

R0266

Hwang, Don, Env. Health

From: Jonas, Mark [mjonas@cambria-env.com]
Sent: Monday, August 21, 2006 10:06 AM
To: Hwang, Don, Env. Health
Cc: Meyers, Matt; mark@borsuk.com
Subject: 2Q06 QMR - Allright Parking - FLC #RO0000266

Dear Don:

Two issues with respect to the August 10, 2006 *Groundwater Monitoring Report, Second Quarter 2006, Allright Parking, 1432 Harrison Street, Oakland, California* (FLC #RO0000266):

- Finding of MTBE in our latest sampling round (6/23/06) in off-site well MW-4 may be indicative of an off-site source or sources. MTBE is not considered a chemical of concern for our site. Please review your files for off-site source(s) potentially impacting our off-site wells. Since 1995, we have discussed the potential for an off-site source or sources potential impacting our monitoring wells.
- Please ignore Corrective Action Activities in Anticipated Third Quarter 2006 Activities. On August 8, 2006 we submitted the Risk Assessment for the property.

Please contact me to discuss any issue.

Sincerely,

Mark Jonas

Mark Jonas, P.G.

Senior Project Manager, x-107

Cambria Environmental Technology, Inc.

5900 Hollis Street, Suite A, Emeryville, California 94608

510/420-3307; 510/420-9170 fax

9/12/2006

~~RO0000266~~

Hwang, Don, Env. Health

From: Hwang, Don, Env. Health
Sent: Tuesday, July 25, 2006 5:27 PM
To: 'Jonas, Mark'
Subject: RE: Extension to 8-10-06 for Risk Assessment #RO0000266 Borsuk

Dear Mark, Ok. Please indicate original deadline. Thanks, Don

From: Jonas, Mark [mailto:mjonas@cambria-env.com]
Sent: Tuesday, July 25, 2006 4:54 PM
To: Hwang, Don, Env. Health
Subject: Extension to 8-10-06 for Risk Assessment #RO0000266 Borsuk

Dear Don:
We are currently working through the Risk Assessment for the Borsuk Case #RO0000266 for the 1432 Harrison Street, Oakland, CA property.

Please extend the deadline for the Risk Assessment to August 10, 2006.

Thank you for your consideration.

Sincerely,

Mark Jonas

Mark Jonas, P.G.
Senior Project Manager, x-107
Cambria Environmental Technology, Inc.
5900 Hollis Street, Suite A, Emeryville, California 94608
510/420-3307; 510/420-9170 fax

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



7

May 23, 2006

Sydney & Barbara Borsuk Trust
Sheila Siegel Trust
c/o Mark Borsuk, Attorney at Law
1626 Vallejo Street
San Francisco, California 94123-5116

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

Dear Mr. Borsuk:

Subject: Fuel Leak Case N [REDACTED]
1432 Harrison Street, Oakland, California

Alameda County Environmental Health (ACEH) staff has reviewed "Risk Assessment Work Plan" dated April 6, 2006 prepared by Cambria Environmental Technology, Inc. (Cambria). We request that you perform the proposed work and send us the information requested below.

TECHNICAL REPORT REQUEST

Please submit the information requested to Alameda County Environmental Health (Attention: Don Hwang), by:

July 23, 2006 - Risk Assessment

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

If you have any questions, please call me at (510) 567-6746.

Sincerely,

Don Hwang
Hazardous Materials Specialist
Local Oversight Program

C: Subbarao Nagulapaty, Cambria Environmental Technology, Inc.,
5900 Hollis Street Suite A, Emeryville, CA 94608
Donna Drogos
File

Alameda County
SEP 22 2005
Environmental Health

MARK BORSUK
Attorney at Law
mark@borsuk.com / www.borsuk.com
(415) 922-4740 / FAX 922-1485 / CELL 264-8364
1626 Vallejo Street, San Francisco, CA 94123-5116

September 20, 2005

Mr. Don Hwang
Alameda County Health Care Services Agency
Suite 250
1131 Harbor Bay Parkway
Alameda, California 94502-6577

SUBJECT: Current Record Owners of Fee Title
1432 Harrison Street
Oakland, California
Fuel Leak Case No. RO0000327 ²⁶⁶

Dear Mr. Hwang:

Per your request in a letter dated August 11, 2005, and in accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, Mark Borsuk, certify that the following is a complete list of current record owners of fee title and their mailing addresses for the above site:

1. Sydney and Barbara Borsuk Trust
c/o Mark Borsuk, Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123
2. Sheila Siegel Trust
c/o Mark Borsuk, Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123

MARK BORSUK
Attorney at Law
mark@borsuk.com / www.borsuk.com
(415) 922-4740 / FAX 922-1485 / CELL 264-8354
1626 Vallejo Street, San Francisco, CA 94123-5111

Alameda County
SEP 28 2005
Environmental Health

September 20, 2005

Mr. Don Hwang
Alameda County Health Care Services Agency
Suite 250
1131 Harbor Bay Parkway
Alameda, California 94502-6577

SUBJECT: Current Record Owners of Fee Title
1432 Harrison Street
Oakland, California
Fuel Leak Case No. RO0000327 204

Dear Mr. Hwang:

Per your request in a letter dated August 11, 2005, and in accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, Mark Borsuk, certify that the following is a complete list of current record owners of fee title and their mailing addresses for the above site:

1. Sydney and Barbara Borsuk Trust
c/o Mark Borsuk, Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123
2. Sheila Siegel Trust
c/o Mark Borsuk, Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



7

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

August 11, 2005

Estate of Alvin H. Bacharach
Barbara Jean Borsuk, Trustee
c/o Mark Borsuk, Esq.
1626 Vallejo Street
San Francisco, California 94123-5116

Dear Ms. Borsuk:

Subject: Fuel Leak Case No. [REDACTED] A. Bacharach Trust,
1432 Harrison Street, Oakland, California

Alameda County Environmental Health (ACEH) staff has received "Initiating Risk Assessment" dated June 29, 2005 prepared by Cambria Environmental Technology, Inc. (Cambria) notifying us of their intention to proceed with a risk-based corrective action (RBCA) analysis. Title 23 CCR Chapter 16, Article 11, Sec. 2722, is cited. This regulation applies to workplans. We do not believe that your submittal constitutes a workplan. We intend to review your file as soon as possible. We request that you send us the information requested below.

Section 25297.15 requires the primary or active Responsible Party to notify all current record owners of fee title before the local agency considers cleanup or site closure proposals or issues a closure letter. For purposes of implementing section 25297.15, this agency has identified Estate of Alvin H. Bacharach, Barbara Jean Borsuk, Trustee as the primary or active Responsible Party. It is the responsibility of the primary or active Responsible Party to submit a letter to this agency within 20 calendar days of receipt of this notice that identifies all current record owners of fee title. It is also the responsibility of the primary or active Responsible Party to certify to the local agency that the required notifications have been made at the time a cleanup or site closure proposal is made or before the local agency makes a determination that no further action is required. If property ownership changes in the future, you must notify this local agency within 20 calendar days from when you are informed of the change.

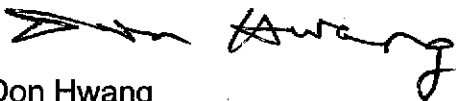
INFORMATION REQUEST

August 31, 2005 - Current record owners of fee title

Ms. Borsuk
August 11, 2005, Page 2

If you have any questions, please call me at (510) 567-6746.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hwang". The signature is stylized with a large, sweeping initial "D" and a long, horizontal stroke extending to the right.

Don Hwang

Hazardous Materials Specialist
Local Oversight Program

C: Subbarao Nagulapaty, Cambria Environmental Technology, Inc.,
5900 Hollis Street Suite A, Emeryville, CA 94608
Donna Drogos
File

R0266

C A M B R I A

June 29, 2005

VIA US MAIL & FAX (510) 337-9335

Mr. Don Hwang
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

Alameda County
JUL 12 2005
Environmental Health

Re: **Initiating Risk Assessment**
1432 Harrison Street
Oakland, California
Fuel Leak Case No. RO0000327



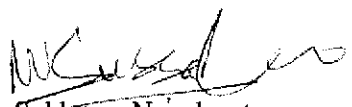
Dear Mr. Hwang:

On behalf of Mr. Mark Borsuk, Cambria Environmental Technology, Inc. (Cambria) is notifying the Alameda County Health Care Services Agency (ACHCSA) of our intention to proceed with the risk-based corrective action (RBCA) analysis as proposed in Cambria's *Groundwater Monitoring and System Progress Report - First Quarter 2005* dated April 13, 2005.

Cambria has notified your office several times of our intention to initiate the proposed activities and have not yet received any written response. In accordance with Title 23 CCR Chapter 16, Article 11, Sec. 2722 regulations, Cambria will begin the proposed RBCA analysis for the site.

If you have any questions, please call me at (510) 420-3361.

Sincerely,
Cambria Environmental Technology, Inc.


Subbarao Nagulapaty
Project Engineer

cc: Ms. Donna Drogos, Alameda County Health Care Services Agency, 1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577
Mr. David Charter, UST Cleanup Fund, P. O. Box 944212, Sacramento, California 94244-2120
Mr. Mark Borsuk, 1626 Vallejo Street, San Francisco, California 94123

**Cambria
Environmental
Technology, Inc.**

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

H:\Borsuk - Oakland\Correspondence\Agency Notification - 062905.doc

CAMBRIA

June 29, 2005

VIA US MAIL & FAX (510) 337-9335

Mr. Don Hwang
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

Re: **Initiating Risk Assessment**
1432 Harrison Street
Oakland, California
Fuel Leak Case No. RO0000327

Alameda County
JUL 05 2005
Environmental Health



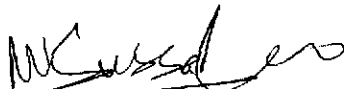
Dear Mr. Hwang:

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Cambria has notified your office several times of our intention to initiate the proposed activities and have not yet received any written response. In accordance with Title 23 CCR Chapter 16, Article 11, Sec. 2722 regulations, Cambria will begin the proposed RBCA analysis for the site.

If you have any questions, please call me at (510) 420-3361.

Sincerely,
Cambria Environmental Technology, Inc.


Subbarao Nagulapaty
Project Engineer

cc: Ms. Donna Drogos, Alameda County Health Care Services Agency, 1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577
Mr. David Charter, UST Cleanup Fund, P. O. Box 944212, Sacramento, California 94244-2120
Mr. Mark Borsuk, 1626 Vallejo Street, San Francisco, California 94123

**Cambria
Environmental
Technology, Inc.**

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

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C A M B R I A

June 29, 2005

VIA US MAIL & FAX (510) 337-9335

Mr. Don Hwang
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577

Re: **Initiating Risk Assessment**
1432 Harrison Street
Oakland, California
Fuel Leak Case No. RO0000327

Alameda County

JUN 30 2005

Environmental Health




Dear Mr. Hwang:

On behalf of Mr. Mark Borsuk, Cambria Environmental Technology, Inc. (Cambria) is notifying the Alameda County Health Care Services Agency (ACHCSA) of our intention to proceed with the risk-based corrective action (RBCA) analysis as proposed in Cambria's *Groundwater Monitoring and System Progress Report - First Quarter 2005* dated April 13, 2005.

Cambria has notified your office several times of our intention to initiate the proposed activities and have not yet received any written response. In accordance with Title 23 CCR Chapter 16, Article 11, Sec. 2722 regulations, Cambria will begin the proposed RBCA analysis for the site.

If you have any questions, please call me at (510) 420-3361.

Sincerely,
Cambria Environmental Technology, Inc.


Subbarao Nagulapaty
Project Engineer

cc: Ms. Donna Drogos, Alameda County Health Care Services Agency, 1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502-6577
Mr. David Charter, UST Cleanup Fund, P. O. Box 944212, Sacramento, California 94244-2120
Mr. Mark Borsuk, 1626 Vallejo Street, San Francisco, California 94123

**Cambria
Environmental
Technology, Inc.**

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

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R 0266

Hwang, Don, Env. Health

From: Nagulapaty, Subbarao [Snagulapaty@cambria-env.com]
Sent: Thursday, June 16, 2005 10:44 AM
To: Hwang, Don, Env. Health
Subject: Re: Allright Parking, 1432 Harrison Street, Oakland, CA - RBCA Analysis

Dear Mr. Hwang:

Cambria proposed to conduct a risk-based corrective action (RBCA) analysis to evaluate the above-referenced site as a low-risk case closure candidate in our *Groundwater Monitoring and System Progress Report – First Quarter 2005* dated April 13, 2005. Could you approve our request to proceed with the RBCA analysis for the subject site? Please respond.

If you have any questions, please call me at (510) 420-3361.

Sincerely,
Cambria Environmental Technology, Inc.
Subbarao Nagulapaty
Project Engineer
Tel: (510) 420-3361
Cel: (510) 385-0601
Fax: (510) 420-9170

7/7/2005

C A M B R I A

April 29, 2005

VIA USMAIL & FAX (510) 337-9335

Mr. Don Hwang
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502

Alameda County
MAY 09 2005
Environmental Services

Re: **Remediation System Shutdown Notification**
Allright Parking
1432 Harrison Street
Oakland, California
Cambria Project #540-0188



Dear Mr. Hwang:

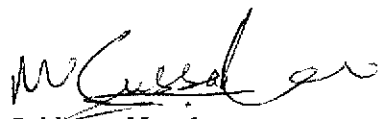
On behalf of Mr. Mark Borsuk, Cambria Environmental Technology, Inc. (Cambria) has prepared this letter to notify you of the shutdown and removal of the soil vapor extraction/air sparge (SVE/AS) system at the above-referenced site (site).

As presented in the *Groundwater Monitoring and System Progress Report – First Quarter 2005* dated April 13, 2005, continued operation of the existing SVE/AS system is no longer cost-effective based on the low influent vapor concentrations and low hydrocarbon mass removal rates.

Cambria proposed to conduct a risk-based corrective action (RBCA) analysis to evaluate the site as a low-risk case closure candidate. Cambria will proceed with the proposed RBCA analysis, upon receiving written approval from your office or after June 12, 2005, unless otherwise directed.

If you have any questions, please call me at (510) 420-3361.

Sincerely,
Cambria Environmental Technology, Inc.


Subbarao Nagulapaty
Project Engineer

Cambria
Environmental
Technology, Inc.

cc: Mr. Mark Borsuk, 1626 Vallejo Street, San Francisco, California 94123

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

R0266

CAMBRIA

April 29, 2005

VIA USMAIL & FAX (510) 337-9335

Mr. Don Hwang
Alameda County Health Care Services Agency
1131 Harbor Bay Parkway, Suite 250
Alameda, California 94502

Re: **Remediation System Shutdown Notification**
Allright Parking
1432 Harrison Street
Oakland, California
Cambria Project #540-0188



Dear Mr. Hwang:


On behalf of Mr. Mark Borsuk, Cambria Environmental Technology, Inc. (Cambria) has prepared this letter to notify you of the shutdown and removal of the soil vapor extraction/air sparge (SVE/AS) system at the above-referenced site (site).

As presented in the *Groundwater Monitoring and System Progress Report – First Quarter 2005* dated April 13, 2005, continued operation of the existing SVE/AS system is no longer cost-effective based on the low influent vapor concentrations and low hydrocarbon mass removal rates.

Cambria proposed to conduct a risk-based corrective action (RBCA) analysis to evaluate the site as a low-risk case closure candidate. Cambria will proceed with the proposed RBCA analysis, upon receiving written approval from your office or after June 12, 2005, unless otherwise directed.

If you have any questions, please call me at (510) 420-3361.

Sincerely,
Cambria Environmental Technology, Inc.


Subbarao Nagulapaty
Project Engineer

Cambria
Environmental
Technology, Inc.

cc: Mr. Mark Borsuk, 1626 Vallejo Street, San Francisco, California 94123

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

RO 266

Mark Borsuk
Attorney at Law
mark@borsuk.com / www.borsuk.com
(415) 922-4740 / CELL 264-8364 / FAX 922-1485
1626 Vallejo Street, San Francisco, CA 94123

April 16, 2005

Mr. Don Hwang
Hazardous Materials Specialist
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

SUBJECT: IQ05 Monitoring/System Progress Report
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Hwang:

Attached is the IQ05 Groundwater Monitoring/Systems Progress Report for the above site. If you have a question, please contact me.

Sincerely yours,



Mark Borsuk

Alameda County

APR 21 2005

Environmental Health

Hwang, Don, Env. Health

From: Scheele, Ron [rscheele@cambria-env.com]
Sent: Wednesday, May 12, 2004 4:01 PM
To: Don.hwang@acgov.org
Cc: 'Gretchen Hellmann'
Subject: 1432 Harrison Street, Oakland

Don,

✓ Cambria proposed in our 1st quarter 2004 monitoring report to modify the existing SVE system operating at this site. Due to the low hydrocarbon vapor concentrations and low removal rate, we feel it would be more cost effective to abate the hydrocarbon vapors with vapor-phase carbon versus the current catalytic oxidizer.

Please let me know if you have any objections. I spoke briefly to Barney Chan about this site because I mistakenly thought this was one of his sites.

Regards,

Ron Scheele, R.G.
Senior Geologist

Cambria Environmental Technology Inc.
(510) 420-3327 ph
(510) 420-9170 fax

5/19/04 SK
eval dif

FD 266
DOW



State Water Resources Control Board



Division of Financial Assistance

1001 I Street • Sacramento, California 95814
P.O. Box 944212 • Sacramento, California • 94244-2120
(916) 341-5757 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf

Winston H. Hickox
Secretary for
Environmental
Protection

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.

February 26, 2003

Est. Of A. Bacharach/Barbara J. Borsuk
Mark Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

Alameda County
MAR 07 2003
Environmental Health

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
CLAIM NO. 002219, PA # 15
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on February 7, 2003, for pre-approval of corrective action costs. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the February 16, 1998, Cambria workplan approved by the Alameda County EHD (County) in their March 18, 1998 letter, is \$117,546; see the table below for a breakdown of costs. *(The total amount that has been reimbursed and approved for payment up to this point is \$ 385,380.)*

Be aware that this pre-approval does not constitute a decision on reimbursement: **necessary** (as determined by the Fund) corrective action costs for action work **directed and approved by the County** will be eligible for reimbursement at costs consistent with those pre-approved in this letter. However, depending on what happens in the field, some costs may not actually be necessary.

In an effort to expedite future reimbursement requests associated with the implementation of the corrective action tasks pre-approved in this letter, we ask that the attached 'Pre-Approval Specific Reimbursement Request Form' be completed, updated and submitted with each reimbursement request. All relevant supporting documentation must also be included with each reimbursement request.

In order for future costs for corrective action to be part of the expedited reimbursement process, they must be pre-approved in writing by Fund staff.

All costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations in order to be eligible for reimbursement.

MAR 07 2003

Environmental Health

COST PRE-APPROVAL BREAKDOWN

#	Task*	Amount Pre-Approved	Comments
1	QMRs of 6 MWs for 4 Events	\$23,304	This cost includes all time, materials and markups associated with this task. Copies of all reports must be submitted to the Fund.
2	Remediation System O&M, System Rental, Utility Cost for 1 Year	\$91,452	This cost includes all time, materials and markups associated with this task.
3	Agency/Client Meetings/Correspondence	\$2,790	Copies of all reports must be submitted to the Fund.
TOTAL PRE-APPROVED		\$117,546	

* Task descriptions are the same as those identified in Cambria's January 27, 2003 cost estimate.

- Only the tasks/costs reflected on the above table are pre-approved at this time. The Fund will review any tasks/costs that go beyond the pre-approved amount to be determined if the additional tasks and costs are necessary and reasonable. However, if costs exceed the above pre-approved amounts, the Fund will be unable to expedite your Reimbursement Request.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated January 27, 2003 by Cambria for conducting the work approved by the County.

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary future corrective action work. If you need assistance in procuring contractor and consultant services, don't hesitate to call me.

February 26, 2003

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. ***Please insure that your consultant prepares their invoices to include the required breakdown of costs on a time and materials basis, that invoiced tasks are consistent with the original proposal, and that reasonable explanations are provided for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:***

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 341-5757.

Sincerely,

Sunil Ramdass.

Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

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



State Water Resources Control Board



Division of Clean Water Programs

1001 I Street • Sacramento, California 95814

P.O. Box 944212 • Sacramento, California • 94244-2120

(916) 341-5757 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf

Winston H. Hickox
Secretary for
Environmental
Protection

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.

January 29, 2002

Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

FEB 05 2002

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
CLAIM NO. 002219, PA # 14
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on January 17, 2002, for pre-approval of corrective action costs. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the January 11, 2002, Cambria's proposal continued QMRs of 6 MWs and O&M Costs for the existing SVE/AS system on site for one year is \$ 23,630; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: **necessary** (as determined by the Fund) corrective action costs for action work **directed and approved by the County** will be eligible for reimbursement at costs consistent with those pre-approved in this letter. However, depending on what happens in the field, some costs may not actually be necessary.

In an effort to expedite future reimbursement requests associated with the implementation of the corrective action tasks pre-approved in this letter, we ask that the attached 'Pre-Approval Specific Reimbursement Request Form' be completed, updated and submitted with each reimbursement request. All relevant supporting documentation must also be included with each reimbursement request.

In order for future costs for corrective action to be part of the expedited reimbursement process, they must be pre-approved in writing by Fund staff.

All costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations in order to be eligible for reimbursement.

COST PRE-APPROVAL BREAKDOWN

#	Task*	Amount Pre-Approved	Comments
1	QMR of 6MWs and O&M for a SVE/AS System for 1 Yr.	\$23,630	This cost includes all time and materials associated with this task. (QMRs of 6 MWs for 4 Events and O&M costs for the SVE/AS System on site for 1 Yr.) Copies of all reports must be submitted to the Fund.
TOTAL PRE-APPROVED		\$ 23,630	

* Task descriptions are the same as those identified in Cambria's January 11, 2002 cost estimate.

- Only the tasks/costs reflected on the above table are pre-approved at this time. The Fund will review any tasks/costs that go beyond the pre-approved amount to be determined if the additional tasks and costs are necessary and reasonable.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated January 11, 2002 by Cambria for conducting the work approved by the County.

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary future corrective action work. If you need assistance in procuring contractor and consultant services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed.

January 29, 2002

Please insure that your consultant prepares their invoices to include the required breakdown of costs on a time and materials basis, that invoiced tasks are consistent with the original proposal, and that reasonable explanations are provided for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 341-5757.

Sincerely,

Sunil Ramdass.

Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

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



State Water Resources Control Board



Gray Davis
Governor

Division of Clean Water Programs

1001 I Street • Sacramento, California 95814

P.O. Box 944212 • Sacramento, California • 94244-2120

(916) 341-5757 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcl

Winston H. Hickox
Secretary for
Environmental
Protection

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.

May 30, 2001

Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 002219, PA # 13
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on May 10, 2001, for pre-approval of corrective action costs. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the December 29, 1997, Cambria Environmental workplan approved by the Alameda County EHD (County) in their March 18, 1998 letter, is \$ 20,416; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: **necessary** (as determined by the Fund) corrective action costs for action work **directed and approved by the County** will be eligible for reimbursement at costs consistent with those pre-approved in this letter. However, depending on what happens in the field, some costs may not actually be necessary.

In an effort to expedite future reimbursement requests associated with the implementation of the corrective action tasks pre-approved in this letter, we ask that the attached 'Pre-Approval Specific Reimbursement Request Form' be completed, updated and submitted with each reimbursement request. All relevant supporting documentation must also be included with each reimbursement request.

In order for future costs for corrective action to be part of the expedited reimbursement process, they must be pre-approved in writing by Fund staff.

All costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations in order to be eligible for reimbursement.

COST PRE-APPROVAL BREAKDOWN

#	Task*	Amount Pre-Approved	Comments
1	PG&E Temporary Service	\$20,416	Cost approved for PG&E to provide a temporary electric service. This cost also included all time and material associated with this task.
	TOTAL PRE-APPROVED	\$ 20,416	

* Task descriptions are the same as those identified in Cambria Environmental's April 20, 2001 cost estimate.

- Only the tasks/costs reflected on the above table are pre-approved at this time. The Fund will review any tasks/costs that go beyond the pre-approved amount to be determined if the additional tasks and costs are necessary and reasonable. However, if costs exceed the above pre-approved amounts, the Fund will be unable to expedite your Reimbursement Request.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria Environmental proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated April 20, 2001 by Cambria Environmental for conducting the work approved by the County.

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary future corrective action work. If you need assistance in procuring contractor and consultant services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed.

May 30, 2001

Please insure that your consultant prepares their invoices to include the required breakdown of costs on a time and materials basis, that invoiced tasks are consistent with the original proposal, and that reasonable explanations are provided for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 341-5757.

Sincerely,

Sunil Ramdass.

Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Ms. Susan Hugo
Alameda County EHD
✓ 1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board

Division of Clean Water Programs

1001 I Street • Sacramento, California 95814

P.O. Box 944212 • Sacramento, California • 94244-2120

(916) 341-5831 • FAX (916) 341-5806 • www.swrcb.ca.gov/cwphome/ustcf



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

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.

February 8, 2001

Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

**REQUEST FOR PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
CLAIM NO. 002219, PRE-APPROVAL NO. 12 (REVISED) (ALTERNATE COST)
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on December 18, 2000, for pre-approval of corrective action costs; I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

Pursuant to Section 2811.4, subdivision (c), of the Cleanup Fund regulations and based upon the materials submitted, the Cleanup Fund must deny your request for pre-approval. You have failed to submit the required three bids for the tasks covered by your pre-approval request. Also the, single bid you provided for the task covered by your pre-approval request is unreasonable for the scope of work. Based on the Cleanup Fund's experience with similar sites in your area, we have determined that \$148,411 is reasonable for the tasks included in your pre-approval request. The breakdown of costs associated with each task is shown in Table 1 below. Based upon the information you submitted and in the absence of additional bids, we can only pre-approve \$148,411.

There are two options available to you. You must secure the requisite bids for the tasks covered by the pre-approval request, and the Cleanup Fund will evaluate the reasonableness of the costs in light of the additional bids.

Or, you may resubmit the existing bid and request pre-approval for the amounts specified in Table 1. Since the Cleanup Fund has determined that the amount specified in Table 1 is reasonable for this scope of work, the three-bid requirement is unnecessary if you concur with the Cleanup Fund's determination. The Cleanup Fund has the authority to waive the three-bid requirement as unnecessary upon your request to do so. Therefore, if your resubmitted pre-approval request only seeks pre-approval for the amount the Cleanup Fund has determined reasonable (the amount specified in Table 1) and you request waiver of the three-bid requirement as unnecessary, the Cleanup Fund will grant your request for pre-approval and waive the three bid requirement, with respect to this scope of work, as unnecessary.

California Environmental Protection Agency



A waiver does not waive the three-bid requirement for the claim, but only for the tasks covered by the pre-approval request. Again, if you decide to seek waiver of the three-bid requirement because it is unnecessary, then you must provide a written request for waiver of the three-bid requirement and resubmit your pre-approval request seeking only the amounts specified in Table 1. In an effort to assist you in expediting the pre-approval process we have prepared the attached *Acceptance of Reasonable Cost/Request for Bid Waiver* form letter. If you concur/accept our reasonable cost determination and would like to request a bid waiver, then just sign and date the attached letter and return to us for further processing your Pre-Approval.

Table 1
REASONABLE COST BREAKDOWN

#	Task*	Reasonable Cost, \$	Comments/Changes
1	Air Permits	\$3,310	Obtain a permit from BAAQMD to install and operate a dual phase extraction sytem (for the thermal destruction unit).
2	System Installation	\$36,269	Install the treatment system in two wells, connect piping, set-up the yard for the treatment unit, includes all installation costs and time & material costs to start up the system.
3	System Startup and testing	\$4,776	Start-up the system and testing.
4	O & M Labor and materials	\$28,040	perform weekly site visits for the first month and bi-weekly thereafter).
5	O & M analytical costs	\$1,980	Laboratory analysis of the influent and affluent vapor samples for TPH(g), benzene and others as required by the BAAQMD permits. 10% MARK UP.
6	SVE/AS system rental	\$46,200	Rental of the thermal destruction & air sparging units for 12 months (operational--trouble free).
7	Utility Costs	\$20,460	Actual costs plus 10% mark up shall be made. The claimant should try to pay these bills dirctly to reduce the markup costs.
8	System Progress Reports	\$4,920	Submit montly progress reports for the first three months and quarterly reports thereafter.
9	Client/Agency meetings & Corrospondance	\$2,456	Includes all costs associated with the project planning, implimentation and closure related coordination costs.
	TOTAL Reasonable Cost	\$148,411	

* Task descriptions are the same as those identified in Cambria Environmental's December 12, 2000 Cost Estimate

Est.Of A.Bacharach/Barbara J.Borsuk
Claim No. 002219

-3-

February 8, 2001
Pre-Approval Request No. 12 (Revised)
(Alternate cost)

Should you decide to obtain the additional bids for satisfying the three-bid requirement, and if you need assistance in procuring contractor and consultant services for corrective action don't hesitate to call me at (916) 341-5831.

Sincerely,



Hari Patel, Sanitary Engineering Associate
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Mr. Thomas Peacock
Alameda County EHD
✓ 1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board



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Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs
1001 I Street • Sacramento, California 95814 • (916) 341-5757
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 341-5806 • Internet Address: <http://www.swrcb.ca.gov/cwphome/ustef>

Gray Davis
Governor

January 30, 2001

Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 002219,
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on November 6, 2000, for pre-approval of corrective action costs. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for Cambria workplan approved by the Alameda County EHD (County), is \$ 9,080; see the table below for a breakdown of costs.

Be aware that this pre-approval does not constitute a decision on reimbursement: **necessary** (as determined by the Fund) corrective action costs for action work **directed and approved by the County** will be eligible for reimbursement at costs consistent with those pre-approved in this letter. However, depending on what happens in the field, some costs may not actually be necessary.

In an effort to expedite future reimbursement requests associated with the implementation of the corrective action tasks pre-approved in this letter, we ask that the attached 'Pre-Approval Specific Reimbursement Request Form' be completed, updated and submitted with each reimbursement request. All relevant supporting documentation must also be included with each reimbursement request.

In order for future costs for corrective action to be part of the expedited reimbursement process, they must be pre-approved in writing by Fund staff.

All costs for corrective action must meet the requirements of Article 11, Chapter 16, Underground Storage Tank Regulations in order to be eligible for reimbursement.

COST PRE-APPROVAL BREAKDOWN

#	Task*	Amount Pre-Approved	Comments
1	Quarterly Groundwater Monitoring & Reports	\$9,080	Cost per quarter (\$2,270) This cost includes Labor Costs, Direct Expenses and Analytical Costs.
	TOTAL PRE-APPROVED	\$ 9,080	

* Task descriptions are the same as those identified in Cambria's November 1, 2000 cost estimate.

January 30, 2001

- Only the tasks/costs reflected on the above table are pre-approved at this time. The Fund will review any tasks/costs that go beyond the pre-approved amount to be determined if the additional tasks and costs are necessary and reasonable. However, if costs exceed the above pre-approved amounts, the Fund will be unable to expedite your Reimbursement Request.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated November 1, 2000 by Cambria for conducting the work approved by the County.


I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary future corrective action work. If you need assistance in procuring contractor and consultant services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. ***Please insure that your consultant prepares their invoices to include the required breakdown of costs on a time and materials basis, that invoiced tasks are consistent with the original proposal, and that reasonable explanations are provided for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:***

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 341-5757.

Sincerely,



Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Mr. Thomas Peacock
✓ Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs
1001 I Street • Sacramento, California 95814 • (916) 341-5831
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
FAX (916) 341-5806 • Internet Address: <http://www.swrcb.ca.gov/cwphome/ustef>

Gray Davis
Governor

January 10, 2001

Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

TP
RO 0264

**REQUEST FOR PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
CLAIM NO. 002219, PRE-APPROVAL NO. 12 (ALTERNATIVE COST)
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on December 18, 2000, for pre-approval of corrective action costs; I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

Pursuant to Section 2811.4, subdivision (c), of the Cleanup Fund regulations and based upon the materials submitted, the Cleanup Fund must deny your request for pre-approval. You have failed to submit the required three bids for the tasks covered by your pre-approval request. Also the, single bid you provided for the task covered by your pre-approval request is unreasonable for the scope of work. Based on the Cleanup Fund's experience with similar sites in your area, we have determined that \$139,920 is reasonable for the tasks included in your pre-approval request. The breakdown of costs associated with each task is shown in Table 1 below. Based upon the information you submitted and in the absence of additional bids, we can only pre-approve \$139,920.

There are two options available to you. You must secure the requisite bids for the tasks covered by the pre-approval request, and the Cleanup Fund will evaluate the reasonableness of the costs in light of the additional bids.

Or, you may resubmit the existing bid and request pre-approval for the amounts specified in Table 1. Since the Cleanup Fund has determined that the amount specified in Table 1 is reasonable for this scope of work, the three-bid requirement is unnecessary if you concur with the Cleanup Fund's determination. The Cleanup Fund has the authority to waive the three-bid requirement as unnecessary upon your request to do so. Therefore, if your resubmitted pre-approval request only seeks pre-approval for the amount the Cleanup Fund has determined reasonable (the amount specified in Table 1) and you request waiver of the three-bid requirement as unnecessary, the Cleanup Fund will grant your request for pre-approval and waive the three bid requirement, with respect to this scope of work, as unnecessary.

A waiver does not waive the three-bid requirement for the claim, but only for the tasks covered by the pre-approval request. Again, if you decide to seek waiver of the three-bid requirement

because it is unnecessary, then you must provide a written request for waiver of the three-bid requirement and resubmit your pre-approval request seeking only the amounts specified in Table 1. In an effort to assist you in expediting the pre-approval process we have prepared the attached *Acceptance of Reasonable Cost/Request for Bid Waiver* form letter. If you concur/accept our reasonable cost determination and would like to request a bid waiver, then just sign and date the attached letter and return to us for further processing your Pre-Approval.

Table 1
REASONABLE COST BREAKDOWN

#	Task*	Reasonable Cost, \$	Comments/Changes
1	Air Permits	\$3,257	Obtain a permit from BAAQMD to install and operate a dual phase extraction sytem (for the thermal destruction unit).
2	System Installation	\$34,826	Install the treatment system in two wells, connect piping, set-up the yard for the treatment unit, includes all installation costs and time & material costs to start up the system.
3	System Startup and testing	\$4,681	Start-up the system. Obtain proper training. (it should be noted that Cambria is very familiar with dual-phase extraction with knowledge from multiple sites).
4	O & M Labor and materials	\$28,040	perform weekly site visits for the first month and bi-weekly thereafter).
5	O & M analytical costs	\$1,890	Laboratory analysis of the influent and affluent vapor samples for TPH(g), benzene and others as required by the BAAQMD permits. NOTE THAT THE FUND ONLY PAYS 5% MARK UP ON SUB-CONTRACTOR COSTS WHEN REMEDIATION COSTS EXCEED \$50,000.00.
6	SVE/AS system rental	\$40,320	Rental of the thermal destruction & air sparging units for 12 months (operational--trouble free). Since the owner owns the property, the Fund can not pay for parking spot rental.
7	Utility Costs	\$19,530	Actual costs plus 5% mark up shall be made. The claimant should try to pay these bills directly to reduce the markup costs.
8	System Progress Reports	\$4,920	Submit montly progress reports for the first three months and quarterly reports thereafter.
9	Client/Agency meetings & Corrospondance	\$2,456	Includes all costs associated with the project planning, implimentation and closure related coordination costs.
	TOTAL Reasonable Cost	\$139,920	

* Task descriptions are the same as those identified in Cambria Environmental's December 12, 2000 Cost Estimate

Est. Of A. Bacharach/Barbara J. Borsuk
Claim No. 002219

-3-

January 10, 2001
Pre-Approval Request No. 12 (Alternative Cost)

Should you decide to obtain the additional bids for satisfying the three-bid requirement, and if you need assistance in procuring contractor and consultant services for corrective action don't hesitate to call me at (916) 341-5831.

Sincerely,



Hari Patel, Sanitary Engineering Associate
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: ✓ Mr. Thomas Peacock
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board



Winston H. Hickox
Secretary for
Environmental
Protection

Division of Clean Water Programs
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Gray Davis
Governor

November 14, 2000

Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

TP RO 0264

**REQUEST FOR PRE-APPROVAL OF CORRECTIVE ACTION COSTS,
CLAIM NO. 002219, SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND,
CA 94612**

I have reviewed your request, received on November 6, 2000, for pre-approval of corrective action costs; I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

Pursuant to Section 2811.4, subdivision (c), of the Cleanup Fund regulations and based upon the materials submitted, the Cleanup Fund must deny your request for pre-approval. You have failed to submit the required three bids for the tasks covered by your pre-approval request. Also the, single bid you provided for the task covered by your pre-approval request is unreasonable for the scope of work. Based on the Cleanup Fund's experience with similar sites in your area, we have determined that \$ 9,080 is reasonable for the tasks included in your pre-approval request. The breakdown of costs associated with each task is shown in Table 1 below.

There are two options available to you. You must secure the requisite bids for the tasks covered by the pre-approval request, and the Cleanup Fund will evaluate the reasonableness of the costs in light of the additional bids.

Or, you may resubmit the existing bid and request pre-approval for the amounts specified in Table 1. Since the Cleanup Fund has determined that the amount specified in Table 1 is reasonable for this scope of work, the three-bid requirement is unnecessary if you concur with the Cleanup Fund's determination. The Cleanup Fund has the authority to waive the three-bid requirement as unnecessary upon your request to do so. Therefore, if your resubmitted pre-approval request only seeks pre-approval for the amount the Cleanup Fund has determined reasonable (the amount specified in Table 1) and you request waiver of the three-bid requirement as unnecessary, the Cleanup Fund will grant your request for pre-approval and waive the three bid requirement, with respect to this scope of work, as unnecessary.

A waiver does not waive the three-bid requirement for the claim, but only for the tasks covered by the pre-approval request. Again, if you decide to seek waiver of the three-bid requirement because it is unnecessary, then you must provide a written request for waiver of the three-bid requirement and resubmit your pre-approval request seeking only the amounts specified in

Table 1. In an effort to assist you in expediting the pre-approval process we have prepared the attached *Acceptance of Reasonable Cost/Request for Bid Waiver* form letter. If you concur/accept our reasonable cost determination and would like to request a bid waiver, then just sign and date the attached letter and return to us for further processing your Pre-Approval.

Table 1
REASONABLE COST BREAKDOWN

#	Task*	Reasonable Cost, \$	Comments/Changes
1	Quarterly Groundwater Monitoring & Reports	\$9,080	This cost is for 4 events. Cost per quarter (\$2,270) This cost includes Labor Costs, Direct Expenses and Analytical Costs.
	TOTAL Reasonable Cost	\$ 9,080	

* Task descriptions are the same as those identified in Cambria's November 1, 2000 Cost Estimate

Should you decide to obtain the additional bids for satisfying the three-bid requirement, and if you need assistance in procuring contractor and consultant services for corrective action don't hesitate to call me at (916) 341-5757.

Sincerely,

Sunil Ramdass

Sunil Ramdass, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Mr. Thomas Peacock
Alameda County EHD
✓ 1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



State Water Resources Control Board

5/11/99



Gray Davis
Governor

Winston H. Hickox
Secretary for
Environmental
Protection

Office of Chief Counsel

901 P Street • Sacramento, California 95814 • (916) 657-2154
Mailing Address: P.O. Box 100 • Sacramento, California 95812-0100
FAX (916) 653-0428 • Internet Address: <http://www.swrcb.ca.gov>

CERTIFIED MAIL

July 7, 1999

Mr. Mark Borsuk
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116

Dear Mr. Borsuk:

PETITION: UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT PROGRAM, ALVIN H. BACHARACH AND BARBARA J. BORSUK TRUST (PETITIONERS) SITE 498, 1432 HARRISON STREET, OAKLAND, ALAMEDA COUNTY, CALIFORNIA PETITION SWRCB/CWP FILE P96-175

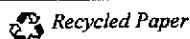
Mr. Stubchaer asked me to respond to your letter dated June 22, 1999, wherein you request the State Water Resources Control Board (SWRCB) to reconsider the above-mentioned petition. The SWRCB will not reconsider this matter.

Your letter asserts that Title 23, California Code of Regulations, section 768 provides the SWRCB with the authority to reconsider the petition. Section 768 is not applicable to this petition. It provides for reconsideration of a water rights decision or order issued by the SWRCB. The SWRCB did not issue a water rights decision or order in this matter. For the reasons set forth in the May 24, 1999 dismissal of your petition, the petition does not raise substantial issues which are appropriate for review by the SWRCB.

Dismissal of petitions for failure to raise substantial issues is a long-standing practice of the SWRCB. This procedure was upheld in the case of *People v. Barry* (1987) 194 Cal.App.3d 158 [239 Cal. Rptr. 349]. Moreover, the procedure is specifically authorized by the SWRCB policy setting forth the procedures for petitions arising from the Local Agency Oversight Program. (See SWRCB Resolution 88-23.)

As part of the authority to conduct and supervise its day-to-day activities, the SWRCB has delegated to its Executive Director the authority to determine whether a petition raises substantial issues which are appropriate for review by the SWRCB. Therefore, the May 24, 1999 dismissal constitutes the final agency action of this SWRCB in this matter.

California Environmental Protection Agency



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ENVIRONMENTAL
PROTECTION

Mr. Mark Borsuk

- 2 -

July 7, 1999

As a general rule, in the absence of express statutory authorization, an administrative agency such as the SWRCB lacks the power to vacate, reopen, or modify its own final decisions in adjudicatory actions. (E.g., *Azadigian v. Workers Compensation Appeals Board* (1992) 7 Cal.App.4th 372 [8 Cal Rptr. 2d 643].) SWRCB review of the action or inaction of a local oversight agency is governed by Health and Safety Code section 25297.1. SWRCB Resolution 88-23 sets forth the procedures for filing a petition arising under section 25297.1. Neither section 25297.1 nor Resolution 88-23 provide authority for the SWRCB to reopen or otherwise reconsider final actions under section 25297.1. For these reasons, the SWRCB will not reconsider its May 24, 1999 dismissal of your petition.

If you have any questions about this letter, please contact Ms. Dorothy Jones, Staff Counsel of our legal staff at (916) 227-4421.

Sincerely,



William R. Attwater
Chief Counsel

cc: Mr. Stephen Morse
San Francisco Bay Regional Water
Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

✓ Mr. Tom Peacock
Alameda County Environmental
Health Department
1131 Harbor Bay Parkway
Alameda, CA 94502

LOP - CHANGE RECORD REQUEST FORM

printed:
04/12/99

Mark Out What Needs Changing and Hand to LOP Data Entry
(Name/Address changes go to Annual Programs Data Entry)

Insp:

AGENCY # : 10000 SOURCE OF FUNDS: F SUBSTANCE: 8006619
 StID : 498 LOC: 12/07/93
 SITE NAME: A. Bacharach TR & B. Borsuk DATE REPORTED : 01/28/93
 ADDRESS : 1432 Harrison St DATE CONFIRMED: 12/06/93
 CITY/ZIP : Oakland 94612 MULTIPLE RPs : Y

SITE STATUS

CASE TYPE: 0 CONTRACT STATUS: 5 PRIOR CODE:1B2 EMERGENCY RESP:
 RP SEARCH: S DATE COMPLETED: 01/28/93
 PRELIMINARY ASMNT: U DATE UNDERWAY: 07/30/94 DATE COMPLETED:
 REM INVESTIGATION: U DATE UNDERWAY: 09/11/96 DATE COMPLETED:
 REMEDIAL ACTION: DATE UNDERWAY: DATE COMPLETED:
 POST REMED ACT MON: DATE UNDERWAY: DATE COMPLETED:

ENFORCEMENT ACTION TYPE: 2 DATE ENFORCEMENT ACTION TAKEN: 02/25/94
 LUFT FIELD MANUAL CONSID: 3HSCAW
 CASE CLOSED: DATE CASE CLOSED:
 DATE EXCAVATION STARTED : 12/06/93 REMEDIAL ACTIONS TAKEN: ED

RESPONSIBLE PARTY INFORMATION

RP#1-CONTACT NAME: A Bacharach/b Borsuk
 COMPANY NAME: Trust
 ADDRESS: 383 Diablo Rd. #100
 CITY/STATE: Danville C A 94526

RP#2-CONTACT NAME: Leland Douglas
 COMPANY NAME: Douglas Parking Co.
 ADDRESS: 1721 Webster St.
 CITY/STATE: Oakland C A 94612

INSPECTOR VERIFICATION:

NAME _____	SIGNATURE _____	DATE _____
DATA ENTRY INPUT:		
Name/Address Changes Only		Case Progress Changes
ANPPGMS _____	LOP _____	DATE _____
		LOP _____
		DATE _____

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



December 31, 1998
STID 498

ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION (LOP)

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

Estate of Alvin H. Bacharach
Barbara J. Borsuk, Trustee
C/o Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Mr. Borsuk and Mr. Douglas:

This office received a groundwater monitoring report by Blaine Tech Services dated November 28, 1998 with amendments dated November 16, 1998 for the above site. The following are comments concerning the report:

1. The contamination levels seem to be rising in MW-1 and MW-2 but are down for the rest of the wells for TPHg and for benzene. This would indicate that the plume is not yet in a stable situation, but that it is now very small.
2. There are no comments, conclusions, or recommendations in this report.
3. The changes have also been received and included in the IIIQ report as you requested.

If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,

Thomas Peacock, Manager
Division of Environmental Protection

c: Dick Pantages, Acting Chief - **files** - Tom
Dave Deaner, SWRCB Clean-Up Fund
Richard Blaine, Blaine Tech Services, Inc., 1680 Rogers
Ave., San Jose, CA 95112
LeRoy Griffin, City of Oakland Hazardous Materials
John Riggi, Cambria Environmental Technology, Inc., 1144
65th St., Suite B, Oakland, CA 94608



State Water Resources Control Board



Gray Davis
Governor

Division of Clean Water Programs **PROTECTION**

2014 T Street • Sacramento, California 95814 • (916) 227-7887

Mailing Address: P.O. Box 944212 • Sacramento, California 94421-0212

FAX (916) 227-4530 • Internet Address: <http://www.swrcb.ca.gov/~cwplhome.usrcf>

RECEIVED
JAN 21 PM 2:14

Winston H. Hickox
Secretary for
Environmental
Protection

ST 10498

January 19, 1999

Mr. Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 2219
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on January 19, 1999, for pre-approval of corrective action costs. This pre-approval is specific to the December 22, 1998 proposal by Cambria Environmental Technology, Inc. (Cambria) for the **preparation of a Remediation Action Plan (RAP) with designs for the air sparge and soil vapor extraction system.**

Based on Fund experience with similar scopes of work, the costs proposed for preparation of the RAP appear to be high. At this time, I am able to pre-approve **\$3,000** for the scope of work. If the actual corrective action costs incurred should exceed the pre-approved amount, the Fund will make an eligibility determination based on a review of the report and your justification for the cost overrun. Please submit the report to the Fund for review with your reimbursement request.

Please remember that Fund regulations require you to obtain at least three bids from qualified firms prior to implementation of the RAP. The RAP should be prepared in a format to use in obtaining the bids. Future remediation work, including system installation, operation and maintenance, must be put out to bid.

This pre-approval does not constitute a decision on reimbursement: **all reasonable and necessary** corrective action costs for work **directed and approved by the County** will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

*All future costs for corrective action must be approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.*

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.



State Water Resources Control Board

John P. Caffrey, Chairman



Peter M. Rooney
Secretary for
Environmental
Protection

Division of Clean Water Programs

2014 T Street, Suite 130 • Sacramento, California 95814 • (916) 227-7887 FAX (916) 227-4530
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
Internet Address: <http://www.swrcb.ca.gov/~cwphome/ustc/fundhome.htm>

ENVIRONMENTAL
PROTECTION
98 OCT -8 PM 3:07
Pete Wilson
Governor

ST10#498
TP

October 6, 1998

Mr. Mark Borsuk
Est. Of A. Bacharach/Barbara J. Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 2219 SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612

I have reviewed your request for pre-approval of corrective action costs and will place these documents in your file for future reference. This pre-approval is specific to the activities as outlined in the May, 1998 proposal by Cambria Environmental Technology, Inc. to **install six borings and convert five to air sparging/vapor extraction wells**, as approved by Alameda County. With the following provisions, the total cost pre-approved as eligible for reimbursement is **\$15,494**.

Please be aware that this pre-approval does not constitute a decision on reimbursement: **all reasonable and necessary** corrective action costs for work **directed and approved by the County** will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

*All future costs for corrective action must be approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.*

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Work Plan/Permits	\$2,768	
Boring/Well Installation	\$10,986	Includes staff costs, field equipment/supplies, and subcontractor services.
Report Preparation	\$1,740	
TOTAL PRE-APPROVED	\$ 15,494	

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract.

California Environmental Protection Agency

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. **To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs.** When the invoices are submitted you must include copies of all:

- subcontractor invoices,
- technical reports, when available, and
- applicable correspondence from the County.

Please remember that Fund regulations require you to obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for the next phase of corrective action work. If you need assistance in contracting for corrective action services, don't hesitate to call me.

Please call if you have any questions; I can be reached at (916) 227-7887.

Sincerely,



Quynh Hoa, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

cc: Mr. Thomas Peacock
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577

Mr. David Ellias
Cambria Environmental Technology
Via FAX: (510) 420-9170

Mr. Mark Borsuk
Via FAX: (415) 922-1485

ALAMEDA COUNTY
HEALTH CARE SERVICES

OCT 13 1998



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)

October 13, 1998
STID 498

Estate of Alvin H. Bacharach Leland Douglas
Barbara J. Borsuk, Trustee Douglas Parking Co.
C/o Mark Borsuk, Esq. 1721 Webster St.,
San Francisco, CA 94123-5116 Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Mr. Borsuk and Mr. Douglas:

This office received a groundwater monitoring report by Blaine Tech Services dated August 14, 1998 for the above site. The following are comments concerning the report:

1. The contamination levels seem to be going down in all monitoring wells for TPHg and for benzene
2. The State Water Board also wrote you about declining pre-approval of corrective action costs.
3. There are no comments, conclusions, or recommendations in this report.

If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,

Thomas Peacock, Manager
Division of Environmental Protection

c: Dick Pantages, Acting Chief - files - Tom
Dave Deaner, SWRCB Clean-Up Fund
Richard Blaine, Blaine Tech Services, Inc., 1680 Rogers
Ave., San Jose, CA 95112
LeRoy Griffin, City of Oakland Hazardous Materials



State Water Resources Control Board

CITY AND COUNTY OF SACRAMENTO
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Peter M. Rooney
Secretary for
Environmental
Protection

John P. Caffrey, Chairman

98 JUL 31 PM 2:28
Pete Wilson
Governor

Division of Clean Water Programs

2014 T Street, Suite 130 • Sacramento, California 95814 • (916) 227-7887 FAX (916) 227-4530
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120
Internet Address: <http://www.swrcb.ca.gov/~cwphome/ustcf/fundhome.htm>

July 29, 1998

Mr. Mark Borsuk
Estate of A.Bacharach/Barbara J.Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

#498
TP

98 AUG -3 PM 2:51
ENVIRONMENTAL
PROTECTION

PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 2219 SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612

94412

I have reviewed your request, received on July 14, 1998, for pre-approval of corrective action costs and will place these documents in your file for future reference. Unfortunately, I am unable to pre-approve the costs at this time for the following reasons:

- The next phase of work at the subject site is to implement the corrective action plan (CAP). Fund regulations require that you obtain a minimum of three bids/proposals from qualified firms for the next phase of corrective action work. To assist you in the bidding process, I have enclosed a copy of the latest version of *Successful Corrective Action, A Tank Owner's Guide*.
- In the June 11, 1998 letter from Alameda County Health Care Services, you were also approved to conduct additional investigation on the up-gradient property. Since this investigation may affect the extent of remediation required in the vicinity of these tanks, it seems that the CAP should not be implemented until the contamination plume is more clearly defined in this area.
- Investigation of the tanks on the up-gradient property are ineligible for reimbursement through this claim, as it is associated with an off-site contamination source. Fund reimbursement is limited to costs for the investigation and remediation of contamination from eligible, unauthorized releases from underground storage tanks on the property of the claimant.

Once these issues are addressed, I will be pleased to review your request for pre-approval. Should you have any questions, please contact me at (916) 227-7887.

Sincerely,

Quynh Hoa, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure: *Successful Corrective Action, A Tank Owner's Guide*

cc: Mr. Thomas Peacock
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577

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 11, 1998
STID 498

Estate of Alvin H. Bacharach Leland Douglas
Barbara J. Borsuk Trustee Douglas Parking Co.
C/o Mark Borsuk, Esq. 1721 Webster St.,
1626 Vallejo St. Oakland, CA 94612
San Francisco, CA 94123-5116

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Mr. Borsuk and Mr. Douglas:

This office wrote a letter dated March 18, 1998. The additional investigation requested at that time did not seem warranted. New information on an upgradient site has changed the situation. A former Chevron station had operated a treatment system for several years. This system reversed the normal direction of groundwater flow, thus not allowing any contamination to flow towards your site. Although the remaining contamination is low and the site is some distance away, this office does not have any objection to the further investigation which you requested.

This office received and reviewed a Groundwater Monitoring Report dated May 27, 1998 by Blaine Tech Services for the above site. The following are comments concerning the report:

1. The levels of contamination do not seem to be going down in MW-1 and MW-2. Perhaps some method should be used to encourage bioremediation.
2. The contact for the Regional Board is now Chuck Headlee, rather than Richard Hiatt.
3. My Compuserve E-Mail address is replaced with a new e-mail address: Tpeacock@Co.Alameda.Ca.Us
4. There are no comments, conclusions, or recommendations in this report.
5. After discussion today with John Espinosa it was acknowledged that a workplan should be submitted for installation of any additional monitoring wells. This should be forthcoming, as well as a proposal to use ORC.

Bacharach and Borsuk and Douglas

STID 498

June 11, 1998

Page 2 of 2

If you have any questions or comments, please contact this office
at (510) 567-6782.

Sincerely,



Thomas Peacock, Manager
Division of Environmental Protection

c: Dick Pantages, Chief - **files** - Tom
Dave Deaner, SWRCB Clean-Up Fund
Richard Blaine, Blaine Tech Services, Inc., 1680 Rogers
Ave., San Jose, CA 95112
LeRoy Griffin, City of Oakland Hazardous Materials
Chuck Headlee, Regional Water Quality Control Board

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



March 18, 1998

Estate of Alvin H. Bacharach;
Barbara Jean Borsuk, Trustee
c/o Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612

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

re: STID 498, 1432 Harrison St., Oakland, CA 94612

Dear Mr Borsuk:

This office has received and reviewed a IVQ '97 Monitoring Report dated February 16, 1998 by Blaine Tech Svcs. and a Corrective Action Plan (CAP) dated December 29, 1997 by Cambria Environmental Technology, Inc. The following are comments concerning these reports:

1. The CAP is acceptable to this office except that the additional investigation proposed on page 8 does not seem warranted. The tank in question was filled with concrete according to City of Oakland records and should not be an additional source. The monitoring report finds no contamination in the upgradient well, MW-6. Furthermore, this same report shows the gradient as going away from MW-1 and MW-2 (the wells with the most contamination) in both a northerly and a southerly direction. This would allow contamination to flow towards that tank rather than only away from it, as previously presented.
2. The monitoring report showed an increase in contamination in MW-1 and in MW-2, both for TPHg and for benzene. The 30,000 ppb for benzene is higher than any sample in more than a year and appears to be from some type of fresh source. This is a very unusual situation.

Please contact me at (510) 567-6782 if you have any questions regarding this letter.

Sincerely,

Thomas Peacock, Manager

c: Owen Ratchye, Cambria, 1144 - 65th St., suite B, Oakland, CA
Kent Brown, Blaine Tech Svcs., 1680 Rogers Ave., San Jose, CA 95112
Dave Deaner, UST Cleanup Fund, SWRCB
LeRoy Griffin, City of Oakland Hazardous Materials
Dick Pantages - Files

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX
 ONE PAGE

February 3, 1998

Mr. Thomas Peacock
 Supervising HMS, LOP
 ACHCSA
 1131 Harbor Bay Parkway
 Alameda, CA 94501
 (510) 567-6700 / FAX 337-9335
 76325.3440@compuserve.com

SUBJECT: Mailing Address
 1432 Harrison Street, Oakland, CA 94612
 SITE ID 498

Dear Mr. Peacock:

Per your request of January 27, please address future correspondence to the property owners as follows:

Estate of Alvin H. Bacharach;
 Barbara Jean Borsuk, Trustee
 c/o Mark Borsuk, Esq.
 1626 Vallejo Street
 San Francisco, CA 94123-5116

If you need additional information, please call me.

Sincerely yours,

/s/
 Mark Borsuk

to change RP address Alvin H. Bacharach direct.

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 26, 1997

STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a Groundwater Sampling Report dated November 20, 1997 by Blaine Tech Services, a Third Quarter Monitoring Report by Cambria dated November 3, 1997, and a cover sheet dated November 23, 1997 and signed by Mark Borsuk for the above site. The following are comments concerning these reports:

Blaine:

1. The levels of contamination in MW-1 and MW-2 at this site are still very high (22,000 ppb benzene in MW-1). The benzene level and TPH level in MW-2 have actually gone up. This is highly unusual and appears to be from more of a **fresh product** rather than degraded gasoline. For the first time 270 ppb of MTBE has been found in MW-2 and 220 ppb in MW-2. 33 ppb of MTBE was found in MW-4 which is about 90 ft. downgradient from where the tanks were. This is also highly unusual and more indicative of a recent release.

Cambria:

2. The Cambria Report shows a groundwater gradient that is high around the location of the former leaking tanks and which flows to the north and also to the south. This is very curious as it seems there must be some type of inflow at the location of the former tanks for this mounding effect to occur. It certainly tends to eliminate previous suggestions that the contamination has come from an off site source to the south down Harrison St.

Bacharach and Borsuk and Douglas
STID 498
December 26, 1997
Page 2 of 2

If you have any questions or comments, please contact this office
at (510) 567-6782.

Sincerely,



Thomas Peacock, Manager
Division of Environmental Protection

c: Dick Pantages, Chief - **files** - Tom
Bob Chambers, Alameda County District Attorney's Office
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Richard Blaine, Blaine Tech Services, Inc., 1680 Rogers
Ave., San Jose, CA 95112
David Elias, Cambria, 1144 Sixty-Fifth St., Suite C,
Oakland, CA 94608



ALAMEDA COUNTY CC4580
HEALTH CARE SERVICES AGENCY
 Department Of Environmental Health
 Environmental Protection Division
 1131 Harbor Bay Parkway, Suite 250
 Alameda, CA 94502-6577

ENVIRONMENTAL
 PROTECTION

JAN--8 PM 4:42



Returning Under Expense

*Not @ this
 address*

~~ALVIN H. BACHARACH and
 BARBARA J. BORSUK TRUST~~
 383 DIABLO RD., STE. 100
 DANVILLE CA [REDACTED]

[REDACTED]

277





Cal/EPA

August 28, 1997



Pete Wilson
Governor

State Water
Resources
Control Board

Division of
Clean Water
Programs

Mark Borsuk
Alvin H. Bacharach/Barbara J Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

Mailing Address:
P.O. Box 944212
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-0742
FAX (916) 227-4530

World Wide Web
<http://www.swrcb.ca.gov/~cwp/home/fundhome.htm>

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 2219,
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

I have reviewed your request, received on August 20, 1997, for pre-approval of corrective action costs; I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective actions costs.

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing Cambria Environmental Technology, Inc. workplan, is \$ 435; see the table below for a breakdown of costs. (The total amount approved for payment through request number 3 for work at your site that has been directed and approved by the County is \$ 243,102.)

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

***All future costs for corrective action must be pre-approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.***

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Rent drilling and traffic control equipment	165	Submit associated invoices and subinvoices for all corrective actions with next reimbursement request.
Purchase bolts	75	
Travel and labor costs	195	
TOTAL PRE-APPROVED	\$ 435	

Mark Borsuk
Alvin H. Bacharach/Barbara J Borsuk

-2-

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria Environmental Technology, Inc. proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated by Cambria Environmental Technology, Inc. for conducting the work requiring approval by the County.

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary corrective action work. The legislation governing the Fund requires that the Fund assist you in procuring contractor and consultant services for corrective action. If you need assistance in contracting for corrective action services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*

- subcontractor invoices,
- technical reports, when available, and
- applicable correspondence from the County.

Please call if you have any questions; I can be reached at (916) 227-0742.

Sincerely,

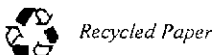


Leo Savalin, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc:

Mr. Thomas Peacock
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.



Cal/EPA



Pete Wilson
Governor

**State Water
Resources
Control Board**

June 30, 1997

Division of
Clean Water
Programs

Mark Borsuk
Alvin H. Bacharach/Barbara J Borsuk
1626 Vallejo St
San Francisco, CA 94123-5116

Mailing Address:
P.O. Box 944212
Sacramento, CA
94244-2120

**PRE-APPROVAL OF CORRECTIVE ACTION COSTS, CLAIM NO. 2219,
SITE ADDRESS: 1432 HARRISON/1435 ALICE ST, OAKLAND, CA 94612**

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-0742
FAX (916) 227-4530

I have reviewed your request, received on June 11, 1997, for pre-approval of corrective action costs; I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective actions costs.

World Wide Web
<http://www.swrcb.ca.gov/~cwphome/fundhome.htm>

With the following provisions, the total cost pre-approved as eligible for reimbursement for completing the June 11, 1997, Cambria workplan approved by the Alameda County EHD (County) in their June 11, 1997 letter, is \$ 3,760; see the table below for a breakdown of costs. (The total amount approved for reimbursement through request number 3 for work at your site that has been directed and approved by the County is \$ 243,102.)

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

***All future costs for corrective action must be pre-approved in writing by Fund staff.
Future costs for corrective action must meet the requirements of
Article 11, Chapter 16, Underground Storage Tank Regulations.***

COST PRE-APPROVAL BREAKDOWN

Task	Amount Pre-Approved	Comments
Corrective Action Plan (CAP)	3200	Submit completed CAP
Soil and Water Disposal	560	Reduced to \$80/drum for complete disposal. This includes Cambria costs and Outside costs. Due to omission of 3-bid requirement costs parallel USTCF Cost Guidelines.
TOTAL PRE-APPROVED	\$ 3,760	



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mark Borsuk

Alvin H. Bacharach/Barbara J Borsuk

-2-

- The actual costs and scope of work performed must be consistent with the pre-approval for it to remain valid.
- The work products must be acceptable to the County and the Regional Water Quality Control Board.
- If a different scope of work becomes necessary, then you must request pre-approval of costs on the new scope of work.
- Although I have referred to the Cambria proposal in my pre-approval above, please be aware that you will be entering into a private contract: the State of California cannot compel you to sign any specific contract. This letter **pre-approves the costs** as presented in the proposal dated June 11, 1997 by Cambria for conducting the work approved by the County for implementing the June 11, 1997, Cambria workplan.

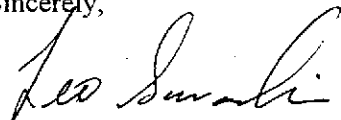
I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary corrective action work. The legislation governing the Fund requires that the Fund assist you in procuring contractor and consultant services for corrective action. If you need assistance in contracting for corrective action services, don't hesitate to call me.

Please remember that it is still necessary to submit the actual costs of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this pre-approval before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Please call if you have any questions; I can be reached at (916) 227-0742.

Sincerely,



Leo Savalin, Water Resources Control Engineer
Technical Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc:

Mr. Thomas Peacock
Alameda County EHD
1131 Harbor Bay Pkway, 2nd Fl.
Alameda, CA 94502-6577

97 JUL -3 PM 3:22
ENVIRONMENTAL
PROTECTION



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

2nd Request

VIA FAX
ONE PAGE

June 11, 1997

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: MTBE
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

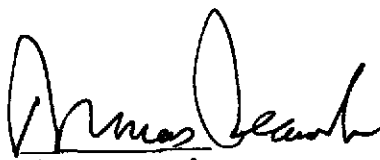
Dear Mr. Peacock:

We wish to determine whether MTBE is present in MW-2. The December 1996 sampling gave a reading of 220 ppb. However, the March 1997 sampling was ND. The UST FUND will allow the additional testing with agency approval. Please provide me with your approval by faxing back this letter.

Sincerely yours,


Mark Borsuk

Approved


Thomas Peacock

6-11-97
Date

cc: Steve Marquez, UST FUND
Kent Brown, Blaine Tech
David Elias, Cambria Environmental

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

June 9, 1997

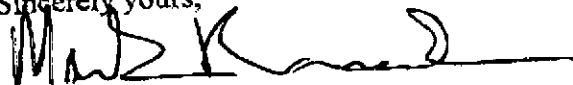
Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: MTBE
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

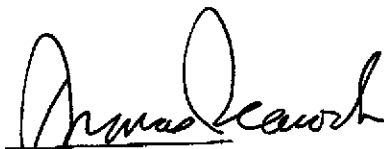
We wish to determine whether MTBE is present in MW-2. The December 1996 sampling gave a reading of 220 ppb. However, the March 1997 sampling was ND. The UST FUND will allow the additional testing with agency approval. Please provide me with your approval by faxing back this letter.

Sincerely yours,



Mark Borsuk

Approved


Thomas Peacock

6-11-97
Date

1997,06-11 16:40
 S10 337 9335
 ALAMEDA CO EHS HAZ-OPS

COM No.	REMOTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
139	415 922 1485	06-11 16:39	00' 29	01/01	OK		

7499402045

9 Jun 1997 3:44PM Mark Borsuk

FAX: 415 922 1485

PAGE 1

MARK BORSUK
 Attorney at Law
 1626 Vallejo Street
 San Francisco, CA 94123-5116
 (415) 922-4740
 FAX 922-1485
 Internet: mborsuk@ix.netcom.com

June 9, 1997

Mr. Thomas Peacock
 Supervising HMS, LOP
 ACHCSA
 1131 Harbor Bay Parkway
 Alameda, CA 94501
 (510) 567-6700 / FAX 337-9335
 76325.3440@compuserve.com

SUBJECT: MTBE
 1432 Harrison Street, Oakland, CA 94612
 SITE ID 498

Dear Mr. Peacock:

We wish to determine whether MTBE is present in MW-2. The December 1996 sampling gave a reading of 220 ppb. However, the March 1997 sampling was ND. The UST FUND will allow the additional testing with agency approval. Please provide me with your approval by faxing back this letter.

Sincerely yours

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

April 22, 1997

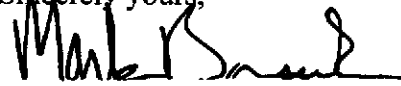
Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: LOP Billing Charges
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

During the period July-December, 1996 you met five times with individuals at the regional board or other affected agencies regarding the site. Please provide this office with their names and phone numbers.

Sincerely yours,



Mark Borsuk

cc: Ms. Lori Casias
attachment: Itemized New Charges

ENVIRONMENTAL
PROTECTION
97 APR 24 AM 11:11

ITEMIZED NEW CHARGES

Site specific charges for billing period: 07/01/96 - 12/31/96

DATE	NAME	*ACT	HOURS		RATE		IND	TRAVEL	TOTAL
			ST	OT	ST	OT			
07/09/96	Peacock, Thomas	215	1.50	0.0	52.58	0.00	0.1510	0.00	90.78
07/18/96	Peacock, Thomas	212	0.30	0.0	52.58	0.00	0.1510	0.00	18.16
07/25/96	Peacock, Thomas	204	0.40	0.0	52.58	0.00	0.1510	0.00	24.21
08/08/96	Peacock, Thomas	212	0.20	0.0	52.58	0.00	0.1510	0.00	12.10
08/13/96	Peacock, Thomas	204	0.20	0.0	52.58	0.00	0.1510	0.00	12.10
08/19/96	Peacock, Thomas	215	0.70	0.0	52.58	0.00	0.1510	0.00	42.36
08/20/96	Peacock, Thomas	204	0.20	0.0	52.58	0.00	0.1510	0.00	12.10
08/29/96	Peacock, Thomas	215	0.90	0.0	52.58	0.00	0.1510	0.00	54.47
09/10/96	Peacock, Thomas	204	0.30	0.0	52.58	0.00	0.1510	0.00	18.16
09/11/96	Peacock, Thomas	204	0.30	0.0	52.58	0.00	0.1510	0.00	18.16
09/12/96	Peacock, Thomas	215	0.50	0.0	52.58	0.00	0.1510	0.00	30.26
10/03/96	Peacock, Thomas	212	0.10	0.0	52.58	0.00	0.1510	0.00	6.05
11/13/96	Peacock, Thomas	212	0.10	0.0	52.58	0.00	0.1510	0.00	6.05
11/18/96	Peacock, Thomas	215	0.50	0.0	52.58	0.00	0.1510	0.00	30.27
11/19/96	Peacock, Thomas	215	1.70	0.0	52.58	0.00	0.1510	0.00	102.92
11/21/96	Peacock, Thomas	215	0.10	0.0	52.58	0.00	0.1510	0.00	6.05
SITE SPECIFIC TOTALS:			8.0	0.0				\$	484.20
PROGRAM MANAGEMENT CHARGE (calculated at 50% of site specific charges):								\$	242.10
TOTAL NEW CHARGES								\$	726.30

* ACTIVITY CODES AND DESCRIPTIONS: (ACT)

- 300 (200) Responsible Party identification and notification
- 304 (204) Meeting with Regional Board or other affected agencies regarding a specific site
- 306 (206) Development of enforcement actions against a Responsible Party
- 307 (207) Issuance of a closure document
- 310 (210) Site visits
- 311 (211) Sampling activities
- 312 (212) Meetings with responsible parties or responsible party consultants
- 315 (215) Review of reports, workplans, preliminary assessments, remedial action plans, or post-remedial monitoring

NOTE: More than one responsible party (RP) has been identified for this site. All RPs are shown below. This invoice has been sent to all RPs for this site. RPs may be held jointly and severally liable for site cleanup costs. You may wish to coordinate with the other RP(s) to allocate the site cleanup costs among yourselves.

A BACHARACH/B BORSUK TRUST	DOUGLAS PARKING CO
C/O MARK BORSUK	LELAND DOUGLAS
1625 VALLEJO STD NO 100	1721 WEBSTER ST
SAN FRANCISCO, CA 94123-5116	OAKLAND, CA 94612

StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
498	TP	07/09/96	215	1.5	case review, QMR & workplan, write letter	
498	TP	07/18/96	212	0.3	w/Phil Gittens re: fund pre-approvalVap or ext.	
498	TP	07/25/96	204	0.4	w/Water Board, offsite sources, case review	
498	TP	08/08/96	212	0.2	message from David Alias	
498	TP	08/13/96	204	0.2	w/SWRCB, Compliance issues	
498	TP	08/19/96	215	0.7	review QMR,	
StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
498	TP	08/20/96	204	0.2	estimate, write letter message from & w/Nell Hill	
498	TP	08/29/96	215	0.9	review case file, organize, update summary	
498	TP	09/10/96	204	0.3	w/Water Board	
498	TP	09/11/96	204	0.3	w/Lori & Nell Hill, RWQCB	
498	TP	09/12/96	215	0.5	review case file, faxes, documents	
StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
498	TP	10/03/96	212	0.1	call Phil Gittens, drilling	
498	TP	11/13/96	212	0.1	message coming, David Alias	
498	TP	11/18/96	215	0.5	begin review	
498	TP	11/19/96	215	1.7	review qmr, write letter, update db & ss, org. file	
498	TP	11/21/96	215	0.1	w/DA's office review	
498	TP	12/03/96	416	1.	petition	
498	TP	12/04/96	416	1.6	review	

TRANSMIT REPORT

1997, 04-26 13:47
 510 337 9335
 ALAMEDA CO EHS HAZ-OPS

COM No.	REMOTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
623	415 922 1485	04-26 13:45	00' 30	01/01	OK		

7499402045

StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
	498 TP	07/09/96	215	1.5	case review, QMR & workplan, write letter	
	498 TP	07/18/96	212	0.3	w/Phil Gittens re: fund pre-approvalVap or ext.	
	498 TP	07/25/96	204	0.4	w/Water Board, offsite sources, case review	
	498 TP	08/08/96	212	0.2	message from David Alias	
	498 TP	08/13/96	204	0.2	w/SWRCB, Compliance issues	
	498 TP	08/19/96	215	0.7	review QMR, estimate, write letter	
StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
	498 TP	08/20/96	204	0.2	message from & w/Nell Hill	
	498 TP	08/29/96	215	0.9	review case file, organize, update summary	
	498 TP	09/10/96	204	0.3	w/Water Board	
	498 TP	09/11/96	204	0.3	w/Lori & Nell Hill, RWQCB	
	498 TP	09/12/96	215	0.5	review case file, faxes, documents	
StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
	498 TP	10/03/96	212	0.1	call Phil Gittens, drilling	
	498 TP	11/13/96	212	0.1	message coming, David	

TRANSMIT REPORT

1997.04-25 14:01
 510 337 9335
 ALAMEDA CO EHS HAZ-OPS

COM No.	REMOTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
624	916 227 4530	04-25 14:00	00'30	01/01	OK		

7499402046

TRANSMIT REPORT

1997.04-25 13:47
 510 337 9335
 ALAMEDA CO EHS HAZ-OPS

COM No.	REMPTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
623	416 922 1485	04-25 13:46	00'30	01/01	OK		

7499402046

StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
498	TP	07/09/96	215	1.5	case review, QMR & workplan, write letter	
498	TP	07/18/96	212	0.3	w/Phil Gittens re: fund pre-approvalVap or ext.	
498	TP	07/25/96	204	0.4	w/Water Board, offsite sources, case review	
498	TP	08/08/96	212	0.2	message from David Alias	
498	TP	08/13/96	204	0.2	w/SWRCB, Compliance issues	
498	TP	08/19/96	215	0.7	review QMR,	
StID	InspInit	ActivDat	ACTIVITY	ActivHrs	acomment	DRProjN
498	TP	08/20/96	204	0.2	estimate, write letter message from & w/Nell Hill	

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

March 19, 1997

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Mailing Address
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

Mr. Bacharach is very ill and unable to receive mail. Please forward all future correspondence to this office.

Sincerely yours,



Mark Borsuk

Bacharach and Borsuk and Douglas

STID 498

February 27, 1997

Page 2 of 2

If you have any questions or comments, please contact this office
at (510) 567-6782.

Sincerely



Thomas Peacock, Manager
Division of Environmental Protection

c: Gordon Coleman, Acting Chief - **files** - Tom
Bob Chambers, Alameda County District Attorney's Office
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Richard Blaine, Blaine Tech Services, Inc., 1680 Rogers
Ave., San Jose, CA 95112
David Elias, Cambria, 1144 Sixty-Fifth St., Suite C,
Oakland, CA 94608

(510) 567-6777

Alameda, CA 94502-6577
1131 Harbor Bay Parkway

DEPARTMENT OF ENVIRONMENTAL HEALTH

RAFAT A. SHAHID, DIRECTOR



DAVID J. KEARS, Agency Director
AGENCY

ALAMEDA COUNTY
HEALTH CARE SERVICES

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

February 27, 1997
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a Groundwater Sampling Report dated January 24, 1997 by Blaine Tech Services, and a Subsurface Investigation Report dated January 6, 1997 by Cambria Environmental Technology Inc. for the above site. The following are comments concerning the reports:

Cambria:

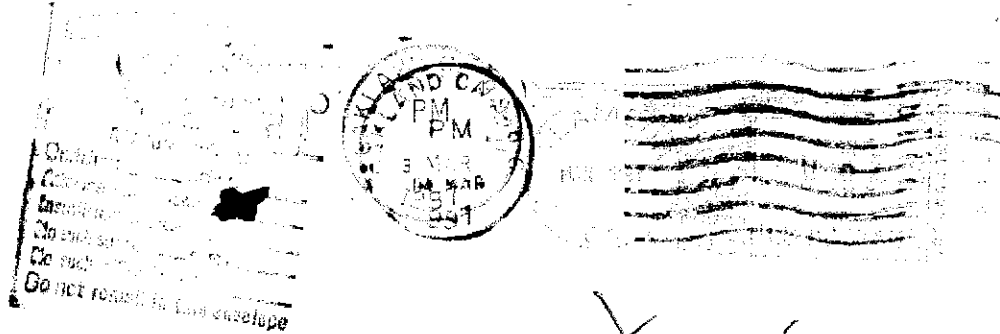
1. The levels of contamination found in SB-P and SB-Q, their location, and depth are such that they are not considered distinguishable from contamination from the source at this site.
2. This office agrees with the rest of the comments in the Conclusions and Recommendations.

Blaine:

1. The levels of contamination in MW-1 and MW-2 at this site are still very high (36,000 ppb benzene in MW-1). The benzene level in this well has actually gone up, while the TPHg level has declined by 35%. This is highly unusual and appears to be from more of a fresh product rather than degraded gasoline.
2. It is not necessary for you to purge the wells prior to sampling. This practice should be eliminated for the next round of sampling, which is due in March 1997. It is also not necessary for you to sample MW-3 or MW-6, which are ND wells. Chevron's wells C-8 and C-9 can be used, if ever needed, to see if there is any upgradient contamination contributing to this plume.



**ALAMEDA COUNTY
HEALTH CARE SERVICES AGENCY**
Department Of Environmental Health
Environmental Protection Division
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577



**ALVIN H. BACHARACH AND
BARBARA J. BORSUK TRUST
383 DIABLO RD., STE. 100
DANVILLE, CA** [REDACTED]

Tom Peacock

*Not at
this address
NSP*





Cal/EPA

State Water Resources Control Board

Division of Clean Water Programs

Mailing Address: P.O. Box 944212 Sacramento, CA 94244-2120

2014 T Street, Suite 130 Sacramento, CA 95814 (916) 227-4307 FAX (916) 227-4530



Pete Wilson Governor

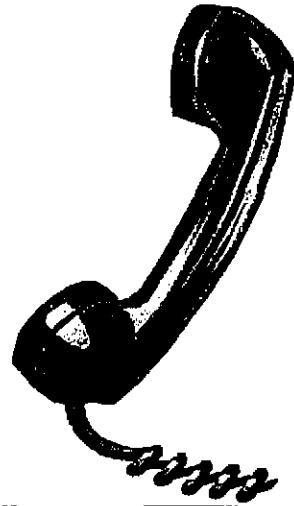
FAX TRANSMITTAL

DATE: 2/20/97
TO: Tom Peacock
FAX #: (510) (310) 337-9335
FROM: Dave Deener

UST CLEANUP FUND PROGRAM
FAX #: (916) 227-4530
PHONE #: (916) 227-_____

NUMBER OF PAGES (including this page): 3

- For your information
Per your request
For your review and comment



Copy of letter to Borsuk as discussed.



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.



Cal/EPA

**State Water
Resources
Control Board**

**Division of
Clean Water
Programs**

Mailing Address:
P.O. Box 944212
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) (916) 227-4360
FAX (916) 227-4530

World Wide Web:
<http://www.swrcb.ca.gov/~cwphome/fundhome.htm>

Blossy



Pete Wilson
Governor

FEB 20 1997

Mr. Mark Borsuk
Attorney at Law
1626 Vallejo Street
San Francisco, Ca 94123-5116

Dear Mr. Borsuk:

**UNDERGROUND STORAGE TANK CLEANUP FUND, FINAL STAFF DECISION
CLAIM NO. 2219, A. BACHARACH AND B. BORSUK (CLAIMANT), 1428 - 1434
HARRISON STREET, OAKLAND, CA (SITE)**

I have reviewed your letter dated January 29, 1997 in which you request a reversal of our Proposed Staff Decision dated December 4, 1996. After reviewing the "Settlement Agreement And Site Release" (Agreement) between the claimant, the Douglas parties, and the various insurers, I agree that the compensation received (\$400,000) by the claimant does not constitute a double payment with respect to corrective action costs.

My decision is based on the following:

- (1) All parties involved in the Agreement are aware that the claimant has filed with the Underground Storage Tank Cleanup Fund (Fund) and is receiving reimbursements from the Fund for corrective action costs associated with the characterization and remediation of the site (Sect. II. Para. 11.); and
- (2) The compensation received by the claimant is to pay for legal fees and expenses incurred by the claimant related to the contamination of the site (Sect. III. Para 1.); and
- (3) The compensation received by the claimant is not for purposes of corrective action costs associated with the characterization and remediation of the site (Sect. III. Para 1.).

Included in your appeal package was a "Settlement Agreement And Mutual Release" (Release) between the claimant and the Douglas parties dated December 17, 1995. The Release indicates that the claimant, in addition to the \$400,000 it received from the Douglas' insurers, will also receive \$100,000 from the Douglas parties. The \$100,000 is for any diminution in value of the property. The compensation is not for any expenses incurred by the claimant for environmental investigation, monitoring, or cleanup of the site, or for any other corrective actions compensable by the Fund (Sect. 4.).



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

CLIENT NAME

TOTAL P.02

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

November 19, 1996
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a IIIQ96 Groundwater Monitoring Report dated October 30, 1996 by Blaine Tech Services for the above site. The following are comments concerning the report:

1. The levels of contamination in MW-1 and MW-2 at this site are still very high (28,000 ppb benzene in MW-1) and there is no uncontaminated well in the area where the tanks had been. Three additional monitoring wells have been installed but their sampling results are not included in this report. The level of benzene in MW-2 at 20,000 ppb is even higher than the previous quarter so there does not seem to be any natural degradation going on at this site. The lateral extent of contamination has not been defined.

2. Your consultant, Cambria, has drilled 3 new wells, MW-4, MW-5, and MW-6 and has told this office that a report of the well installation and sampling is forthcoming.

3. You are also reminded that the two wells are due again for sampling in the month of December.

If you have any questions or comments, please contact this office at (510) 567-6782.

Bacharach and Borsuk and Douglas

STID 498

November 19, 1996

Page 2 of 2

Sincerely,



Thomas Peacock, Manager

Division of Environmental Protection

c: . Gordon Coleman, Acting Chief - files - Tom
Bob Chambers, Alameda County District Attorney's Office
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Richard Blaine, Blaine Tech Services, Inc., 985 Timothy
Dr., San Jose, CA 95133
Scott MacLeod, Cambria, 1144 Sixty-Fifth St., Suite C,
Oakland, CA 94608

LOP - CHANGE RECORD REQUEST FORM

printed:
11/19/96

Mark Out What Needs Changing and Hand to LOP Data Entry
(Name/Address changes go to Annual Programs Data Entry)

Insp:

AGENCY # : 10000 SOURCE OF FUNDS: F SUBSTANCE: 8006619
 StID : 498 LOC: 12/07/93
 STATE NAME: A. Bacharach TR & B. Borsuk DATE REPORTED : 01/28/93
 ADDRESS : 1432 Harrison St DATE CONFIRMED: 12/06/93
 CITY/ZIP : Oakland 94612 MULTIPLE RPs : Y

SITE STATUS

Case TYPE: 0 CONTRACT STATUS: 5 PRIOR CODE: 1B2 EMERGENCY RESP:
 RP SEARCH: S DATE COMPLETED: 01/28/93
 PRELIMINARY ASMNT: u DATE UNDERWAY: 07/30/94 DATE COMPLETED:
 REM INVESTIGATION: u DATE UNDERWAY: 09/11/96 DATE COMPLETED:
 07/REMEDIAL ACTION: DATE UNDERWAY: DATE COMPLETED:
 POST REMED ACT MON: DATE UNDERWAY: DATE COMPLETED:
 ENFORCEMENT ACTION TYPE: 2 DATE ENFORCEMENT ACTION TAKEN: 02/25/94
 LUFT FIELD MANUAL CONSID: 3HSCAW
 CASE CLOSED: DATE CASE CLOSED:
 DATE EXCAVATION STARTED : 12/06/93 REMEDIAL ACTIONS TAKEN: ED

RESPONSIBLE PARTY INFORMATION

RP#1-CONTACT NAME: A Bacharach/b Borsuk
 COMPANY NAME: Trust
 ADDRESS: 383 Diablo Rd. #100
 CITY/STATE: Danville C A 94526

RP#2-CONTACT NAME: Leland Douglas
 COMPANY NAME: Douglas Parking Co.
 ADDRESS: 1721 Webster St.
 CITY/STATE: Oakland C A 94612

INSPECTOR VERIFICATION:

NAME _____ SIGNATURE _____ DATE _____

DATA ENTRY INPUT:

Name/Address Changes Only

Case Progress Changes

ANNPGMS _____ LOP _____ DATE _____

LOP _____ DATE _____

11/19/96

Compliance Summary for 1432 Harrison St., STID 498

Aug 31, 93 Review Panel Held

Sep 22, 1993 - Order from Regional Water Quality Control Board directing the RP's to:

- 1) remove tanks, hydraulic lift, piping
- 2) workplan for investigation
- 3) tanks to be removed by Dec. 1, 1993

RWQCB order required:

- 1. removal of UST's by Dec. 1, 1993
- 2. workplan to define vericle and lateral extent of pollution in soil and groundwater. Furthermore, required to conduct both soil and groundwater investigation

October, 93 workplan stated that well drilling would occur within 1 month, report would be submitted within 3 weeks of sample receipt Oct 14, 1993 - workplan received

Oct 18, 1993 - workplan reviewed and accepted

Nov 8, 1993 - 1 copy of tank removal plan received, need 2 others. Notice of Violation sent out to RP's concerning failure to submit a plan to remove the tanks within 45 days of the Regional Board's letter. 45 days expired on Nov 6, 1993.

Nov 10, 1993 - Tank removal plan reviewed and accepted

Nov 16, 1993 - Gary Collins of Oakland F.D. reported complaints of tank removals, had no knowledge of any permits being applied for with O.F.D.

Nov 17, 1993 - John Sturman reports a delay in the removal schedule. Faxed schedule received.

Nov. 19, 93 Plan submitted to remove the UST's

Nov 23, 1993 - Waste oil tank removal scheduled for today, canceled after arrival. Removal schedule received from Levine-Fricke.

Nov 24, 1993 - waste oil tank removal accomplished. 2 - 750 gal. tanks wrapped and stored on site.

Nov 29, 1993 - 3 hydraulic lifts and one storage tank removed. No schedule for removal of the gasoline tanks. Still need to apply for an excavation permit from the City. Do not anticipate removing tanks until after Dec. 1, 1993. Removal of the gasoline tanks is yet to be accomplished.

Dec 12, 93 Tanks removed, clean up letter signed for the fund

Feb 22, 94 Tank closure report

Feb 25, 94 Notice of non-compliance for not submitting a tank closure report (written but not yet submitted) and no monitoring wells installed

Apr 14, 94 Report on workplan implementation delayed, will be submitted by July 94

June 28, 94 additional delay

June 30, 94 new timeline submitted: report to Alameda Co. by Aug 31, 94, received Sep 1, 94

July 19, 94 request to submit report to Alameda Co. by Sep 7, 94

July 30, 94 monitoring wells finally drilled, 1 week later than last extension

Aug 16, 94 request to submit monitoring schedule by 1 Oct 94, never delivered

Sep 1, 1994 Soil and Groundwater Investigation Report by Levine Fricke

Sep 6, 1994 letter to RP's concerning soil & gw report

Sep 26, 94 requested extension to Nov 1, 94 for submittal of 2nd monitoring report. Never granted and no report has been submitted. Now in the 4th quarter since the tanks were removed and there has only been 1 quarterly report submitted

Oct 3, 1994 Spoke with Dave Deaner concerning case charge filing

Oct 22, 1994 letter from Mark Borsuk re: site search cost

Christmas Card from Mark Borsuk

Dec 21, 1994 GW sampling report from Blaine Tech Services

Jan 9 1995 Fax from Levine Fricke, letter on proposed implementation of workplan

Jan 23, 1995 letter from Mark Borsuk on sampling

Jan 26, 1995 NOV sent out for not submitted four quarterly reports and monitoring according to their workplan

Feb 1, 1995 letter from Mark Borsuk on sampling

Feb 10, 1995 letter to RP's concerning sampling report

Feb 15, 1995 letter from Mark Borsuk re: MW sampling

Feb 22, 1995 letter from Mark Borsuk re: Paul Smith's letter

Mar 13, 1995 in field report looking at adjacent site, as referenced by Mark Borsuk

Apr 12, 1995 GW sampling report from Blaine Tech Svcs
Apr 14, 1995 letter from Mark Borsuk re: discontinue sampling

Apr 26, 1995 letter to RP's concerning reports and progress

May 15, 1995 letter from Cambria

May 16, 1995 Appeal of LOP charges

May 22, 1995 letter from Mark Borsuk re: site access for soil borings

June 22, 1995 response to Mark's letter questioning charges

July 11, 1995 letter from Mark Borsuk re: project update and questioning charges

August 3, 1995 Cover for Blaine Tech report dated August 4, 1994 (should be 1995) covering 2 quarters. Individual quarterly

reports were not sent.

August 10, 1995 Results of Subsurface investigation by Cambria with August 16, 1995 cover

August 14, 1995 County response to July letter

September 13, 1995 County letter concerning Subsurface investigation by Cambria

September 19, 1995 Mark Borsuk appeal of LOP charges

September 20, 1995 Mark Borsuk project update

November 15, 1995 Mark Borsuk cover to Blaine Tech November 14, 1995 GW sampling report

November 23, 1995 Mark Borsuk LOP charges detail

December 19, 1995 Mark Borsuk White Paper submission "Abolish the UST Program"

December 22, 1995 County letter concerning lop charges

January 2, 1996 Mark Borsuk Fax re: site status

January 22, 1996 Mark Borsuk appeal of LOP charges

January 28, 1996 Blaine Tech GW Sampling report with February 12, 1996 cover by Mark Borsuk

February 9, 1996 County letter Re: Mark Borsuk appeal of LOP charges

February 20, 1996 ACC Environmental Phase I request

March 1996 Environmental Law Reporter - "The Leaking Tank Scam" by Mark Borsuk (8 pages)

April 8, 1996 County review letter of last GW sampling report. Directive within 30 days to submit a proposal for further investigation with field work to begin in 60 days.

April 16, 1996 Cambria letter saying they will submit a workplan by May 8, 1996

April 17, 1996 another letter - Cambria letter saying they will submit a workplan by May 8, 1996

April 21, 1996 Mark Borsuk letter questioning District Attorney charges

April 26, 1996 Mark Borsuk letter questioning District Attorney charges

May 6, 1996 county letter to Dave Deaner concerning unrequested site search, file review, phase I work

May 7, 1996 fax from Cambria concerning workplan - in final stages

May 12, 1996 Mark Borsuk cover to Blaine Tech GW sampling report dated May 10, 1996 for sampling done 3-26-96.

May 16, 1996 Cambria Investigative Workplan

Jul 9, 1996 letter to RP Re: IQ QMR

Jul 23, 1996 pre-approval of corrective action from Clean-up Fund

Jul 25, 1996 letter from Mark Borsuk re: IIQMR, Jul 23, 1996 IIQMR

Aug 2, 1996 letter from Borsuk re: Paul Smith

Aug 19, 1996 letter to the RP's re: IIQ QMR

Aug 25, 1996 Mark Borsuk letter : appeal of LOP charges

Aug 29, 1996 letter to Lori Casias re: Borsuk's request

Sep 2, 1996 database error correction from RWQCB

Sep 5, 1996 Public records request from Mark Borsuk

Sep 11, 1996 Cambria report, soil vapor extraction test report

6

Sep 12, 1996 letter from Mark Borsuk re: Paul Smith's personnel information

Sep 17, 1996 letter to Mark Borsuk re: public records

Oct 30, 1996 IIIQ GMR cover, Oct 21, 1996 report

Nov 19, 1996 letter re: IIIQ GMR

**California Regional Water Quality Control Board
San Francisco Bay Region**

Tel: (510) 286-1255

Fax: (510) 286-1380

BBS: (510) 286-0404

FACSIMILE COVER SHEET

DATE: 9/2/96

TO: Tom Peacock

FAX NUMBER: 337-9335

PHONE NUMBER:

FROM: Neil Hill

PHONE: 510 286-0457

SUBJECT: Correction of ERROR in LUSTIS DATABASE

TOTAL PAGES INCLUDING COVER SHEET: 2

PLEASE CALL SENDER IF YOU ARE HAVING PROBLEMS RECEIVING

COMMENTS/MESSAGE:

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

AUG 19 1996

QUALITY CONTROL BOARD

August 16, 1996

Ms. Nell Hill
Toxic Cleanup Division
SFBARWQB
Suite 500
2101 Webster Street
Oakland, CA 94612
(510) 286-1255

SUBJECT: Database Error

Dear Ms. Hill:

Please correct an error in the regional board's LUST database concerning 1432-1434 Franklin Street, Oakland, CA 94612. This location erroneously refers to my clients. My clients own 1428-1432-1434 Harrison Street (ACHCSA LOP Site #498). Please notify me in writing when you correct the error.

If I may provide you with additional information, please call me.

Sincerely yours,



Mark Borsuk

FACSIMILE COVER PAGE

To: Tom Peacock
From : staff
Subject: Correction of Error in Lustis Database
Pages (including cover): 2

Time: 12:06:16
Date: 09/02/96

To: Tom Peacock

From: Nell Hill/510 286 0457

Subject: Deletion of a site because of an error in data entry.

Please refer to Mark Borsuk's letter and let me know what you think.

Thank you.

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

SAN FRANCISCO REGIONAL WATER

AUG 19 1996

QUALITY CONTROL BOARD

August 16, 1996

Ms. Nell Hill
 Toxic Cleanup Division
 SFBARWQB
 Suite 500
 2101 Webster Street
 Oakland, CA 94612
 (510) 286-1255

SUBJECT: Database Error

Dear Ms. Hill:

Please correct an error in the regional board's LUST database concerning 1432-1434 Franklin Street, Oakland, CA 94612. This location erroneously refers to my clients. My clients own 1428-1432-1434 Harrison Street (ACHCSA LOP Site #498). Please notify me in writing when you correct the error.

If I may provide you with additional information, please call me.

Sincerely yours,



Mark Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



Alameda County CC4580
Environmental Protection Services
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577

September 17, 1996
STID 498

Mark Borsuk
1626 Vallejo St.
San Francisco, CA 94123-5116

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Mark Borsuk:

This office received your letter dated September 12, 1996 titled Third Request. The Public Records Act only requires that information be given to the public which is under the control of the person the information is requested of. Information concerning the District Attorney's Office would have to be requested of the District Attorney's Office. Although I forwarded your request for personnel information to our Personnel Officer there is no requirement that I seek out who may have information that you are requesting. That is your responsibility.

Our Personnel Officer has just been reassigned and there is no replacement. All Personnel functions are now being done by Alameda County Public Health Personnel and that is who should receive any request concerning Paul Smith. They are located at 499 - 5th St. Oakland, CA 94507.

I hope this helps answer your letter. If you have any questions or comments, please contact me at (510) 567-6782.

Sincerely,

Thomas Peacock, Manager
Division of Environmental Protection

c: Lori Casias, SWRCB
Gordon Coleman, Acting Chief - files
Bob Chambers, Alameda County District Attorney's Office

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

September 12, 1996

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Mr. Paul Smith
Third Request
Public Records Request

Dear Mr. Peacock:

Thank you for informing me on August 30 by phone that the personnel section is processing my request for Paul Smith's employment history and academic background. I originally made the request to you in writing on August 2, 1996. The Government Code (Sec. 6256) requires the Alameda County Health Care Service Agency (ACHCSA) to provide this public information or state its reason for withholding it within ten (10) days. However, this office has yet to receive any information from the ACHCSA. Please provide the information on Mr. Smith to me by September 24.

I appreciate your assistance in providing this public information.

Sincerely yours,



Mark Borsuk

cc: Dorothy M. Jones, Esq., Office of Chief Counsel
Alan Patton, UST Program
Sandy Malos, Project Closeout



Cal/EPA

State Water Resources Control Board



Pete Wilson Governor

SEP - 5 1996

Mailing Address: P.O. Box 100 Sacramento, CA 95812-0100

901 P Street Sacramento, CA 95814 (916) 227-4421 FAX (916) 227-4490

Mr. Mark Borsuk Attorney at Law 1626 Vallejo Street San Francisco, CA 94123-5116

Dear Mr. Borsuk:

PUBLIC RECORDS REQUEST

This responds to your Public Information request of August 27, 1996, addressed to Mr. Allan Patton of the State Water Resources Control Board (SWRCB).

You asked for:

- 1. Mr. Paul Smith's employment history with the Alameda County Health Care Service Agency since 1990.
2. An annual summary of the LOP's funding for the Alameda County District Attorney categorized by various activities.

The SWRCB does not have any records concerning either of these requests. As you have previously been informed, if records responsive to your request exist, they would be maintained by Alameda County. Any request for these records should be addressed to the appropriate Alameda County agency.

As you are probably aware, the Public Records Act requires an agency to make certain written documents, tape recordings, or other records in the agency's possession available to members of the public upon request. The Public Records Act does not require a public agency to provide records which are not in that agency's possession. As indicated above, because the SWRCB does not have records concerning either Mr. Paul Smith's employment history with Alameda County or the amount of funding provided by Alameda County for its

Post-it Fax Note 7671 Date 9-12 # of pages 3 To Tom P. From Lori Co. Dept. Phone # Fax # 12

California's water resources, and of present and future generations.

Mr. Mark Borsuk

-2-

SEP - 5 1996

District Attorney the SWRCB does not have any public records of the kind you have requested.

3. *A copy of all Water Board and State audit reports regarding the Alameda County LOP and other UST programs in the County.*

As you have previously been informed, the Alameda County LOP is currently undergoing an audit of its Local Oversight Program (LOP). Although a draft audit has been produced, that audit is preliminary, is subject to modification and is considered to be confidential and exempt from public disclosure until it is final. Government Code Section 6254(a) exempts from public disclosure preliminary draft documents. When a final audit document has been prepared, it will be provided to you. The SWRCB has no other records regarding state audit reports, if any, of other UST programs in the County.

4. *Identify by source and date all state and federal funding given, paid or reimbursed to Alameda County for the investigation, oversight, review or tracking of petroleum underground storage tanks since 1984.*

The County has been in the LOP and thus receiving funding from the SWRCB since 1991. Enclosure A is a copy of spreadsheets maintained by us which contains our records of funding paid by the SWRCB to Alameda County for the LOP. The SWRCB has no records which would show whether other state or federal funding outside of the LOP has been provided to Alameda County for investigation, oversight, review, or tracking of petroleum underground storage tanks since 1984.

5. *The procedure for transferring a site from an LOP to a Regional Board.*

Enclosure B is a Fact Sheet and Implementation Guide which provides guidance on the procedure for seeking designation of a specific agency to oversee site remediation.

Mr. Mark Borsuk

-3-

SEP - 5 1996

If I can provide you with any additional assistance with regard to your public information request, please feel free to call me at (916) 227-4421.

Sincerely,



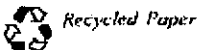
Dorothy M. Jones
Staff Counsel

Enclosures (2)

cc: Mr. Allan Patton
Ms. Sandy Malos
Division of Clean Water Programs
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

bc: Andy Sawyer, OCC
Buck Taylor, OCC
Lori Senitte, OCC

DMJones/dmatulis (9/4/96)
a:\dmj\borsuk.ltr



Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations

TOTAL P.03

August 29, 1996
STID 498

Lori Casias
Clean Water Program
State Water Resources Control Board
901 P Street
Sacramento, CA 95814

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Lori Casias:

This office received a letter from Mark Borsuk dated April 21, 1996 concerning District Attorney Charges. As you are aware, District Attorney time is part of our supply and service invoice and, as such, is not connected to any specific site. Any records which may be kept on a specific site related to, as Mr. Borsuk requested, dates, time, person, and task, would be administratively handled by our District Attorney's office. I have contacted that office and they will not respond to Mr. Borsuk's request simply by our forwarding it.

Mr. Borsuk further requested on April 26 to review these records in our office. We did not give him a confirmation because the records which he requested are not available here.

On August 2, 1996 Mr. Borsuk requested specific information concerning Mr. Paul Smith's personnel file. At this time this office has determined that the information requested is not public information. I forwarded that request to our Personnel Office to see if they also concur, especially since this office does not keep those types of records.

On August 25, 1996 Mr. Borsuk wrote your office questioning the use of the 206 activity code. 206 is used in this office when it is appropriate. There is never a consideration made as to whether the RP can then charge the Clean-up Fund for 206 charges.

On August 27, 1996 Mr. Borsuk wrote your office questioning Mr. Paul Smith and our District Attorney's office. Our answer to those two issues is above.

Lori Casias
STID 498
August 29, 1996
Page 2 of 2

I hope this helps you to answer his letter. If you have any questions or comments, please contact me at (510) 567-6782.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas Peacock".

Thomas Peacock, Manager
Division of Environmental Protection

c: Gordon Coleman, Acting Chief - files
Gil Jensen, Alameda County District Attorney's Office
Don Yee, Personnel Officer

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX
 FOUR PAGES

August 25, 1996

Ms. Lori Casias
 LOP Manager
 Clean Water Program
 State Water Resources Control Board
 901 P Street
 Sacramento, CA 95814
 (916) 227-4325 / FAX 227-4349

Post-it* Fax Note	7671	Date	8-21	# of pages	3
To	Tom P.	From	Lori		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	12	Fax #			

SUBJECT: APPEAL OF LOP CHARGES
 Alameda County Site #498
 1432 Harrison Street
 Oakland, CA 94612

Dear Ms. Casias:

I wish to appeal your decision of July 26, 1996 regarding certain LOP charges. A review of agency correspondence shows they are in error.

A. The \$62.44 charge dated October 3, 1994 for Mr. Smith's time.

The charge is inapposite. You state the justification for Mr. Smith's time in October 1994 was due to a concern raised by the UST FUND. Specifically, "Mr. Deaner initiated the call because of his concerns about the site being out of compliance (tanks not removed or permitted)." This is rather odd since the tanks were removed on December 7, 1993 and the FUND accepted the claimants on December 17, 1993. Clearly, the LOP's explanation is inconsistent with events.

B. The \$121.20 charge dated November 15 & 16, 1994.

This charge is also inappropriate since the RPs were in compliance with the LOP's groundwater monitoring schedule. A review of the correspondence from March through August demonstrates the RPs met the 1994 monitoring schedule.

415-907-1929

The correspondence, submittals and well monitoring show the LOP concurred with the proposed Levine-Fricke (L-F) work schedule. At no time did the LOP state that it is was going to issue a "Notice of Violation." Rather, the L-F correspondence discloses a continuing effort to meet the LOP's requests while developing a site characterization methodology consistent with best scientific practices.

Therefore, the RPs did comply with the LOP's monitoring request by sampling in the third and fourth calendar quarters of 1994 and the enforcement action's related charges are in error. Monitoring history attached.


Date	From	To	Discussed
March 15, 1994	LOP	RPs	Request update on additional well installation and monitoring schedule. Overdue to begin groundwater monitoring. Note: site misidentified as 1432-1434 Franklin St. Correct address is 1432-1434 Harrison St.
March 27	LF	LOP	Schedule for submitting work plan for LOP approval to install MW-2 & MW-3.
March 29			Meeting with LOP and RPs' consultant and counsel on scope of work and schedule.
April 8	LF	LOP	Proposed work plan submitted to LOP.
April 14	LOP	RPs	L-F work plan approved. Installation and monitoring to be completed by July 1994.
June 28	LOP	RPs	Request for status update on well installation and

			sampling.
August 16	LF	LOP	Report on well installation (July 29 & 30) and sampling (August 1).
September 1		LOP	IIIQ94 monitoring data submitted to LOP.
December 21			IVQ94 well monitoring.
January 23, 1995		LOP	IVQ94 monitoring data submitted to LOP.

There is one additional issue requiring your concurrence: the LOP does not charge RPs for appeal time.

Thank you for deleting the punitive charge of January 24, 1995. I appreciate your efforts to resolve the remaining issues.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Barbara Jean Borsuk

Table I. Ground Water Elevation and Analytic Data - 1432 Harrison St., Oakland, CA.

Well ID	Date	Top of Casing	Depth to	Ground Water	TPHg	Benzene	Toluene	Ethylbenzene	Xylenes	MTBE	Notes
		Elevation (ft)	Ground Water (ft)	Elevation (ft)							
							(Concentrations in ppb)				
MW-1	08/01/94	--	--	--	170,000	35,000	51,000	2,400	13,000	--	
	12/21/94	34.95	19.53	15.42	180	41,000	64,000	3,100	100,000	--	
	03/13/95	34.95	18.66	16.29	150	31,000	45,000	2,500	17,000	--	
	07/07/95	34.95	18.35	16.60	71,000	17,000	18,000	1,600	7,700	--	
	09/28/95	34.95	18.70	16.25	110,000	27,000	34,000	1,700	14,000	--	
	12/20/95	34.95	19.96	14.99	120,000	33,000	43,000	2,300	15,000	--	
	03/26/96	34.95	19.27	15.68	140,000	29,000	36,000	1,900	13,000	<200	a
	06/20/96	34.95	18.64	16.31	110,000	30,000	38,000	2,200	13,000	<200	
MW-2	08/01/94	--	--	--	130,000	28,000	35,000	3,000	12,000	--	
	12/21/94	35.18	19.91	15.27	200	140,000	200,000	3,500	22,000	--	
	03/13/95	35.18	19.15	16.03	500	9200	23,000	7,000	36,000	--	
	07/07/95	35.18	18.80	16.38	120,000	23,000	30,000	2,700	13,000	--	
	09/28/95	35.18	19.30	15.88	110,000	23,000	29,000	2,500	11,000	--	
	12/20/95	35.18	20.24	14.94	83,000	980	1,800	2,200	10,000	--	
	03/26/96	35.18	19.69	15.49	150,000	23,000	32,000	2,800	12,000	<200	a
	06/20/96	35.18	19.20	15.98	21,000	15,000	28,000	2,400	12,000	<200	
MW-3	08/01/94	--	--	--	<50	<0.5	<0.5	<0.5	<2.0	--	
	12/21/94	33.97	18.82	15.15	<50	<0.5	<0.5	<0.5	<0.5	--	b
	03/13/95	33.97	17.86	16.11	<50	<0.5	<0.5	<0.5	<0.5	--	c,d
	07/07/95	33.97	18.25	15.72	--	--	--	--	--	--	e
	09/28/95	33.97	18.00	15.97	--	--	--	--	--	--	
	12/20/95	33.97	18.74	15.23	--	--	--	--	--	--	
	03/26/96	33.97	18.25	15.72	--	--	--	--	--	--	
	06/20/96	33.97	18.35	15.62	--	--	--	--	--	--	

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485

Internet: mborsuk@ix.netcom.com

*LORE - I'll DO
 THIS RESOLVE
 U ALLAN IF YOU
 LIKE, BUT I'll
 NEED THE V ENFO
 FROM YOU. MT*

VIA FAX & MAIL
FOUR PAGES

August 27, 1996

Mr. Allan Patton
 Manager-UST Program
 State Water Resource Control Board
 2014 T Street
 Sacramento, CA 95814
 (916) 227-4351
 FAX 227-4349

SUBJECT: Public Records Request
 Alameda County LOP

Dear Mr. Patton:

The Alameda County LOP has not provided me with information requested on April 21 and August 2 concerning matters related to their program. See attachments. This is my second request under Government Code 6250 for public information. Please provide the information within ten (10) days.

1. Mr. Paul Smith's employment history with the Alameda County Health Care Service Agency since 1990 including his job functions, academic background, and prior vocational experience.

✓ 2. An annual summary of the LOP's funding for the Alameda County District Attorney categorized by:

1. Budget allocation.
2. Number of cases handled.
3. Total hours of attorney time (full & part time) spent.
4. Number of full time attorneys assigned to work for the LOP.
5. Number of part-time attorneys assigned to work for the LOP.
6. Hourly rates charged.
7. Number of third party consultants retained by the DA.
8. The hourly rate or per assignment charge for each consultant.

In addition to the earlier requests, please provide the following:

- ✓ 3. A copy of all Water Board and State audit reports regarding the Alameda County LOP and other UST programs in the County.
- ✓ 4. Identify by source and date all state and federal funding given, paid or reimbursed to Alameda County for the investigation, oversight, review or tracking of petroleum underground storage tanks since 1984.
ILL GET FROM HOLTRY.
5. The procedure for transferring a site from an LOP to a Regional Board.

I note disclosure of these records are in the public interest. I appreciate your assistance in fulfilling my request.

Sincerely yours,


Mark Borsuk

cc: Mr. John Caffrey, Chairman, Water Board
Mr. Walter Pettit, Executive Director, Water Board
Mr. Harry Schueller, Division Chief, CWP
Mr. James Giannopoulos, Principal Engineer, Regulatory Prog. Br.

MARK BORSUK
Attorney at Law
1626 Yalaja Street
San Francisco, CA 94123-5118
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

April 21, 1996

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Alameda County District Attorney Charges
1432 Harrison Street, Oakland, CA 94612
SITE ID 49R

Dear Mr. Peacock:

Ms. Lori Casias directed my question to your office regarding the charges made by the Alameda County DA to the LOP for work on the above referenced site. Under the terms of the Alameda County LOP contract with the State Water Board, the District Attorney receives payment for time spent on LOP matters. Please provide me with the following information related to DA charges on the Harrison Street site:

- a. Date of the charge.
- b. Time spent on the matter.
- c. Person charging for their time and hourly billing rate.
- d. Task performed.

Also, would you forward the same information on the site prior to the RP's inclusion in the LOP program.

Pursuant to Government Code Sec. 6250 et seq. (California Public Records Act), please provide the information within ten (10) days.

Sincerely yours,



Mark Borsuk

cc: Allan Patton, UST Prog. Support, Water Board
Lori Casias, LOP-Adm., Water Board

MARK BORSUK
Attorney at Law
1026 Yallajo Street
San Francisco, CA 94123-5118
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

August 2, 1996

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Mr. Paul Smith
Public Records Request
Appeal of LOP Charges
Alameda County Site #498
Oakland, CA 94612

Dear Mr. Peacock:

Would you please send me a summary of Mr. Paul Smith's responsibilities, i.e., program and function, with the ACHCSA since 1990 by August 12. Also, include his academic and vocational experience prior to joining the ACHCSA. If you have a question, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alan Patton, UST Program
Lori Casias, LOP

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



Alameda County CC4580
Environmental Protection Division
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577

August 19, 1996
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a IIQ96 Groundwater Monitoring Report dated July 23, 1996 by Blaine Tech and a Pre-Approval of Corrective Action Cost Estimate from the Clean-Up Fund dated July 23, 1996 for the above site. The following are comments concerning the report and estimate:

1. The levels of contamination in MW-1 and MW-2 at this site are still very high (**30,000 ppb benzene**) and there is no uncontaminated well in the area where the tanks had been. This level of benzene is even higher than the previous quarter so there does not seem to be any natural degradation going on at this site. The lateral extent of **contamination has not been defined.**
2. Your consultant, Cambria, seems to have been approved by the State Water Resources Control Board Clean-up Fund to do an 8-hour SVE Pilot test and, if successful, this should be a big step towards cleaning up this site.
3. You are reminded that you are to begin field work on this proposal within 30 days.
4. You are also reminded that the two wells are due again for sampling in the month of September.

If you have any questions or comments, please contact this office at (510) 567-6782.

Bacharach and Borsuk and Douglas

STID 498

August 19, 1996

Page 2 of 2

Sincerely,



Thomas Peacock, Manager

Division of Environmental Protection

c: Gordon Coleman, Acting Chief - files

Gil Jensen, Alameda County District Attorney's Office

Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

Dave Deaner, SWRCB Clean-Up Fund

Blaine Tech Services, Inc., 985 Timothy Dr., San Jose, CA
95133

Scott MacLeod, Cambria, 1144 Sixty-Fifth St., Suite C,
Oakland, CA 94608

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

August 2, 1996

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Mr. Paul Smith
Public Records Request
Appeal of LOP Charges
Alameda County Site #498
Oakland, CA 94612

Dear Mr. Peacock:

Would you please send me a summary of Mr. Paul Smith's responsibilities, i.e., program and function, with the ACHCSA since 1990 by August 12. Also, include his academic and vocational experience prior to joining the ACHCSA. If you have a question, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alan Patton, UST Program
Lori Casias, LOP



Cal/EPA

July 23, 1996

**State Water
Resources
Control Board**

**Division of
Clean Water
Programs**

Mailing Address:
P.O. Box 941218
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-4519
FAX (916) 227-4530

World Wide Web:
<http://www.swrcb.ca.gov/~cwp/home/fundhome.htm>

Mr. Mark Borsuk
1626 Vallejo Street
San Francisco, CA 94123-5116

Post-It® Fax Note	7671	Date	8/13 7/23	# of pages	3
To	Tom Peacock	From	C. Stevens / C. Costello		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	(510) 337-9335	Fax #			

Doc. Wilson
OF

Dear Mr. Borsuk:

**PRE-APPROVAL OF CORRECTIVE ACTION COST ESTIMATE, Claim No. 2219,
1432 Harrison Street, Oakland, CA**

I have reviewed your request, received on July 18, 1996, for pre-approval of corrective action costs. I will place these documents in your file for future reference. I have included a copy of the "Cost Pre-Approval Request" form; please use this form in the future for requesting pre-approval of corrective action costs.

With the following provisions, the actual costs of conducting the work proposed in the Cambria Environmental Technology, Inc. (Cambria), July 16, 1996 estimate, and approved by the Alameda County Health Care Services Agency (County) in their July 9, 1996 letter, will be eligible for reimbursement. The total cost pre-approved as eligible for completing the May 16, 1996, Cambria workplan is **\$23,816**; see the table below for a breakdown of the costs. (The total amount eligible for reimbursement through Request No. 2 for work at your site that has been directed and approved by the County has been **\$190,743**.)

Be aware that this pre-approval does not constitute a decision on reimbursement: all reasonable and necessary corrective action costs for work directed and approved by the County will be eligible for reimbursement per the terms of your Letter of Commitment at costs consistent with those pre-approved in this letter.

TASK	AMOUNT PRE-APPROVED	COMMENTS
Mobilization	\$500	
Permitting	\$2,231	
8-hour SVE Pilot Test	\$2,600	
Drill 6-35' Soil Borings	\$7,245	
Install 3-2" X 35' Monitoring Wells	\$5,433	



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Mark Borsuk

-2-

Well Head Survey	\$450	
Develop 3 Monitoring Wells	\$465	
Sample 3 Monitoring Wells	\$650	
Soil Analyses: 12 TPHg/BTEX	\$828	
Ground Water Analyses: 6 TPHg/BTEX	\$414	
Traffic Control: 2 days, 2 lanes	\$1,000	
Prepare Report	\$2,000	
TOTAL PRE-APPROVED	\$23,816	

- The actual costs and scope of work performed must be consistent with those in the original cost estimate and the provisions of this letter.
- The work products must be acceptable to the County and the Regional Water Quality Control Board
- It is my opinion that it is unnecessary to obtain three bids for this contract; the Fund's three bid requirement is waived for this contract.
- If a different scope of work, or a new contract, becomes necessary, then you must request pre-approval of costs on the new scope of work.
- **All future contracts or change orders for corrective action must be approved in writing by Fund staff.**

I also want to remind you that the Fund's regulations require that you obtain at least three bids, or a bid waiver from Fund staff, from qualified firms for all necessary corrective action work. The legislation governing the Fund requires that the Fund assist you in procuring contractor and consultant services for corrective action. If you need any assistance in contracting for corrective action services, don't hesitate to call on me.

Please remember that it is still necessary to submit the actual cost of the work as explained in the Reimbursement Request Instructions to confirm that the costs are consistent with this estimate before you will be reimbursed. *To make this easier, insure that your consultant prepares his invoices to match the format of the original estimate, and provides reasonable explanations for any changes made in the scope of work or increases in the costs. When the invoices are submitted you must include copies of all:*



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Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

Mr. Mark Borsuk

-3-

- *subcontractor invoices,*
- *technical reports, when available, and*
- *applicable correspondence from the County.*

Lastly, the State Water Resources Control Board's (SWRCB) Executive Director has recommended that the Lawrence Livermore National Laboratory (LLNL) report Recommendations to Improve the Cleanup Process for California's Leaking Underground Fuel Tanks be implemented aggressively; included is a copy of his December 8, 1995 letter. You and your consultant should be aware of this guidance as you determine what work is necessary at your site in the future. I have included also a copy of Mr. Giamopoulos' letter advising you that you have the right to appeal to the SWRCB any action or inaction on the part of an LOP agency.

Please call if you have any questions; I can be reached at the above number.

Sincerely,

ORIGINAL SIGNED BY

Christopher Stevens, WRC Engineer
Underground Storage Tank Cleanup Fund Program

Attachments (3)

cc: Mr. Tom Peacock w/o attachments
by fax (510) 337-9335

C:\DATA\WP\DOCS\CSTEVENS\2219PA2.WPD



Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



Alameda County CC4580
Environmental Protection Service
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577

July 9, 1996
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612.

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a IQ96 Groundwater Sampling Report dated May 10, 1996 by Blaine Tech and an Investigation Workplan preliminary dated May 7, 1996 and final dated May 16, 1996 by Cambria Environmental Technology, Inc. For the above site. The following are comments concerning these reports:

1. The levels of contamination in MW-1 and MW-2 at this site are very high (29,000 ppb benzene) and there is no uncontaminated well in the area where the tanks had been. The lateral extent of contamination has not been defined. There appears to be a reporting error for TPH gasoline in MW-1 and MW-2 as the levels (140 and 150) are three orders of magnitude below previous measurements as well as below the current measurement for benzene.
2. This office accepts the workplan and comments. It is good to see that the consultant also eliminated the Chevron site from being an additional source. The gradient to the north may be incorrect from their data because there has been significant pumping at that site which has caused a cone of depression around the site. The office also accepts the remedial feasibility study and further investigation proposal.
3. You are reminded that you are to begin field work on this proposal within 30 days.
4. You are also reminded that the two wells were due for sampling again in the month of June.

ALAMEDA COUNTY

HEALTH CARE SERVICES



Alvin H. Bacharach and Leland Douglas
Barbara J. Borsuk Trust

RAFAT A. SHAHID, Assistant Agency Director

1432 - 1434 Harrison St., Oakland, CA 94612

Page 2 of 2

DEPARTMENT OF ENVIRONMENTAL HEALTH

Hazardous Materials Division

80 Swan Way, Rm. 200

If you have any questions or comments, please contact this office
at (510) 567-6782.

(510) 271-4320

Sincerely,

Thomas Peacock, Manager
Division of Environmental Protection

- c: Gordon Coleman, Acting Chief - files
Gil Jensen, Alameda County District Attorney's Office
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Blaine Tech Services, Inc., 985 Timothy Dr., San Jose, CA
95133
Scott MacLeod, Cambria, 1144 Sixty-Fifth St., Suite C,
Oakland, CA 94608

COM No.	REMOTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
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Compliance Summary for 1432 Harrison St., STID 498

Aug 31, 93 Review Panel Held

Sep 22, 1993 - Order from Regional Water Quality Control Board directing the RP's to:

- 1) remove tanks, hydraulic lift, piping
- 2) workplan for investigation
- 3) tanks to be removed by Dec. 1, 1993

RWQCB order required:

1. removal of UST's by Dec. 1, 1993
2. workplan to define vericle and lateral extent of pollution in soil and groundwater. Furthermore, required to conduct both soil and groundwater investigation

October, 93 workplan stated that well drilling would occur within 1 month, report would be submitted within 3 weeks of sample receipt
Oct 14, 1993 - workplan received

Oct 18, 1993 - workplan reviewed and accepted

Nov 8, 1993 - 1 copy of tank removal plan received, need 2 others. Notice of Violation sent out to RP's concerning failure to submit a plan to remove the tanks within 45 days of the Regional Board's letter. 45 days expired on Nov 6, 1993.

Nov 10, 1993 - Tank removal plan reviewed and accepted

Nov 16, 1993 - Gary Collins of Oakland F.D. reported complaints of tank removals, had no knowledge of any permits being applied for with O.F.D.

Nov 17, 1993 - John Sturman reports a delay in the removal

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



Alameda County CC4580
Environmental Health Services
1131 Harbor Bay Pkwy., #250
Alameda CA 94502-6577
(510)567-6700 FAX(510)337-9335

May 6, 1996

Dave Deaner, Manager
Cleanup Fund
Division of Clean Water Programs
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94224-2120

Dear Dave Deaner:

Recently we have had **two different consultants** (ACC Environmental Consultants and Cambria Environmental Tech, Inc., as attached) come in our office to review files for other sites. Both of these consultants were working for STID 498, 1432 Harrison St., Oakland, CA 94612. The RP's listed are A. Bacharach and B. Borsuk and Leland Douglas, but Mark Borsuk is the RP contact for both of these consultants. He apparently is working for his mother, B. Borsuk.

Both of these consultants spent over half a day in our office reviewing adjacent files, the purpose was to gather information for Mark Borsuk on **fair and equal treatment**, whether our office follows **proper procedures**, and the possibility of an up gradient source of his mother's site's contamination. Since he has not defined the lateral extent of contamination this activity is somewhat premature. This office has **already looked for up gradient sources** at his request, in our own files.

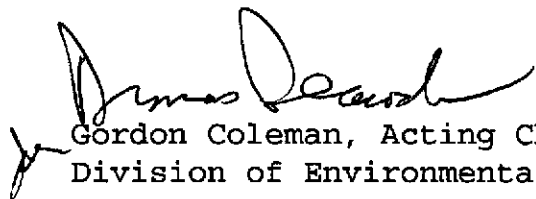
You were very concerned about his use of the fund. We are concerned that he may try to charge the fund for this activity, and associated consultant fees, although the activity was **not directed** by us. We are trying to keep costs down, not to inflate them.

This office also has indication that there was an insurance settlement between Borsuk and Douglas whereby Douglas's insurer agreed to pay about \$200,000 to Borsuk for the contamination caused. We are trying to find evidence of this.

This information is also important as Mark Borsuk has recently written a scathing White Paper to the SB 1764 Committee, dated December 19, 1995. The subject of his 11 page submittal was to "Abolish the UST Program." His paper seems very contrary to actions he is doing and not doing on his own site. His paper was also published in the California Environmental Law reported, March 1996, titled, "The Leaking Tank Scam."

If you have any questions concerning this matter please contact Tom Peacock at (510) 567-6782.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gordon Coleman".

Gordon Coleman, Acting Chief
Division of Environmental Protection

c: Thomas Peacock, Manager - ~~file~~
Mee Ling Tung, Director

SITE SEARCH/FILE REVIEW

TO: Tom PEACOCK

DATE OF FILE SEARCH: 4/30/96

9:00
P.A.M

SITE

STID NO.

1432 HARRISON ST.

498

YOUR COOPERATION IS REALLY APPRECIATED, THANK YOU

RICK LINDSEY
FILE REVIEW CLERK

To be
rescheduled,

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

April 26, 1996

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Alameda County District Attorney Charges
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

Please confirm that the records of the DA's charges to the LOP and earlier billings for work on the above referenced site are available for my inspection on April 30 at 9:00 a.m.

Thank you for arranging the appointment.

Sincerely yours,



Mark Borsuk

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ONE PAGE

April 21, 1996

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Alameda County District Attorney Charges
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

Ms. Lori Casias directed my question to your office regarding the charges made by the Alameda County DA to the LOP for work on the above referenced site. Under the terms of the Alameda County LOP contract with the State Water Board, the District Attorney receives payment for time spent on LOP matters. Please provide me with the following information related to DA charges on the Harrison Street site:

- a. Date of the charge.
- b. Time spent on the matter.
- c. Person charging for their time and hourly billing rate.
- d. Task performed.

Also, would you forward the same information on the site prior to the RP's inclusion in the LOP program.

Pursuant to Government Code Sec. 6250 et seq. (California Public Records Act), please provide the information within ten (10) days.

Sincerely yours,



Mark Borsuk

cc: Allan Patton, UST Prog. Support, Water Board
Lori Casias, LOP-Adm., Water Board

CAMBRIA Environmental Technology, Inc.

1144 65th Street, Suite C • Oakland, CA 94608 • (510) 420-0700 • Fax (510) 420-9170

FAX TRANSMITTAL

TO: Tom Peacock

FROM: Philip T. Gittens

COMPANY: ACDEH

DATE: April 17, 1996

FAX NUMBER:

PROJECT NUMBER: 54-188

SUBJECT: 1432-1434 Harrison Street

PAGES TO FOLLOW: 1

HARD COPY TO FOLLOW:

COMMENTS:

Dear Mr. Peacock, enclosed is an updated version of a letter sent out on April 16, 1996 by Cambria Environmental. Please discard the previous version.

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

April 17, 1996

Thomas Peacock
Alameda County Department
of Environmental Health
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

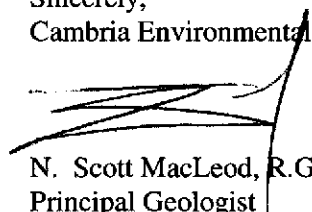
Re: **Investigation Work Plan**
1432-1434 Harrison Street
Oakland, California

Dear Mr. Peacock:

In response to your April 8, 1996 letter, Mr. Mark Borsuk has retained Cambria Environmental Technology (Cambria) to prepare an investigation work plan for the site referenced above. On January 2, 1996, Cambria sent a fax transmittal to your office that described our ongoing activities related to this site, including conducting a file review and researching possible off site hydrocarbon sources. Cambria will submit the work plan on or before May 8, 1996 as required by your letter. We have received analytic and ground water elevation data from the March 1996 sampling of monitoring wells MW-1 and MW-2 and will include the data in our final subsurface investigation report.

Please call us at (510) 420-0700 if you have any questions or if we can be of service.

Sincerely,
Cambria Environmental Technology, Inc.



N. Scott MacLeod, R.G.
Principal Geologist

cc: Gil Jensen, Alameda County District Attorney's Office, 7677 Oakport Street, Suite 400, Oakland, CA, 94621-1934
Bernie Rose, Randick & O'dea, 1800 Harrison Street, Suite 2350, Oakland, CA 94612
Mark Borsuk, 1626 Vallejo Street, San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund, 2014 "T" Street, Sacramento, CA 94244-2120
Gordon Coleman, Alameda County Health Care Services Agency, 1131 Harbor Bay Parkway, Alameda, CA 94502-6577

D:\PROJECTS\SB-2004\OAKL-188\LETTER.WPD



CAMBRIA
Environmental Technology, Inc.

April 16, 1996

ENVIRONMENTAL
PROTECTION
96 APR 17 PM 12:38

Thomas Peacock
Alameda County Department
of Environmental Health
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

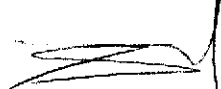
Re: **Investigation Work Plan**
1432-1434 Harrison Street
Oakland, California

Dear Mr. Peacock:

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Please call us at (510) 420-0700 if you have any questions or if we can be of service.

Sincerely,
Cambria Environmental Technology, Inc.



N. Scott MacLeod, R.G.
Principal Geologist

cc: Mark Borsuk, 1626 Vallejo Street, San Francisco, CA 94123-5116

D:\PROJECTS\SB-2004\OAKL-188\LETTER.WPD

CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1999 HARRISON STREET

OAKLAND, CALIFORNIA 94612-3573

(510) 763-2000 • (415) 986-3400

FAX (510) 273-8832

700 SOUTH FLOWER STREET, SUITE 2200
LOS ANGELES, CALIFORNIA 90017
(213) 896-8000
FAX (213) 896-8080

333 BUSH STREET, SUITE 2580
SAN FRANCISCO, CALIFORNIA 94104-2899
(415) 543-8700
FAX (415) 391-8269

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

Randall D. Morrison
Direct Dial: (510) 466-6857

April 15, 1996

Mr. Thomas Peacock
Manager
Alameda County
Health Care Services Agency
Division of Environmental Protection
1131 Harbor Bay Parkway, Room 250
Alameda, CA 94502-6577

Re: 1432-1434 Harrison Street, Oakland

Dear Mr. Peacock:

Please remove our firm from your mailing list in this matter. We have not represented the interests of Mr. Bacharach and Ms. Borsuk since the conclusion of the lawsuit between them and Douglas Parking Company. Thank you for your attention to this matter.

Very truly yours,



Randall D. Morrison

RDM:mha

cc:

Alvin H. Bacharach
Barbara Jean Borsuk
Mark Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

April 8, 1996
STID 498

Alameda County CC4580
Environmental Protection Services
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a Groundwater Sampling Report dated January 28, 1996 by Blaine Tech for the above site. The following are comments concerning this report and for the site:

1. The levels of contamination in MW-1 and MW-2 at this site are very high (**120,000 ppb TPHg and 33,000 ppb benzene**) and there is no uncontaminated well in the area where the tanks had been. The lateral extent of **contamination has not been defined**. Although it has been alleged that there is another plume contributing to this contamination, there is no information regarding soil or groundwater data to lead to that conclusion.
2. In the letter from this office dated September 13, 1995, this office agreed with the recommendations on page 4 and 5 made by your consultant, Cambria Environmental Technology, Inc. This recommendation included further investigation to define the extent of contamination. To date, **no proposal has been made to do this investigation** and over 6 months has elapsed.
3. **You are directed to submit**, to this office, a work plan to define the lateral extent of contamination in soil and groundwater **within 30 days**.
4. **You are directed to plan** a time schedule to begin field work on this investigation **within 60 days**.
5. You are reminded that the two wells were due for sampling again in the month of March.

Alvin H. Bacharach and Leland Douglas
Barbara J. Borsuk Trust
1432 - 1434 Harrison St., Oakland, CA 94612
Page 2 of 2

If you have any questions or comments, please contact this office
at (510) 567-6782.

Sincerely,



Thomas Peacock, Manager
Division of Environmental Protection

c: Gordon Coleman, Acting Chief - ~~XXXXXX~~
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Blaine Tech Services, Inc., 985 Timothy Dr., San Jose, CA
95133

March 1996
Volume 1996 • Issue No. 3

**HIGHLIGHTS:
ADMINISTRATIVE LAW and
ENVIRONMENTAL LITIGATION**

- The anti-SLAPP suit statute applies to an action attacking the judgment in a previous action; the court may consider the litigation history of the parties in determining whether to strike an action that constitutes oppressive litigation (p. 68)

**THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

- A recovery plan adopted after the Northridge earthquake that provided for redevelopment and economic rehabilitation did not come within the emergency exemptions set forth in CEQA (p. 68)
- A challenge to a mitigated negative declaration and use permit issued for a sand and gravel quarry failed because it was not supported by substantial evidence to support a fair argument that the project may have a significant environmental impact requiring preparation of an EIR; the Initial Study was not required to fully evaluate all potential cumulative impacts of the proposed project (p. 72)

AIR QUALITY CONTROL

- Emission Factors qualify for trade secret protection under the Air Toxics "Hot Spots" Information and Assessment Act, but trade secret information inadvertently disclosed by the facility operator in its air emission reports becomes a public record subject to disclosure (p. 74)

 **Matthew Bender**

The Leaking Tank Scam

by Mark Borsuk*

The UST Program is a curse on the People of California. Abolish it immediately. Only the UST Cleanup Fund and other ministerial functions should continue. Ample evidence exists to prove the Program is incapable of reforming itself. The SB 1764 Committee needs to tell the People of California why the UST Program has not protected the environment while imposing a horrific cost on California citizens. The loss in real property value alone is likely to be \$1.5 billion.

The UST Program is almost a total failure. It has succeeded in creating a vast cadre of regulators with unlimited enforcement powers who are not bound by any objective standard to justify their actions using risk assessment criteria. Government officials and district attorneys have free reign to classify responsible parties ("RPs") as criminals and to impose harsh financial penalties. The UST Program's actions have come to resemble the pathology of a police state.

The UST Program represents government run amok. Its actions are indefensible. The UST Program's punitive, abusive and mendacious char-

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Author's Note: Senate Bill 1764 [Health & Safety Code § 25299.38] requires the State Water Resource Control Board to establish a committee of distinguished scientists to conduct a comprehensive review of the Underground Storage Tank Program. The SB 1764 Advisory Committee (Dr. John Farr, Chair) will shortly issue its report. Over the course of 1995, the committee received voluminous comments ("White Papers"). Many were critical of the UST Program. The following article is an edited version of one White Paper.

The White Paper, submitted to the SB 1764 Advisory Committee on December 19, 1995, chronicles the UST Program's failure to protect the State's groundwater and the environmental injustice suffered by many property owners. The State's abusive and financial ruinous program illustrates how a disastrous government program continues without effective oversight. The UST Program's agenda is self-perpetuation, not environmental protection. It ignores the use of objective science in establishing policy and lacks an ounce of common sense. Regulators and DAs promote aggressive adversarial enforcement against parties having little or no responsibility for fuel releases. The UST Program refuses to recognize that its failed policy has caused a financial calamity for property owners and the People of California.

The UST Program is government folly per se. It is a warning to the Environmental Bar not to tolerate programs and regulatory actions lacking a basis in objective science. The following outlines the magnitude of the UST Program's continuing fiasco.



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acter were well known before the Committee began its investigation. The papers submitted to the Committee scream out for reform, restitution to property owners, reparations to many injured parties and amnesty for RPs. The papers reflect an arrogance of power made possible by reliance on bad science and a lack of independent oversight. The SB 1764 Committee has the opportunity to end the RP's nightmare.

In making its recommendations, the Committee can right a grave wrong and expose the tragic consequences of a government policy intentionally pursued without a basis in fact and oblivious to outcome. In addition to calling for the implementation of risk based corrective action criteria for petroleum site remediation, the Committee should recommend:

- (1) The immediate termination of the UST Program, except for the UST Cleanup Fund and other ministerial functions. The Program is incapable of reform and inherently punitive and biased;
- (2) Restitution and reparations for unnecessary cleanup costs and the loss of property value caused by the UST Program policy of stigmatizing all fuel leak sites irrespective of risk;
- (3) Granting amnesty to all RPs and passive property owners who did not intentionally release fuel into the environment; and
- (4) The issuance of an absolute site closure letter to permit the rehabilitation and financing of petroleum impacted sites.

In making its recommendations, the Committee needs to explain why the public is so outraged by the UST Program. The recommendations require a context. Providing the context will do justice to Senator Thompson's efforts to provide an objective assessment of the UST Program. It will "freeze" the facts to thwart the apologists.

In understanding the misguided nature of the UST Program it is necessary to consider a number of factors in its development and operation. The punitive nature of the Program is a persistent theme. The Program targeted small RPs and passive landowners with a vengeance. They became criminalized and despised. Financial incentives made it profitable for government employees to keep sites open and not close them. One way the UST Program kept the money train moving was to avoid prioritizing sites by objective risk criteria. This kept the staff count growing. The



UST Program's decision not to initiate a risk based corrective action site prioritization method was intentional. Adopting good science would have meant closing thousands of sites, reducing staff and derailing the money train. As a result, property values declined and RPs, especially landowners paid, tremendous sums for unnecessary site characterization and remediation work. These topics are explored below.

I. The Punitive Nature of the UST Program

The UST Program is a punitive program based on strict liability for the RP and is particularly harsh for property owners who did not operate the USTs or participate in the businesses that operated the tanks. However, petroleum contamination is a societal problem and not just an individual wrong. Formerly, the government required the tanks to be buried without considering the corrosive effects of electrolysis. Thus, the same government that mandated placing tanks in the ground without any protection later sought to blame the RP, especially the passive property owner, for the resulting leakage.

Strict liability, the imposition of liability irrespective of fault or intent, allows regulators and district attorneys to treat RPs with impunity. Government officials recite a mantra in dealing with RPs and passive property owners: "[T]hey let their tanks leak, leaking tanks pollute the environment and polluters are criminals." The regulators did not need to justify their actions based on any objective risk criteria. The mantra provided them with an ideological zeal to deal with RPs in the harshest terms. This led to myopic moral bookkeeping where the spirit of punishment prevailed irrespective of culpability. The State Water Board, overseeing the UST Program, did not seem to realize the outrageous actions taken by local officials, DAs and the regional boards in its name.

The UST Program's preoccupation with passive property owners is especially noteworthy. Here a particularly virulent form of contempt for citizens and eco-zealousness took hold. The Program followed an abusive policy of near tyranny in enforcing its rules against people who have not operated and in many instances did not install the tanks. Huge financial demands were made without any risk analysis. Local officials and DAs were free to intimidate property owners and demand unnecessary work without any concern for relating cost to risk.

The punitive nature of the UST Program is reminiscent of the anti-Kulak campaign conducted in the early years of the Soviet Union against land owning peasants. These

productive farmers were ruthlessly liquidated for opposing state collectivization. Stalin was able to take these ghastly measures against his own countrymen by convincing the population that Kulaks were a class enemy and worthy of destruction. Similarly, the UST Program sought to demonize small, passive property owners, as polluters to the point where almost any financial tribute could be exacted.

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The UST Program promoted economic class discrimination. Just like the Kulaks, passive property owners were singled out for harsh and discriminatory treatment based solely on their status as landowners. There was no environmental justice for them.

The criminalization of the RPs by the regulators and DAs negated the need to use defensible science for decision making. Regulators and DAs dismissed RP complaints and marginalized their concerns. When the Federal EPA complained, the Program took half-measures to appease the EPA. When the bright and imaginative staff at the San Francisco Bay Regional Water Board moved to downgrade the risk from fuel leaks, they were stalled. Thus, for nearly a decade the UST Program has operated without tying risk to the need to remediate. The failure of the Program to prioritize sites by risk to human health and the environment was an intentional choice made for self-serving purposes. This is reason enough to abolish the UST Program.

II. A Brief History of Government Incompetence

The UST Program intentionally disregards the knowledge that petroleum releases are of a very limited threat to human health and the environment. A brief review of the record overwhelmingly demonstrates this truth.

A. The Benzene Follies

In the name of protecting human health and the environment, the UST Program sought to contain petroleum leaks as a result of the widespread and justified concern over benzene, a human carcinogen, spreading into aquifers used for drinking water. However, the UST Program did not differentiate among the thousands of fuel leak sites that do not pose a threat. Rather, all sites were treated the same despite having the analytical tools available to identify sites on the basis of risk.¹ Without the will to implement the prioritization system, thousands of RPs, especially passive property owners, suffered harm. The environment went largely unprotected by not prioritizing sites by risk.

In 1988, the State Water Resources Control Board ("State Water Board") independently confirmed there was a very limited risk of benzene seeping into drinking water wells from leaking fuel tanks. The December 1988 report [No. 88-13] noted in a survey of 2,947 large, public California water wells that only 9 (0.003%) had benzene levels above detection limits. The report concluded benzene contamination through drinking water was less of a threat than benzene in the air from vehicle emissions. Subsequent separate find-

ings by the State Water Board staff and the Lawrence Livermore National Laboratory ("LLNL") study submitted to the Committee verifies the truthfulness of these conclusions. Thus, by 1988 the UST Program could have used risk-based analysis to remediate sites in the few instances where contamination posed a threat. However, nothing was done to correct the UST Program's blanket policy of treating each site with impacted groundwater as a major environmental hazard. This intentional failure to correct policy served to further criminalize and demonize RPs and passive property owners. The bureaucracy was digging in its heels.

In 1991, additional evidence of the UST Program's failure to implement a risk based site prioritization appeared. One article reviewed 4,220 California wells sampled for benzene.² Only one well contained a detectable level of benzene. The study concluded the absence of benzene was likely the result of gasoline naturally degrading in the subsurface environment. The UST Program once again disregarded the research and continued to allow a regressive and environmentally harmful clean-up policy to continue. Even one of the author's subsequent employment with the State did not shake the UST Program's faith. RPs, especially passive property owners, continued to suffer under an oppressive and punitive regime.

B. The "Award Winning" Enforcement Program

In 1992, the USA EPA's Office of Inspector General issued a scathing critique of California's UST Program.³ Two comments warrant special note. First, the UST Program refused to develop a priority ranking system for site remediation. Second, the EPA Inspector General exposed the UST Program's preference for directing efforts to low priority sites. In response, the Water Board issued a prioritization directive in November 1993. However, the system continued to implement the same punitive policy against low risk sites and RPs. Low priority sites continued to receive disproportionate attention and RPs continued to pay for unnecessary site characterization and remediation.

A related area of EPA concern was the lack of aggressive enforcement of the UST law by local agencies. The EPA report singled out the Alameda County District Attorney as an example of a successful program for prosecuting fuel leak cases. The irony of the EPA's comment is noteworthy. The DA was bullying passive property owners on sites of very low risk according to the San Francisco Bay Regional Water Quality Board. In order words, the DA was wasting time and public money by treating the owners of low priority sites like felons when they were akin to jaywalkers.

Similar actions by local officials represent the perversity of the UST Program. They treat low priority sites like Superfund hazards. The Program's prosecutorial mind-set sought to bankrupt passive property owners because local officials had no compunction for demanding remediation at any cost irrespective of risk. The infamous Yaeger & Kirk bankruptcy⁴ is an example of why not relating remediation to risk is so financially destructive to property owners and the community. The antics of the Alameda County DA became so outlandish, one property owner filed suit against the DA.

Actions by officials like the Alameda County DA, under color of law, were in many instances without a scientific basis. Rather, the UST Program's blanket policy of treating all RPs as criminals especially passive property owners caused them to suffer greatly. They paid huge legal fees to defend themselves against unwarranted coercion, received lower rents for their properties and had the value stigmatized due to the Program's unfocused and punitive enforcement policy unrelated to risk.

The oppressive nature of the UST Program became so unbearable that grassroots movements developed to oppose the government and to fight for environmental justice. One group, The Environmental Resource Council ("ERC") in Santa Rosa, representing concerned citizens and RPs including passive property owners, challenged the malicious and punitive conduct of local and regional board officials, fought to use science as the basis for remedial action and demanded the Program's reform.

C. Institutionalizing "Bad" Science

In August 1993, the State Water Board hosted a "Science" conference organized by the ERC. The author of "Where's the Benzene?"⁵ spoke regarding the nature of his findings and their implications. Members of the State Water Board were present. The science conference did little to reform the risk prioritization policy of the UST Program. RPs and passive property owners were still being treated as criminals by the regulators irrespective of risk.

One explanation for the UST Program's continuing intentional failure to change policy is an inflexible bureaucratic mind-set fixated on a single agenda. This is an example of Lysenkoism. Trofim D. Lysenko (1898-1976) was a biologist and agronomist whose star rose based on his theories for increasing crop yields during the Soviet agricultural crisis in the late twenties and early thirties. Implementing the ideas did not produce higher yields. Despite his failure, he gained stature under Stalin and promoted a belief that genes did not exist. He is responsible for devastating

Soviet genetic research. Scientists brave enough to oppose his theories were hounded out of the research centers. Thus, Lysenkoism stands for the institutionalization of bad science. Put another way, the UST Program's emphasis on enforcement ("get the polluter") obscures its failure to use a risk based methodology for handling the few leaking tanks posing a threat to human health and the environment. By demanding an objective standard for remediation, the SB 1764 Committee ends the reign of Lysenkoism in the UST Program.

D. Senator Thompson Rescues the RPs

In 1994, Senator Thompson authored SB 1764 [Health & Safety Code § 25299.38], requiring a review of the UST Program. The bill was the result of the UST Program's refusal to incorporate risk prioritization and to treat RPs equitably. The ERC and others petitioned for redress in the Legislature. Earlier legislative hearings established a pattern of punitive enforcement against RPs, especially passive property owners and a lack of adherence to scientific principles in prioritizing site remediation. What the UST Program would not do, citizens working through their elected representatives could accomplish.

Only in 1995 did the public have an opportunity to learn of the UST Program's enormous hoax. It is only now that the scientific community can speak the truth about the UST Program's failures. It is only now that the People can learn the enormity of the financial waste caused by the Program. The white papers submitted to the Committee by concerned groups contain a wealth of detail. There is unanimous agreement on the very limited risk to drinking water from fuel leaks. In addition, many contributors corroborated how the UST Program preys on RPs, including passive landowners.

On December 8, 1995, the State Water Board issued a letter to the regional boards and local agencies concurring with the LLNL findings. The letter acknowledges fuel leaks impacting shallow groundwater in areas not adjacent to drinking water wells are not a threat to human health and the environment. Henceforth, these sites only require monitoring for plume stability. Active remediation is no longer necessary.

The State Water Board's letter is a total repudiation of the UST Program. After years of bleeding RPs, especially passive property owners and treating them like criminals, the truth emerges. The State Board said of its policy, "it does represent a major departure from how we have viewed the threat from leaking USTs." After a decade, one letter broke the yoke of oppression and freed RPs from financial ruin.

III. How Money Corrupted the UST Program

In the rush to save the environment, the government created and funded a number of programs like the UST Program. Once on the money train, the UST Program needed to create villains. The search was on to find all the leaking tanks, designate responsible parties for compliance, expand oversight responsibilities and accelerate enforcement. As budgets and personnel increased, so did the UST Program's hubris and money corruption.

While groups like the ERC railed against the Program's lack of scientific basis and wasteful remediation demands, there was little progress. Even the Governor's Oversight Committee recommendations in 1994 were not enough to change the system. The committee suffered from a fatal flaw. The membership did not include an individual tank or property owner. Without this first hand experience, the Governor's committee was unable to accurately grasp the underlying truth about the abuse and unscientific nature of the UST Program. However, the white papers submitted to the SB 1764 Committee amply reflect how money corrupted the Program's goals for a safer environment and the fair treatment of RPs.

A review of the ARCO (June 13), ULTRAMAR (June 8), SHELL OIL (June 14) and Pacific Environmental Group (June 13) white papers and the Lawrence Livermore National Laboratory report (June 15) confirms the UST Program had no financial incentive to close sites or limit its punitive enforcement policies. How the regulators receive funding remains the problem.

Local agencies and regional board personnel charge PRs and passive property owners for site characterization and remediation activity review. District Attorneys' receive their cut by bullying RPs or bringing enforcement actions. This is a very cozy parasitic symbiosis. The regulators have no financial incentive to close sites but rather to churn them and DAs have a budget to protect within the Local Oversight Program.⁶ The bill in many instances is ultimately paid by the UST FUND. The UST FUND receives its funding from the State's vehicle owners through a per gallon fuel charge.

It takes little imagination to see how a well intentioned government program became a money train utterly bereft of any objectivity in order to keep the money rolling in. The UST Program's funding is such a good deal that DAs began overseeing site characterization and clean-up activities with their own environmental consultants, totally usurping the authority of the regulators and the State Water Board. As noted, regulators were emboldened to "put it to" the RPs and passive landowners with impunity because they had been

marked as a "class for liquidation" (like the Kulaks) for their role in polluting the environment. Another illustration from Alameda County deserves mention. The Program became so brazen in its financial "slash and burn" campaign, the local agency was charging \$90 per hour to review public UST files and a dollar per page to copy materials. Only after a strong public outcry did the gouging stop.

The Committee can derail the money train by formulating recommendations limiting the charge back fees on low risk sites. This is in accord with the findings of the LLNL report and the other contributors to the Committee.

The UST Program has spent the better part of a decade enforcing a policy against RPs and passive property owners that was unrelated to risk and the weight of scientific evidence. The above chronology recounts how regulators and DAs became more concerned with their own power and funding than with environmental protection based on good science. As each year passed, the UST Program knew the lack of a risk based analysis for prioritizing site clean-up was unfair and unjustified. However, there were budgets to protect, staff promotions to consider and little concern for the RPs, especially the passive property owners, since they were criminals. In sum, for almost a decade the government knew its policy of enforcement and clean-up was wrong and caused great financial harm to the RPs, and it failed to change policy.

IV. The Devastating Financial Impact on Real Property Values of the UST Program's Intentional Failure to Use Risk Based Site Prioritization

The most egregious failure of the UST Program is to indiscriminately stigmatize properties regardless of risk. The real estate market shuns property suffering actual or perceived contamination or having deed restrictions related to pollution. The UST Program's shotgun approach to fuel leak sites and not issuing an absolute closure letter destroyed the value of thousands of properties throughout the state. The Program's role in exiling property owners to a financial gulag is despicable. The RPs need restitution from the commissars.

California property owners may lose \$1.5 billion in property value due to the UST Program's failure to implement risk based site prioritization. The LLNL study states there are approximately 27,000 identified leaking UST sites in California. Assuming the average value per site is \$300,000 and the stigma discount is 18 percent, then the potential loss in value is about \$1.5 billion [$\$300,000 \times 27,000 \times 18\% = \$1,458,000,000$].⁷

In addition, the loss of property tax revenues from lower assessments is substantial. In most instances, the UST Program's induced stigma has made the properties difficult to sell and mostly unfinanceable. The Program causes a downward cycle in value and the creation of blight. The UST Program is adding to California's fiscal malaise by forcing counties to lower assessed values, thereby depriving communities of much needed property tax revenues.

The role of stigma in property tax assessments deserves special mention. First, the California State Board of Equalization in advising county tax assessors on contaminated properties, discounts assessed value for stigma and land use restrictions.⁸ Second, the State Water Board is considering adopting revisions to State Water Board Resolution 92-49 allowing regional boards and local agencies to place deed restrictions on properties. Despite protests from property owners and lenders, the proposal continues to move forward without any attempt by the bureaucracy to understand how it harms property values and the resulting loss in tax revenues. Again, this illustrates the UST Program's pernicious attitude.

A definitive and final closure letter is an indispensable condition for revitalizing stigmatized real estate. An absolute closure letter must give purchasers and lenders complete and unqualified exculpation from any future site cleanup. Should subsequent remediation be necessary, the seller, if previously qualified, should have recourse to the UST FUND.

The Committee's recommendations should note the impact of stigma on property values, how the UST Program's lack of risk-based site prioritization depresses values and the need to compensate landowners for indiscriminately stigmatizing their properties. Property owners will continue to suffer loss of value by stigma unless there is an absolute closure letter. The lack of a definitive closure letter will also lower property tax revenues.

V. Fulfilling the SB 1764 Committee's Mandate

The People of California have paid dearly for the UST Program. It has failed to protect the environment by not prioritizing remediation, has destroyed property values and harmed many innocent people. The Program is no longer beneficial to the People of California and requires termination.

In formulating its recommendations, the SB 1764 Committee should expose the above facts. Perhaps, in light of the State Water Board's volte-face of December 8, 1995, the

Committee should begin the chronicle by asking why the bureaucracy has not issued a mea culpa for the wrongs committed against the RPs, especially passive property owners. Where is an expression of contrition? Why is there no sense of shame? Is guilt absolved by just following orders? It is inexplicable why the government does not come forward to admit how it wronged so many. How can the facts be so conveniently ignored? The UST Program pursued a ten year policy which it knew had little benefit. It swindled RPs and passive property owners out of their life savings by requiring unnecessary remediation. The policy encouraged DAs and local officials to shakedown many innocents parties in the name of enforcement and completely misled the People of California. When will the government come forward to admit its failure and pay restitution to the RPs?

The SB 1764 Committee represents the People and should tell the People what happened. The tale will provide an important lesson about unrestrained bureaucratic power, the use of bad science and how even a worthy goal like environment preservation becomes perverted in its implementation. The People of California need to know the truth about their government at work.

Postscript

The commissars remain unrepentant. Events since the State Board's announcement are discouraging. The system is in denial and defensive. Furthermore, in January, 1996, the UST Program held a roundtable for regulators in Ontario. There was less than a positive response to the LLNL findings and Board's change in policy. The LLNL report exposes the make-work nature of the Program. Many government employees fear cutbacks. Also, there exists a schism between local oversight programs, regional boards and the State Board. RPs may find themselves in a cross-fire until the State Water Board imposes discipline on its resistive minions.

Separate and apart from their turf battle is the ongoing financial calamity for property owners. The Water Board's first priority should be to implement a statewide absolute site closure letter. The crux of the UST debacle is the UST Program's total disregard for quickly closing low risk sites for return to productive use. The Program lacks an interest in remedying the situation since it bears no responsibility for property owners' suffering. This may change. According to an attorney representing many UST and property owners, "I think the state thinks there's an exposure there for requiring these vast expenditures of money."⁹ Perhaps retribution is coming. Whatever the outcome, the failure of the UST Program teaches an important lesson: an unrepentant bureaucracy is the enemy of environmental justice.

ENDNOTES

¹ See Lester Feldman, Risk-Based Environmental Remediation: Defining the Magnitude of Potential Health and Environmental Threats, California Environmental Law and Regulation Reporter, Vol. 5, No. 5, July, 1995, pp. 86-87. Feldman notes that in the mid-1980s, the UST Program received federal funding to use models for determining the necessity of remediating sites. Thus, the UST Program knew over ten years ago it could prioritize sites by risk.

² "Where's the Benzene? — Examining California Ground-Water Quality Surveys," by P. Hadley and R. Armstrong (Ground Water, 1991).

³ Audit Report No. E1LLB1-09-0200-2100665, (September 30, 1992).

⁴ Santa Rosa Press Democrat, Thursday, September 23, 1993, page 1.

⁵ "Where's the Benzene? — Examining California Ground-Water Quality Surveys," by P. Hadley and R. Armstrong (Ground Water, 1991).

⁶ See comment by the Pacific Environmental Group.

⁷ The stigma discount reflects the jury's finding in *Bixby Ranch Co. v. Spectrol Electronics* [(No. BC052566, L.A. Superior Court, Department 39 (December 13, 1993)]. See also *Valuation of Contaminated Real Property: A 1995 Update*, December 1995, CALIFORNIA REAL PROPERTY REPORTER, p. 295 (Matthew Bender).

⁸ "Problems In The Valuation And Assessment Of Property Impacted By Hazardous Waste," (draft paper prepared by the Assessment Standards Division of the California State Board of Equalization, 1993), pp. 28-33. In addition, see the white paper submitted by the Department of Public Health, City and County of San Francisco, October 12, 1995, page 4.

⁹ "Dennis Pfaff, Advocate for Storage Tank Owners Seizes on 'Nature as Healer' Study," San Francisco Daily Journal, January 30, 1996, pp. 1 and 6.



**ACC
ENVIRONMENTAL
CONSULTANTS**

February 20, 1996

Alameda County Environmental Protection
Hazardous Materials Section
1131 Harbor Bay Parkway
Alameda, California 94502
Attn: Juliette Blake

Dear Ms. Blake:

I am performing a Phase I site assessment on a property located in Oakland, California. I am requesting LUST and LOP information for this property and neighboring properties.

Subject Property - 1212 Broadway, Oakland, CA 94612

Neighboring Sites:

Zimmerman Investments - 420 13th Street, Oakland, CA 94612
Zimmerman Investments - 1330 Broadway, Oakland, CA 94612
City of Oakland Redev Galleria - Broadway and San Pablo, Oakland CA 94612
Bramalea Pacific - 1111 Broadway, Oakland, CA 94607
Lee Family Assoc Property - 387 12th Street, Oakland, CA 94607
Right Parking Lot - 1225 Webster Street, Oakland, CA 94612
Bacharach and Borsuk Property - 1432-1434 Franklin, Oakland, CA 94612
Five City Center - 1300 Clay Street, Oakland, CA 94612
Oakland Federal Building - 1305 Clay Street, Oakland, CA 94612
Bramalea Pacific - 12th and Clay, Oakland, CA 94612
Pacific Renaissance Plaza - 1000 Frnaklin Street, Oakland, CA 94607

I will need to review these files as soon as you can have them available. Please notify me by phone (638-8400) or pager (716-5375) when the files will be ready for review.

Thank you for your help with this matter. If I can answer any questions, please don't hesitate to contact me.

Sincerely,



Eloy Cisneros
Environmental Technician

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January 22, 1996

Ms. Lori Casias
LOP Manager
Clean Water Program
State Water Resources Control Board
901 P Street
Sacramento, CA 95814
(916) 227-4325 / FAX 227-4349

SUBJECT: APPEAL OF LOP CHARGES
Alameda County Site #498
1432 Harrison Street
Oakland, CA 94612

Dear Ms. Casias:

The appeal of certain LOP charges remains unresolved. The RP requests your decision.

A. The \$62.44 Charge dated October 3, 1994.

This is an appeal for time charged by a non-case officer to the site. The record demonstrates the site has been in compliance. The only "notice of violation" issued was on January 26, 1995. The issuance of the notice was in error and the RP's appealed its issuance. The LOP has not provided any justification for having a non-case officer's time charged to the site.

A review of LOP correspondence discloses a retrospective attempt to justify the billing based on a supposed pattern of non-compliance. However, a careful reading of the LOP's correspondence fails to support this unfounded allegation.

>On June 22, 1995, the LOP wrote to you stating: "This was done as it seemed that there was a pattern of non-compliance developing on this case, ..."

>On August 14, the LOP wrote to you stating: "That charge was made

Act95_1

01/03/95 TP	212	0.5	498	\$31.20 w/Mark Borsuk
01/23/95 TP	215	1.	.98	\$62.39 review letter Fax, workplan review

01/24/95 JE	212	0.1	498	\$4.39 spoke w/TP re 301-14th St
01/24/95 TP	215	1.2	498	\$74.87 review workplan addendum, write letter
01/25/95 TP	212	0.3	498	\$18.72 w/Mark Borsuk
01/25/95 TP	212	0.5	498	\$31.20 w/Levine Fricke, John Sturman
01/25/95 TP	215	0.8	498	\$49.91 write letter, edit
01/26/95 TP	215	0.7	498	\$43.68 rewrite letter, w/Gil changes
01/30/95 TP	212	0.3	498	\$18.72 w/Mark Borsuk, workplan
01/31/95 TP	215	0.2	498	\$12.48 discuss letter w/Ed
02/01/95 TP	212	0.5	498	\$31.20 w/Chris Stevens, Mark Borsuk, letter, report
02/10/95 TP	215	1.3	498	\$81.11 review QMR, write letter
02/22/95 TP	212	0.6	498	\$37.44 w/Mark Borsuk
02/27/95 TP	215	0.3	498	\$18.72 review file
03/13/95 TP	210	0.8	498	\$54.07 MW - sampling
03/30/95 TP	204	0.3	498	\$18.72 w/RWQCB

Act95_2

04/14/95 TP	215	0.2	498	\$12.48 review file
04/25/95 TP	212	0.2	498	\$12.48 w/David Alias, workplan coming
04/26/95 TP	212	0.5	498	\$31.20 w/Mark Borsuk
04/26/95 TP	215	1.2	498	\$74.87 review QMR, write letter
05/04/95 TP	215	0.4	498	\$24.96 review case w/Lori Casias
05/09/95 TP	212	0.4	498	\$24.96 W/ David Alias
05/10/95 TP	204	0.3	498	\$18.72 w/John Kaiser
05/17/95 TP	215	0.3	498	\$18.72 letter from Cambria
05/23/95 TP	215	0.2	498	\$12.48 review case status
05/24/95 TP	215	0.2	498	\$12.48 site access letter
06/12/95 TP	215	1.1	498	\$68.63 -0-
06/22/95 JE	212	0.1	498	\$4.60 spoke w/J. Esposito at Cambria
06/22/95 TP	215	0.1	498	\$6.24 w/JE, geoprobing being scheduled by Cambria
06/22/95 TP	416	0.5	498	\$31.20 response to Lori Casias
06/28/95 TP	416	0.4	498	\$24.96 Mark Borsuk

Act95_3

07/14/95 TP	215	0.4	498	\$24.96 e mail & letter check Oct. 3, 94
07/20/95 TP	212	0.5	498	\$31.20 ret. call David Alias, Cambria all contaminated soil & water
08/14/95 TP	212	0.1	498	\$6.24 w/David Alias
08/14/95 TP	215	0.5	498	\$31.20 review sampling report & record. Cambria report due this week
09/12/95 TP	215	0.8	498	\$49.91 begin report review
09/13/95 TP	215	1.7	498	\$106.07 finish review case & report, write letter
09/21/95 TP	215	0.2	498	\$12.48 letter from Borsuk

95 JUN 25 PM 1:19
 100-201440

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

February 9, 1996
STID 498

Alameda County Environmental Health Dept.
Environmental Protection Division
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577
(510)567-6700 fax: (510)337-9335

Lori Casias
Clean Water Program
State Water Resources Control Board
901 P Street
Sacramento, CA 95814

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Lori Casias:

This office received and reviewed an Appeal of LOP Charges dated January 22, 1996 and addressed to you concerning the above site. The following will attempt to clarify the concerns of Mr. Mark Borsuk:

A: (First paragraph) Any Hazardous Material Specialist may charge to the LOP program when called upon for work or consultation. This is common practice and essential for quality work. Paul Smith was the case officer prior to this being an LOP case. The fact that Paul Smith did not issue a Notice of Violation does not alleviate the fact that the tanks at the above site were abandoned and no permit had been applied for, as required.

(next paragraph) It is true that the response dated December 22, 1995 was not sent to you. This was an oversight, as it was sent directly to the Borsuks and Mr. Douglas. It was also copied to Dave Deaner.

(next paragraph) The Lop is not a judge in any case. We are an administrative group that gives our best judgement and opinion about cases within the scope of the law and regulation. It is up to the courts to judge what is fact. Again, the fact that Paul Smith did not issue a Notice of Violation does not alleviate the fact that the tanks at the above site were abandoned and no permit had been applied for, as required prior to January 26, 1995. Paul Smith told what he remembered which was not in the written record of this case.

(next paragraph, page 2 of 3, #1) As stated in the letter of December 22, 1995 Paul Smith used activity code 212 in error and should have charged code 204.

(next paragraph, page 2 of 3, #2) Paul Smith did not keep a written record of his telephone conversation. This office did not say who the contact was at the State Board on instructions of our District Attorney's Office.

Lori Casias
STID 498
February 9, 1996
Page 2 of 2

(last paragraph, 2 of 3) In 4 quarters only 1 monitoring report was submitted and no extension was ever granted. This was not in compliance with a quarterly monitoring schedule.

(1st paragraph, 3 of 3) The only written summary has been provided.

(next paragraph) The RP requested this office look at an adjacent site as it could be affecting his pollution. It was not and that site has since been closed.

(next paragraph) I have no idea what site this refers to. It may be STID 1098, which is closed. The RP did ask us to look at that site, even though it was low priority and had not been worked because of that fact.

(next paragraph) The LOP has not had an independent audit but one is scheduled to begin next week.

I hope this helps you to answer his letter. If you have any questions or comments, please contact me at (510) 567-6782.

Sincerely,



Thomas Peacock, Manager
Division of Environmental Protection

c: Gordon Coleman, Acting Chief - files
Gil Jensen, Alameda County District Attorney's Office

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 T STREET, SUITE 130
P.O. BOX 944212
SACRAMENTO, CA 94244-2120



(916) 227-4325
FACSIMILE (916) 227-4349

FEB 09 1996

Mark Borsuk
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116

Dear Mr. Borsuk:

UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT PROGRAM, SITE NO.
498, ALAMEDA COUNTY

This is in response to your letter dated January 22, 1996 regarding oversight time incurred by the County. I have asked the County to provide me with a response to your letter within the next 30 days. Once received, I will forward the response to you.

If you have any questions, please telephone me at (916) 227-4325.

Sincerely,

A handwritten signature in cursive script that reads "Lori Casias".

Lori Casias
Local Oversight Program

cc: Tom Peacock
Alameda County
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

95 FEB 13 PM 2:04
ENVIRONMENTAL
PROTECTION

CAMBRIA Environmental Technology, Inc.

1144 65th Street, Suite C • Oakland, CA 94608 • (510) 420-0700 • Fax (510) 420-9170

FAX TRANSMITTAL

TO: Tom Peacock

FROM: David Elias

COMPANY: ACDEH

DATE: January 2, 1996

FAX NUMBER: 337-9335
(415) 922-1485

PROJECT NUMBER: 54-188

SUBJECT: 1432-1434 Harrison Street

PAGES TO FOLLOW: 1

HARD COPY TO FOLLOW:

COMMENTS:

Dear Mr. Peacock, I am writing this FAX on behalf of Alvin Bacharach, Barbara Borsuk, Leland Douglas and Mark Borsuk to update you as to the status of the site referenced above. Cambria is currently researching possible offsite hydrocarbon sources. Once we have completed this research we will submit a workplan for your approval to define the vertical and horizontal extent of hydrocarbons in soil and ground water.

As part of our research, we plan to have Vista of San Diego conduct a database search to identify possible adjacent sources. In addition, we plan to review some files at your office. We would appreciate your assistance in identifying nearby possible hydrocarbon sources. We are also especially interested in reviewing ground water flow direction at adjacent sites. We currently plan on reviewing the file for the upgradient Chevron Station. Any other suggestions you have would be greatly appreciated. Please call me at 420-9176 with any questions or suggestions. Thanks!

cc: Mark Borsuk

Fluctuation in GW flow at location?

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

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



ARNOLD PERKINS, DIRECTOR
RAFAT A. SHAHID, DEPUTY DIRECTOR

December 22, 1995
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas 567-6700
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

Alameda County
Environmental Protection Division
1131 Harbor Bay Parkway, Room 201
Alameda CA 94502-6577

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed an Appeal of LOP Charges dated September 19, 1995 and November 23, 1995, a project update dated September 20, 1995, and a report of 3rd qtr monitoring well sampling dated November 15 (November 14, 1995). The following are comments concerning these correspondences:

Re: Sep 19 appeal:

- #1. Paul Smith should have used code #204, which is talking to the Water Board.
- #2. The question at hand concerned previous actions and examining a pattern of non-compliance, which may have existed.
- #3. At this time, Mr. Smith's contact at the State Board is considered confidential.
- #4. Prior history was used to examine the issues of appropriate action which must consider prior actions and also to look at a pattern of non-compliance. This site has been out of compliance several times in this case history.

Re: Sep 20 Update:

This brief letter is acceptable to this office.

Re: Nov 23 LOP Charges:

Attached is a site history report which should answer your first question. The remaining questions are directed more toward the State Water Resources Control Board.

Re: Groundwater Sampling Report by Blaine Tech dated November 14, 1995:

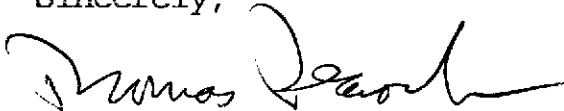
1. The amount of contamination in all two of the three wells is extremely high, with as much as 110,000 ppb TPHg and 27,000 ppb benzene.
2. There are no recommendations by Blaine Tech Services, Inc., Cambria Environmental Technology, Inc., National Environmental Testing, Inc., or by Mark Borsuk in his cover letter.

Alvin H. Bacharach and Barbara J. Borsuk Trust
Leland Douglas
STID 498
December 22, 1995
Page 2 of 2

3. You are directed to further delineate the vertical and lateral extent of soil and groundwater contamination, especially in the downgradient direction, although, with both wells heavily contaminated, there is no delineation in any direction. MW-1 and MW-2 showed no degradation of contamination with MW-1 actually showing an increase in BTEX levels. This office agreed with previous recommendations to further delineate the vertical and lateral extent of soil and groundwater contamination. There is a lot of contamination around the former fuel tanks and the extent of this contamination has not been defined.

If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,



Thomas Peacock, Manager
Division of Environmental Protection

c: Gordon Coleman, Acting Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
N. Scott MacLeod, Cambria Environmental Technology, Inc.,
1144 65th St., Suite C, Oakland, CA 94608
Richard C. Blaine, Blaine Tech Services, 985 Timothy Dr.,
San Jose, CA 95133

SB1764

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
ELEVEN PAGES

December 19, 1995

Dr. John Farr
ICF KAISER
Suite 200
11290 Point East Drive
Rancho Cordova, CA 95742
(916) 852-3700 X3708
FAX 852-3777

SUBJECT: Abolish the UST Program
White Paper Submitted to SB 1764 Committee

Dear Dr. Farr and Members of the SB 1764 Committee:

The UST Program is a curse on the People of California. It should be abolished immediately. Only the UST Cleanup Fund and other ministerial functions should continue. Ample evidence exists to prove the Program is incapable of reforming itself. The SB 1764 committee needs to tell the People of California why the UST Program has not protected the environment while imposing a horrific cost on California citizens. The loss in real property value alone is likely to be **\$1.5 billion**.

The UST Program is almost a total failure. It has succeeded in creating of a vast cadre of regulators with unlimited enforcement powers who are not bound by any objective standard to justifying their actions using risk assessment criteria. Government officials and district attorneys have free reign to classify responsible parties ("RP") as criminals and to impose harsh financial penalties. The UST Program's actions have come to resemble the pathology of a police state.

The UST Program represents government run amok. Its actions are indefensible. The UST Program's punitive, abusive and mendacious character were well known before the Committee began its investigation. The papers submitted to the Committee scream out for reform, restitution to property owners, reparations to many injured parties and amnesty for RPs. The papers reflect an arrogance of

power made possible by reliance on bad science and a lack of independent oversight. The SB 1764 Committee has the opportunity to end the RP's nightmare.

In making its recommendations, the Committee can right a grave wrong and expose the tragic consequences of a government policy intentionally pursued without a basis in fact and oblivious to outcome. In addition to calling for the implementation of risk based corrective action criteria for petroleum site remediation, the Committee should recommend:

1. The immediate termination of the UST Program, except for the UST Cleanup Fund and other ministerial functions. The Program is incapable of reform and inherently punitive and biased;
2. Restitution and reparations for unnecessary cleanup costs and the loss of property value caused by the UST Program policy of stigmatizing all fuel leak sites irrespective of risk;
3. Granting amnesty to all RPs and passive property owners who did not intentionally release fuel into the environment; and
4. The issuance of an absolute site closure letter to permit the rehabilitation and financing of petroleum impacted sites.

In making its recommendations, the Committee needs to explain why the public is so outraged by the UST Program. The recommendations require a context. Providing the context will do justice to Senator Thompson's efforts to provide an objective assessment of the UST Program. It will "freeze" the facts to thwart the apologists.

In understanding the misguided nature of the UST Program it is necessary to consider a number of factors in its development and operations. The punitive nature of the Program is a persistent theme. The Program targeted small RPs and passive landowners with a vengeance. They became criminalized and despised. Financial incentives made it profitable for government employees to keep sites open and not close them. One way the UST Program kept the money train moving was to avoid prioritizing sites by objective risk criteria. This kept the staff count growing. The UST Program's decision not to initiate a risk based corrective action site prioritization method was intentional. Adopting good science would have meant closing thousands of sites, reducing staff and derailing the money train. As a result, property values declined and RPs, especially landowners paid tremendous sums for unnecessary site characterization and remediation work. These topics are explored below.

I. The Punitive Nature of the UST Program.

The UST Program is a punitive program based on strict liability for the RP and is particularly harsh for property owners who did not operate the USTs or participate in the business that operated the tanks. However, petroleum contamination is a societal problem and not just an individual wrong. Formerly, the government required the tanks to be buried without considering the corrosive effects of electrolysis. Thus, the same government that mandated placing tanks in the ground without any protection later sought to blame the RP, especially the passive property owner for the resulting leakage.

Strict liability, the imposition of liability irrespective of fault or intent, allows regulators and district attorneys to treat RPs with impunity. Government officials recite a mantra in dealing with RPs and passive property owners: they let their tanks leak, leaking tanks polluted the environment and polluters are criminals. The regulators did not need to justify their actions based on any objective risk criteria. The mantra provided them with an ideological zeal to deal with RPs in the harshest terms. This led to myopic moral bookkeeping where the spirit of punishment prevailed irrespective of culpability. The State Water Board, overseeing the UST Program, did not seem to realize the outrageous actions taken by local officials, DAs and the regional boards in its name.

The UST Program's preoccupation with passive property owners is especially noteworthy. Here a particularly virulent form of contempt for citizens and eco-zealousness took hold. The Program followed an abusive policy of near tyranny in enforcing its rules against people who have not operated and in many instances did not install the tanks. Huge financial demands were made without any risk analysis. Local officials and DAs were free to intimidate property owners and demand unnecessary work without any concern for relating cost to risk.

The punitive nature of the UST Programs is reminiscent of the anti-Kulak campaign conducted in the early years of the Soviet Union against land owning peasants. These productive farmers were ruthlessly liquidated for opposing state collectivization. Stalin was able to take these ghastly measures against his own countrymen by convincing the population that Kulaks were a class enemy and worthy of destruction. Similarly, the UST Program sought to demonize small, passive property owners, as polluters to the point where almost any financial tribute could be exacted. The UST Program promoted economic class discrimination. Just like the Kulaks, passive property owners were singled out for harsh and discriminatory treatment based solely on their status as landowners. There was no environmental justice for them.

The criminalization of the RPs by the regulators and DAs negated the need to use defensible science for decision making. Regulators and DAs dismissed RP complaints and marginalized their concerns. When the Federal EPA complained, the Program took half-measures to appease the EPA. When the bright and imaginative staff at the San Francisco Bay Regional Water Board moved to downgrade the risk from fuel leaks they were stalled. Thus, for nearly a decade

the UST Program has operated without tying risk to the need to remediate. The failure of the Program to prioritize sites by risk to human health and the environment was an intentional choice made for self-serving purposes. This is reason enough to abolish the UST Program.

II. A Brief History of Government Incompetence.

The UST Program intentionally disregards the knowledge that petroleum releases are of a very limited threat to human health and the environment. A brief review of the record overwhelmingly demonstrates this truth.

A. The Benzene Follies

In the name of protecting human health and the environment, the UST Program sought to contain petroleum leaks as a result of the widespread and justified concern over benzene, a human carcinogen, spreading into aquifers used for drinking water. However, the UST Program did not differentiate among the thousands of fuel leak sites that do not pose a threat. Rather all sites were treated the same despite having the analytical tools available to identify sites on the basis of risk. See Lester Feldman, Risk-Based Environmental Remediation: Defining the Magnitude of Potential Health and Environmental Threats, California Environmental Law and Regulation Reporter, Vol. 5, No. 5, July, 1995, pp. 86-87. Feldman notes that in the mid-1980s, the UST Program received federal funding to use models for determining the necessity of remediating sites. Thus, the UST Program knew over ten years ago it could prioritize sites by risk. Without the will to implement the prioritization system thousands of RPs, especially passive property owners, suffered harm. The environment went largely unprotected by not prioritizing sites by risk.

In 1988, the State Water Resources Control Board ("State Water Board") independently confirmed there was a very limited risk of benzene seeping into drinking water wells from leaking fuel tanks. The December 1988 report (No. 88-13) noted in a survey of 2,947 large, public California water wells only 9 (0.003%) had benzene levels above detection limits (p. 70-71). The report concluded benzene contamination through drinking water was less of a threat than benzene in the air from vehicle emissions (p. 78-79). Subsequent separate findings by the State Water Board staff and the Lawrence Livermore National Laboratory ("LLNL") study submitted to the Committee verifies the truthfulness of these findings. Thus, by 1988 the UST Program could have used risk-based analysis to remediate sites in the few instances where contamination posed a threat. However, nothing was done to correct the UST Program's blanket policy of treating each site *with impacted groundwater* as a major environmental hazard. This intentional failure to correct policy served to further criminalize and demonize RPs and passive property owners. The bureaucracy was digging in its heels.

In 1991, additional evidence of the UST Program's failure to implement a risk based site prioritization appeared. The article "Where's the Benzene?-Examining California Ground-Water Quality Surveys" by P. Hadley and R. Armstrong (Ground Water, 1991) reviewed 4,220 California wells sampled for benzene. Only one (1) well contained a detectable level of benzene. The study concluded the absence of benzene was likely the result of gasoline naturally degrading in the subsurface environment. The UST Program once again disregarded the research and continued to allow a regressive and environmentally harmful clean-up policy to continue. Even one of the authors subsequent employment with the State did not shake the UST Program's faith. RPs, especially passive property owners continued to suffer under an oppressive and punitive regime.

B. The "Award Winning" Enforcement Program.

In 1992, the USA EPA's Office of Inspector General issued a scathing critique of California's UST Program (Audit Report No. E1LLB1-09-0200-2100665, September 30, 1992). Two comments warrant special note. First, the UST Program refused to develop a priority ranking system for site remediation (Response section, pp. 12-19). Second, The EPA Inspector General exposed the UST Program's preference for directing efforts to low priority sites (Response section, pp. 2-3). In response the Water Board issued a prioritization directive in November 1993. However, the system continued to implement the same punitive policy against low risk sites and RPs. Low priority sites continued to receive disproportionate attention and RPs continued to pay for unnecessary site characterization and remediation.

A related area of EPA concern was the lack of aggressive enforcement of the UST law by local agencies. The EPA report singled out the Alameda County District Attorney as an example of a successful program for prosecuting fuel leak cases (EPA Report, p. 49). The irony of the EPA's comment is noteworthy. The DA was bullying passive property owners on sites of very low risk according to the San Francisco Bay Regional Water Quality Board. In other words, the DA was wasting time and public money by treating the owners of low priority sites like felons when they were akin to jaywalkers.

Similar actions by local officials represent the perversity of the UST Program. They treat low priority sites like Superfund hazards. The Program's prosecutorial mind-set sought to bankrupt passive property owners because local officials had no compunction for demanding remediation at any cost irrespective of risk. The infamous Yaeger & Kirk bankruptcy (Santa Rosa Press Democrat, Thursday, September 23, 1993, page 1) is an example of why not relating remediation to risk is so financially destructive to property owners and the community. The antics of the Alameda County DA became so outlandish, one property owner filed suit against the DA.

Actions by officials like the Alameda County DA, under color of law, were in many instances without a scientific basis. Rather, the UST Program's blanket policy of treating all RPs as criminals especially passive property owners caused them to suffer greatly. They paid huge legal fees to defend themselves against unwarranted coercion, received lower rents for their properties and had the value stigmatized due to the Program's unfocused and punitive enforcement policy unrelated to risk.

The oppressive nature of the UST Program became so unbearable that grassroots movements developed to oppose the government and to fight for environmental justice. One group, The Environmental Resource Council ("ERC") in Santa Rosa, representing concerned citizens and RPs including passive property owners challenged the malicious and punitive conduct of local and regional board officials, fought to use science as the basis for remedial action and demanded the Program's reform.

C. Institutionalizing "Bad" Science.

In August, 1993, the State Water Board hosted a "Science" conference organized by the ERC. The author of "Where's the Benzene?" spoke regarding the nature of his findings and their implications. Members of the State Water Board were present. The science conference did little to reform the risk prioritization policy of the UST Program. RPs and passive property owners were still being treated as criminals by the regulators irrespective of risk.

One explanation for the UST Program's continuing intentional failure to change policy is an inflexible bureaucratic mind-set fixated on a single agenda. This is an example of Lysenkoism. Trofim D. Lysenko (1898-1976) was a biologist and agronomist whose star rose based on his theories for increasing crop yields during the Soviet agricultural crisis in the late twenties and early thirties. Implementing the ideas did not produce higher yields. Despite his failure, he gained stature under Stalin and promoted a belief that genes did not exist. He is responsible for devastating Soviet genetic research. Scientists brave enough to oppose his theories were hounded out of the research centers. Thus, Lysenkoism stands for the institutionalization of bad science. Put another way, the UST Program's emphasis on enforcement ("get the polluter") obscures its failure to use a risk based methodology for handling the few leaking tanks posing a threat to human health and the environment. The SB 1764 Committee by demanding an objective standard for remediation ends the reign of Lysenkoism in the UST Program.

D. Senator Thompson Rescues the RPs.

In 1994, Senator Thompson authored SB 1764 (Health & Safety Code Sec. 25299.38) requiring a review of the UST Program. The bill was the result of the

UST Program's refusal to incorporate risk prioritization and to equitably treat RPs. The ERC and others petitioned for redress in the Legislature. Earlier Legislative hearings established a pattern of punitive enforcement against RPs, especially passive property owners and a lack of adherence to scientific principles in prioritizing site remediation. What the UST Program would not do, citizens working through their elected representatives could accomplish.

Only in 1995 did the public have an opportunity to learn of the UST Program's enormous hoax. It is only now that the scientific community can speak the truth about the UST Program's failures. It is only now that the People can learn the enormity of the financial waste caused by the Program. The white papers submitted to the Committee by concerned groups contain a wealth of detail. There is unanimous agreement on the very limited risk to drinking water from fuel leaks. In addition, many contributors corroborated how the UST Program preys upon RPs and passive landowners.

On December 8, the State Water Board issued a letter to the regional boards and local agencies concurring with the LLNL findings. The letter acknowledges fuel leaks impacting shallow groundwater in areas not adjacent to drinking water wells are not a threat to human health and the environment. Henceforth, these sites only require monitoring for plume stability. Active remediation is no long necessary.

The State Water Board's letter is a total repudiation of the UST Program. After years of bleeding RPs, especially passive property owners and treating them like criminals, the truth emerges. The State Board said of its policy "...it does represent a major departure from how we have viewed the threat from leaking USTs." (emphasis added). After a decade, one letter broke the yoke of oppression and freed RPs from financial ruin.

III. How Money Corrupted the UST Program.

In the rush to save the environment, the government created and funded a number of programs like the UST Program. Once on the money train, the UST Program needed to create villains. The search was on to find all the leaking tanks, designate responsible parties for compliance, expand oversight responsibilities and accelerate enforcement. As budgets and personnel increased, so did the UST Program's hubris and money corruption.

While groups like the ERC railed against the Program's lack of scientific basis and wasteful remediation demands there was little progress. Even the Governor's Oversight Committee recommendations in 1994 were not enough to change the system. The committee suffered from a fatal flaw. The membership did not include an individual tank or property owner. Without this first hand experience, the Governor's committee was unable to accurately grasp the underlying truth about the abuse and unscientific nature of the UST Program. However, the white

papers submitted to the SB 1764 Committee amply reflect how money corrupted the Program's goals for a safer environment and the fair treatment of RPs.

A review of the ARCO (June 13), ULTRAMAR (June 8), SHELL OIL (June 14) and Pacific Environmental Group (June 13) white papers and the Lawrence Livermore National Laboratory report (June 15) confirms the UST Program had no financial incentive to close sites or limit its punitive enforcement policies. How the regulators received funding remains the problem.

Local agencies and regional board personnel charge PRs and passive property owners for site characterization and remediation activity review. District Attorneys' receive their cut by bullying RPs or bringing enforcement actions. This is a very cozy parasitic symbiosis. The regulators have no financial incentive to close sites but rather to churn them and DAs have a budget to protect within the Local Oversight Program. See comment by the Pacific Environmental Group. The bill in many instances is ultimately paid by the UST FUND. The UST FUND receives its funding from the State's vehicle owners through a per gallon fuel charge.

It takes little imagination to see how a well intentioned government program became a money train utterly bereft of any objectivity in order to keep the money rolling in. The UST Program's funding is such a good deal that DAs began overseeing site characterization and clean-up activities with their own environmental consultants totally usurping the authority of the regulators and the State Water Board. As noted, regulators were emboldened to "put it to" the RPs and passive landowners with impunity because they had been marked as a "class for liquidation" (like the Kulaks) for their role in polluting the environment. Another illustration from Alameda County deserves mention. The Program became so brazen in its financial "slash and burn" campaign, the local agency was charging \$90 per hour to review public UST files and a dollar per page to copy materials. Only after a strong public outcry did the gouging stop.

The Committee can derail the money train by formulating recommendations limiting the charge back fees on low risk sites. This is in accord with the findings of the LLNL report and the other contributors to the Committee.

The UST Program has spent the better part of a decade enforcing a policy against RPs and passive property owners that was unrelated to risk and the weight of scientific evidence. The above chronology recounts how regulators and DAs became more concerned with their own power and funding than with environmental protection based on good science. As each year passed, the UST Program knew the lack of a risk based analysis for prioritizing site clean-up was unfair and unjustified. However, there were budgets to protect, staff promotions to consider and little concern for the RPs, especially and passive property owners, since they were criminals. In sum, for almost a decade the government knew its

policy of enforcement and clean-up was wrong, caused great financial harm to the RPs and failed to the change policy.

IV. The Devastating Financial Impact on Real Property Values of the UST Program's Intentional Failure to Use Risk Based Site Prioritization.

The most egregious failure of the UST Program is to indiscriminately stigmatize properties regardless of risk. The real estate market shuns property suffering actual or perceived contamination or having deed restrictions related to pollution. The UST Program's shotgun approach to fuel leak sites and not issuing an absolute closure letter destroyed the value of thousands of properties throughout the state. The Program's role in exiling property owners to a financial gulag is despicable. The RPs need restitution from the commissars.

California property owners may lose \$1.5 billion in property value¹ due to the UST Program's failure to implement risk based site prioritization. The loss of property tax revenues from lower assessments is substantial. In most instances, the UST Program's induced stigma has made the properties difficult to sell and mostly unfinanceable. The Program causes a downward cycle in value and the creation of blight. The UST Program is adding to California's fiscal malaise by forcing counties to lower assessed values, thereby depriving communities of much needed property tax revenues.

The role of stigma in property tax assessments deserves special mention. First, the California State Board of Equalization in advising county tax assessors on contaminated properties, discounts assessed value for stigma and land use restrictions (Problems In The Valuation And Assessment Of Property Impacted By Hazardous Waste, (A draft paper prepared by the Assessment Standards Division of the California State Board of Equalization), 1993, pp. 28-33). In addition, see the white paper submitted by the Department of Public Health, City and County of San Francisco, October 12, 1995, page 4. Second, the State Water Board is considering adopting revisions to State Water Board Resolution 92-49 allowing regional boards and local agencies to place deed restrictions on properties. Despite protests from property owners and lenders, the proposal continues to move forward without any attempt by the bureaucracy to understand how it harms property values and the resulting loss in tax revenues. Again, this illustrates the UST Program's pernicious attitude.

The lack of a definitive and final closure letter is an indispensable condition for revitalizing stigmatized real estate. An absolute closure letter must give purchasers

¹ The LLNL study states there are approximately 27,000 identified leaking UST sites in California. Assuming the average value per site is \$300,000 and the stigma discount is 18%, then the potential loss in value is about \$1.5 billion ($\$300,000 \times 27,000 \times 18\% = \$1,458,000,000$). The stigma discount reflects the jury's finding in Bixby Ranch Co. v. Spectrol Electronics [No. BC052566, L.A. Superior Court, Department 39, December 13, 1993].

and lenders complete and unqualified exculpation from any future site cleanup. Should subsequent remediation be necessary, the seller, if previously qualified, should have recourse to the UST FUND.

The Committee's recommendations should note the impact of stigma on property values, how the UST Program's lack of risk based site prioritization depresses values and the need to compensate landowners for indiscriminately stigmatizing their properties. Property owners will continue to suffer loss of value by stigma unless there is an absolute closure letter. The lack of a definitive closure letter will also lower property tax revenues.

V. Fulfilling the SB 1764 Committee's Mandate.

The people of California have paid dearly for the UST Program. It has failed to protect the environment by not prioritizing remediation, has destroyed property values and harmed many innocent people. The Program is no longer beneficial to the People of California and requires termination.

In formulating its recommendations, the SB 1764 Committee should expose the above facts. Perhaps, in light of the State Water Board's volte-face of December 8, the Committee should begin the chronicle by asking why the bureaucracy has not issued a mea culpa for the wrongs committed against the RPs, especially passive property owners. Where is an expression of contrition? Why is there no sense of shame? Is guilt absolved by just following orders? It is inexplicable why the government does not come forward to admit how it wronged so many. How can the facts be so conveniently ignored? The UST Program pursued a ten year policy which it knew had little benefit. It swindled RPs and passive property owners out of their life savings by requiring unnecessary remediation. The policy encouraged DAs and local officials to shakedown many innocents parties in the name of enforcement and completely misled the People of California. When will the government come forward to admit its failure and pay restitution to the RPs?

The SB 1764 Committee represents the People and should tell the People what happened. The tale will provide an important lesson about unrestrained bureaucratic power, the use of bad science and how even a worthy goal like environment preservation becomes perverted its implementation. The People of California need to know the truth about their government at work.

If I may provide additional information to the Committee, please contact me.

Sincerely yours,

/s/

Mark Borsuk

cc: Governor Pete Wilson
Senator Mike Thompson
Senator Charles Calderon
Secretary James Strock, CAL/EPA
Chairman Caffrey & Water Board Members
James Giannopoulos, SWRCB
Patricia Eklund, UST Program, US/EPA (Region IX)
Hans Herb, Esq.

MARK BORSUK
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(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

November 23, 1995

Ms. Lori Casias
LOP Manager
Clean Water Program
State Water Resources Control Board
901 P Street
Sacramento, CA 95814
(916) 227-4325 / FAX 227-4349

SUBJECT: LOP CHARGES
Alameda County Site #498
1432 Harrison Street
Oakland, CA 94612

Dear Ms. Casias:

The October 26, 1995, bill requires additional detail. Please answer the following questions.

A. On May 16, the RP requested the LOP to henceforth include a verification of the person contacted and task performed. The current billing (January-June 1995) does not provide any back-up. The private sector follows this convention. The LOP needs to conform its billing practices accordingly.

B. Provide details on the following:

1. **Activity 212.** The name of the consultant or RP contacted, date and time spent.
2. **Activity 204.** The name of the Regional Board staff member contacted, the purpose of the call and time spent.

C. Provide the payment history on the site to reconcile the outstanding balance with the current bill.

D. How is the Program Management surcharge derived? When was the last independent audit of the program and by whom? Please provide a copy of the

auditor's report. What steps are being taken to reduce the cost passed on to the RP?

E. Will the UST FUND directly pay the LOP oversight charge? The present process is cumbersome considering one part of the UST Program is reimbursing another part of the UST Program. Currently, the LOP bills the RP. Then the RP pays the LOP charge and seeks reimbursement from the UST FUND. Will the LOP obtain payment directly from the UST FUND? Alternatively, will the UST FUND pay the LOP charge after the claimant submits a claim without having first paid the LOP bill?

F. On September 19, the RP requested a response on its appeal of the \$62.44 (\$52.02 + 20% load) charge for a non-case officer's time billed to the site. What is the status of the investigation and appeal?

If I may provide you with additional information, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Barbara Jean Borsuk
Thomas Peacock, Supervising HMS, ACHCSA
Leroy Todd, Acting Chief-files, ACHCSA

*Failed to
M. Borsuk
11/13/95*

pg. 1

INVOICE FOR OVERSIGHT COSTS

fin510a
<< mrp:1 >>

Send Payment to: State Water Resources Control Board
Underground Storage Tank Local Oversight Program
PO Box 944212
Sacramento, CA 94244-2120

Bill Date:
10/26/95

Local Agency: COUNTY OF ALAMEDA

Site Location:

SITE # 498
A BACHARACH/B BORSUK TRUST
383 DIABLO ROAD NO 100
DANVILLE, CA 94526

A BACHARACH TR AND B BORSUK
1432 HARRISON ST
OAKLAND, CA
94612

Total previously billed: \$ 7,581.45
Payment(s) received as of 10/06/94 \$ 5,442.75
**New Charges - Billing Period:01/01/95 through 06/30/95 \$ 1,093.97

FUND: F Total amount due: \$ 3,232.67

State Health and Safety Code Sections 25297.1 and 25360 and Title 42 of the United States Code Section 6991b(h)(6) require recovery of costs associated with the local oversight program. When your site was put in the local oversight program, you received a letter explaining that the State Water Resources Control Board (State Board) would bill you for public costs of cleanup oversight.

This bill includes site specific and program management charges. Site specific charges directly relate to your site. Examples are sampling for soil and ground water contamination, site inspections, and reviewing reports and workplans. A description of activity codes follows the itemized charges. Program management includes other costs associated with program operation. Such costs may include: space rental, office services and supplies, purchase of sampling equipment, training and the salary and benefits of support personnel (i.e., clerical staff, accountant, program supervisor). Program management charges are calculated at not more than 50 percent of site specific charges. The exact rate is shown on the last page of your bill.

If you received an invoice for a previous billing period, those charges are shown as "Total Previously Billed". Any payments you made on the previous billing are shown as "Payment Received". The total of any unpaid previous balance plus new charges is shown as "Total Amount Due".

** See itemized list of new charges on next page(s).

FOR INFORMATION CALL: LORI CASIAS

(916) 227-4325

PAYMENT IS DUE IN 30 DAYS

-----cut on this line-----
Return this part with your check made payable to SWRCB. Use the enclosed envelope and send to the address above.

Local Agency: COUNTY OF ALAMEDA

Site #: 498
Site Location:

A BACHARACH/B BORSUK TRUST
383 DIABLO ROAD NO 100
DANVILLE, CA 94526

A BACHARACH TR AND B BORSUK
1432 HARRISON ST
OAKLAND, CA
94612

Total amount due: \$ 3,232.67

Enter amount paid: \$ _____

pg. 3
SITE #: 498 (cont)

NOTE: More than one responsible party (RP) has been identified for this site. All RPs are shown below. This invoice has been sent to all RPs for this site. RPs may be held jointly and severally liable for site cleanup costs. You may wish to coordinate with the other RP(s) to allocate the site cleanup costs among yourselves.

1 BACHARACH/B BORSUK TRUST
383 DIABLO ROAD NO 100
SANVILLE, CA 94526

DOUGLAS PARKING CO
LELAND DOUGLAS
1721 WEBSTER ST
OAKLAND, CA 94612

rin510b
pg. 2

Local agency: COUNTY OF ALAMEDA
Site number: 498
Billing date: 10/26/95

ITEMIZED NEW CHARGES

Site specific charges for billing period: 01/01/95 - 06/30/95

DATE	NAME	*ACT	HOURS		RATE		IND	TRAVEL	TOTAL
			ST	OT	ST	OT			
01/03/95	Thomas PEACOCK	*212	0.50	0.0	54.18	0.00	0.1520	0.00	31.20
01/23/95	Thomas PEACOCK	215	1.00	0.0	54.18	0.00	0.1520	0.00	62.39
01/24/95	Jennifer EBERLE	*212	0.10	0.0	38.08	0.00	0.1520	0.00	4.39
01/24/95	Thomas PEACOCK	215	1.20	0.0	54.18	0.00	0.1520	0.00	74.87
01/25/95	Thomas PEACOCK	*212	0.50	0.0	54.18	0.00	0.1520	0.00	31.20
01/25/95	Thomas PEACOCK	*212	0.30	0.0	54.18	0.00	0.1520	0.00	18.72
01/25/95	Thomas PEACOCK	215	0.80	0.0	54.18	0.00	0.1520	0.00	49.91
01/26/95	Thomas PEACOCK	215	0.70	0.0	54.18	0.00	0.1520	0.00	43.68
01/30/95	Thomas PEACOCK	*212	0.30	0.0	54.18	0.00	0.1520	0.00	18.72
01/31/95	Thomas PEACOCK	215	0.20	0.0	54.18	0.00	0.1520	0.00	12.48
02/01/95	Thomas PEACOCK	*212	0.50	0.0	54.18	0.00	0.1520	0.00	31.20
02/10/95	Thomas PEACOCK	215	1.30	0.0	54.18	0.00	0.1520	0.00	81.11
02/22/95	Thomas PEACOCK	*212	0.60	0.0	54.18	0.00	0.1520	0.00	37.44
02/27/95	Thomas PEACOCK	215	0.30	0.0	54.18	0.00	0.1520	0.00	18.72
03/13/95	Thomas PEACOCK	210	0.80	0.0	54.18	0.00	0.1520	4.16	54.07
03/30/95	Thomas PEACOCK	*204	0.30	0.0	54.18	0.00	0.1520	0.00	18.72
04/14/95	Thomas PEACOCK	215	0.20	0.0	54.18	0.00	0.1516	0.00	12.48
04/25/95	Thomas PEACOCK	*212	0.20	0.0	54.18	0.00	0.1516	0.00	12.48
04/26/95	Thomas PEACOCK	*212	0.50	0.0	54.18	0.00	0.1516	0.00	31.20
04/26/95	Thomas PEACOCK	215	1.20	0.0	54.18	0.00	0.1516	0.00	74.87
05/04/95	Thomas PEACOCK	215	0.40	0.0	54.18	0.00	0.1516	0.00	24.96
05/09/95	Thomas PEACOCK	*212	0.40	0.0	54.18	0.00	0.1516	0.00	24.96
05/10/95	Thomas PEACOCK	*204	0.30	0.0	54.18	0.00	0.1516	0.00	18.72
05/17/95	Thomas PEACOCK	215	0.30	0.0	54.18	0.00	0.1516	0.00	18.72
05/23/95	Thomas PEACOCK	215	0.20	0.0	54.18	0.00	0.1516	0.00	12.48
05/24/95	Thomas PEACOCK	215	0.20	0.0	54.18	0.00	0.1516	0.00	12.48
06/12/95	Thomas PEACOCK	215	1.10	0.0	54.18	0.00	0.1516	0.00	68.63
06/22/95	Jennifer EBERLE	*212	0.10	0.0	39.96	0.00	0.1516	0.00	4.60
06/22/95	Thomas PEACOCK	215	0.10	0.0	54.18	0.00	0.1516	0.00	6.24
SITE SPECIFIC TOTALS:			14.6	0.0				\$	911.64
			* PROGRAM MANAGEMENT CHARGE (calculated at 20% of site specific charges):					\$	182.33
			TOTAL NEW CHARGES					\$	1093.97

* ACTIVITY CODES AND DESCRIPTIONS: (ACT)

- 300 (200) Responsible Party Identification and notification
- 304 (204) Meeting with Regional Board or other affected agencies regarding a specific site
- 306 (206) Development of enforcement actions against a Responsible Party
- 307 (207) Issuance of a closure document
- 310 (210) Site visits
- 311 (211) Sampling activities
- 312 (212) Meetings with responsible parties or responsible party consultants
- 315 (215) Review of reports, Workplans, preliminary assessments, remedial action plans, or post-remedial monitoring

Act 95-1
Act 95-2

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
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Internet: mborsuk@ix.netcom.com

VIA FAX & E-mail

September 20, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Project Update
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

This letter responds to your comments of September 13.

1. Site Characterization. Cambria Environmental will submit a proposal to sample the up & down gradient for off-site sources of petroleum hydrocarbon contamination.
2. Demolition. The property owners demolished the Harrison Street structure in May. The Alice Street structure will remain a parking garage.
3. IIIQ'95 Sampling. Blaine Tech will undertake their regular quarterly sampling of MW-1 & MW-2 on September 28.

If you have any questions, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach & Barbara Jean Borsuk
David Elias, Cambria Environmental Technology, Inc.
Gil Jensen, Alameda County Dist. Attorney's Office
George Young, Acting Chief-files
Dave Deaner, UST FUND
Lori Casias, LOP Manager, Clean Water Program
Kevin Graves, SFBRWQCB
Bernie Rose, Randick & O'Dea

attachment

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
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Internet: mborsuk@ix.netcom.com

September 19, 1995

Ms. Lori Casias
LOP Manager
Water Program
Water Resources Control Board
Street
Alameda, CA 95814
(916) 227-4325
FAX 227-4349

SUBJECT: APPEAL OF LOP CHARGES
Alameda County Site #498
1432 Harrison Street
Oakland, CA 94612

Dear Lori:

On August 14, 1995, the Alameda County LOP replied to my May 16 letter regarding why Mr. Smith charged his time to this site. The reply raises more questions about the propriety of the Water Board paying these costs.

#1. Why was the time characterized as "212" (Meeting with responsible parties or responsible party consultants) when Mr. Smith never met with the RP or the RP's consultant?

#2. What was the relevance of bringing a former case officer into the discussion? Mr. Smith since the beginning of 1993 had no connection with site.

#3. What was the purpose of Mr. Smith speaking to the State Water Resources Control Board about a site when he no longer had responsibility for the site? Specifically, whom did he speak to and what was the subject of the conversation? Please provide a written summary of the conversation.

#4. What was the relevance of discussing the past compliance of the site? The issue under review by Mr. Peacock was the frequency of monitoring well sampling. The site's prior compliance history was irrelevant. Further, your office

knows the site was in compliance. See FAX to Ms. Casias dated September 8, 1993.

The State LOP administrator has an obligation to review local LOP charges for fairness, relevancy and appropriateness. A review of the above discloses no basis for the charge to the RP and reimbursement from the UST Fund.

There are two related matters requiring your assistance. Please confirm the reversal of the \$121.20 (#206) charge from November 1994. Also, forward a copy of the summary for the proposed enforcement action prepared by the Alameda County LOP.

Please let me know the results of your investigation, so we may resolve the appeal.

Thank you for your help in answering these questions and concerns.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Thomas Peacock, Alameda County LOP
Leroy Todd, Acting Chief-files, Div. Env. Protection, Alameda County

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, DIRECTOR

September 13, 1995
STID 498

DEPARTMENT OF ENVIRONMENTAL HEALTH
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6777

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed Results of Subsurface investigation dated August 10, 1995 by Cambria Environmental Technology Inc. for the above site. The following are comments concerning this report:

1. This office agrees with the recommendations on page 4 and 5 except that there is not any evidence at this time to say that other off-site tanks have caused the contamination. There is just a lot of contamination around the former fuel tanks and the lateral extent of this contamination has not been defined.
2. There is a comment in a letter dated May 15, 1995 that the buildings would be demolished soon. It appears that there has not been any demolition to date and the parking structure is still being used.
3. There is not a summary of sampling for MW-1 and MW-2 but on a quarterly schedule you are reminded that those wells are due for sampling again in the month of September.

If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,

Thomas Peacock, Manager
Division of Environmental Protection

c: George Young, Acting Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Joseph Theisen, Cambria Environmental Technology, Inc.,
1144 65th St., Suite C, Oakland, CA 94608

Compliance Summary for 1432 Harrison St., STID 498

Aug 31, 93 Review Panel Held

Sep 22, 1993 - Order from Regional Water Quality Control Board directing the RP's to:

- 1) remove tanks, hydraulic lift, piping
- 2) workplan for investigation
- 3) tanks to be removed by Dec. 1, 1993

RWQCB order required:

1. removal of UST's by Dec. 1, 1993
2. workplan to define vericle and lateral extent of pollution in soil and groundwater. Furthermore, required to conduct both soil and groundwater investigation

October, 93 workplan stated that well drilling would occur within 1 month, report would be submitted within 3 weeks of sample receipt
Oct 14, 1993 - workplan received

Oct 18, 1993 - workplan reviewed and accepted

Nov 8, 1993 - 1 copy of tank removal plan received, need 2 others. Notice of Violation sent out to RP's concerning failure to submit a plan to remove the tanks within 45 days of the Regional Board's letter. 45 days expired on Nov 6, 1993.

Nov 10, 1993 - Tank removal plan reviewed and accepted

Nov 16, 1993 - Gary Collins of Oakland F.D. reported complaints of tank removals, had no knowledge of any permits being applied for with O.F.D.

Nov 17, 1993 - John Sturman reports a delay in the removal schedule. Faxed schedule received.

Nov. 19, 93 Plan submitted to remove the UST's

Nov 23, 1993 - Waste oil tank removal scheduled for today, canceled after arrival. Removal schedule received from Levine-Fricke.

Nov 24, 1993 - waste oil tank removal accomplished. 2 - 750 gal. tanks wrapped and stored on site.

Nov 29, 1993 - 3 hydraulic lifts and one storage tank removed. No schedule for removal of the gasoline tanks. Still need to apply for an excavation permit from the City. Do not anticipate removing tanks until after Dec. 1, 1993. Removal of the gasoline tanks is yet to be accomplished.

Dec 12, 93 Tanks removed, clean up letter signed for the fund

- Feb 22, 94 Tank closure report
- Feb 25, 94 Notice of non-compliance for not submitting a tank closure report (written but not yet submitted) and no monitoring wells installed
- ✓ Apr 14, 94 Report on workplan implementation delayed, will be submitted by July 94
- June 28, 94 additional delay
- ✓ June 30, 94 new timeline submitted: report to Alameda Co. by Aug 31, 94, received Sep 1, 94
- July 19, 94 request to submit report to Alameda Co. by Sep 7, 94
- July 30, 94 monitoring wells finally drilled, 1 week later than last extension
- ✓ Aug 16, 94 request to submit monitoring schedule by 1 Oct 94, never deleivered
- Sep 1, 1994 Soil and Groundwater Investigation Report by Levine Fricke
- ✓ Sep 6, 1994 letter to RP's concerning soil & gw report
- Sep 26, 94 requested extension to Nov 1, 94 for submittal of 2nd monitoring report. **Never granted** and no report has been submitted. Now in the 4th quarter since the tanks were removed and there has only been 1 quarterly report submitted
- Oct 3, 1994 Spoke with Dave Deaner concerning case charge filing
- Oct 22, 1994 letter from Mark Borsuk re: site search cost
Christmas Card from Mark Borsuk
- ✓ Dec 21, 1994 GW sampling report from Blaine Tech Services
- ✓ Jan 9 1995 Fax from Levine Fricke, letter on proposed implementation of workplan
- Jan 23, 1995 letter from Mark Borsuk on sampling
- Jan 26, 1995 NOV sent out for not submitted four quarterly reports and monitoring according to their workplan
- Feb 1, 1995 letter from Mark Borsuk on sampling
- Feb 10, 1995 letter to RP's concerning sampling report

Feb 15, 1995 letter from Mark Borsuk re: MW sampling

Feb 22, 1995 letter from Mark Borsuk re: Paul Smith's letter

✓ Mar 13, 1995 in field report looking at adjacent site, as
referenced by Mark Borsuk

Apr 12, 1995 GW sampling report from Blaine Tech Svcs
Apr 14, 1995 letter from Mark Borsuk re: discontinue sampling

Apr 26, 1995 letter to RP's concerning reports and progress

✓ May 15, 1995 letter from Cambria

May 22, 1995 letter from Mark Borsuk re: site access for soil
borings

CAMBRIA Environmental Technology, Inc.

1144 65th Street, Suite C • Oakland, CA 94608 • (510) 420-0700 • Fax (510) 420-9170

ENVIRONMENTAL
PROJECTS
95 AUG 18 PM 3:09

TRANSMITTAL LETTER

TO: Thomas Peacock

FROM: David Elias

COMPANY: ACDEH

DATE: August 16, 1995

SUBJECT: 1432 Harrison St., Oakland

PROJECT NUMBER: 54-188

COMMENTS:

Dear Mr. Peacock, Please find enclosed a subsurface investigation report presenting the analytic results for the July investigation at the site referenced above. Cambria completed the report on behalf of the Alvin H. Bacharach and Barbara J. Borsuk trust. Please call me at (510)420-9176 with any questions.

cc: Mark Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, DIRECTOR

August 14, 1995

Lori Casias
Division of Clean Water Programs
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94224-2120

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6700

Dear Lori Casias:

This letter is in response to a letter written to you dated July 11, 1995 by Mark Borsuk concerning STID 498 in the LOP program. Referring to his letter dated May 16 he asked for an explanation for 1 hour of meeting charge on October 3, 1994. That charge was made by Paul Smith of our office and involved speaking with me and also the State Water Resources Control Board concerning whether this site was in compliance during a period of time familiar to Mr. Paul Smith.

If you have any questions concerning this matter please contact me at (510) 567-6782.

Sincerely,

Thomas Peacock, Supervising HMS
Division of Environmental Protection

c: Leroy Todd, Acting Chief- files
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

ENVIRONMENTAL
PROTECTION
95 AUG -6 P

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

August 3, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Project Update
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

On June 27, Blaine Tech Services monitored wells #1 & #2 for the second calendar quarter. Enclosed are the results of the sampling. The consultant, Cambria Environmental Technology, will submit a soil and groundwater sampling report to you on August 15.

If you have any questions concerning this matter, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Joe Theisen, Cambria Environmental Technology, Inc.
Gil Jensen, Alameda County Dist. Attorney's Office
Jun Makishima, Acting Chief-files
Dave Deaner, UST FUND
Lori Casias, LOP Manager, Clean Water Program
Kevin Graves, SFBRWQCB

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

95 JUL 13 PM 1:17

VIA E-Mail & Mail

July 11, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335
76325.3440@compuserve.com

SUBJECT: Project Update
1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

On June 27, Blaine Tech Services monitored wells #1 & #2 for the second calendar quarter. We should have the analysis available by the end of this month. On July 13 and 14, Cambria Environmental Technology sampled for the presence of hydrocarbons in the vicinity of the site. Upon receipt, I will forward the report to you.

I received your June 28 letter to Ms. Casias regarding the appeal of LOP charges. In my letter of May 16 to her, I requested a copy of the ACHCSA summary for the proposed enforcement action and an explanation regarding the charge for a one hour meeting on October 3, 1994. Please forward this information.

If you have any questions concerning this matter, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Joe Theisen, Cambria Environmental Technology, Inc.
Gil Jensen, Alameda County Dist. Attorney's Office
Jun Makishima, Acting Chief-files
Dave Deaner, UST FUND
Lori Casias, LOP Manager, Clean Water Program
Kevin Graves, SFBRWQCB

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6700

June 22, 1995

Lori Casias
Division of Clean Water Programs
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94224-2120

Dear Lori Casias:

This letter is in response to a letter written to you by Mark Borsuk concerning STID 498 in the LOP program. He questions the validity of 2 activity code 206 charges totalling \$121.20. The charges were on 11/15/94 and 11/16/94 for 0.3 and 1.7 hours. They involved speaking with Gil Jensen, our District Attorney, and reviewing the case file for a summary. This was done as it seemed that there was a pattern of non-compliance developing on this case, as follows:

July 30, 94 mw's finally drilled, 1 week later than the last extension which was granted.

Aug 16, 94 a request was made to submit a monitoring schedule by 1 Oct. Schedule was never delivered.

Sep 26, 94 RP requested extension to Nov 1, 94 for submittal of 2nd monitoring report for wells drilled 30 Jul 94. Extension was never granted and no report was submitted. It is now in the 4th quarter since the tanks were removed and there has been only 1 quarterly report submitted.

This information and chronology of action was compiled at that time and discussed as "what to do?" with the District Attorney.

If you have any questions concerning this matter please contact me at (510) 567-6782.

Sincerely,

Thomas Peacock, Supervising HMS
Division of Environmental Protection

c: Jun Makishima, Acting Chief- files

Forwarded to Mark Borsuk
6-28-95

1995.06-28 11:50
 510 337 9335
 ALAMEDA CO EHS HAZ-DPS

COM No.	REMOTE STATION	START TIME	DURATION	PAGES	RESULT	USER ID	REMARKS
483	4159221485	05-28 11:49	00' 48	01/01	OK		

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**ALAMEDA COUNTY
 HEALTH CARE SERVICES
 AGENCY**

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
 State Water Resources Control Board
 Division of Clean Water Programs
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 1131 Harbor Bay Parkway
 Alameda, CA 94502-6577
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June 22, 1995

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 Division of Clean Water Programs
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This letter is in response to a letter written to you by Mark Borsuk concerning STID 498 in the LOP program. He questions the validity of 2 activity code 206 charges totalling \$121.20. The charges were on 11/15/94 and 11/16/94 for 0.3 and 1.7 hours. They involved speaking with Gil Jensen, our District Attorney, and reviewing the case file for a summary. This was done as it seemed that there was a pattern of non-compliance developing on this case, as follows:

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This information and chronology of action was compiled at that time and discussed as "what to do?" with the District Attorney.

If you have any questions concerning this matter please contact me at (510) 567-6782.

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

VIA FAX & MAIL
TWO PAGES

May 22, 1995

Mr. James G. Schwartz, Esq.
Law Offices of James G. Schwartz
Suite 401
7901 Stoneridge Drive
Pleasanton, CA 94588
(510) 463-1073
FAX 463-2937

SUBJECT: Site Access to Perform Soil Borings
1440-1450 Harrison Street

Dear Mr. Schwartz:

This office represents the property owners of 1432 Harrison Street, Mr. Alvin H. Bacharach and Mrs. Barbara Jean Borsuk. On September 22, 1993, the San Francisco Bay Regional Water Quality Board named the property owners and Mr. Leland Douglas, Douglas Parking, Co., as Responsible Parties ("RP") for the characterization and, if necessary, remediation of 1432 Harrison Street.

The local agency overseeing the project, the Alameda County Health Care Service Agency ("ACHCSA") requires additional information on the direction of the groundwater gradient and the lateral and vertical extent of the plume. The preliminary data suggests the groundwater moves across your client's property.

The ACHCSA accepted the RP's proposal to do three (3) exploratory borings (soil and groundwater grab samples) on your client's property. The work will take one day and each boring is approximately 5" in diameter. The contractor will fill each boring with concrete.

The RPs require your client's permission to comply with the ACHCSA's directive. Please provide me with your client's permission by June 1. This will allow the work to proceed expeditiously. If you have a question regarding this request, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Leland Douglas
Tom Peacock, ACHCSA
Kevin Graves, SFBRWQCB
Gilbert Jensen, Alameda County District Attorney's Office
David Elias, Project Geologist, Cambria Envir. Technology

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

April 26, 1995
STID 498

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk and Leland Douglas:

This office received and reviewed a 1st quarter sampling report dated April 12, 1995 by Blaine Tech Services and an additional monitoring report by Cambria Environmental Technology Inc. dated April 11, 1995 for the above site. The following are comments concerning these reports:

1. There are still very high levels of contamination in the area of MW-1 and MW-2. Your request to cease monitoring of MW-3 is acceptable although the well may still be needed to determine gradient or if contamination is shown to migrate. The extent of contamination is not defined in any direction around MW-1 and MW.
2. There were no recommendations or conclusions in these reports. There was also no statement of proposed actions in the next quarter. These should be included.
3. It is not necessary to copy the Regional Water Quality Control Board with reports. If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,

Thomas Peacock, Supervising HMS
Division of Environmental Protection

cc: Bill Reynolds, Acting Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Taylor Bennett, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund
Joseph Theisen, Cambria Environmental Technology, Inc.,
1144 65th St., Suite C, Oakland, CA 94608

David Alras

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

May 16, 1995

Ms. Lori Casias
LOP Manager
Clean Water Program
State Water Resources Control Board
901 P Street
Sacramento, CA 95814
(916) 227-4325
FAX 227-4349

SUBJECT: APPEAL OF LOP CHARGES
Alameda County Site #498
1432 Harrison Street
Oakland, CA 94612

Dear Lori:

The property owners, Alvin H. Bacharach and Barbara Jean Borsuk, appeal certain charges totaling \$121.20 relating to development of an enforcement action by Alameda County on November 15 & 16, 1994.

The property owners believe they were in compliance with the County's well sampling schedule based on their consultant's exchange with ACHCSA. Presented below is the record.

Date	From	To	Subject
4/14/94	ACHCSA	Levine-Fricke	Work Plan submittal deadline of July 1, 1994.
6/30/94	Levine-Fricke	ACHCSA	Work Plan submitted.
7/22/94	Levine-Fricke	ACHCSA	Revised Schedule for Soil and Groundwater Investigation.
8/1/94			Well sampling for III/Q'94.
8/16/94	Levine-Fricke	ACHCSA	Schedule for report submittals.
9/6/94	ACHCSA	Levine-Fricke	Review of 9/1/94 Soil and Groundwater Investigation Report containing III/Q'94 sampling data.
10/17/94	Levine-Fricke	ACHCSA	Phone update to discuss reconciling

EMERGENCY
95 MAY 24 PM 1:16

			elevations between Harrison St. and Chevron sites for groundwater gradient measurement. Informed ACHCSA of December (IVQ'94) well sampling.
11/15 & 16/94			ACHCSA develops enforcement action.
12/21/94			Well sampling IVQ'94.
1/9/95	Levine-Fricke	ACHCSA	Phase II Work Plan submitted.
1/23/95	Mark Borsuk	ACHCSA	IVQ'94 well sampling data provided to ACHCSA.
3/13/95			IQ'95 well sampling.
4/14/95	Mark Borsuk	ACHCSA	IQ'95 well sampling data provided to ACHCSA.
5/15/95	Cambria	ACHCSA	Phase II Work Plan Addendum and IIQ'95 well sampling schedule submitted.

In reviewing the above exchange it appears ACHCSA did not note the October 17 conversation when reviewing the file on November 15. Not having the information resulted in the ACHCSA's action. As noted above, the consultant stated on October 17 the well sampling was scheduled for December. If the ACHCSA had objected to the IVQ'94 date, then the property owners' would have revised the schedule.

The property owners have followed the ACHCSA's well monitoring guidelines. Under the circumstances they should not bear the enforcement cost. The property owners request the LOP program manager to reverse the charge or reclassify the charge. Referenced correspondence attached. Please also forward a copy of the ACHCSA summary regarding the proposed enforcement action.

On a related matter, the consultant does not have a record for an October 3, 1994 meeting with the ACHCSA. Please review this one hour charge. Also, future LOP billings need to include a time and task verification sheet.

Thank you for your assistance. If I may provide you with additional information, please contact me.

Sincerely yours,



Mark Borsuk

cc: Tom Peacock, ACHCSA
Douglas Parking Co, Attention: Leland Douglas
Kevin Graves, S.F. Bay Regional Board

Copy sent
to Mr. Borsuk
4/18/95

pg. 1

INVOICE FOR OVERSIGHT COSTS

fin510a
<< mrp:1 >>

Send Payment to: State Water Resources Control Board
Underground Storage Tank Local Oversight Program
PO Box 944212
Sacramento, CA 94244-2120

Bill Date:
03/28/95

Local Agency: COUNTY OF ALAMEDA

Site Location:

Site # 498
A BACHARACH/B BORSUK TRUST
383 DIABLO ROAD NO 100
DANVILLE, CA 94526

A BACHARACH TR & B BORSUK
1432 HARRISON ST
OAKLAND, CA
94612

Total previously billed:	\$ 6,199.37
Payment(s) received as of 10/06/94	\$ 5,442.75
**New Charges - Billing Period:07/01/94 through 12/31/94	\$ 1,382.08

FUND: F Total amount due: \$ 2,138.70

State Health and Safety Code Sections 25297.1 and 25360 and Title 42 of the United States Code Section 6991b(h)(6) require recovery of costs associated with the local oversight program. When your site was put in the local oversight program, you received a letter explaining that the State Water Resources Control Board (State Board) would bill you for public costs of cleanup oversight.

This bill includes site specific and program management charges. Site specific charges directly relate to your site. Examples are sampling for soil and ground water contamination, site inspections, and reviewing reports and workplans. A description of activity codes follows the itemized charges. Program management includes other costs associated with program operation. Such costs may include: space rental, office services and supplies, purchase of sampling equipment, training and the salary and benefits of support personnel (i.e., clerical staff, accountant, program supervisor). Program management charges are calculated at not more than 50 percent of site specific charges. The exact rate is shown on the last page of your bill.

If you received an invoice for a previous billing period, these charges are shown as "Total Previously Billed". Any payments you made on the previous billing are shown as "Payment Received". The total of any unpaid previous balance plus new charges is shown as "Total Amount Due".

** See itemized list of new charges on next page(s).

FOR INFORMATION CALL: LORI CASIAS (916) 227-4325

PAYMENT IS DUE IN 30 DAYS

-----cut on this line-----
Return this part with your check made payable to SWRCB. Use the enclosed envelope and send to the address above.

Local Agency: COUNTY OF ALAMEDA

Site #: 498
Site Location:

A BACHARACH/B BORSUK TRUST
383 DIABLO ROAD NO 100
DANVILLE, CA 94526

A BACHARACH TR & B BORSUK
1432 HARRISON ST
OAKLAND, CA
94612

Total amount due: \$ 2,138.70

Enter amount paid: \$ _____

ffa510b
pg. 2

Local agency: COUNTY OF ALAMEDA
Site number: 498
Billing date: 02/28/95

ITEMIZED NEW CHARGES

Site specific charges for billing period: 07/01/94 - 12/31/94

DATE	NAME	*ACT	HOURS		RATE		IND	TRAVEL	TOTAL
			BT	OT	BT	OT			
07/08/94	PEACOCK	212	0.60	0.0	52.62	0.00	0.1516	0.00	36.36
07/11/94	PEACOCK	215	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
07/18/94	PEACOCK	212	0.30	0.0	52.62	0.00	0.1516	0.00	18.18
07/19/94	PEACOCK	215	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
07/22/94	PEACOCK	215	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
07/22/94	PEACOCK	212	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
07/25/94	PEACOCK	215	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
07/29/94	PEACOCK	215	0.30	0.0	52.62	0.00	0.1516	0.00	18.18
07/29/94	EMERLE	210	1.00	0.0	38.08	0.00	0.1516	0.00	43.85
07/30/94	EMERLE	210	1.00	0.0	38.08	0.00	0.1516	0.00	43.85
08/01/94	PEACOCK	213	0.90	0.0	52.62	0.00	0.1516	0.00	54.54
08/05/94	PEACOCK	212	0.40	0.0	52.62	0.00	0.1516	0.00	24.24
08/08/94	PEACOCK	215	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
08/15/94	PEACOCK	212	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
08/16/94	PEACOCK	215	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
08/16/94	PEACOCK	212	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
08/29/94	PEACOCK	215	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
08/31/94	PEACOCK	212	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
09/02/94	PEACOCK	215	0.60	0.0	52.62	0.00	0.1516	0.00	36.36
09/06/94	PEACOCK	215	0.40	0.0	52.62	0.00	0.1516	0.00	36.36
09/06/94	PEACOCK	212	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
09/07/94	PEACOCK	212	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
09/29/94	PEACOCK	215	0.40	0.0	52.62	0.00	0.1516	0.00	24.24
10/03/94	Tom PEACOCK	215	0.30	0.0	52.62	0.00	0.1516	0.00	18.18
10/03/94	Tom PEACOCK	204	0.30	0.0	52.62	0.00	0.1516	0.00	18.18
10/03/94	Paul SMITH	212	1.00	0.0	48.18	0.00	0.1516	0.00	52.03
10/04/94	Tom PEACOCK	215	0.90	0.0	52.62	0.00	0.1516	0.00	54.54
10/17/94	Tom PEACOCK	212	0.40	0.0	52.62	0.00	0.1516	0.00	24.24
10/24/94	Tom PEACOCK	212	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
10/26/94	Tom PEACOCK	204	0.10	0.0	52.62	0.00	0.1516	0.00	6.06
11/04/94	Tom PEACOCK	204	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
11/14/94	Tom PEACOCK	204	2.50	0.0	52.62	0.00	0.1516	0.00	151.49
11/15/94	Tom PEACOCK	206	0.30	0.0	52.62	0.00	0.1516	0.00	18.18
11/15/94	Tom PEACOCK	215	2.70	0.0	52.62	0.00	0.1516	0.00	163.61
11/16/94	Tom PEACOCK	206	1.70	0.0	52.62	0.00	0.1516	0.00	103.02
11/22/94	Tom PEACOCK	204	0.50	0.0	52.62	0.00	0.1516	0.00	30.30
12/13/94	Tom PEACOCK	215	0.20	0.0	52.62	0.00	0.1516	0.00	12.12
12/19/94	Tom PEACOCK	212	0.50	0.0	52.62	0.00	0.1516	0.00	30.30

SITE SPECIFIC TOTALS: 19.7 0.0 \$ 1751.73

PROGRAM MANAGEMENT CHARGE (calculated at 20% of site specific charges): \$ 230.35

TOTAL NEW CHARGES \$ 1382.08

** see activity codes on next page **

pg. 3
SITE #: 498

(cont)

*** ACTIVITY CODES AND DESCRIPTIONS: (ACT)**

300 (200) Responsible Party Identification and notification
304 (204) Meeting with Regional Board or other affected agencies regarding a specific site
306 (206) Development of enforcement actions against a Responsible Party
307 (207) Issuance of a closure document
310 (210) Site visits
311 (211) Sampling activities
312 (212) Meetings with responsible parties or responsible party consultants
315 (215) Review of reports, workplans, preliminary assessments, remedial action plans, or post-remedial monitoring

NOTE: More than one responsible party (RP) has been identified for this site. All RPs are shown below. This invoice has been sent to all RPs for this site. RPs may be held jointly and severally liable for site cleanup costs. You may wish to coordinate with the other RP(s) to allocate the site cleanup costs among yourselves.

A BACHARACH/B BORSUK TRUST
383 DIABLO ROAD NO 100
DANVILLE, CA 94526

DOUGLAS PARKING CO
LELAND DOUGLAS
1721 WEBSTER ST
OAKLAND, CA 94612

**ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY**

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

April 14, 1994
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Franklin St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted your Workplan for Soil and Groundwater investigation dated October 13, 1993 by Levine-Fricke. You then submitted a Modification to the Workplan which was dated April 8, 1994, also by Levine-Fricke. This Modification is acceptable to this office. In the Modification you present a timeline for completion of the several tasks. The report on workplan implementation, by this timeline, should be complete and presented to this office by July 1994.

Also presented was a letter describing treatment and disposal of soils. Records of disposal, manifests, and laboratory analysis for tests that were cited must also be submitted.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
~~John Strahan~~, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

June 30, 1994

LF 2680.00-45

Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, California 94501

Attention: Mr. Thomas Peacock,
Supervising Hazardous Materials Specialist

Subject: Letter of June 28, 1994 from Alameda County to Alvin
H. Bacharach and Barbara J. Borsuk concerning
property at 1432 - 1434 Harrison Street, Oakland,
California

Dear Mr. Peacock:

This letter has been prepared on behalf of our clients, Mr.
Bacharach and Ms. Borsuk, in response to the subject letter
from your office.

Levine-Fricke was retained by Mr. Bacharach and Ms. Borsuk to
implement the activities approved in your April 14, 1994
letter. We have selected a drilling contractor to conduct
this work. However, the commencement of drilling is behind
schedule because the City of Oakland did not issue permits on
a timely basis. We notified you of this in our letter dated
June 20, 1994 (copy attached), which we sent to your offices'
new address in Alameda. The current schedule for field
activities and data submittal is as follows:

- | | |
|-----------|---|
| July 8-9 | Drill soil borings, collect preliminary grab
ground-water samples, and install wells |
| July 11 | Develop wells and collect ground-water
samples |
| August 1 | Soil and grab ground-water analysis results
due from laboratory |
| August 2 | Well water analysis results due from
laboratory |
| August 31 | Submit report to Alameda County Health Care
Services Agency |

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE·FRICKE

This schedule is contingent upon our receiving necessary permits from the City of Oakland and Alameda County Zone 7 Water Conservation and Flood Control District.

Please let us know your new phone and fax numbers.

If you have any questions, please call me or John Sturman, P.E., R.G., of this office.

Sincerely,



Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Gil Jensen
Alameda County District Attorney's Office
7677 Oakport St.
Oakland, CA 94621

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

July 22, 1994

LF 2680.00-45

Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, California 94501

Attention: Mr. Thomas Peacock,
Supervising Hazardous Materials Specialist

Subject: Revised Schedule for Soil and Ground-Water
Investigation at 1432 - 1434 Harrison Street,
Oakland, California

Dear Mr. Peacock:

This letter is to inform you that the commencement of drilling activities for the subject investigation is behind schedule because the drilling company we had selected to perform the work was unavailable. According to the schedule in our previous letter to you, dated July 19, the drilling was scheduled to begin on Friday, July 22. We have selected another drilling subcontractor to perform the work. The current schedule for field activities and data submittal is as follows:

July 29 - 30	Drill soil borings, collect preliminary grab ground-water samples, and install wells
August 1	Develop wells and collect ground-water samples
August 15	Soil and grab ground-water analysis results due from laboratory
August 16	Well water analysis results due from laboratory
Sept. 14	Submit report to Alameda County Health Care Services Agency

If this schedule is modified, we will notify you.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE-FRICKE

If you have any questions, please call me or John Sturman,
P.E., R.G., of this office.

Sincerely,

Taylor Bennett
Project Hydrogeologist

Attachment

cc: Distribution List

DISTRIBUTION LIST

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123-5116

Kevin Graves
Regional Water Quality Control Board,
San Francisco Bay Region
2101 Webster St., Suite 500
Oakland, CA 94612

Edgar Howell, Chief of files
Alameda County Health Care Services Agency
Department of Environmental Health
Hazardous Materials Division
1131 Harbor Bay Parkway
Alameda, CA 94501

Randall Morrison
Crosby, Heafy, Roach & May
1999 Harrison St.
Oakland, CA 94612

Bernie Rose
Randick & O'Dea
1800 Harrison St., Suite 2350
Oakland, CA 94612

Leland Douglas
Douglas Parking Co.
1721 Webster St.
Oakland, CA 94612



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

August 16, 1994

LF 2680.45

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Hazardous Materials Division
1131 Harbor Way Parkway, 2nd Floor
Alameda, California 94502-6577

Subject: Schedule for Report Submittals, Harrison Street
Garage Phase II Ground-Water Investigation, 1432-1434
Harrison Street, Oakland, California

Dear Mr. Peacock:

As we discussed in our telephone conversation of August 11, 1994, we are providing you with this letter concerning report submittals for the subject project.

As you know, Levine•Fricke conducted a ground-water investigation that included the installation of two ground-water monitoring wells and three grab ground-water sampling points. The wells and sampling points were drilled on July 29 and 30, 1994. The wells were developed and sampled on August 1, 1994. At this time, we have not yet received all of the laboratory results.

On behalf of the site owners, Levine•Fricke will submit a report on the ground-water quality investigation and results to your office by August 31, 1994. Since the wells at the site will permit only limited ground-water flow gradient evaluation, additional water-level measurements will be taken concurrently with the water-level measurements for the nearby former Chevron site at 301 14th Street (Alameda County STID case #478), which has 10 monitoring wells on and around it. The quarterly ground-water monitoring at the former Chevron site is scheduled to take place during the week of September 12, 1994. An addendum to Levine•Fricke's report, which includes the ground-water elevation data collected in September, will be submitted to your office by October 1, 1994.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

Other offices in Irvine, CA; Sacramento/Roseville, CA; Tallahassee, FL; Honolulu, HI

LEVINE·FRICKE

The addendum report will contain a schedule for quarterly ground-water monitoring at the wells at the subject site.

If you have any questions, please contact me or Taylor Bennett at 510-652-4500.

Sincerely,



John Sturman, P.E., R.G.
Senior Geotechnical Engineer

cc: Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May
Kevin Graves, Regional Water Quality Control Board

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

September 6, 1994
STID 498

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office received and reviewed a Soil and Groundwater Investigation Report for the above site dated September 1, 1994 and submitted by Levine-Fricke.

This office concurs with the recommendations on page 7 of the report. Please note that 4 quarters of monitoring is a minimum and not a maximum, especially when contamination is discovered. The lateral and vertical assessment of soil and groundwater contamination is really a first step in moving forward on the cleanup of this property.

If you have any questions or comments, please contact this office at (510) 567-6700. Note our new address and telephone.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
John Sturman, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

THB

LEVINE-FRICKE, INC.

TELEPHONE MEMORANDUM

DATE: October 17, 1994

PROJECT: 2680.00-45

TO: Thomas Peacock **PHONE NO.:** (510) 567-6700
of Alameda County Health Care Services Agency

FROM: Taylor Bennett

SUBJECT: Schedule for submittal of water-level data

Tom Peacock returned my phone call today. I asked him if he had received our letter dated September 26, 1994 (attached) regarding the schedule for submittal of a letter presenting water-level data collected by us and Ground-Water Technology (GTI) on September 13, 1994 for the Harrison St. Garage site and the nearby Chevron service station. Tom said he did not receive a copy of the letter.

I told Tom that our September 26 letter stated that we had difficulty reconciling the water-level data for the two sites, and we had proposed submitting the water-level data on November 1, 1994, to give us more time to evaluate the data. I told Tom that John Sturman and I had discussed the situation further, and we decided that we should re-survey the elevation of one or more of Chevron's wells relative to the wells at Harrison St. Garage. I told him that JOS and I think the best time to do this would be during the next quarterly ground-water monitoring event to be conducted by GTI in December 1994. We could present the water-level data in a quarterly monitoring report covering the December sampling event. I told him we could probably submit a quarterly monitoring report by late December or early January.

Tom asked me when we would submit a work plan for the next phase of investigations, and when we planned to begin quarterly monitoring. I told him I was unaware of a firm deadline for submitting a work plan for the next phase of investigation, and we haven't been authorized to proceed by our client. Tom was very concerned that we submit a work plan and monitoring schedule as soon as possible, and not wait until it was too late to schedule the December quarterly monitoring event. He said that he was inclined to issue a letter of non-compliance within a minute past the next deadline, if it isn't met (he wasn't specific about which deadline, though). I told Tom that I would discuss the schedule with JOS and our client and call Tom back in the next couple of days.



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

January 9, 1994/5

LF 2680.00-49

Mr. Thomas F. Peacock
Supervising Hazardous Materials Specialist
Alameda County Health Care Services Agency
Division of Hazardous Materials
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

Subject: Proposed Phase II Implementation of the Work Plan
for Soil and Ground-Water Investigation, Dated
October 13, 1993, 1432-1434 Harrison Street Site,
Oakland, California

Dear Mr. Peacock:

In accordance with our letter to you dated April 8, 1994, this letter proposes Phase II investigation activities to implement the "Work Plan for Soil and Ground-Water Investigation," dated October 13, 1993 ("Work Plan"), which was approved by the Alameda County Health Care Services Agency (ACHCSA). Our April 8, 1994 letter outlined a phased approach to implementing the Work Plan. The results of Phase I investigations were submitted to you in the "Soil and Ground-Water Investigation Report" dated September 1, 1994 (Levine-Fricke 1994). In your letter commenting on the report, dated September 6, 1994, you concurred with our recommendations for further characterization.

Summary of Phase I Investigations

The Phase I investigation consisted of drilling five soil borings, collecting soil samples from all of the borings, and collecting grab ground-water samples from three of the borings. Two of the borings were completed as shallow monitoring wells (MW-2 and MW-3; Figure 1). Based on water-level data collected from wells MW-1, MW-2, and MW-3 during the Phase I investigation, it appears that the approximate ground-water flow direction beneath the Site is to the northeast (Levine-Fricke 1994). However, because of the geometry of the existing wells, we consider this conclusion only preliminary and subject to modification upon collection of further water level data.

As part of the Phase I investigation, ground-water samples were collected for chemical analysis from newly installed wells MW-2 and MW-3, and existing well MW-1 (Figure 1). Results of the Phase I investigation indicated that the

2680\2680PH2.WP:FNC

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

lateral and vertical extent of petroleum hydrocarbons in soil and ground water in the eastern portion of the Site (vicinity of the former waste oil tanks) may be limited and require no further action. In the western portion of the Site (the former underground gasoline tank, lift, and sump area), elevated concentrations of gasoline hydrocarbons were detected in wells MW-1 and MW-2. TPHg and BTEX were not detected in the grab ground-water sample collected at GW-1 (Figure 1), indicating that the extent of petroleum hydrocarbons in this area appears limited in the area southwest of the former gasoline UST location. Assuming a northeast ground-water flow gradient, sample location GW-1 is up-gradient from both the former gasoline USTs at the Site and the abandoned tanks at 1424 Harrison Street.

Proposed Phase II Investigations

To further assess the lateral and vertical extent of petroleum hydrocarbons in the western portion of the Site, and to investigate possible source areas for the compounds, we propose to collect soil and/or grab ground-water samples from 12 locations (GW-4 through GW-15; Figure 1). The proposed soil and grab ground-water sampling locations have been selected to assess the possible migration of hydrocarbons from the former gasoline tanks, to assess the potential for migration of hydrocarbons at the Site from the abandoned USTs at 1424 Harrison Street, and to assess the potential for hydrocarbon contamination from the former lift and sump area. The exact sampling locations will be determined in the field based on the locations of underground utilities and field observations and possibly initial field results.

One ground-water monitoring well (MW-4; tentative location shown in Figure 1) will be installed after the field results of the soil and grab ground-water sample analyses are evaluated. The proposed monitoring well will be installed to provide additional ground-water elevation data to confirm the estimated shallow ground-water flow direction beneath the western portion of the Site; to confirm the results of the grab ground-water sampling; and to assess the lateral extent of petroleum hydrocarbon affected water in the western portion of the Site.

We plan to use a Geoprobe or similar mobile rig to collect soil and grab ground-water samples. This type of rig uses a hydraulic ram or pneumatic hammer to push steel sampling probes into the ground. The rig is capable of sampling in limited access areas. Soil samples will be collected at approximately 5-foot intervals for lithologic description and

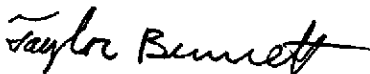
LEVINE-FRICKE

possible analysis. A portable photoionization detector (PID) will be used to aid in the selection of soil samples to be submitted for chemical analysis. At a minimum, soil and grab ground-water samples will be submitted for analysis for total petroleum hydrocarbons as gasoline (TPHg) using EPA Method 8020. Additionally, soil and ground-water samples collected from GW-4 will be analyzed for diesel and oil. Additional analysis may be conducted if deemed appropriate based on field observations at the time of the investigation.

We understand that the owner plans to demolish the garage structure by mid- to late February 1995. To facilitate access to sampling locations, drilling will begin after the building is demolished. Barring unforeseen difficulties concerning permitting, access, weather, or subcontractor availability, we expect that drilling and preliminary ground-water sampling can begin in early March 1995, with authorization from ACHCSA to proceed. Proposed ground-water monitoring well MW-4 will be installed when the results of the grab ground-water sampling are available (approximately two weeks after sampling), and will be developed and sampled during the next quarterly ground-water monitoring event, scheduled for late March 1995. A report presenting methods and results of Phase II investigations and providing recommendations for future activities will be submitted to the ACHCSA within four to six weeks after sampling is completed.

Please call me or John Sturman if you have any comments regarding this proposed Phase II implementation of the Work Plan.

Sincerely,



Taylor Bennett
Project Hydrogeologist

Enclosure

cc: Mark Borsuk, Esq.
Randall Morrison, Esq.

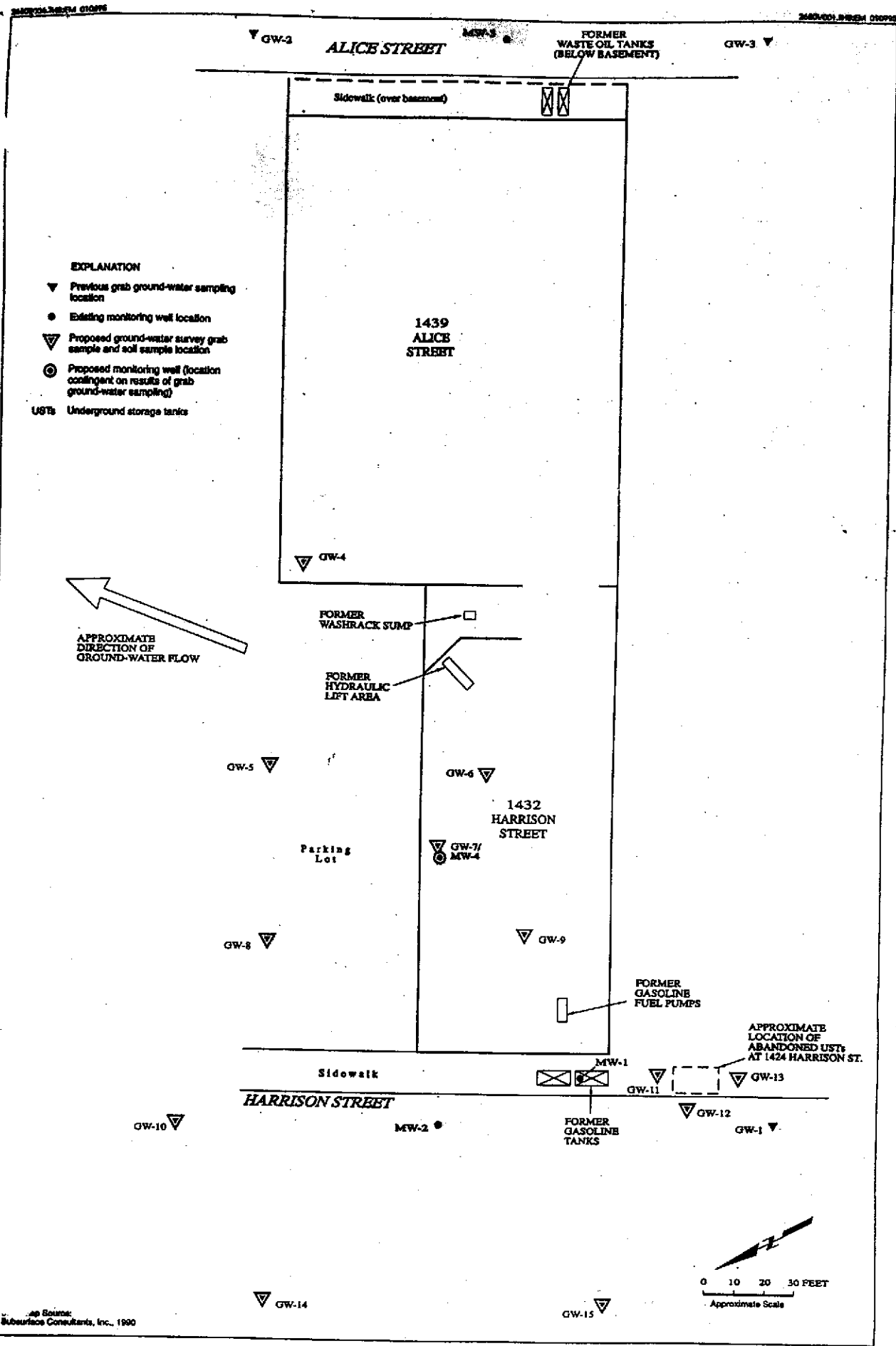


Figure 1: PROPOSED SOIL AND GRAB GROUND-WATER SAMPLING LOCATIONS AT THE HARRISON STREET GARAGE, OAKLAND, CALIFORNIA

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
E-Mail mborsuk@ix.netcom.com

January 23, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

SUBJECT: IVQ94 SAMPLING
1432 Harrison Street, Oakland, CA 94612

Dear Mr. Peacock:

Attached is the IVQ94 sampling data for the above site. If I may provide you with additional information, please contact me.

Sincerely yours,



Mark Borsuk

Attachment

cc: John Sturman, Levine-Fricke
Randall Morrison, Esq.
William Trinkle, Esq.

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

April 14, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

SUBJECT: 1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

Enclosed is the IQ95 sampling results for the above site: MW-3 continues ND. When can we discontinue sampling MW-3? In conformance with the UST FUND's guidelines the consulting work is now under the direction of Cambria Environmental Technology, Inc. Mr. Joseph Theisen is the project manager. Mr. Theisen will contact you on implementing the work plan.

There were many interesting presentations this week at the State's UST Conference. Several important themes emerged. The opening remarks by Mr. Del Piero, State Water Board Member, stressed the Board's determination to close many sites given their very limited environmental harm. James Giannopoulos, Supervising WHC Engineer, Division of Clean Water Programs, noted the limited risk of fuel leaks to the environment by favorably referring to "Where's the Benzene?" an article by Hadley and Armstrong. There was a lengthy discussion of risk based corrective action analysis as a prerequisite for further site remediation. A number of speakers also discussed the important role of natural biodegradation in site remediation. The emphasis of this year conference was clearly on recognizing the minimal impact of spills in most cases and returning sites to productive use. Did members of your staff report a similar impression?

If I may provide you with additional information, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Joe Theisen, Cambria Environmental Technology, Inc.
Edgar Howell, Chief-files
Gil Jensen, Alameda County Dist. Attorney's Office
Dave Deaner, UST FUND

CAMBRIA
Environmental Technology, Inc.

May 15, 1995

Thomas Peacock
Alameda County Department
of Environmental Health
1131 Harbor Bay Parkway, 2nd Floor
Alameda, California 94502

Re: Investigation Workplan Addendum
1432-1434 Harrison Street
Oakland, California

Dear Mr. Peacock:

As we discussed on May 9, 1995, Cambria Environmental Technology, Inc. (Cambria) is pleased to submit this workplan addendum on behalf of Alvin H. Bacharach and Barbara Jean Borsuk (Property Owners). Levine-Fricke of Emeryville, California submitted the original workplan on January 9, 1994. Cambria will implement the Levine-Fricke workplan with the exception of moving some of the initial boring locations. Based on the most recent analytic data and ground water flow direction we have relocated the borings immediately downgradient of suspected source areas and to best define the downgradient extent of hydrocarbons in ground water. The revised boring locations are presented on Figure 1.

Since some of the borings will be located on the downgradient adjacent property, the Property Owners will need to complete an access agreement with the downgradient property owner. In addition, since several of the borings will be advanced in the public right-of-way, we will need to secure excavation and encroachment permits from the City of Oakland. Once these agreements and permits have been finalized, Cambria will immediately proceed with the scope of work outlined in the Levine-Fricke workplan.

The Property Owners are currently demolishing the site buildings. Once the demolition is complete Cambria will conduct quarterly monitoring of the three existing monitoring wells. The sampling event is scheduled for June 1995.

Thomas Peacock
May 15, 1995

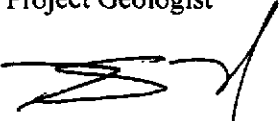
CAMBRIA

Please call me at (510) 420-9176 if you have any questions.

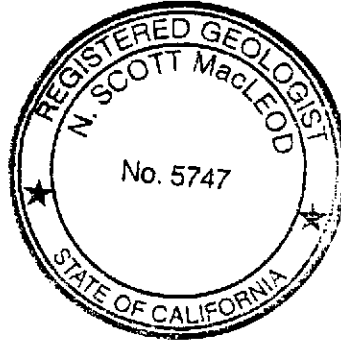
Sincerely,
Cambria Environmental Technology, Inc.



David Elias
Project Geologist

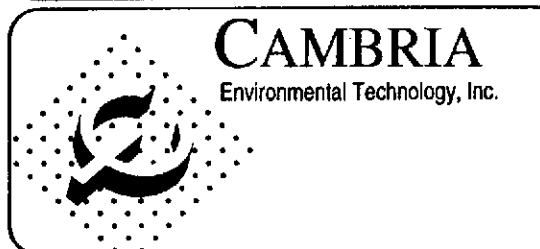
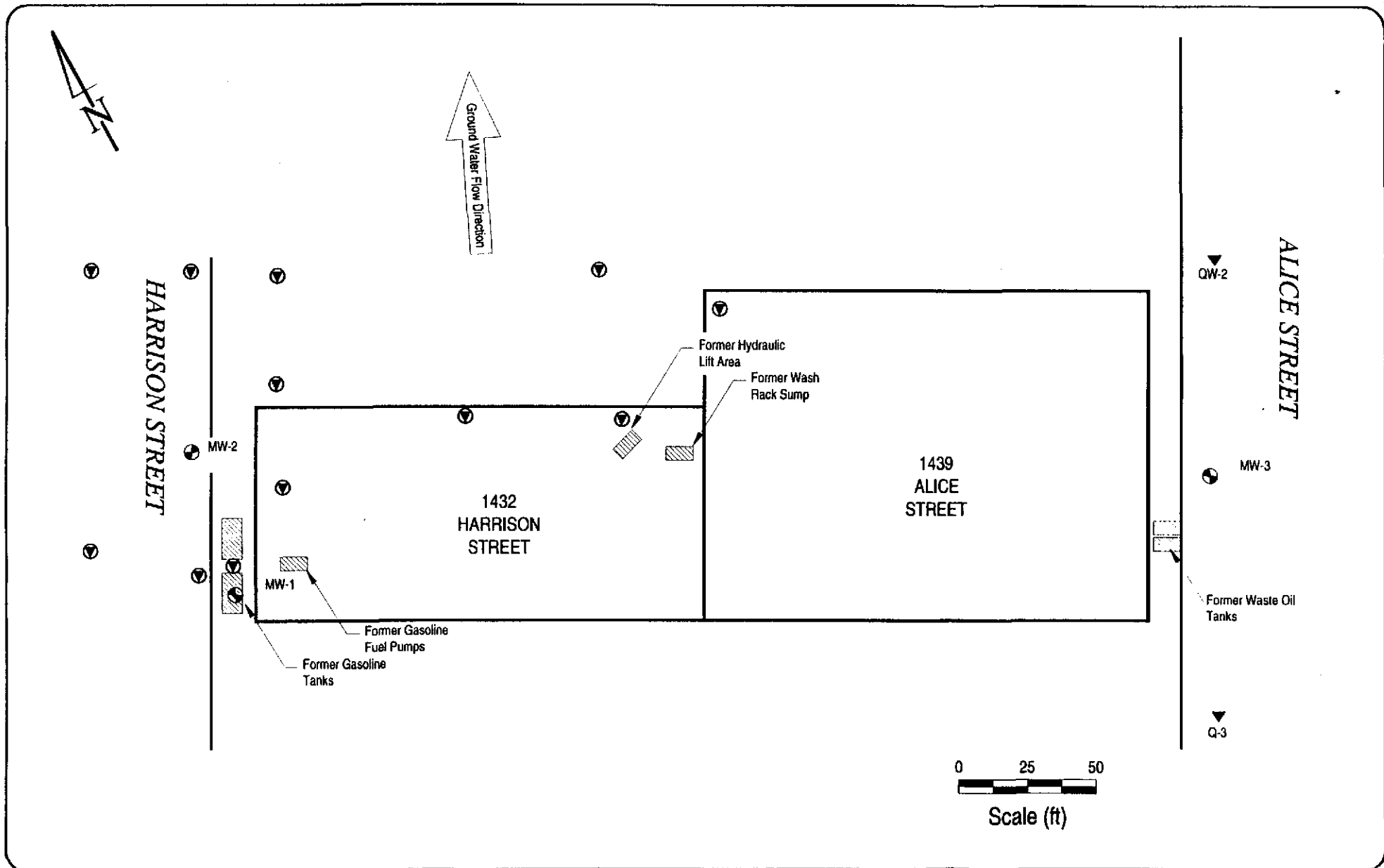


N. Scott MacLeod, R.G.
Principal Geologist



cc: Gil Jensen, Alameda County District Attorney's Office, 7677 Oakport Street, Suite 400, Oakland CA, 94621-1934
Bernie Rose, Randick & O'dea, 1800 Harrison Street, Suite 2350, Oakland, CA 94612
Mark Borsuk, 1626 Vallejo Street, San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund, 2014 "T" Street, Sacramento, CA 94244-2120

F:\PROJECT\SB-2004\BORSUK\WORKPLAN.WPD



EXPLANATION	
	Ground Water Monitoring Well
	Former Ground Water Sample Location
	Proposed Ground Water Sample Location

Proposed Soil and Ground Water Sampling Locations
1432 Harrison Street
Oakland, California

FIGURE
1

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
Internet: mborsuk@ix.netcom.com

ENVIRONMENTAL
PROTECTION
95 APR 18 PM 2:59

April 14, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

OS

SUBJECT: 1432 Harrison Street, Oakland, CA 94612
SITE ID 498

Dear Mr. Peacock:

Enclosed is the IQ95 sampling results for the above site: MW-3 continues ND. When can we discontinue sampling MW-3? In conformance with the UST FUND's guidelines the consulting work is now under the direction of Cambria Environmental Technology, Inc. Mr. Joseph Theisen is the project manager. Mr. Theisen will contact you on implementing the work plan.

There were many interesting presentations this week at the State's UST Conference. Several important themes emerged. The opening remarks by Mr. Del Piero, State Water Board Member, stressed the Board's determination to close many sites given their very limited environmental harm. James Giannopoulos, Supervising WHC Engineer, Division of Clean Water Programs, noted the limited risk of fuel leaks to the environment by favorably referring to "Where's the Benzene?" an article by Hadley and Armstrong. There was a lengthy discussion of risk based corrective action analysis as a prerequisite for further site remediation. A number of speakers also discussed the important role of natural biodegradation in site remediation. The emphasis of this year conference was clearly on recognizing the minimal impact of spills in most cases and returning sites to productive use. Did members of your staff report a similar impression?

If I may provide you with additional information, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Joe Theisen, Cambria Environmental Technology, Inc.
Edgar Howell, Chief-files
Gil Jensen, Alameda County Dist. Attorney's Office
Dave Deaner, UST FUND

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
 Hazardous Materials Inspection Form

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

II, III

Site ID # WJF Site Name Harrison St. Garage Today's Date 8/3/95

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

Site Address 1432 Harrison St.

City Oakland Zip 94612 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks (TW's sampling)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N) _____
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

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

III. UNDERGROUND TANKS (Title 23)

- | | |
|---|---|
| General | <input type="checkbox"/> 1. Permit Application 25284 (H&S) |
| | <input type="checkbox"/> 2. Pipeline Leak Detection 25292 (H&S) |
| | <input type="checkbox"/> 3. Records Maintenance 2712 |
| | <input type="checkbox"/> 4. Release Report 2651 |
| | <input type="checkbox"/> 5. Closure Plans 2670 |
| Monitoring for Existing Tanks | <input type="checkbox"/> 6. Method |
| | 1) Monthly Test |
| | 2) Daily Vadose
Semi-annual groundwater
One time soils |
| | 3) Daily Vadose
One time soils
Annual tank test |
| | 4) Monthly Gndwater
One time soils |
| | 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon. |
| | 6) Daily Inventory
Annual tank testing
Cont pipe leak det |
| | 7) Weekly Tank Gauge
Annual tank test |
| | 8) Annual Tank Testing
Daily Inventory |
| | 9) Other _____ |
| New Tanks | <input type="checkbox"/> 7. Prets Tank Test 2643
Date: _____ |
| | <input type="checkbox"/> 8. Inventory Rec. 2644 |
| | <input type="checkbox"/> 9. Soil Testing 2646 |
| | <input type="checkbox"/> 10. Ground Water. 2647 |
| <input type="checkbox"/> 11. Monitor Plan 2632 | |
| <input type="checkbox"/> 12. Access. Secure 2634 | |
| <input type="checkbox"/> 13. Plans Submit 2711
Date: _____ | |
| <input type="checkbox"/> 14. As Built 2635
Date: _____ | |

Comments:
 white plating stored on floor -
 white (round) plate on Harrison St.
 Street & rectangle box in side
 walk for EW MMS.
 Rep. Edward Poya - says sampler
 just left about 3 min. ago -
 purge water was put into
 50 gal drums in basement - labeled
 as purge waste water.
 Sample removed at 10:00

Rev 6/88

Contact: _____
 Title: _____
 Signature: _____

Inspector: James Kersch
 Signature: _____

II, III

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
E-Mail mborsuk@ix.netcom.com

February 22, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

SUBJECT: 1424 Harrison Street, Oakland, CA 94612

Dear Mr. Peacock:

Attached is Paul Smith's April 29, 1991, report on the USTs at the above property.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Mark Borsuk', written over a horizontal line.

Mark Borsuk

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
E-Mail mborsuk@ix.netcom.com

February 15, 1995

Mr. Thomas Peacock
Supervising HMS, LOP
ACHCSA
1131 Harbor Bay Parkway
Alameda, CA 94501
(510) 567-6700 / FAX 337-9335

SUBJECT: Monitoring Well Sampling
1432 Harrison Street, Oakland, CA 94612
Site ID: 498

Dear Mr. Peacock:

On January 26 you sent a "Notice of Violation" to the responsible parties (Alvin H. Bacharach; Barbara Jean Borsuk; and Leland Douglas) regarding quarterly monitoring of the site. The following chart lists the monitoring and report submission dates. This conforms to your quarterly schedule although the sampling in the fourth quarter occurred later in the quarter.

Period / Consultant	Sampling	Submitted to ACHCSA
IIIQ94 / L-F	August 1	September 1
IVQ94 / Blaine Tech	December 21	January 23
IQ95 / Blaine Tech	March 13	mid-April

On January 9, 1995, we requested your approval for the "Proposed Phase II" work plan. When approved, the UST FUND requires three bids for the work. This may delay implementation of the work plan. However, selecting the consultant and negotiating the contract will not disrupt the monitoring schedule. We look forward to receiving your approval for Phase II.

If I may provide you with additional information, please contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Edgar Howell, Chief-files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May
Bernie Rose, Randick & O'Dea
Taylor Bennett, Levine-Fricke
Dave Deaner, UST FUND

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



Alameda County CC4580
Environmental Protection Division
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

February 10, 1995
STID 498

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program
80 Swan Way, Rm 200
Oakland, CA 94621
(510) 271-4530

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office received and reviewed a 4th quarter sampling report dated January 19, 1995 by Blaine Tech Services for the above site. The following are comments concerning this report:

1. It seems that there is very high levels of contamination in the area of MW-1 and MW-2. MW-3 is not showing any contamination. The extent of contamination is not defined in any direction around these two wells. Even the direction towards MW-3 is not defined as it is an entire block away and apparently in a cross gradient direction.
2. Your proposal for expanding the investigation was found acceptable, although actual survey points may be modified based upon the most recent data. There were no recommendations or conclusions in this report. There was also no statement of proposed actions in the next quarter. These should be included.
4. It is not necessary to copy the Regional Water Quality Control Board with reports. If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Taylor Bennett, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund

MARK BORSUK
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740
FAX 922-1485
E-Mail mborsuk@ix.netcom.com

VIA FAX & MAIL

February 1, 1995

Mr. Jim Keller
Blaine Tech
985 Timothy Drive
San Jose, CA 95133
(408) 995-5535 / FAX 293-8773

SUBJECT: IQ'95 SAMPLING
1432 Harrison Street, Oakland, CA 94612

Dear Jim:

Please conduct sampling on March 13 at the above site. There is one change from the previous sampling (IVQ'94). Do not sample for VOCs in MW-3. Please confirm the price. What is the cost of disposing of the purged water?

You will need to call Mr. Tom Peacock, (510-567-6700), Alameda County Health Care Services Agency three (3) days before sampling. He is responsible for the site and requires notification. Send the report to me within three (3) weeks of the sampling event.

Before you start, I need a certificate for public liability, automobile and workers' compensation insurance. The certificate should name Alvin H. Bacharach, Barbara Jean Borsuk (the property owners) and Mark Borsuk, Attorney at Law, as the additional insured. If you are unable to name them as the additional insured, please let me know ahead of the work.

Sincerely yours,



Mark Borsuk

cc: Mr. John Sturman, L-F
Mr. Tom Peacock, ACHCSA

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Clean Water Programs
UST Local Oversight Program

January 26, 1995
STID 498

Alvin H. Bacharach and
Barbara J. Borsuk Trust
383 Diablo Rd., Suite 100
Danville, CA 94526

ALAMEDA COUNTY CC4580
DEPT. OF ENVIRONMENTAL HEALTH
ENVIRONMENTAL PROTECTION DIVISION
1131 HARBOR BAY PKWY., #250
ALAMEDA CA 94502-6577

Leland Douglas
Douglas Parking Co.
1721 Webster St.,
Oakland, CA 94612

NOTICE OF VIOLATION

RE: 1432 - 1434 Harrison St., Oakland, CA 94612

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office received and reviewed Proposal dated January 9, 1995 for Phase II Implementation of your Work Plan for the above site submitted by Levine-Fricke. This office has not received a quarterly monitoring report for this period, as required by Title 23, Division 3, Chapter 16, Article 11, 2726(a) of the California Code of Regulations. The following are comments concerning this proposal and the lack of an appropriate quarterly monitoring report:

1. Initial well development and sampling was done 30 Jul 94. This would have made the next quarterly report due in October. The Chevron site which is nearby was sampled on Sep. 26, 1994. It was be due again in December. Levine Fricke sampled wells on Sep. 13 (there appears to be a discrepancy in coordination between Sep. 13 and 26) but only for groundwater level measurements. There was no sampling done for any contamination which is on the site.
2. In a Sep. 6 letter from this office we agreed to a minimum of 4 quarters of monitoring. Quarterly reports are due every quarter. A requested deadline of submittal of an addendum to Nov. 1, 1994 was not agreed to by this office.
3. There has apparently not been any sampling done since the initial July 1994 sampling. There was not a quarterly report submitted in September or in December, although Mark Borsuk says in a conversation today that a report will be submitted within days. It has been 5 quarters since the tanks were removed and only 1 quarterly report has been submitted to this office.

Harrison St. Garage
STID 498
Page 2 of 2
January 25, 1995

4. It is certainly reasonable to allow an extension to conducting further investigation since the building will be demolished. However, demolition of the building should not stop ground water monitoring, level measurement, or the writing and submittal of a quarterly report. You must submit a quarterly report to this office within 30 days. The District Attorney has instructed this office that the request contained in this letter will put you in current compliance for the purposes of the administration of the underground storage tank Clean-up Fund, but any compliance in response to this letter should not, will not, preclude their taking independent enforcement action in this matter, given the repetitive violations which they are aware of. this case.

If you have any questions or comments, please contact this office at (510) 567-6782.

Sincerely,



Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Edgar Howell, Chief - files
Gil Jensen, Alameda County District Attorney's Office
Randall Morrison, Crosby, Heafey, Roach & May, 1999
Harrison St., Oakland, CA 94612
Bernie Rose, Randick & O'Dea, 1800 Harrison St., Suite
2350, Oakland, CA 94612
Taylor Bennett, Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116
Dave Deaner, SWRCB Clean-Up Fund



1900 Powell Street, 12th Floor
 Emeryville, California 94608-1811
 (510) 852-4500; FAX (510) 852-4906

Date	January 9, 1995		
Time	2:07pm		
From	Taylor Bennett/FNC		
Deliver To	Thomas F. Peacock		
Name of Firm	ACHCSA		
FAX No.	337-9335	LF Project No.	2680.49
Deliver To	Randall Morrison		
Name of Firm	Crosby, Heafey		
FAX No.	273-8866	LF Project No.	2680.49

Number of Pages: This cover page plus 4 pages

Remarks:

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