CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

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MAILING ADDRESS: POST OFFICE BOX 2084 OAKLAND, CALIFORNIA 94604-2084

Direct Dial: (510) 466-6772

February 3, 1997

BY CERTIFIED MAIL RETURN RECEIPT REQUESTED

Liquid Carbonic Industries Corporation 901 Embarcadero Oakland, CA 94606 Attn: Site Manager

Liquid Carbonic Industries Corporation In Care of CT Corporation 818 West Seventh Street Los Angeles, CA 90017

Re:

700 SOUTH FLOWER STREET, SUITE 2200

LOS ANGELES, CALIFORNIA GOOIT

0008-898 (EIS)

FAX (213) 896-8080

Notice of Discharge, Notice of Intent to File Suit Pursuant to Resource Conservation and Recovery Act (42 U.S.C. § 6972(a)(1)) and Federal Water Pollution Control Act (33 U.S.C. § 1365(a)(1), and Notice Pursuant to the Oil Pollution Act (33 U.S.C. § 2701)

Dear Madam and Sirs:

This letter constitutes notice by our clients, Keep On Trucking Company, Inc. and Paul Bojanower (collectively, "KOT"), of:

- (1) a violation by A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Thomas & Betts Corporation; Western Tube & Conduit; and Victor Adelson of an effluent standard or limitation pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1311 et seq.;
- (2) intent by KOT to file suit against A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel

Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Western Tube & Conduit; Thomas & Betts Corporation; and Victor Adelson for violations of the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.);

- (3) notice of intent to file suit against A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Western Tube & Conduit; Thomas & Betts Corporation; and Victor Adelson for violations of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); and
- (4) the obligation of A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Western Tube & Conduit; Thomas & Betts Corporation; and Victor Adelson to compensate KOT for removal costs and damages it may become obligated to pay as a result of an oil pollution incident.

You are hereby notified that suit will be commenced against A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Western Tube & Conduit; Thomas & Betts Corporation; and Victor Adelson by KOT unless the Administrator of the U.S. Environmental Protection Agency or the State of California undertakes any of the activities set forth in 42 U.S.C. §§ 6972(b)(2)(B) or 6972(b)(2)(C), within ninety (90) days of the date of this letter. This notice of intent to file suit under RCRA § 7002(a)(1) is given in conformance with the requirements of 40 CFR § 254.2 and § 254.3, setting forth the requirements for notice prior to filing such suit.

You are further notified that, unless the Administrator of the U.S. Environmental Protection Agency or the State of California undertakes any of the activities set forth in

33 U.S.C. § 1365(b)(1)(B), within sixty (60) days of this letter, suit will be commenced against A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation, Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Western Tube & Conduit; Thomas & Betts Corporation; and Victor Adelson by KOT pursuant to 33 U.S.C. § 165(b)(a)(1). This notice of intent to file suit under CWA § 505(a)(1) is given in conformance with the requirements of 40 CFR § 135.2 and § 135.3, setting forth the requirements for notice prior to filing such suit.

This notice of obligation to compensate KOT for any removal costs and damages for which KOT may become liable, resulting from the oil pollution incident, is being tendered pursuant to the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq., and 40 CFR § 136.

- I. Notice of Intent to File Suit Pursuant to 42 U.S.C. §§ 6972(a)(1) and 33 U.S.C. § 165(a)(1).
 - a. Location of the alleged violations:

Port of Oakland, Oakland, California, including specifically the area proximate to the 9th Avenue terminal and the Clinton Basin ("Port Property").

b. Sufficient information to permit the recipient to identify the specific permit standard, regulation, condition, requirement or order which has an allegedly been violated:

A.J. WHITE ENTERPRISES, INC.

Upon information and belief, A.J. White Enterprises is or was a tenant of a portion of the Port Property, whereupon it serviced, repaired and fueled fork lift vehicles. As a result of A.J. White Enterprises' utilization of the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1311.

LIQUID CARBONIC INDUSTRIES CORPORATION

Upon information and belief, Liquid Carbonic Industries Corporation; is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, installed, owned and/or operated certain underground storage tanks and piping. As a result of this utilization of these tanks by Liquid Carbonic Industries Corporation; and/or its predecessors, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

AMCO CHEMICAL CORP.

Upon information and belief, AMCO Chemical Corp. is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, stored and warehoused industrial solvents and flammable and non-flammable chemicals. As a result of this utilization the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

AMSTERDAM CORPORATION

Upon information and belief, Amsterdam Corporation is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, used the premises for processing, receiving, storing, and distributing building materials, including hazardous substances. As a result of this utilization by Amsterdam, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

BRITZ CHEMICAL CORPORATION

Upon information and belief, Britz Chemical Corporation is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, stored and warehoused chemical materials and manufactured chemical fertilizer. As a result of this utilization by Britz, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

C.D. ERICSON COMPANY, INC.

Upon information and belief, C.D. Ericson Company, Inc. is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, imported, refinished and warehoused steel pipe and steel products. As a result of this utilization by C.D. Ericson, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

CHEVRON U.S.A., INC.

Upon information and belief, Chevron U.S.A., Inc. is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, installed, owned and/or operated certain above-ground storage tanks and above and below-ground lines. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

EDEN-NATIONAL STEEL CORPORATION

Upon information and belief, Eden-national Steel Corporation is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, processed, cut, rolled, and formed steel and other metals, as well as stored drums, chemicals and petroleum. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

GROENIGER & COMPANY

Upon information and belief, Groeniger & Company is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, manufactured, processed and stored asbestos pipe materials on the Property. As a result of this utilization by, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

JOSEPH J. HARE AND GOLD SHIELD DISTRIBUTORS

Upon information and belief, Joseph J. Hare and Golf Shield Distributors are or were tenants of a portion of the Port Property, whereupon they, and/or their predecessors in interest, installed, owned and/or operated certain above and underground storage tanks. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

THE SAM KALMAN TRUST AND KALMAN STEEL PRODUCTS COMPANY

Upon information and belief, the Sam Kalman Trust and Kalman Steel Products Company are or were tenants of a portion of the Port Property, whereupon they, and/or their predecessors in interest, utilized the Property. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §1317.

LAKESIDE NON-FERROUS METALS, INC.

Upon information and belief, Lakeside Non-Ferrous Metals, Inc, is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, recycled metals and stored drums, chemicals and chemical-containing items. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

MARINE TERMINALS CORPORATION

Upon information and belief, Marine Terminals Corporation, is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, have utilized the Property. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

SAFEWAY STORES, INC.

Upon information and belief, Safeway Stores, Inc, is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, processed, prepared, packaged, handled and stored produce and cleaning materials. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

SUMITOMO METALS U.S.A. AND WESTERN TUBE & CONDUIT

Upon information and belief, Sumitomo Metals U.S.A. and Western Tube & Conduit, are or were tenants of a portion of the Port Property, whereupon they, and/or their predecessors in interest, utilized the Property. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §1317.

THOMAS & BETTS CORPORATION

Upon information and belief, Thomas & Betts Corporation, is or was a tenant of a portion of the Port Property, whereupon it, and/or its predecessors in interest, processed, cut, rolled, formed and plated steel and other metals, as well as stored chemicals. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §9601; and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

VICTOR ADELSON

Upon information and belief, Victor Adelson, is or was a tenant of a portion of the Port Property, whereupon he, and/or his predecessors in interest, fueled and serviced trucks and vehicles on the Property for use in transporting and storing goods in transit. As a result of this utilization, the Property and adjacent areas have become contaminated with substances including: hazardous substances, within the meaning of 42 U.S.C. §6903; and/or oil, and/or solid or hazardous wastes, within the meaning of 42 U.S.C. §6903; and/or oil, within the meaning of 33 U.S.C. §2701(23), and/or toxic pollutants, within the meaning of 33 U.S.C. §1317.

c. The person or persons responsible for the alleged violations:

A.J. White Enterprises, Inc.; Liquid Carbonic Industries Corporation; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Western Tube & Conduit; Thomas & Betts Corporation; and Victor Adelson.

d. The date or dates of the violations:

KOT is informed that the violations occurred between 1947 and the date of this notice, and that such violations are presently occurring, and may continue to occur.

e. Full name, address and telephone numbers of the persons giving notice:

Keep on Trucking Company, Inc., 370 - 8th Avenue, Oakland, California 94606, (510) 893-6011 and Paul Bojanower, 370 - 8th Avenue, Oakland, California 94606, (510) 893-6011.

f. The full name, address and telephone number of the legal counsel giving notice on behalf of KOT and Paul Bojanower:

For all purposes related to this notice and the suit to be commenced, all correspondence should be directed to Michael Delehunt, Esq., Crosby, Heafey, Roach & May, 1999 Harrison Street, Oakland, California 94612, (510) 763-2000, FAX (510) 273-8832.

II. Notice of Potential Tender of Claim to C. Duane Ericson, C. Duane Ericson Co., Inc. and Sumitomo Metals U.S.A. Corporation for Any Removal Costs and Damages Resulting from an Oil Pollution Incident, for Which KOT And/or Bojanower May Be Held Liable.

On or about January 8, 1993, the United States Coast Guard notified KOT that KOT had been identified as the owner of the designated source of a petroleum release pursuant to the Oil Pollution Act of 1990, 33 U.S.C. § 2714, and KOT was responsible for removal costs and damages as specified in 33 U.S.C. § 2702. KOT is informed and believes that the Port has incurred costs of approximately \$1 million to date investigating and removing the source of the contamination and 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 Port Property. The Port has previously tendered a claim to KOT for reimbursement of such past costs. KOT hereby gives notice that to the extent it is held liable for any of the described costs, it will tender its claims for cost and seek reimbursement from A.J. White Enterprises, Inc.; Liquid Carbonic Industries

Corporation, Incorporated; AMCO Chemical Corp.; Amsterdam Corporation; Britz Chemical Corporation; C.D. Ericson; Chevron U.S.A. Inc.; Eden-National Steel Corporation; Groeniger & Company; Joseph J. Hare; Gold Shield Distributors; the Sam Kalman Trust; Kalman Steel Products Company. Inc.; Lakeside Non-Ferrous Metals, Inc.; Marine Terminals Corporation; Safeway Stores, Inc.; Sumitomo Metals U.S.A.; Thomas & Betts Corporation; and Victor Adelson.

Copies of this notice are being provided to the individuals listed on Attachment A, enclosed, in compliance with 42 U.S.C. § 6972(b)(2)(A)(F), 40 CFR § 254.2, 33 U.S.C. § 1365(b)(1)(A), and 40 CFR § 135.2(a)(1)-(2).

Very truly yours,

Philip L. Tudor

ATTACHMENT A

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

Mr. Daniel Lungren California Attorney General 1515 "K" Street, Ste. 511 Sacramento, CA 95814

Ms. Carol Browner, Administrator U.S. Environmental Protection Agency 401 "M" Street, S.W. Washington, D.C. 20460

Ms. Felicia Marcus, Regional Administrator Region IX, U.S. Environmental Protection Agency 75 Hawthorne Street San Francisco, CA 94105

Mr. Ralph Chandler, Ex. Director California Integrated Waste Management Board 8800 Cal Center Drive Sacramento, CA 95826

Liquid Carbonic Industries Corporation In Care of CT Corporation 818 West Seventh Street Los Angeles, CA 90017 Loretta Barsamian Executive Officer Regional Water Quality Control Board San Francisco Region 2101 Webster, Suite 500 Oakland, CA 94612

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

Ms. Janet Reno, Attorney General U.S. Department of Justice Main Justice Building 10th Street & Constitution Ave., N.W. Washington, D.C. 20530

Mr. James Strock, Secretary Calif. Environmental Protection Agency 555 Capitol Mall, Ste. 235 Sacramento, CA 95814

Liquid Carbonic Industries Corporation 901 Embarcadero Oakland, CA 94606 Attn: Site Manager

TABLE 1 ANALYTICAL TESTING PROGRAM NINTH AVENUE TERMINAL

DRAFT

Ref. <u>No.</u>	<u>Area</u>	Sample <u>Designation</u>	<u>O/G</u>	TVH	TEH	BTEX	PCBs	Herbs./ <u>Pests.</u>	<u>Metals</u>	8240s	<u>8270s</u>	<u>PNAs</u>
		SCI-1			1		1			. 1	1	1
		SCI-3	1		1		1			1	1	ĺ
		SCI-6@3.5		1	1	l						
		SCI-6	1	1	1					1	1	1
L	Storm Drains along 8th Avenue	SCI-7@6.0			1	1						
		SCI-8@5.5			1	1						
		SCI-9@5.5			1	1						
		SCI-10@5.0			1	1						
	•	SCI-16@2.5	1	1	1	1						
		SCI-19@3.5	1	1	1	1						
		SCI-26@3.5	1	1	1	1						
		SCI-28@3.5			1	l						
		SCI-29@5.5	1		1	1						
		SCI-7			1	l						
		SCI-8			1	1						
		SCI-9			1	1						
		SCI-10			1	1						
		SCI-16	1	1	1				1	l		
		SCI-19	1	1	1		1		l	1	1	1
		SCI-26			1					1		
		SCI-28		1		1						
		SCI-29	1	1	1	1						
M	Storm Drains near H-107	SCI-14@3.5	1	1	1							
		SCI-14@6.0	1	1	1							
		SCI-15@3.0	1	1	1							
		SCI-17@3.5	1	1	1							
		SCI-18@3.5	1	1	1							
		SCI-14	1	1	1				1	1	1	1
		SCI-15	1	1	1				1	1	1	1
		SCI-17	1	1	1		1		. 1	1	1	1
		SCI-18	1	1	1	1						
N	Bay Cities/East Bay Oil Co.	SCI-MW-2@4.5	1		1	1						
		SCI-12@6.5		1	1	1						
		SCI-MW-2	I		1	1			1		1	1
		SCI-12		1	1					1		
О	H-203 Truck Repair	SCI-11@3.5			1	1						
	-	SCI-11	1		1	1			1		1	1
Notes '	•							t.				