-5100
Phone: (510) 437-3073

5891/UCN 457-92
08 JAN 93

Owner: Paul Bokanower
Address: KEEP ON TRUCKING INC.
370 8TH AVE. OAKLAND, CA.
94606

Subject: NOTICE OF DESIGNATION

Re: FPN 113004
DISCHARGE OF DIESEL OIL INTO OAKLAND
INNER HARBOR, A NAVIGABLE WATERWAY
OF THE UNITED STATES ON 21 OCT 92.

NOTICE TO: KEEP ON TRUCKING INC.

In the matter of the above referenced incident resulting in a discharge of approximately 2,000 gallons of diesel oil into the Oakland Inner harbor, you are hereby notified that the Keep On Trucking Inc. is designated as the source pursuant to the Oil Pollution Act of 1990, 33 USC 2714. You have been identified as the owner of this designated source. ~~You are liable for removal costs and damages as specified~~ in 33 USC 2702. You must advertise the procedures by which persons who have claims for removal costs and damages may submit their claims to you, as specified in 33 USC 2714.

You may deny this designation within five (5) days of receipt of this Notice of Designation. Such denial must be in writing, must identify this Notice of Designation, must give the reasons for the denial and provide a copy of all supporting documents, and must be submitted to the Marine Environmental Response Branch at the above address. The denial is deemed received on the date it is actually received by this office.

If you do not deny this designation you must advertise this designation and the procedures by which claims may be presented. The advertisement must begin within 15 days of the date of this Notice of Designation and must continue for no less than 30 days. Enclosures (1) & (2) outline the required scope and content of this advertisement.

EXHIBIT

B

5891/UCN 457-92
08 JAN 93

You are directed to inform us of the method, geographical scope, and frequency of publication, as appropriate, for your advertising. Send us copies of the advertisements as soon as they are available. Advise us in writing that you have begun advertising and send us samples of the advertising copy within 20 days of receipt of this letter, otherwise we will assume that you did not comply with these requirements. If you do not comply with these requirements the Marine Safety Office San Francisco Bay will advertise for claims. If we advertise, you will be charged for our costs as well as for the costs of any administration, adjudication and payment of claims.

Please contact the case manager located with the Coast Guard National Pollution Fund Center in Arlington, Va. at (703) 235-4765 if you have any questions. The FAX number is (703) 235-4837.

Issued by:



J. M. MacDONALD
Captain, U.S. Coast Guard
Captain of the Port

Encl (1): Scope of Advertisement
(2): Content of Advertisement

Copy: National Pollution Fund Center

SCOPE OF ADVERTISEMENT

Incident

— A: (All incidents except those meeting criteria in subparagraph B)

Scope

The scope of advertisement is to include:

1. Paid advertisements in a newspaper or newspapers having general circulation in the affected area(s); and
2. Notices posted in marinas, marine supply stores, bait and tackle shops or other appropriate business establishments/public facilities; and
3. News releases to newspapers, radio stations, television stations and cable services in the affected area(s).

X B: (Incidents with local significance and both the quantity and identity of potential claimants are easily determined)

The scope of advertisement is to include:

1. Direct notification of all potential claimants;

or

2. Paid advertisements in newspapers or newspapers having general circulation in the affected area(s);

or

3. Other means approved by the National Pollution Funds Case Manager, under the circumstances.

Content of Advertisement

Each advertisement/notification is to contain the following information or to indicate where this information may be contained:

1. Location, date and time of incident.
2. Geographical area affected, as determined by the Federal On-Scene-Coordinator (FOCS) or the Commander, National Pollution Funds Center (NPFC).
3. Quantity of oil involved.
4. Name or other description of the source designated by the FOCS or Commander, NPFC.
5. Name of the responsible party and guarantor of the source.
6. Name, address, telephone number, office hours, and work days of the person or persons to whom claims are to be presented and from whom claim information can be obtained.
7. The procedures by which a claim may be presented.



PORT OF OAKLAND

January 13, 1995

BY REGISTERED MAIL, RETURN RECEIPT REQUESTED

**TO: THE FOLLOWING ALLEGED VIOLATOR AND
ATTACHED ADDRESS LIST ON PAGE 7**

Paul Bojanower
President
Keep On Trucking Company, Inc.
30412 Miradour Court
Laguna Niguel, CA 92677

**Re: Notice of Discharge, Notice of Intent to File
Suit Pursuant To Solid Waste Disposal Act
§7002(a)(1) and Federal Water Pollution
Control Act §505(a)(1), and Notice Pursuant to
the Oil Pollution Act, 33 U.S.C. § 2701**

Dear Mr. Bojanower:

This letter constitutes notice by the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Port"), of (1) a violation by Keep On Trucking, Inc. ("KOT"), of an effluent standard or limitation pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1311 et seq. (2) intent by the Port to initiate suit against KOT for violations of section 7002(a)(1) of the Solid Waste Disposal Act (33 U.S.C. § 1365 ("CWA § 505(a)(1)")); and (3) the obligation of KOT to compensate the Port for removal costs and damages resulting from an oil pollution incident.

This notice to file suit under RCRA § 7002(a)(1) is being given pursuant to 40 C.F.R § 254.2 and 254.3, which set forth the requirements for notice prior to filing a RCRA § 7002(a)(1) suit.

This notice to file suit under CWA § 505(a)(1) is being given pursuant to 40 C.F.R § 135.2 and 135.3, which set forth the requirements for notice prior to filing a CWA § 505(a)(1) suit.

This notice of the obligation of KOT to compensate the Port for removal costs and damages resulting from an oil pollution incident is being tendered pursuant to the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq., 40 C.F.R. Part 136.

I. NOTICE OF INTENT TO FILE SUIT PURSUANT TO SOLID WASTE DISPOSAL ACT § 7002(A)(1)

A. Sufficient Information To Permit The Recipient To Identify The Specific Permit, Standard, Regulation, Condition, Requirement, Or Order Which Has Allegedly Been Violated

On October 21, 1992, Petty Officer Joseph Ramos, U.S. Coast Guard ("USCG"), notified Jon Amdur, formerly of the Port, of a significant spill of diesel into Clinton Basin, San Francisco Bay. Tides, wind and currents moved the diesel to the North Basin and Central Basin Marinas. On October 27, 1992, Mr. Amdur observed a significant amount of diesel fuel in Clinton Basin.

On November 2, 1992, Mr. Amdur observed extensive diesel fuel contamination in the 9th Avenue Marine Terminal storm drain. The Port retained Reidel Environmental Services, Inc. ("Reidel"), to implement immediate measures to prevent the discharge of this diesel fuel into the San Francisco Bay. Reidel alternately blocked the storm drains further up the system until a single storm drain line was isolated as the source of the diesel contamination. The Port retained Uribe & Associates ("Uribe") to assist the Port in its further investigation to isolate the source of the contamination, which investigation included the introduction of a red dye into KOT's fuel dispensing system which was located so as to be a potential source of the discharge into the subject storm drain line. The red dye was observed in this drain line and further investigation by Uribe identified a leaking underground fuel pipeline that lead from KOT's former above-ground storage tank to the fuel dispenser pump as the source of the diesel spill. The diesel has been, and continues to be, released into San Francisco Bay. Specifically, a release of this diesel contamination into San Francisco Bay which the Port attributes to the KOT facility was reported on January 4, 1995.

B. The Activity Alleged To Constitute A Violation

Reference is made to paragraph I.A. herein which is hereby incorporated by this reference in its entirety.

C. The Person Or Persons Responsible For The Alleged Violation

KOT

D. The Date Or Dates Of The Violation

On, or before, November 2, 1992, and continuing through to the present.

E. The Full Name, Address And Telephone Number Of The Person Giving Notice

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

F. The Full Name, Address And Telephone Number Of The Legal Counsel Giving Notice Representing The Person Giving Notice

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

II. NOTICE OF INTENT TO FILE SUIT PURSUANT TO FEDERAL WATER POLLUTION CONTROL ACT § 505(A)(1)

A. Sufficient Information To Permit The Recipient To Identify The Specific Standard, Limitation Or Order Which Has Allegedly Been Violated

On October 21, 1992, Petty Officer Joseph Ramos, U.S. Coast Guard, notified Mr. Amdur of a significant spill of diesel into Clinton Basin, San Francisco Bay. Tides, wind and currents moved the diesel to the North Basin and Central Basin Marinas. Attached as Exhibit "A" and incorporated herein is a map showing the location of the Clinton Basin, the North Basin Marina and the

Central Basin Marina. On October 27, 1992, Mr. Amdur observed a significant amount of diesel fuel in Clinton Basin.

On November 2, 1992, Mr. Amdur observed extensive diesel fuel contamination in the 9th Avenue Marine Terminal storm drain. The Port retained Reidel to implement immediate measures to prevent the discharge of this diesel fuel into the San Francisco Bay. Reidel alternately blocked the storm drains further up the system until a single storm drain line was isolated as the source of the diesel contamination. The Port retained Uribe to assist the Port in its investigation to further isolate the source of the contamination, which investigation included the introduction of a red dye into KOT's fuel dispensing system which was located so as to be a potential source of the discharge into the subject storm drain line. The red dye was observed in this drain line and further investigation by Uribe identified a leaking underground fuel pipeline that lead from KOT's former above-ground storage tank to the fuel dispenser pump as the source of the diesel spill. The diesel has been, and continues to be, released into San Francisco Bay. Specifically, a release of this diesel contamination into San Francisco Bay was reported on January 4, 1995.

The Port is informed and believes and thereupon alleges that this discharge and release of diesel into San Francisco Bay as alleged to be caused by KOT constitutes a violation by KOT of an effluent standard or limitation including, without limitation, one or more of the following: an unlawful act under 33 U.S.C. § 1311; an effluent limitation under 33 U.S.C. § 1311; and a prohibition, effluent standard or pretreatment standard under 33 U.S.C. § 1317.

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Reference is made to paragraph II.A. herein which is hereby incorporated by this reference in its entirety.

C. The Person Or Persons Responsible For The Alleged Violation

KOT

D. The Location Of The Alleged Violation

KOT
370 Eighth Avenue
Oakland, California

E. The Date Or Dates Of The Violation

On, or before, November 2, 1992, and continuing through
to the present.

**F. The Full Name, Address And Telephone Number Of The Person
Giving Notice**

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

**G. The Full Name, Address And Telephone Number Of The Legal
Counsel Giving Notice Representing The Person Giving
Notice**

Port of Oakland
Attn. Michele Heffes, Esq.
530 Water Street, 4th Floor
Oakland, California 94607
Telephone: (510) 272-1348

**III. NOTICE OF TENDER OF CLAIM TO KOT FOR REMOVAL COSTS AND DAMAGES
RESULTING FROM AN OIL POLLUTION INCIDENT**

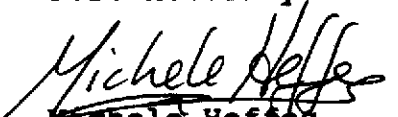
Attached to this notice as Exhibit "A" is a letter dated October 21, 1992, notifying the Port of an oil pollution incident in violation of the Federal Water Pollution Control Act, 33 U.S.C. § 1321 involving the Port on October 21, 1992, at the Oakland Estuary, California ("Incident"). Investigation by the Port and the USCG has revealed that the Incident was caused by discharges of diesel from the KOT facility. Attached as Exhibit "B" and incorporated herein is a letter dated January 8, 1993, from the USCG to KOT notifying KOT that KOT has been identified as the owner of the designated source of the diesel release pursuant to the Oil Pollution Act of 1990, 33 USC §2714, and that KOT is responsible

for removal costs and damages as specified in 33 USC §2702. The Port has incurred costs of approximately \$950,000.00 to date in investigating and removing the source of the contamination to prevent further violations of the Federal Water Pollution Control Act and other costs related to spills from the incident in the shoreline areas adjacent to the KOT facility, and continues to incur costs in this regard. The Port hereby tenders a claim to KOT for reimbursement of such past costs, and requests that KOT promptly notify the Port, not later than 30 days after the date of this letter, whether it will accept tender of this claim and reimburse the Port for these incurred costs and future related costs, which the Port expects to exceed approximately \$1,000,000.00.

Very truly yours,

STANLEY P. HEBERT
Port Attorney

By


Michele Heffes
Deputy Port Attorney

cc: Thomas D. Clark, Esq.
Leo Brien
Jonathan W. Redding, Esq.
Dan Schoenholz
Neil Werner

Paul Bojanower, President

Notice of Discharge, Notice of Intent to File Suit Pursuant To Solid Waste Disposal Act §7002(a)(1) and Federal Water Pollution Control Act §505(a)(1), and Notice Pursuant to the Oil Pollution Act, 33 U.S.C. § 2701

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January 13, 1995

ADDRESS LIST

Ms. Carol Browner
Administrator
United States Environmental
Protection Agency
Washington, D.C. 20460

Ms. Felicia Marcus
Regional Administrator
United States Environmental
Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Mr. James Strock
Chief Administrative
Officer of Solid Waste
California Environmental
Protection Agency
555 Capitol Mall, Suite 235
Sacramento, CA 95814

Barney Chan
Alameda County Health Care
Services Agency
80 Swan Way, Room 200
Oakland, CA 94621

Walt Pettit
State Water Resources
Control Board
901 "P" Street
Sacramento, CA 95814

Steve Ritchie
Regional Water Quality
Control Board
San Francisco Region
210 Webster, Suite 500
Oakland, CA 94612

Petty Officer Joseph D. Ramos
U. S. Coast Guard
Building 14
Coast Guard Island

Alameda, CA 94501

Mr. Craig Johns, Esq.
Crosby, Heafey, Roach & May
1999 Harrison Street
P.O. Box 2084
Oakland, CA 94604-2084

Mr. Richard Padovani
Terminal Manager
Keep On Trucking Company, Inc.
370 8th Avenue
Oakland, CA 94606

U.S. Department
of Transportation
**United States
Coast Guard**



Commanding Officer
U. S. Coast Guard
Marine Safety Office
San Francisco Bay

Building 14
Coast Guard Island
Alameda, CA 94501 510.
510-437-3073

**NOTICE OF FEDERAL INTEREST FOR
AN OIL POLLUTION INCIDENT**

16465 UCN: 4-57-92
21 OCT 92
(Date Issued)

FORTY OAKLAND
SPA BRUCE MARINA
OAKLAND, CA 94607

Gentlemen:

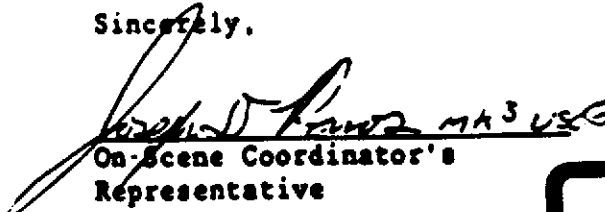
On or about 21 OCT 92, an oil pollution incident occurred or threatens to occur at SPA BRUCE MARINA. You may be financially responsible for that incident. Under federal statutes, the United States Government may take appropriate action to minimize or mitigate damage to the public health or welfare that is threatened or that may be caused by this incident.


Under the Oil Pollution Act of 1990, the responsible party is liable for, among other things, removal costs and damages resulting from this incident. The failure or refusal to provide all reasonable cooperation and assistance requested by the Federal On-Scene Coordinator (FOSC) will eliminate any defense, or entitlement to limited liability, which otherwise might be available under the Act.

You are advised of the following, which may result from your failure to properly carry out the removal of the discharge as ordered by the Federal On-Scene Coordinator, or to comply with any administrative orders necessary to protect the public health and welfare. For such failure, owners, operators or persons in charge of the vessel or facility from which the oil is discharged are subject under the Federal Water Pollution Control Act (FWPCA), as amended, to a civil penalty of up to \$25,000 per day of violation or up to 3 times the costs incurred by the Oil Spill Liability Trust Fund. Should you require further information concerning this matter please contact MR. RIVOS at the above address and telephone number.

As long as the FOSC determines that you are taking adequate actions in this matter, federal removal action will usually be limited to monitoring the progress of your actions, providing guidance as necessary. Under the FWPCA, as amended, your response actions may be taken into account in determining the amount of any penalty assessed as a result of the discharge.

Sincerely,


On-Scene Coordinator's
Representative


Received and Acknowledged
(For the Port of Oakland)
Bruce Mariner & Blau
Director

1:30 pm 10/21/92
Time and Date

1:30 pm 10/21/92
Time and Date

EXHIBIT
A

U.S. Department
of Transportation

United States
Coast Guard



Commanding Officer
U.S. Coast Guard
Marine Safety Office
San Francisco Bay

Bldg. 14
Coast Guard Island
Alameda, CA 94501-5100
Phone: (510) 437-3073

5891/UCN 457-92
08 JAN 93

Owner: Paul Bokanower
Address: KEEP ON TRUCKING INC.
370 8TH AVE. OAKLAND, CA.
94606

Subject: NOTICE OF DESIGNATION

Re: FPN 113004
DISCHARGE OF DIESEL OIL INTO OAKLAND
INNER HARBOR, A NAVIGABLE WATERWAY
OF THE UNITED STATES ON 21 OCT 92.

NOTICE TO: KEEP ON TRUCKING INC.

In the matter of the above referenced incident resulting in a discharge of approximately 2,000 gallons of diesel oil into the Oakland Inner harbor, you are hereby notified that the Keep On Trucking Inc. is designated as the source pursuant to the Oil Pollution Act of 1990, 33 USC 2714. You have been identified as the owner of this designated source. You are liable for removal costs and damages as specified in 33 USC 2702. You must advertise the procedures by which persons who have claims for removal costs and damages may submit their claims to you, as specified in 33 USC 2714.

You may deny this designation within five (5) days of receipt of this Notice of Designation. Such denial must be in writing, must identify this Notice of Designation, must give the reasons for the denial and provide a copy of all supporting documents, and must be submitted to the Marine Environmental Response Branch at the above address. The denial is deemed received on the date it is actually received by this office.

If you do not deny this designation you must advertise this designation and the procedures by which claims may be presented. The advertisement must begin within 15 days of the date of this Notice of Designation and must continue for no less than 30 days. Enclosures (1) & (2) outline the required scope and content of this advertisement.

EXHIBIT

B

5891/UCN 457-92
08 JAN 93

You are directed to inform us of the method, geographical scope, and frequency of publication, as appropriate, for your advertising. Send us copies of the advertisements as soon as they are available. Advise us in writing that you have begun advertising and send us samples of the advertising copy within 20 days of receipt of this letter, otherwise we will assume that you did not comply with these requirements. If you do not comply with these requirements the Marine Safety Office San Francisco Bay will advertise for claims. If we advertise, you will be charged for our costs as well as for the costs of any administration, adjudication and payment of claims.

Please contact the case manager located with the Coast Guard National Pollution Fund Center in Arlington, Va. at (703) 235-4765 if you have any questions. The FAX number is (703) 235-4837.

Issued by:



J. M. MacDONALD
Captain, U.S. Coast Guard
Captain of the Port

Encl (1): Scope of Advertisement
(2): Content of Advertisement

Copy: National Pollution Fund Center

SCOPE OF ADVERTISEMENT

Incident

— A: (All incidents except those meeting criteria in subparagraph B)

Scope

The scope of advertisement is to include:

1. Paid advertisements in a newspaper or newspapers having general circulation in the affected area(s); and
2. Notices posted in marinas, marine supply stores, bait and tackle shops or other appropriate business establishments/public facilities; and
3. News releases to newspapers, radio stations, television stations and cable services in the affected area(s).

X B: (Incidents with local significance and both the quantity and identity of potential claimants are easily determined)

The scope of advertisement is to include:

1. Direct notification of all potential claimants;

or

2. Paid advertisements in newspapers or newspapers having general circulation in the affected area(s);

or

3. Other means approved by the National Pollution Funds Case Manager, under the circumstances.

Content of Advertisement

Each advertisement/notification is to contain the following information or to indicate where this information may be contained:

1. Location, date and time of incident.
2. Geographical area affected, as determined by the Federal On-Scene-Coordinator (FOCS) or the Commander, National Pollution Funds Center (NPFC).
3. Quantity of oil involved.
4. Name or other description of the source designated by the FOCS or Commander, NPFC.
5. Name of the responsible party and guarantor of the source.
6. Name, address, telephone number, office hours, and work days of the person or persons to whom claims are to be presented and from whom claim information can be obtained.
7. The procedures by which a claim may be presented.