

MEMORANDUM

DATE: July 22, 1997

TO: Gordon, Mee Ling Tung

FROM: Tom

SUBJ: attached petition from Mark Borsuk

Attached is a petition mark Borsuk sent the State Water Resources Control Board many months ago. Lori Casias first thought it was outrageous but is now forced to respond to it. We have until July 29. Lori thinks that Gordon would want to comment and also said that Mee Ling would have to sign our response.

If you have any questions please contact me. Thank you.



Cal/EPA

State Water
Resources
Control Board

Division of
Clean Water
Programs

Mailing Address:
PO Box 944212
Sacramento, CA
94244-2120

2014 T Street,
Suite 130
Sacramento, CA
95814
(916) 227-4325
FAX (916) 227-4349

www.swrcb.ca.gov



Pete Wilson
Governor

JUL 09 1997

Tom Peacock
Alameda County
Environmental Health Services
1131 Harbor Bay Parkway, 2nd Floor
Alameda, CA 94502-6577

John Kaiser
San Francisco Bay Regional Water
Quality Control Board
2101 Webster Street, Suite 500
Oakland, CA 94612

Dear Mr. Peacock and Mr. Kaiser:

PETITION, UNDERGROUND STORAGE TANK (UST) LOCAL OVERSIGHT
PROGRAM, SITE NO. 498, 1432 HARRISON STREET, OAKLAND, ALAMEDA
COUNTY, FILE NO. P96-175

We have received a petition from Mark Borsuk on behalf of Alvin H. Bacharach and Barbara Jean Borsuk, a copy of which was sent to both of you. Please provide this office with a response to the petition within the next 20 days. A copy of each response shall be forwarded to Mr. Borsuk. In addition to responding to the issues raised in the petition, the County's response shall also include a brief history of the site including historic and current land use and status of cleanup. A copy of the entire site file shall be provided to this office and to Mr. Borsuk.

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

Sincerely,

Lori Casias
Local Oversight Program

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



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

VIA FAX & FEDX

November 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

SUBJECT: Appeal of Alameda County LOP Charges to the California State Water Resources Control Board; Request for Transfer of Oversight Responsibility from the Alameda County LOP to the San Francisco Regional Board; Suspension of LOP Payment Obligations Pending Investigation of All Alameda County Charges Related to the Petitioner's Site since 1990.

Petitioner: Alvin H. Bacharch and Barbara Jean Borsuk
c/o Mark Borsuk
Attorney at Law
1626 Vallejo Street
San Francisco, CA 94123-5116
(415) 922-4740 / FAX 922-1485 / mborsuk@ix.netcom.com

Site: 1432 Harrison Street, Oakland, CA 94612
LOP Site ID #498 / UST FUND Claim 2219

Issue: Reversal of Alameda County LOP Charges and
Other Relief.

Authority: In the Matter of Zedrick (WQ 94-4-UST; June 16, 1994) and
23 CCR 2813 (e) & 2814.2 (b).

Date: November 25, 1996

Interested Persons interested in the subject matter of this Petition are all

?

Parties: Responsible Parties billed by Alameda County for UST oversight charges.

Petition: Petitioner has provided a copy of the Petition to the local agency.

Preparation of Record: Petitioner requested the local agency to prepare a local agency record.

not named?

I. Introduction to Petition.

This is an appeal to the State Water Resources Control Board (the "State Board") regarding certain charges made by the Alameda County Local Oversight Program in 1994. The issues presented on appeal reflect the Underground Storage Tank (the "UST") Program's failure to protect human health and the environment.

The appeal results from the UST Program's failure to use an objective standard for assessing the risk to human health and the environment from fuel leaks. Rather the UST Program permitted local regulators and enforcement personnel to subjectively determine each site's risk and to demand in many instances costly remediation without having to analyze the actual threat to human health and the environment.

The UST Program's reliance on subjective standards financially rewarded regulators and enforcement personnel by permitting them to keep low risk sites open in order to maintain federal and state funding. The lack of an objective standard institutionalized corruption in the UST Program. In addition, the lack of an objective standard fostered technical incompetence and sloth.

The failure of the UST Program to protect the environment is well documented. In 1992 and again in 1996 the US/EPA reported on the Program's failure.¹ In 1996, the Sacramento Bee and other sources revealed corruption and gross incompetence in the Los Angeles Regional Water Board.² Another article called for abolishing the UST Program for its failure at a horrific cost to protect the environment.³ In 1995, a lengthy law review article concluded the program failed and did not protect the environment.⁴ In the course of a decade the UST Program succeeded in unjustly stigmatizing low risk properties, destroying the life savings of many small property owners and not protecting California citizens from the hazards of groundwater contamination.

¹ US EPA Audit Report No. E1LLB1-09-0200-2100665 (September 30, 1992) & E1LLF5-10-0021-6100264 (August 6, 1996).

² Chris Bowman, Millions in taxes misspent on 'gas-polluted' sites in L.A., Sacramento Bee, July 30, 1996.

³ Mark Borsuk, The Leaking Tank Scam, California Environmental Law Reporter (March, 1996).

⁴ Christen Carlson White, Regulation of Leaky Underground Fuel Tanks: An Anatomy of Regulatory Failure, 14 UCLA J. ENVTL. L. & Pol'y 105 (1995).

II. Institutional Corruption.

The L.A. Regional Board scandal is unlikely an isolated event. The subjective nature of the UST Program was incentive enough for others to benefit at the expense of the environment. For example, the Alameda County UST Program is notorious for **overzealous enforcement** on some sites while turning a blind eye to others. Their excessive oversight at some sites in downtown Oakland is in direct contradiction to the San Francisco Regional Board's policy of recognizing the industrial nature of the area and the limited impact on the environment from tank leaks after source removal.

III. Excessive, False and Unnecessary UST Program Billing.

Institutional corruption in the UST Program manifests itself in many ways. One is the payment of oversight charges to local agencies like the Alameda County LOP. Federal and state monies support this program. Due to the Program's subjective nature, local officials and enforcement personnel can bill unlimited time to responsible parties ("RPs"). This creates a **state sanctioned shakedown**. Inevitably excessive, false and unnecessary billing practices developed due to the **lack of effective controls**.

Responsible parties pay a portion of the agency charges. Those lucky enough to receive funding from the UST FUND are reimbursed. The UST FUND has not in the past questioned these charges. With the implementation of Senate Bill 562 (Thompson), the UST FUND after January 1, 1997 will be the only bulwark against excessive, false and unnecessary billing.

Despite concern over bureaucratic retribution, the Petitioner protested a number of false billings. The first concerned a time charge for an alleged meeting between a former case officer and the Petitioner's consultant. No meeting ever occurred. The current appeal includes this item.

The second false billing relates to the LOP charging the Petitioner for demanding an adjacent site be investigated for groundwater contamination. The site was seventy-five (75') feet away and potentially impacted the Petitioner's property. After initial characterization, the LOP had "**forgotten**" about the site for two and one half years. Only after the Petitioner complained did the LOP order the adjacent property owner to undertake a groundwater investigation. Exhibit A.

IV. LOP Incompetence.

The **unfettered discretion** afforded to local agencies by the subjective standard **perverted** the UST Program. One expected outcome was allowing local programs

to ignore best scientific practices and indulge in arm twisting and other undesirable actions against RPs.

The Petitioner's experience is indicative of how the State has treated thousands of property owners. The Alameda County UST Program is characterized by inconsistent and excessive enforcement of low priority sites, gross incompetence, and a punitive mindset. It is interesting to note that the Alameda County District Attorney in charge of UST enforcement referred to the San Francisco Regional Board as the "enemy".⁵ No doubt the Regional Board's attitude towards fuel leaks as a limited risk to human health and the environment was an irritation. What is even more surprising is that the State Board could fund enforcement by the DA through the LOP while the DA was denouncing the Regional Board.

Further, the Petitioner's site is not near a drinking water well and would likely qualify for inclusion in the San Francisco Regional Board's containment zone. The chart below provides vivid examples of the UST Program's failure in Alameda County.

Examples of the Alameda County UST Program's Incompetence

Site/Event	Action/Inaction	Harm to Petitioner	Case Officer
1424 Harrison St.	County's failure to order testing of upgradient tanks in 1991. Exhibit B & Area Map. The parcel is contiguous to Petitioner's site.	The closed in place tanks are ten (10') feet from Petitioner's former gasoline tanks. Subsequent investigation disclosed gasoline contamination in the soil from upgradient site. Exhibit C.	P. Smith
246 14th St. at Alice St. [Site ID #1098]	Failure to investigate groundwater contamination after benzene detected in soil. Former service station located seventy-five (75') feet from Petitioner's	Case officer notified property owner to remove tanks in September 1990. Tanks removed in September 1991. Case officer took no further action until Petitioner demanded	P. Smith

⁵ Christen Carlson White, *supra*, p. 153.

	site on Alice St.	<p>site investigation in 1994. Exhibit A.</p> <p>The County's excuse for not taking any action was the file had been "lost".</p>	
<p>1428-1432 Harrison & 1439-1443 Alice Streets. [Site ID #498]</p>	<p>Failure to name the long-term tenant as a responsible party.</p> <p>Then only naming the long-term tenant as a responsible party for the gasoline tank clean-up.</p>	<p>Despite Water Board testimony and documentary evidence requiring the long-term tenant named to the clean-up order, the County refused to do so.</p> <p>After a favorable ruling from the State Water Board in 1991 [WQ 91-07], the County only added the long-term tenant to part of the order in 1992. The County lacked the authority to parse the order. Exhibit D.</p> <p>The San Francisco Regional Board upon learning of the County's egregious action immediately named the long-term tenant to the entire order within one day of notification. Exhibit E.</p> <p>The County's intransigent and overt bias forced the Petitioner to spend tens of thousand of</p>	P. Smith.

		dollars in legal fees over three years in fruitless negotiations and appeals.	
1428-1432 Harrison & 1439-1443 Alice Streets. [Site ID #498]	Failure to disregard suspect laboratory readings for benzene concentrations in the gasoline tanks.	<p>During the period the Petitioner was formulating the tank removal plan, Petitioner's tenant submitted a laboratory report showing liquid in the abandoned gasoline tanks with benzene concentrations of 13% & 14%. Exhibit F.</p> <p>The tanks had been abandoned by another tenant, the long-term tenant.</p> <p>The Petitioner's consultant, holding a Doctorate in Chemistry, could not persuade the County to disregard the suspect finding even after the Petitioner's tests confirmed benzene to be in the normal range for gasoline. The LUFT Manual shows benzene to be between 0.12-3.5% by weight.</p> <p>The County's gross ignorance of hydrocarbon chemistry greatly</p>	P. Smith

		harmed the Petitioner.	
1428-1432 Harrison & 1439- 1443 Alice Streets. [Site ID #498]	County demanded the Consultant's removal for following standard industry practices for tank removal, safety and site characterization.	The County made extraordinary demands for site characterization prior to tank removal. The County denigrated the Petitioner's consultant and forced the Petitioner to retain another consultant. Exhibit G. This action dramatically escalated the Petitioner's costs and delayed the tank removal for three years. Exhibit H. The irony is the County finally accepted the tank removal and site characterization plan in substantially the same form as original proposed by the first consultant.	P. Smith

*All this time
was prior to
There being
an Alameda
County LOP?*

Due to the County's unlimited discretion to demand further work, the Petitioner spent tens of thousands of dollars unnecessarily to comply with the County's orders. In addition, to the cost of consultants and lawyers, the County charged the Petitioner for oversight.

V. Appeal of the Alameda County LOP Oversight Charges.

In the Matter of Zedrick (WQ 94-4-UST) is the authority to appeal local agency charges. The Petitioner requests reversing two charges made in the amount of \$183.64 for agency oversight during the period July 1 to December 31, 1994.

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

On May 16, 1995, the Petitioner requested the County to explain a charge assessed against the site by a former case officer. The charge was for a "meeting with responsible parties or responsible party consultants (Code #212)." On July 11, the Petitioner again requested an explanation of the charge from the County.

The first justification for the charge was patently false. No meeting ever took place. So on August 14, the County switched its story and instead charged the time for discussing past compliance with the State Board by the former case officer.

On September 19, the Petitioner sent the State LOP administrator a detailed list of questions regarding the legitimacy of the former case officer's charge. On December 22, the County replied attempting to justify the charge on the site's supposed non-compliance when in fact during the period of the former case officer's oversight he had not issued a non-compliance order.

On January 22, 1996, the Petitioner again requested the State LOP administrator to explain the basis for the charge. On July 26, the administrator responded by stating the head of the UST FUND, Mr. Dave Deaner, had initiated the call to the former case officer expressing concern over whether the site was in compliance.

On August 25, the Petitioner wrote to the State LOP administrator stating the administrator explanation was "... rather odd since the tanks were removed on December 7, 1993 and the FUND accepted the claimants (Petitioner) on December 17, 1993. Clearly, the LOP's explanation is inconsistent with events."

Why would the UST FUND's most senior officer, responsible for thousands of claims, call a former case worker eleven months after funding the site about compliance? If there was a concern, a member of the FUND's staff would have made the inquiry. In addition, the LOP administrator's statement that no written notes were taken of the conversation remains a troubling aspect for the justification. All correspondence attached to Exhibit I.

*But he did
call me. (Tom)
What are we
going to do?
"Dave Deaner"*

Based upon the above explanation and correspondence, the State Board is urged to delete the charge assessed against the Petitioner.

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

On January 26, 1995, the County issued a "Notice of Violation" to the Petitioner. The Petition contested the notice and the associated charges. A review of the correspondence from March to August 1994 demonstrates the Petitioner met the County's monitoring schedule.

The correspondence, submittals and well monitoring show the LOP concurred with the consultant's (Levine-Fricke) proposed 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. Especially noteworthy is the January 9, 1994 ("1995") letter to the LOP regarding the LOP's concurrence with L-F's recommendations in 1994. This letter recites a compliance chronology totally at odds with the LOP's justification for issuing the "Notice of Violation."

The Petitioner submits it did comply with the LOP's monitoring request by sampling in the third and fourth calendar quarters of 1994 and the "Notice of Violation" was issued in error. Further, the charges assessed against the Petitioner are unjustified. The following chronology demonstrates the Petitioner's compliance with the LOP's requests. All correspondence attached to Exhibit J.

Date	From	To	Discussion
December, 1993			Tanks, hydraulic lifts and appurtenant piping removed from the site. GW-1 installed.
March 15, 1994	LOP	Petitioner ("P")	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 P's consultant and counsel on scope of work and schedule.
April 8	LF	LOP	Proposed work plan submitted to LOP.
April 14	LOP	P	L-F work plan approved. Installation and monitoring to be completed by July 1994.
June 28	LOP	P	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	LF	LOP	IIIQ94 monitoring data submitted to LOP.
September 6	LOP	LF	LOP comments on September 1st report & concurs with L-F recommendations for further sight characterization. See Jan. 9, 1995 L-F letter to LOP.
December 21			IVQ94 well monitoring.
January 9, 1995	LF	LOP	Request to approve Phase II of Work Plan.
January 23	Blaine Tech	LOP	IVQ94 monitoring data submitted to LOP.

Based upon the above explanation and correspondence, the Petitioner requests the State Board reverse the LOP's unjustified time charges.

VI. Request for Water Board Intervention and Investigation.

Under Title 23 of the California Code of Regulations, the State Board may at its own initiative undertake inquiries and actions. The Petitioner requests the State Board to initiate an investigation of Alameda County's UST Program. The inquiry should evaluate the extent to which the County unnecessarily, excessively and falsely billed RPs before and after they entered the LOP. The Petitioner's experience offers an arsenal of smoking guns related to unjustified oversight and enforcement charges.

Further, the Petitioner requests the Water Board to transfer the Petitioner's site from the jurisdiction of the Alameda County LOP to the San Francisco Regional Board for oversight. In addition, the Petitioner requests the Water Board to suspend any further payment obligations on the part of the Petitioner until the site's history is investigated for unnecessary, excessive and false billing.

VII. Conclusion.

The UST Program has not protected human health and the environment due to a subjective regulatory and enforcement system. The UST Program could have succeeded by the use of a risk based assessment standard and by acknowledging most UST sites pose minimal risk to drinking water. Instead, a great number of small RPs have spent years inside a bureaucratic labyrinth suffering financial ruin. They continue to suffer at the hands of a government program incapable of reform and contrition.

*no standard
existed at the
time.
LHWL report
not done at
the time.*

The Petitioner asks the Water Board to reverse the LOP charges, initiate an investigation and grant the other relief requested.

Sincerely yours,



Mark Borsuk

EXHIBIT A
(2 pages)

MARK BORSUK
ATTORNEY AT LAW

ALCO
HAZMAT

94 APR 14 PM 2:03

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

VIA FAX & MAIL
TWO PAGES

April 12, 1994

Mr. Paul Smith
Hazardous Materials Specialist
Division of Hazardous Materials
Department of Environmental Health
Alameda County Health Care Services (ACHCA)
Room 200
80 Swan Way
Oakland, CA 94621
(510) 271-4320
FAX 569-4757

SUBJECT: 246 14th Street (at Alice)
Oakland, CA 94612
STID #1098

Dear Mr. Smith:

On March 29, 1994, John Sturman and I meet with Tom Peacock regarding the Harrison Street site (LOP 498). During our conversation, I requested information on the above referenced site, approximately seventy-five (75) feet away from my client's site facing Alice Street. A file search reveals the removal of four (4) USTs in September, 1991. The file contains no other information about the removal. It appears you were the case officer responsible for the site.

Given the number of tanks, possibility of leakage and proximity to my client's site, information regarding this site is of utmost importance for determining remediation strategy.

We require this information in our assessment for Mr. Peacock. Please provide me with the following information about 246 14th Street by **April 22, 1994**:

1. The property owner's name, address and phone number;
2. The former service station operator's name and contact address;
3. Annual inventory reconciliation data as required by 23 CCR 2646 (j);
4. Evidence the UST closure complied with 23 CCR 2672;
5. Any UST Unauthorized Release report required by H & S Code Sec. 25295 (a);

Tom,

Please return to me
when finished.

Actually based on the
one lit of oil 3,200 ppm
TPH + 390 ppm perhaps
it should go to LOP 1 a well should
be required

1 page w/ note
attached

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, ASST. AGENCY DIRECTOR

April 19, 1994
STID 1098

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

Alfonso Chan
828 Harrison St. #203
Oakland CA 94607

RE: Quality Tune-up, 246-14th ST., Oakland CA 94612

Dear Mr. Chan,

You have been identified as the property owner for this site. As you know, five underground storage tanks (USTs) were removed from this site on 9/17/91. They included three 5,000-gallon gasoline USTs, one 8,000-gallon gasoline UST, and one 1,000-gallon waste oil UST. Soil was sampled in the UST excavations; one sample was found to contain 3,200 parts per million (ppm) Total Petroleum Hydrocarbons as gasoline (TPH-g) and 2.9 ppm benzene. This "hot spot" was overexcavated and resampled; results were non-detect (ND) for TPH-g and 0.017 ppm benzene.

These samples were taken at depths of 10 and 13 feet below ground surface (bgs), respectively. Groundwater in this part of Oakland is rather shallow; it exists at approximately 20' bgs. The original soil concentrations were significant enough to warrant a groundwater investigation. Therefore, **we request a workplan for a groundwater investigation, submitted under cover letter from yourself, and prepared by a recognized professional as outlined below, within 45 days, or by June 3, 1994.** The groundwater investigation should consist of a minimum of three monitoring wells in an equilateral triangular configuration to determine groundwater flow direction and to assess groundwater quality.

All work should adhere to a) the Tri-Regional Board Staff Recommendations for Preliminary Evaluation and Investigation of Underground Tank Sites, dated 8/10/90; and b) Article 11 of Title 23, California Code of Regulations. Reports and proposals must be submitted **under seal** of a California-Registered Geologist, - Certified Engineering Geologist, or -Registered Civil Engineer.

If you have any questions, please contact me at 510-271-4530.

Sincerely,

Jennifer Eberle
Hazardous Materials Specialist

cc: Ed Howell/file
je 1098

EXHIBIT B
(3 pages)

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

80 Swan Way, #200
 Oakland, CA 94621
 (415) 271-4320

Hazardous Materials Inspection Form

II, III

Site ID # _____ Site Name Bill Sparks Today's Date 1/29/91

Site Address 1424 Harrison St

City Oakland Zip 94612 Phone 593-5855

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

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

Comments: Info w/ regard to underground tanks or unknown
1979
12 yrs ago IUST was filed as per volume
Oakland fire protocol

Mr Sparks doesn't have any paperwork on
the premises but he will look for any
in the building purchase paperwork

The Mr Sparks is the current owner of the
above facility. During building remodeling
permits were taken for reconstruction of floor
in place closure

Mr Sparks states that a fire dept repres-
entative was present during Slurry Fill
in tank.

The tank was emptied prior to filling
w/ Cement Slurry

I will check back next Monday 5/6/91
to inquire as to the paperwork

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Sids. 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)

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. OnSite Conseq. Assess. 25524(c)
- 15. Probable Rsk. Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(i)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

- General**
- 1. Permit Application 25284 (H&S)
- 2. Pipeline Leak Detection 25292 (H&S)
- 3. Records Maintenance 2712
- 4. Release Report 2651
- 5. Closure Plans 2670
- 6. Method
 - 1) Monthly Test
 - 2) Daily Vadose
Semi-annual groundwater
One time soil
 - 3) Daily Vadose
One time soil
Annual tank test
 - 4) Monthly Groundwater
One time soil
 - 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/groundwater mon.
 - 6) Daily Inventory
Annual tank testing
Cont pipe leak det
 - 7) Weekly Tank Gauge
Annual tank testing
 - 8) Annual Tank Testing
Daily Inventory
 - 9) Other _____
- 7. Pre-Test Tank Test 2643
Date: _____
- 8. Inventory Rec. 2644
- 9. Soil Testing 2646
- 10. Ground Water 2647
- Monitoring for Existing Tanks**
- 11. Monitor Plan 2632
- 12. Access. Secure 2634
- 13. Plans Submit 2711
Date: _____
- 14. As Built 2635
Date: _____
- New Tanks**

Rev 8/88
 In Oakland permit to
 install / Bill Sparks
 11/1982

Contact: Mr Bill Sparks
 Title: owner
 Signature: [Signature]

Inspector: Paul Smith
 Signature: [Signature]

II, III

with valid permit per permit 1/29/91

Excavation Permit Granted _____ No. _____

CITY OF OAKLAND

Tank Permit 8561

Permit to Excavate and Install, Repair, or Remove Inflammable Liquid Tanks. No. _____

Oakland, California, _____ April 21, 1982 _____ 19____

PERMISSION IS HEREBY GRANTED TO ~~XXXXX XXXX XXXXX~~ ^{fill} Gasoline tank and excavate commencing _____ feet inside property line

on the _____ side of _____ Street _____ Avenue _____ feet _____ of _____ Street _____ Avenue

House No. 1424 Harrison Street Street _____ Avenue _____ Present Storage 1 - 1000 1 - 550 gallon tank

Owner Bill & Chip Sparks Address 2424 Webster Street Phone 893-5855

Applicant same Address _____ Phone _____

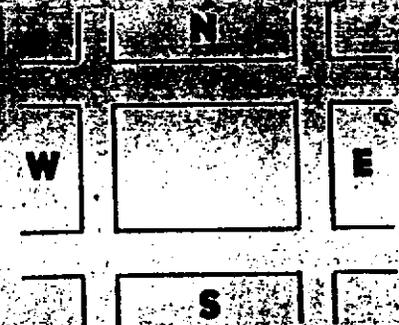
Dimensions of street (sidewalk) surface to be disturbed _____ X _____ Number of Tanks _____ Capacity _____ Gallons, each.

Remarks: _____

This Permit is granted in accordance with existing City Ordinances.
 Owner hereby agrees to remove tanks on discontinuance of use or when notified by the City Authorities.
 When installing, removing or repairing tanks, no open flames to be on or near premises.

Approved: _____ Fire Marshal

Approved: _____ Drainage Division Engineering Dept



EXCAVATING PERMIT

Issued in accordance with Ord. No. 278 CMS, Sec. 4-2.04

_____ square feet of digging or removal granted.

The receipt of \$ _____ special deposit is hereby acknowledged.

GENERAL DEPOSIT.

BUREAU OF PERMITS AND LICENSES.

Inspection Fee Paid 20.00 ck#0308 rec#107298

Received by [Signature]
 FIRE PREVENTION BUREAU

CERTIFICATE OF TANK AND EQUIPMENT INSPECTION

Inspected and passed on 4-30-82 19____

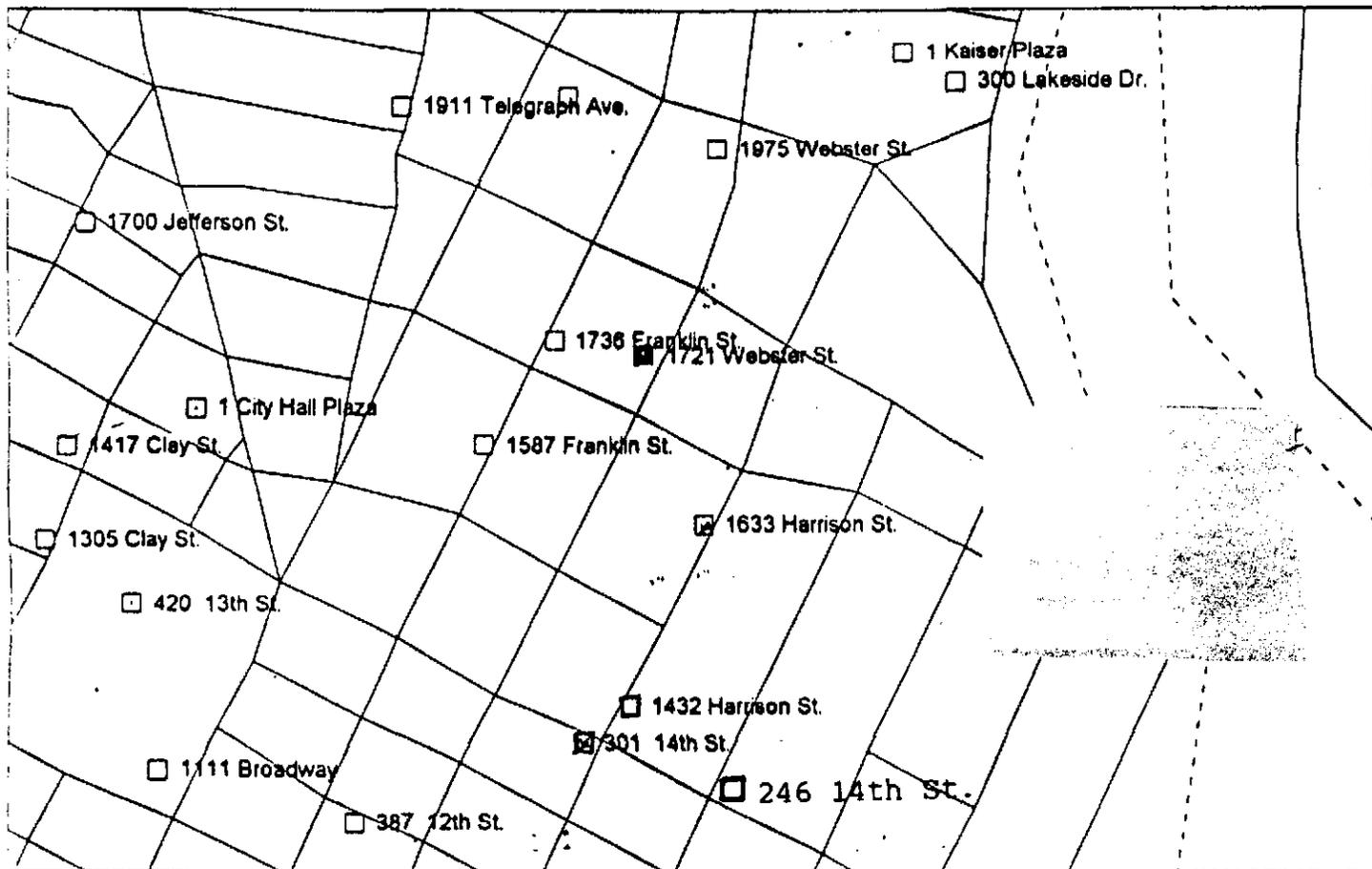
by [Signature] #6
 Fire Marshal

NOTICE

Before Covering Tanks, Above Certificate Must Be Signed.
 When ready for inspection notify Fire Prevention Bureau. 273-3851

THIS PERMIT MUST BE LEFT ON THE WORK AS AUTHORITY THEREFOR.

INSPECTION NO. 273-3851



Check 470 - 13th St.
 SF 10 4142

EXHIBIT C
(3 pages)

CAMBRIA Environmental Technology, Inc.

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

FAX TRANSMITTAL

TO: Mark Borsuk

FROM: David Elias

COMPANY:

DATE: November 21, 1996

FAX NUMBER: (415) 922-1485

PROJECT NUMBER: 54-188

SUBJECT: Soil Analytic Results

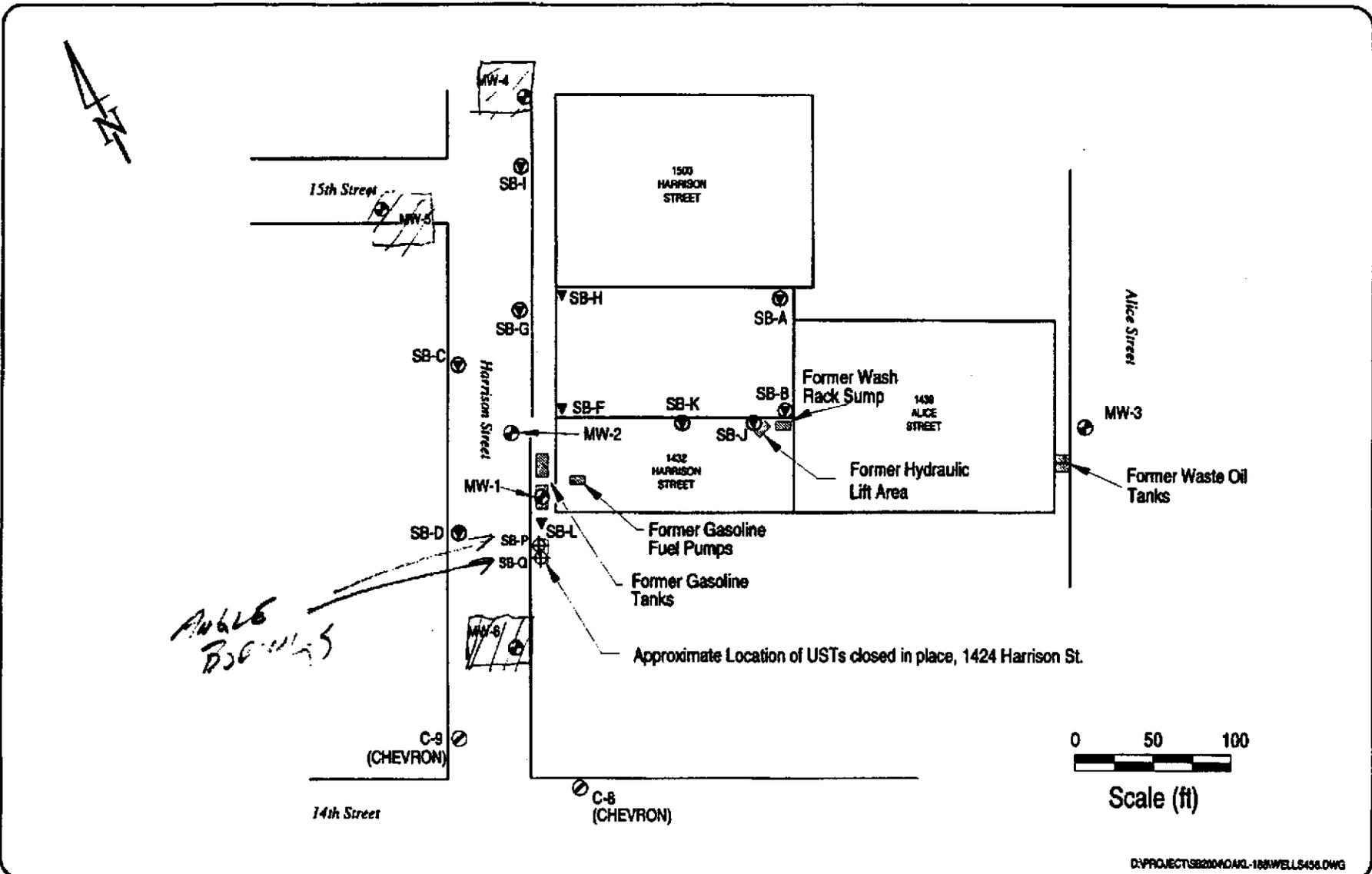
PAGES TO FOLLOW: 0

HARD COPY TO FOLLOW:

COMMENTS:

Mark, Please find attached a figure showing the locations of two angle borings drilled beneath the upgradient tanks located on the adjacent property southeast of the subject property. As indicated in the figure, borings SB-P and SB-Q were advanced beneath the tanks. The analytic results for the soil samples are also attached. Since hydrocarbon concentrations were detected immediately beneath the upgradient tanks, about ten ft above the ground water table, it is very unlikely that the hydrocarbons detected could have migrated from the downgradient Client's tanks, and very likely that the hydrocarbons detected are from a release from the upgradient tanks. Cambria will make a more formal presentation of the analytic results in a future investigation report. Please call me with any questions. Thanks!

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.



D:\PROJECTS\SB2004\OAK-189\WELLS498.DWG

	<p align="center">EXPLANATION</p> <ul style="list-style-type: none"> ⊕ Ground Water Monitoring Well ⊖ Chevron Ground Water Monitoring Well ▼ Soil Sample Location (7/95) ⊙ Grab Ground Water Sample Location (7/95) ⊕ Soil Boring Location (10/96) 		<p align="center">Soil Boring and Monitoring Well Locations</p> <p align="center">1432 Harrison Street Oakland, California</p>	<p align="center">FIGURE</p> <p align="center">1</p>
	<p align="center">CAMBRIA Environmental Technology, Inc.</p>			

McCAMPBELL ANALYTICAL INC.	110 2nd Avenue South, #D7, Pacheco, CA 94553 Tele: 510-798-1620 Fax: 510-798-1622
----------------------------	--

Cambria Environmental Technology 1144 65th Street, Suite C Oakland, CA 94608	Client Project ID: # 54-188; Borsuk Invest.	Date Sampled: 10/03/96
		Date Received: 10/04/96
	Client Contact: Philip Gittens	Date Extracted: 10/04/96
	Client P.O.:	Date Analyzed: 10/05-10/07/96

Gasoline Range (C6-C12) Volatile Hydrocarbons as Gasoline*, with Methyl tert-Butyl Ether* & BTEX*
EPA methods 5030, modified 8015, and 8020 or 602; California RWQCB (SF Bay Region) method GCFID(5030)

Lab ID	Client ID	Matrix	TPH(g) [†]	MTBE	Benzene	Toluene	Ethylbenzene	Xylenes	% Rec. Surrogate
69841	SB-O (20.5)	S	ND	ND	ND	ND	ND	ND	103
69842	SB-P (3.75)	S	3.8,g	ND	ND	0.016	0.017	0.084	102
69843	SB-P (12.7)	S	1500,b,d	2.0	0.55	14	25	100	123 [#]
69844	SB-Q (3.75)	S	4.3,g	ND< 0.02	0.006	0.024	0.027	0.11	103
69845	SB-Q (9.6)	S	1900,b,d	ND< 1.4	0.95	15	43	200	105
Reporting Limit unless otherwise stated; ND means not detected above the reporting limit	W	50 ug/L	5.0	0.5	0.5	0.5	0.5	0.5	
	S	1.0 mg/kg	0.05	0.005	0.005	0.005	0.005	0.005	

* water and vapor samples are reported in ug/L, soil and sludge samples in mg/kg, and all TCLP extracts in mg/L

[#] cluttered chromatogram; sample peak coelutes with surrogate peak

[†] The following descriptions of the TPH chromatogram are cursory in nature and McCampbell Analytical is not responsible for their interpretation: a) unmodified or weakly modified gasoline is significant; b) heavier gasoline range compounds are significant(aged gasoline?); c) lighter gasoline range compounds (the most mobile fraction) are significant; d) gasoline range compounds having broad chromatographic peaks are significant; biologically altered gasoline?; e) TPH pattern that does not appear to be derived from gasoline (?); f) one to a few isolated peaks present; g) strongly aged gasoline or diesel range compounds are significant; h) lighter than water immiscible sheen is present; i) liquid sample that contains greater than ~ 5 vol. % sediment; j) no recognizable pattern.

EXHIBIT D
(2 pages)

FEB-05-1993 12:06 FROM ALCO HAZMAT

TO

2730066 P.01

**ALAMEDA COUNTY
HEALTH CARE SERVICES**



AGENCY

DAVID J. KEARS, Agency Director

Post-Net brand fax transmittal memo 7571		# of pages = 2
To: Randall Morrison	From: Paul Smith	
Cc: Crosby et al.	Co: Alameda County, Calif.	
Dept:	Phone #	271-4320
Fax # 273-8846	Fax #	509-4957

February 5, 1992

Mr. Randall Morrison Esq.
Crosby, Heafy, Roach & May
1999 Harrison Street
Oakland, CA 94612-3573

80 Swan Way, Rm. 200
Oakland, CA 94621
(510) 271-4320

Mr. William Trinkle Esq.
Randick & ODea
1800 Harrison Street, Suite 1771
Oakland, CA 94612

Re: 1432 Harrison Street, Oakland, CA 94612

On September 24, 1990, the Alameda County Department of Environmental Health issued an order pursuant to California Health and Safety Code Section 25299.37(e) ordering Alvin Bacharach and Barbara Borsuk, the property owners of 1432 Harrison St., Oakland, to take appropriate corrective action in response to the discovery of unauthorized releases associated with gasoline tanks located at the Harrison St. property.

On February 7, 1991, Mr. Bacharach and Ms. Borsuk, pursuant to Health and Safety Code Section 25299.37(d), petitioned the State Water Resources Board requesting the Board name Douglas Motor Services, a 16 year tenant of the Harrison St. property, as the primary responsible party.

The Board issued Order No. WQ 91-07 on June 20, 1991, stating in part:

In many cases we have deemed it reasonable to place one party in a position of secondary responsibility... We find no basis for suggesting that the County do that in this case.

FAX--RECEIVED

Petitioner's contention that Douglas ought to be added to the County's order appears to have merit. If the County has substantial evidence that the leaks from the underground tanks occurred during the time Douglas was operating them, the County should add Douglas to its order. (Order, p.4)

5 FEB 93 12:14

From June 20, 1991 until October 14, 1992, no new evidence on the responsible party issue was submitted to the Alameda County Department of Health.

On October 14, 1992, Mr. Bacharach and Ms. Borsuk presented new evidence to the Alameda County Department of Health and requested that Douglas Motor Service and its partners be named primary responsible parties for appropriate corrective action for unauthorized releases associated with gasoline tanks.

FEB-05-1993 12:07 FROM ALCO HAZMAT

TO

2738966 9.02

Mr. Morrison
Mr. Trinkle
February 5, 1993
page 2 of 2

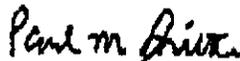
On January 15, 1993, Douglas Motors Service presented evidence to the Alameda County Department of Health in arguing against adding Douglas Motor Service as a responsible party for appropriate corrective action for unauthorized releases associated with gasoline tanks.

On January 29, 1993, Mr. Bacharach and Ms. Borsuk replied to the January 15, 1993 Douglas Motors Service presentation.

Order:

The County has been presented substantial evidence that leaks from the underground gasoline tanks occurred during the time Douglas Motor Service was operating them. Therefore, Douglas Motor Service is a responsible party. Pursuant to Health and Safety code Section 25299.37(c), Alvin Bacharach, Barbara Borsuk, and Douglas Motor Service and its Partners shall take appropriate corrective action in response to the discovery of unauthorized releases associated with gasoline tanks located at 1432 Harrison St., Oakland, CA.

Sincerely,



Paul M. Smith
Senior Hazardous Materials Specialist

cc:

Gil Jensen Esq., Alameda County District Attorneys Office,
Consumer and Environmental Protection, 7677 Oakport
Dr., Suite 400, Oakland, CA 94621
Alvin Bacharach, 383 Diablo Road, #100, Danville, CA 94526
Barbara Jean Borsuk, 383 Diablo Road, #100, Danville, CA
94526
Leland Douglas, Douglas Parking Company, 1721 Webster
Street, Oakland, CA 94612
Lester Feldman, CA Regional Water Quality Control Board, San
Francisco Bay Region, 2101 Webster St., Fifth Floor,
Oakland, CA 94612

EXHIBIT E
(2 pages)

STATE OF CALIFORNIA

CALIFORNIA REGIONAL WATER QUALITY

SAN FRANCISCO BAY REGION

2101 WEBSTER STREET, SUITE 500

OAKLAND, CA 94612

(510) 286-1283

Post-It™ brand fax transmittal memo 7671		# of pages > 2
To: Mark Borsuk	From: [Signature]	
Co.:	Ca.:	
Dept.:	Phone #:	
Fax # 415-922-4446	Fax #:	

Governor



A. Bacharach & B. Borsuk
1432 Harrison Street
Oakland, CA 94612

September 22, 1993
File: 01-0739 & 2198.17

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

RE: Legal Designation of Responsible Party and Request for Submittal of a Technical Report Resulting from the Alameda County Department of Environmental Health's Pre-Enforcement Review Panel Meeting on August 31, 1993

Dear Sirs :

It has been brought to my attention by Regional Board staff that a condition of soil and groundwater pollution exists on the property located at 1432 Harrison Street, Oakland, as a result of underground storage tank releases. The Alameda County Department of Environmental Health (ACHD) staff have requested technical reports from you to fulfill your obligations per California Code of Regulations, Title 23 Waters, Chapter 16, Underground Storage Tank Regulations, Article 11, Corrective Action Requirements. It is my understanding that the tanks and hydraulic lifts remain in the ground and need to be removed. I understand that they are scheduled to be removed by December 1, 1993.

A Pre-Enforcement Review Panel was held at the ACHD offices on August 31, 1993, attended by Mr. Richard Hiatt of my staff. Pursuant to the Regional Board's authority under Section 13267 (b) of the California Water Code, you are hereby found to be a responsible party as defined by Title 23 of the California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2720. A Responsible Party is "any person who owned or operated the underground storage tank immediately before the discontinuation of its use." A responsible party also includes any owner of property from which an unauthorized release of a hazardous substance from an underground storage tank has occurred.

As a responsible party, you are required to conduct both soil and groundwater investigations to determine the extent of the environmental pollution resulting from the release. Therefore you are requested to submit technical reports within 45 days of the date of this letter specifically addressing the following numbered items:

Enforcement Panel Meeting
Page 2 of 2

- 1) The removal of underground storage tanks, hydraulic lifts, and associated piping from the site.
- 2) A work plan to define the lateral and vertical extent of pollution in soil and groundwater.

All work should adhere to the requirements of the Tri-Regional Board Staff Recommendations for the Preliminary Evaluation and Investigation of Underground Storage Tank Sites - August 10, 1990 and Article 11 of Title 23, Waters, California Code of Regulations.

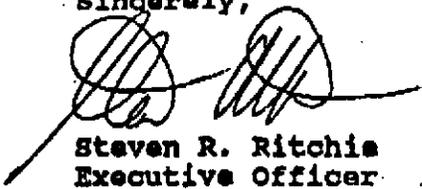
For purposes of the Underground Storage Tank Cleanup Fund it is my understanding that the claimant is in compliance subject to the implementation of the aforementioned items.

I am hereby transmitting this request for a technical report to ACHD for service and continued case handling. You should be aware that failure on your part to submit the requested technical report, or late submittal may result in fines up to \$1000 per day of delinquency. Your response to this technical report request should be sent to the attention of Mr. Tom Peacock at ACHD. Please inform Mr. Peacock at least three working days in advance of all field activities.

Please be advised that this is a formal request for a technical reports pursuant to California Water Code Section 13267 (b). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by either this agency or the ACHD.

If you have any questions regarding the contents of this letter, Please contact Mr. Peacock, of ACHD, at (510) 271-4530.

Sincerely,



Steven R. Ritchie
Executive Officer

cc: Gil Jensen, ACDA, 7677 Oakport Street, Suite 400, Oakland
94621
Tom Peacock, ACHD, 80 Swan Way, Suite 200, Oakland 94621

EXHIBIT F
(1 pages)

CHROMALAB, INC.

Analytical Laboratory
Specializing in GC-GC/MS

- Environmental Analysis
- Hazardous Waste (#E694)
- Drinking Water (#955)
- Waste Water
- Consultation

October 19, 1990

ChromaLab File No.: 1090048

Attn:

RE: Six samples for Gasoline/BTEX analysis

Project Name: DAVIS PARKING

Date Sampled: Oct. 6, 1990

Date Extracted: Oct. 15-19, 1990

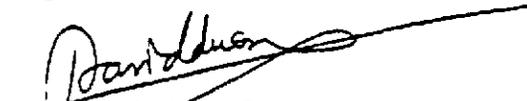
Date Submitted: Oct. 8, 1990

Date Analyzed: Oct. 15-19, 1990

RESULTS:

Sample No.	Gasoline (mg/Kg)	Benzene (ug/Kg)	Toluene (ug/Kg)	Ethyl Benzene (ug/Kg)	Total Xylenes (ug/Kg)
CENTER FRONT DRIVE, UST	----	130000000	52000000	27000000	41000000
1428 DOOR UST	----	140000000	61000000	28000000	44000000
MUNCK, UST	----	50	72	62	97
HYDLIFT-1.5/ SKINNER	35	N.D.	13	36	72
HOLMES-ABBAS	N.D.	N.D.	N.D.	N.D.	N.D.
MULLER VENT	N.D.	N.D.	N.D.	N.D.	N.D.
BLANK	N.D.	N.D.	N.D.	N.D.	N.D.
SPIKED RECOVERY	91.7%	98.6%	99.1%	103.5%	105.6%
DUP SPIKED RECOVERY	91.1%	89.3%	89.7%	90.05	107.6%
DETECTION LIMIT	2.5	5	5	5	5
METHOD OF ANALYSIS	5030/ 8015	8020	8020	8020	8020

CHROMALAB, INC.


David Duong
Senior Chemist

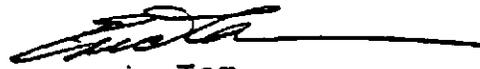

Eric Tam
Laboratory Director

EXHIBIT G
(8 pages)

SCS ENGINEERS

September 5, 1990
File No. 0390044.00

Alameda County Health Care Services
Division of Hazardous Materials
Department of Environmental Health (ACDEH)
80 Swan Way, Room 200
Oakland, California 94621

Attention: Mr. Paul M. Smith

Subject: Harrison Street Garage
1432 Harrison Street
Oakland, California

Dear Mr. Smith:

Pursuant to our conversation on September 4, 1990, SCS Engineers (SCS) as Environmental Consultants, to Mr. Robert Buchman our client, has proposed the following to Mr. Buchman as the expected schedule of events:

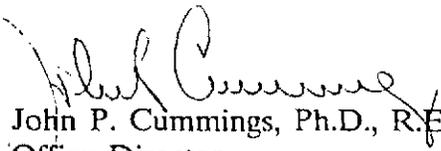
- 1 - Determine if any fluid is in the tanks and pump out all fluid if any is present.
- 2 - Remove the two (2) known gasoline tanks from the Harrison Street entrance.
- 3 - Remove the existing hydraulic lift system (s) and ancillary hydraulic reservoir.
- 4 - Remove the two (2) underground waste oil tanks from the basement on the Alice Street side of building.
- 5 - Initiate a program to determine the extent, if any, of the soil and water contamination under the existing building lower level.
- 6 - Based on the information gained from the soil, and groundwater investigation in conjunction with the tanks removal, SCS shall prepare a soil and/or groundwater remediation plan for ACDEH approval. (SCS believes, based on the September 4th conversation with you that, groundwater remediation is the foremost priority of any remedial effort).

Mr. Paul M. Smith
September 5, 1990
Page Two

This property is in litigation and it would be SCS recommendation to complete investigations inside the building as soon as practical.

If there are any questions please call me at (415) 829-0661

Regards,



John P. Cummings, Ph.D., R.E.A., R.E.P.
Office Director
SCS Engineers

JPC/sar

cc: B. Buchman
M. Borsuk

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Director



Telephone Number: (415)

October 29, 1991

Mr. John Cummings
SCS Engineers
6761 Sierra Court
Suite D
Dublin, CA 94568

Re: Comments of September 24, 1991 Revision to the Work
Plan proposal for 1432 Harrison and adjoining Alice
Street garages, Oakland, CA 94612

Dear Mr. Cummings:

Alameda County Environmental Health Department, Hazardous
Materials Division has received and reviewed your comments
responding to the September 3, 1991 letter from this office.

~~INTRODUCTION:~~

Our evaluation after reviewing SCSs several submittals is that
SCS apparently considers this to be just another routine
underground tank removal. There are several factors which make
this removal far from routine. These include but are not limited
to the following:

- 1) The tanks, sumps and hoists and associated ancillary
piping are all located in confined or relatively
confined areas with either full or partial enclosure
within structures.
- 2) Chemicals which have previously been detected in or
around tanks, pipes or sump are other than those
typically found in fuel related underground tank sites.
- 3) Both garages are located in urban locations with
relatively high foot traffic from workers travelling to
and from adjacent commercial businesses. Air intake
systems from adjacent structures may collect and
circulate contaminated air produced from contaminants
at the above site to heat or cool nearby buildings.
- 4) The garage systems are currently being used to park
vehicles and it is my understanding that SCS currently
plans that they will be occupied during the proposed
removal activities. The intended use of the parking
facility coupled with knowledge obtained from previous

Mr. John Cummings
October 29, 1991
Page 2

sampling intervals raises concerns regarding the possible health and safety which might affect parking patrons, employees and the general public.

Cal-OSHA:

After reviewing SCS's September 24, 1991 letter I became concerned about SCS's monitoring proposals in relation to worker and public safety. In particular I was concerned about the issue of proper monitoring to detect the presence of exposures from all of potential chemical detected on site. As a consequence of these concerns I discussed this matter with Cal-OSHA, Oakland Enforcement Office (Jonathan Rossen, Associate Industrial Hygienist). Cal-OSHA agrees that we are justified in requiring airborne monitoring for each hazardous substance that has been reasonably shown to be associated with this site. They also stated that the monitoring instruments(s) used must be able to detect the specific substance to be monitored. They also concurred with us that monitoring for benzene will not adequately detect chlorinated hydrocarbons or PCBs.

Photo Ionization Detector:

- SCS proposes to use a photo ionization detector (PID) to detect the presence of all contaminants previously found at the site including all petroleum and chlorinated compounds. We believe it can't be done with a PID. A PID normally calibrated to isobutylene, is incapable of giving an indication that the permissive exposure levels (PELs) of chlorinated solvents or benzene have not been exceeded.

It should be noted that the ionization potentials for many halocarbons are greater than 11.0 electron volts (ev) therefore, the standard 10.2 ev bulb used with a PID would not only be non-definitive for the presence of a specific compound but it is likely that it would be unable to detect its presence.

Regarding the issue of providing quantitative and qualitative air quality monitoring information you are required to employ a more definitive monitoring system than the proposed PID. Please specify the type of continuous monitoring system to be used, the frequency of monitoring and the qualifications of the personnel performing the monitoring. You are also required to maintain a monitoring log documenting the chemical monitored, the level obtained, and the frequency of monitoring.

Known Data:

To clarify the laboratory results referred to in the September 3, 1991 correspondence from this office, the results referred to were of data received by this office of July 10, 1991 via FAX transmission from SCS. The data were actually collected on

Mr. John Cummings
October 29, 1991
Page 3

October 27, 1990 by SCS. These data (from samples collected from the Alice Street waste oil tanks) revealed contamination of di-bromo chloromethane as high as 13 ppm, 1-2 dichloroethene as high as 1.8 ppm, tetrachloroethene as high as 16.6 ppm, trichloroethene as high as 9.8 ppm and PCB as high as 100 ppm.

In the September 24, 1991 letter you characterize the October 19, 1990 data as "questionable. At this point, we assume the October 19, 1990 data are accurate. We don't intend to get drawn into a dispute concerning the reliability of the October 19, 1990 data. Until the tanks are removed and the site more fully characterized we will not know whether your characterization is accurate. Until we more fully understand the health and safety hazards at this site, we will insist that all data be considered as you embark upon Phase I and that includes addressing the health and safety issues raised by the October 19, 1990 data. Or to put it in more blunt terms: we don't want anyone to get hurt because SCS ignored the October 19, 1990 data.

(CIR)
Exposure Tolerances:

Regarding the specified PEL and STEL values which were specified in page 3 of the most recent SCS correspondence, after consulting California Code of Regulations, Title 8, Section 5155 it became apparent that the following corrections are necessary regarding allowable exposure levels.

The PEL for methylene chloride is 100 ppm and the STEL is 400 ppm, not 500 and 1000 as reported on page 3.

Tetrachloroethene (perchloroethylene) has a ceiling of 300 ppm.

The trichloroethene PEL is 25 ppm, not 50 ppm, and has a ceiling of 300 ppm.

When referring to PELs, STELs and ceiling limits, you are required to refer to Title 8.

Contingency Plan:

A Contingency Plan is required. Your 9 line contingency plan in your September 24, 1991 letter is inadequate. For example, it would be prudent to have standby level B apparatus when workers are working in level C. You are required to specify the measures which will be taken if the previously specified monitoring levels are exceeded. Site control measures should address exposure to hazardous levels to site workers, garage patrons, employees and the general public.

Ventilation:

Another issue of concern to this Department and also to Cal-OSHA

Mr. John Cummings
October 29, 1991
Page 4

is the use of an appropriate monitoring device and to provide specific volume measurements to include carbon monoxide, particularly within the Alice Street garage basement area during both the excavation and removal of the underground storage tanks. According to the American Conference of Governmental Industrial Hygienists, Industrial Ventilation Manual (1984) when diesel equipment is used in a basement, 100 cubic feet per meter of fresh air should be provided for each horsepower which the vehicle produces.

Accordingly, you are required to provide more detailed information specifying the volume of ventilation which will be provided in this area, including the number of air exchanges.

You are required to perform work in compliance with all State and Federal Worker Safety laws. Specifically we direct your attention to California Code of Regulations Title 8, Section 5155 (e) and (f) requiring personal monitoring and medical surveillance for all employees whenever it is reasonable to suspect that employees may be exposed to concentrations of airborne contaminants in excess of levels permitted in 5155 (c).

The air monitoring should be continuous while work is underway. This is to determine if the PELs and STELs are exceeded and if air purifying respirators are used to insure that the break through values for each substance have not been exceeded.

Stockpiled Soil:

Regarding stockpiled soil sampling, 4 discrete soil samples are required per 50 cubic yards. Samples collected from 4 locations per 50 cubic yards may then be composited into one in the laboratory. Please specifically acknowledge this point in your response.

Analyses Required:

Table 2 page 17 of the August 19, 1991 Modified Work Plan lists different laboratory analysis for the gasoline tanks and the waste oil tanks than those found on attachment 5a and 5b of your most recent correspondence. We assume listed analyses on Table 2 are what you will follow as these conform with the Tri-Regional Recommendations. Please specifically acknowledge this point in your response.

Phase II:

Additionally, as specified in the July 12, 1991 correspondence from this office you are required to submit a Phase II Work Proposal within 20 days of the completion of the laboratory analysis from the groundwater monitoring well installation. The Phase II report is to include, among other things, a proposal to

Mr. John Cummings
October 29, 1991
Page 5

install additional monitoring wells on and off site as warranted by the results of the Phase I investigation an consistent with the Tri-Regional Recommendations.

CONCLUSION:

The work at the 1432 Harrison Street and Alice Street sites has many serious risks and hazards that are not encountered at other underground storage tank removals. These include working in an enclosed environment, the surrounding High density office buildings, the possibility of encountering very toxic hazardous substances (chlorinated hydrocarbons and other carcinogens) and high concentrations of other hazardous substances associated with gasoline.

The County will not allow any work that results in an improper exposure, even for short period of time, of hazardous substances to the public. We consider an improper exposure to a hazardous substances for site workers to be any violation of the Cal-OSHA PEL's or other regulations, and that exposure to the general public (both inside and outside the garage) to be any exposure to hazardous substances originating from work at the above site.

The work plan is properly the product of the consultant, SCS Consultants and John Cummings. You have represented your firm and yourself as experts in underground storage tank removal and the related health and safety concerns. We expect that you are qualified to properly handle the specific and unique hazards of this site and will have qualified personnel on site to assist you. The County's role is not to write the work plan or to function as the health and safety experts but to provide general review and oversight.

The work plan includes many safety measures including air blowers to increase air exchanges, continuous air monitoring with instruments that will monitor all substances that may be on site, the covering of contaminated soil with plastic and the exclusion of the general public from certain parts of the garage. Many of these measures were placed in the work plan at the insistence of the County. We expect that you will take whatever additional safety and health measure are needed to ensure there are no improper exposures. You are the health and safety expert, we are not.

We further expect that SCS put additional measures into place if improper exposures are anticipated, and before the improper exposure occurs. Some examples of these measures may include, but are not limited to, such things as complete closure of the garage, negative air pressure to prevent escape of vapors from the garage, emergency removal of contaminated soil and removal

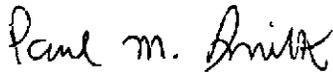
Mr. John Cummings
October 29, 1991
Page 6

and exclusion of the public from neighboring areas and buildings.

If SCS does not have the resources or expertise to protect the health and safety of site workers and the general public we expect that you will obtain these prior to the start of work. We will not tolerate your use of cost as justification for not providing adequate health and safety protection. We are concerned that your recent request that monitoring only be conducted for benzene (which will not allow for full monitoring of substances in the air that the record shows we have reason to be on site) is based upon cost.

We expect that if you are unable to provide a safe and healthy work site because of cost constraints or lack of expertise that you will disassociate yourself from this work plan. If you proceed with the work plan we expect that there will be no improper exposures. If there are we will hold you and the owner responsible to the full extent allowed by law.

Sincerely,



Paul M. Smith
Hazardous Materials Specialist

cc:

Alvin Bacharach
Barbara Borsuk
Mark Borsuk Esq.
Jonathan Leo Esq., Heller Ehrman, White and McAuliffe
Randall Morrison Esq., Crosby, Heafy, Roach and May
Mark Thomson Esq., Alameda County District Attorney's Office
Lester Feldman, SFRWQCB
Charlene Williams, DHS

EXHIBIT H
(8 pages)

MARK BORSUK
ATTORNEY AT LAW

1828 VALLEJO STREET
SAN FRANCISCO, CA 94133-8118

FAX 922-1485
(415) 922-4740

Facsimile Cover Sheet

To:	Ms. Laurie Casias
Company:	Acting Dir.-LOP/WB
Phone:	1-916-227-4325
Fax:	1-916-227-4349
From:	Mark Borsuk
Company:	Attorney At Law
Phone:	1-415-922-4740
Fax:	1-415-922-1485
Date:	09/08/93
Pages including this cover page:	19

Dear Laurie: The following documents will assist you in understanding the history of the site, the County's directives and the property owner's compliance with those directives. In order to understand why the owner is in compliance with the County's directives, please refer to the "Corrective Action Compliance Chronology" addressed to Steve Parada. When we review the property owner's response to every directive you will know, the owner is in compliance now and will remain so in the future. The "Site Sample Map" is clear evidence of the property owner's efforts to investigate the site in conformity with the County's directives. Finally, to remain in compliance with the County's demands, the consultants have charged a huge amount for their work.

-SCS Engineers	\$130,000
-RGA Env. Consultants	\$ 50,000
-Levine-Fricke Env. Consult.	\$ 30,000 to date

Approx. \$210,000

Any fair reading of the owner's attempts to remain in compliance with the County's directives must conclude the owner is in compliance and a letter of commitment should be issued by the UST FUND. I look forward to explaining in detail the reasons why the owner is in compliance at 3:00 p.m.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mark Borsuk". The signature is written in a cursive style with a prominent initial "M" and a long, sweeping underline.

Mark Borsuk

**MARK BORSUK
ATTORNEY AT LAW**

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

**VIA FAX
SIX PAGES**

May 3, 1993

**Mr. Steve Parada
UST FUND
Division of Clean Water Program
State Water Resource Control Board
Suite 130
2014 T Street
Sacramento, CA 94244-2120
(916) 227-4486
FAX 227-4530**

**SUBJECT: CORRECTIVE ACTION COMPLIANCE CHRONOLOGY
CLAIM #2219
ALVIN H. BACHARACH & BARBARA JEAN BORSUK
HARRISON STREET GARAGE**

Dear Steve:

Actions by Alameda County and a rise in the ground water level are the main factors for delaying the removal of the USTs at the Harrison Street Garage. The chronology and supporting correspondence fully demonstrate the claimant's ongoing efforts to comply with the County's demands.

The primary reasons for the long delay in implementing corrective action are:

- A. The degree of involvement by the Alameda County District Attorney's office in the case.
- B. The Alameda County Health Care Services Agency's (ACHCSA) requirements for extensive site characterization. The plan became so elaborate, the claimant sought peer review for the proposed March 1992 work plan. Peer review recommended substantial revisions to the work plan. This resulted in a significant cost savings.
- C. The County found fault with the claimant's original consultant in late 1991 and the claimant retained a new consultant.

- D. A substantial rise in the ground water to approximately four (4') feet, or some other as yet unexplained source of water has created a new problem: unstable soil conditions in the tank area. Extensive shoring during the tank pull and additional soil excavation may be required. Water infiltration may also require reinforcement of the building's party wall. A geotechnical investigation will commence shortly to determine the extent of water infiltration, appropriate method for pulling the tanks, and stabilizing the structure.

As a result of these events, the tanks have not been pulled or the site fully characterized. The claimants, however, have continuously complied with the County's directives. Under these circumstances, it would be inequitable and unjust to conclude the claimants are not in compliance with Section 2811 of the regulations.

You also questioned the high cost of the project. A brief review of the correspondence between the Alameda County District Attorney's Office, ACHCSA, and the claimants' consultants and attorneys provides the answer. Based on the County's requirements, the costs escalated dramatically. Most of the increase is attributable to multiple iterations of the work and health and safety plans. It was impossible to contain costs due to the County's continuing demands for revisions. The voluminous correspondence between the parties regarding the need for additions, changes and revisions thoroughly demonstrate this point.

I look forward to our meeting Wednesday, May 5. We can review the chronology, the correspondence and reasons for the delay. Should you require additional information, please feel free to contact me.

Sincerely yours,



Mark Borsuk

cc: Alvin H. Bacharach
Barabara Jean Borsuk

MARK BORSUK
ATTORNEY AT LAW

1626 VALLEJO STREET
SAN FRANCISCO, CA 94123-5116

FAX 922-1485
(415) 922-4740

CORRECTIVE ACTION COMPLIANCE CHRONOLOGY

CLAIM #2219

ALVIN H. BACHARACH & BARBARA JEAN BORSUK
HARRISON STREET GARAGE

May 3, 1993

Participants

ACHCSA: Alameda County Health Care Services Agency. Local oversight.
DA: Mr. Mark Thomson, Assistant District Attorney, Alameda County.
SCS: SCS Engineers. The Claimant's original environmental consultant.
LF: Levine-Fricke. The Claimant's environmental consultant.
RGA: RGA Environmental, Inc. The Claimant's original certified industrial
hygienist (CIH).
*: Document referenced in subsequent correspondence.

<u>DATE</u>	<u>FROM/TO</u>	<u>SUBJECT/ACTION</u>
July 31, 1990	ACHCSA to Claimant	Notice of Violation.
August 27	ACHCSA to Claimant	Notice to perform preliminary site assessment.
September 5	SCS to ACHCSA	Proposal to investigate site and remove tanks. Underground tank closure plan filed with ACHCSA by Veri's Construction.*
September 24	ACHCSA to SCS	Request to modify the tank closure plan of August 28.
October 12	SCS to ACHCSA	Response to September 24 modifications.
October 27	SCS	Consultant removes residual amounts of gasoline and waste oil from tanks.*
November	DA	Alameda County's Assistant District Attorney Mark Thomson becomes involved in project.

January 25, 1991	ACHCSA to SCS	Additional request to modify site characterization.
February 15	SCS to ACHCSA	Revise site characterization proposal submitted.*
February 21	ACHCSA to SCS	Additional request to modify site characterization of February 15.
March 3	SCS to ACHCSA	Addendum to February 15 site characterization submitted.*
March 6	ACHCSA to SCS	Need to resolve additional issues prior to work plan approval.
March 11 & 12	SCS to ACHCSA	Revisions submitted as requested.*
March 14	ACHCSA to SCS	Additional revision required.
March 18	SCS to ACHCSA	Revision completed.
March 22	ACHCSA to SCS	February 15, 1991 site characterization plan as revised approved. Forty-five days to implement work.
April 26	Claimant's counsel (Leo) to DA	Request to modify site characterization based on outside review of SCS's plan by Harding-Lawson Associates, environmental consultants.
April 29	DA to Claimant's Counsel (Leo)	Statement of the County's position.
May 14	ACHCSA, DA & Claimant's Counsel (Leo)	Verbal agreement to permit "modified work plan."*
June 6	SCS to ACHCSA	Modified site characterization plan submitted for approval.
July 12	ACHCSA to SCS	Revisions to modified work plan requested.
August 19	SCS to ACHCSA	Revised and modified work plan per July 12 request submitted.*

September 3	ACHCSA to SCS	Additional modifications requested by County.
September 24	SCS to ACHCSA	Reply to points raised on September 3. Some modifications made to plan.
October 29	ACHCSA to SCS	Reply to SCS's September 24 correspondence. Raises questions regarding SCS's competency.
November		Claimant engages services of RGA Environmental, Inc. to augment SCS's Health and Safety plan.
December 26	RGA to ACHCSA	RGA to address ACHCSA's concerns of October 29.
December 27	Claimant's Counsel (Morrison) to DA	Update on RGA's activities to provide Health and Safety component to revised work plan.
January 7, 1992	ACHCSA to RGA	Additional points of concern for Health and Safety plan.
January 10	RGA to ACHCSA	RGA addresses concerns of January 7.*
January 14	ACHCSA to RGA	Approval of RGA work plan.
March 6	SCS to Claimant's Counsel (Borsuk)	SCS alerts Claimant to water leak causing the ground water level to rise to just four feet below the sidewalk. SCS recommends halting tank removal until situation investigated.
May 8	RGA to ACHCSA	Preliminary site safety and assessment report sent to County.
May 18	Claimant's Counsel (Morrison) to DA & ACHCSA	RGA's site safety and assessment plan sent for review.
June 23	Claimant's Counsel	Levine-Fricke, environmental

	(Morrison) to DA	consultants tentatively selected to replace RGA and SCS as overall project consultant.
June 30	ACHCSA to Claimant's Counsel (Morrison)	Additional questions and concerns by the County. Request for response.
July 24	Claimant's Counsel (Morrison) to DA	Update on meeting between ACHCSA and LF.
August 31	LF to ACHCSA	Addendum to Site Safety Plan submitted to ACHCSA.*
September 25	ACHCSA to Claimant's Counsel (Morrison)	Additional changes to plan requested.
November 3	Claimant's Counsel (Morrison) to DA	Update on work plan submission and need to obtain three bids for corrective action work.
December 15	LF to ACHCSA	LF work plan submitted for review.*
January 8, 1993	ACHCSA to LF	Additional guidance given by ACHCSA for work plan.
February 9	LF to ACHCSA	Response to ACHCSA letter of January 8.*
February 18	ACHCSA to LF	Approval of work plan to determine ground water level near to gasoline storage tanks.
May		LF to commence investigation of ground water level per approved work plan. Drilling contractor and analytical laboratory selected.

+++++

EXHIBIT I
(17 pages)

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

			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

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 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

August 14, 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 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

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

September 19, 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:

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 ^{the} 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,

A handwritten signature in black ink, appearing to read 'M. Borsuk', written over a horizontal line.

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



ARNOLD PERKINS, DIRECTOR
RAFAT A. SHAHID, DEPUTY DIRECTOR

December 22, 1995
STID 498

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

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

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 verticle 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 verticle 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

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

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

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."

>On December 22, in a letter to the RP but not copied to you, the LOP sought to justify the time spent stating:

"#2. The question at hand concerned pervious actions and examining a pattern of non-compliance, which may have existed."

"#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."

(Emphasis added)

How between June 22 and December 22, 1995, did the LOP convince itself that an unsubstantiated opinion became an established fact? The record speaks for itself: the LOP never issued a "notice of violation" for non-compliance before January 26, 1995. Therefore, the LOP did not have any justification for charging a non-case officer's time to the RP.

There are several related issues requiring your response.

1. Why did it take the LOP six (6) months after repeated requests from the RP to admit the non-case officer had not met with a consultant or the RP but charged them for the time? See LOP December 1995 letter.

2. Why has the LOP not provided a record of the non-case officer's conversation and notes with the State Board as requested by the RP on September 19, 1995? The December LOP letter states the information is "confidential." What is the authority for this position? There is no confidentiality when the LOP bills the RP for the time. Instead, the information is part of the public record. Please provide a copy.

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

This charge is also inappropriate since the RP was in compliance with the LOP's directive. The monitoring well sampling schedule sent to you on May 16, 1995, demonstrates the RP's conformity with the LOP's requirement. However, the LOP has mistakenly persisted in attempting to characterize the RP's compliance as non-compliance. Please delete this charge. The total charge is \$145.44 including the load.

In addition, the RP again requests the November 1994, meeting notes from Mr. Peacock regarding the proposed enforcement action. The LOP charged the meeting time to the RP. Therefore, the notes are a matter of public record. Please provide a copy.

C. The \$5.27 charge dated January 24, 1995.

There should be no charge to the RP for alerting the LOP over its failure to require an adjacent landowner to investigate a fuel leak (246-14th St., Site ID 1098).

The LOP took no action for two and one-half years on a fuel leak site seventy-five (75') feet away from the RP's property. It was only when the RP demanded action that the LOP "remembered" to enforce the law by requiring the adjacent property owner to install groundwater monitoring wells. The RP's demand for the LOP to comply with its own rules should not be the basis for back-charging the RP.

Please refund the \$5.27 (\$4.39 + 20% load). Also, please provide the 1994 time and task billing sheet to determine whether the RP paid additional charges related to the site. Sample attached.

Finally, on November 23, 1995, the RP requested your response to the following questions. First, has the LOP Program undergone an independent audit? Second, will the UST FUND pay charges directly to the State LOP after RP approval?

The RP has acted responsibly in meeting the Alameda County LOP's compliance criteria at the Harrison Street site. Conversely, the LOP has not acted competently in discharging its responsibilities under the law. The LOP charges are unwarranted and the RP requests the charges be deleted and payments refunded.

Thank you for your cooperation in resolving this matter. Please respond within thirty (30) days.

Sincerely yours,



Mark Borsuk

Attachments

- Letter to Paul Smith, April 12, 1994
- Letter to Afonso Chan, April 19, 1994
- Alameda County LOP time and billing summary for January-September, 1995

cc: Alvin H. Bacharach
Barbara Jean Borsuk
Thomas Peacock, Alameda County LOP
Gordon Coleman, Acting Chief-files, Div. Env. Protection, ACHCSA
Gil Jensen, Alameda County District Attorney's Office
Chairman John Caffrey, SWRCB
Walt Pettit, Executive Officer, SWRCB
Dave Deaner, SWRCB, UST Cleanup Fund



SWRCB

**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) 227-4325
FAX (916) 227-4349



**Pete Wilson
Governor**

JUL 26 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, 1432 HARRISON STREET, OAKLAND, ALAMEDA COUNTY**

This is in response to your letter dated January 22, 1996 regarding certain oversight costs incurred at the subject site.

The \$62.44 charge dated October 3, 1994

This charge was associated with a telephone conversation between Dave Deaner with the UST Cleanup Fund, Tom Peacock and Paul Smith who was the caseworker handling this site prior to its inclusion in the Local Oversight Program. Mr. Deaner initiated the call because of his concerns about the site being out of compliance (tanks not removed or permitted). Mr. Smith was consulted because of his prior involvement with the site, and the fact that he did not issue a Notice of Violation does not alleviate the fact that the tanks had been abandoned and were not permitted as required by law. Notes of this telephone conversation were not taken, other than the daily entries for time reporting purposes; therefore, no records are available. A 204 activity code should have been used instead of 212. This is an appropriate charge.

The \$121.20 charge dated November 15 and 16, 1994

This charge is associated with two conversations with Gil Jensen, Alameda County District Attorney's Office, regarding the issue of noncompliance and how to handle the situation. In the four quarters following tank removal, only one monitoring report was submitted to the County, which was not in compliance with a quarterly monitoring schedule. This is an appropriate charge. Notes were not taken of these two conversations, other than the daily entries for time reporting purposes, and this information was previously provided to you.

The \$5.27 charge dated January 24, 1995

This charge has been deleted and a revised invoice will be mailed shortly.



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
Page Two

Alameda County's Local Oversight Program was recently audited by the State Controller's Office. The results of that audit have not been published. When we receive the final audit report, a copy will be sent to you.

Currently, there is no mechanism that would allow oversight costs to be paid directly from the UST Cleanup Fund.

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

Sincerely,



Lori Casias
Local Oversight Program

cc: Alvin H. Bacharach
Barbara Jean Borsuk
383 Diablo Road, Suite 100
Danville, CA 94526

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

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.

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.

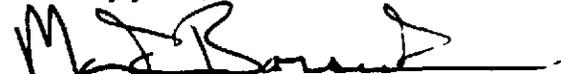
Date	From	To	Discussed
March 15, 1994	LOP	RPs	Request update on additional well installation and monitoring schedule. Overdue to begin groundwater monitoring. Note: site misidentified as 1432-1434 Franklin St. Correct address is 1432-1434 Harrison St.
March 27	LF	LOP	Schedule for submitting work plan 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 1. Ground Water Elevation and Analytic Data - 1432 Harrison St., Oakland, CA.

Well ID	Date	Top of Casing Elevation (ft)	Depth to Ground Water (ft)	Ground Water Elevation (ft)	TPHg	Benzene	(Concentrations in ppb)				MTBE	Notes
							Toluene	Ethylbenzene	Xylenes			
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	94,000	15,000	23,000	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	--		
	03/13/95	33.97	17.86	16.11	<50	<0.5	<0.5	<0.5	<0.5	--	b	
	07/07/95	33.97	18.25	15.72	--	--	--	--	--	--	c	
	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	--	--	--	--	--	--		

EXHIBIT J
(15 pages)

**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

March 15, 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

LEVINE-FRICKE <small>Circle 101 on Reader Service Card</small>		No. of Pages 3
To Mark Borsuk, Esq.	From Taylor Bennett	
Co.	Emeryville Office	
Dept.	Phone No. (510) 652-4500	
Fax No. (415) 922-1485	Fax No. (510) 652-2246	

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, which stated on page 7 that drilling was expected to begin within about one month from the date of approval. It has been over 3 months from that workplan submittal and there has been no contact with this office concerning any well drilling, or soil and groundwater investigation taking place. Furthermore, the workplan above included the installation of three groundwater monitoring wells. There has been no contact with this office concerning this activity, which is overdue to be accomplished.

This office has also received and reviewed a Tank Closure Report concerning the above site. The report is acceptable with the following comments:

1. The recommendations section on page 13 recommends that fuel leak case closure be completed. This case is not suitable for case closure at this time. The next step that must be completed is a soil and groundwater investigation, as elaborated in your work plan dated October 13, 1993.
2. The petroleum contamination at this site is obviously of such magnitude as to require the above mentioned investigation. The first important need of this investigation

March 15, 1994
Bacharach & Borsuk
1432 Harrison St., Oakland
STID 498
Page 2 of 2

is to define the verticle and lateral extent of soil and groundwater contamination. Once done, a feasibility study should be done in order to select the best method of remediating soil and any groundwater contamination. These steps are essential tasks which must be completed as soon as possible.

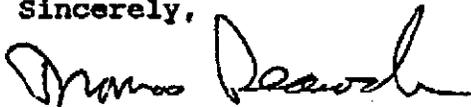
3. The levels of contamination found during the tank removal (as high as O & G 17,000 ppm, TPHg 3,100 ppm, BTEX 11,000 ppb, 190,000 ppb, 64,000 ppb, 400,000 ppb respectively) are so high as to be a public health hazard in this neighborhood. Their extent must be evaluated and controlled as soon as possible.

4. The site drawings did not show any levels of contamination found or attempt to delineate any areas of contamination. This type of exercise is important to define the extent of contamination at this site and should be presented in the next report.

5. A quarterly report stating what actions have been taken and what actions should occur in the future should be submitted every quarter. As you are overdue for the installation of monitoring wells, this activity should be done first within this quarter. Quarterly monitoring reports should then follow every 3 months.

If you have any questions or comments, please contact this office at (510) 271-4530.

Sincerely,



Thomas Peacock, Supervising HMS
Hazardous Material Division

cc: Richard Hiatt, RWQCB
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
SWRCB - Clean-Up Fund



LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

March 27, 1994

2680.31

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Hazardous Materials Division
Alameda County Health Care Services Agency
Department of Environmental Health
80 Swan Way, Room 200
Oakland, California 94621

Subject: Soil and Ground-Water Investigation Activities,
1432-1434 Harrison Street Site, Oakland, California

Dear Mr. Peacock:

Levine•Fricke received a copy of your letter to the Alvin H. Bacharach and Barbara J. Borsuk Trust and Mr. Leland Douglas dated March 15, 1994. In response to that letter we have prepared this letter on behalf of our clients, Mr. Bacharach and Ms. Borsuk, to respond to the project schedule concerns expressed in your letter.

As stated on page 8 of Levine•Fricke's Tank Closure Report, dated February 22, 1994, one shallow ground-water monitoring well was installed in the gasoline tank excavation. The well will be developed and sampled concurrently with the installation, development, and sampling of additional wells during a planned soil and ground-water investigation. The investigation will be conducted in accordance with an agency-approved work plan dated October 13, 1993.

Based on our discussions with Mr. Mark Borsuk, legal counsel to our clients, we understand that a series of conversations has transpired between Mr. Borsuk and Mr. Don Dahlke of the California Regional Water Quality Control Board (RWQCB). Mr. Borsuk has informed us that the RWQCB is interested in considering the site as a candidate for implementation of the new Alternative Points of Compliance policy, based on results of the upcoming soil and ground water quality investigation. To ensure that the next set of data collected is sufficient to evaluate whether the site may be suitable for the policy, Mr.

1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

LEVINE·FRICKE

Borsuk desires to set up a meeting with you, an RWQCB representative, and Levine·Fricke. Among the issues to be addressed in such a meeting is the selection of locations of additional wells on and around the site.

Mr. Borsuk has informed us that he has initiated the process of setting up such a meeting. Based on our discussions with Mr. Borsuk, a tentative schedule for next phases of site work includes finalizing the conceptual work plan during the week of April 4 (assuming a meeting can be held on or before that week). After the conceptual work plan has been approved by your agency and the RWQCB, a document will be submitted for your review which will identify modifications to the approved October 13 work plan. If your office can provide comments within one to two weeks and there are no major modifications to the new scope of work, we anticipate that field activities can commence around the first week of May.

If you have any questions, please contact me at the number below or Mr. Mark Borsuk at (415) 922-4740.

Sincerely,



John Sturman, P.E., R.G.
Senior Engineer

cc: Mr. Richard Hiett, Regional Water Quality Control Board
Mr. Edgar Howell, Chief, Alameda County Health Agency,
Hazardous Materials Division
Mr. Gil Jensen, Alameda County District Attorney's Office
Mr. Bernard Rose, Randick & O'Dea
Mr. Alvin Bacharach and Ms. Barbara Borsuk
Mr. Mark Borsuk
Mr. Randall Morrison, Crosby, Heafey, Roach & May
State Water Resources Control Board, Fuel Leak Fund



THB
LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

April 8, 1994

93P-424K

Mr. Thomas Peacock
Supervising Hazardous Materials Specialist
Hazardous Materials Division
Alameda County Health Care Services Agency
Department of Environmental Health
80 Swan Way, Room 200
Oakland, California 94621

Subject: Modifications to 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 March 27, 1994, this letter documents our proposed modifications to the subject work plan dated October 13, 1993, which was approved by the Alameda County Health Care Services Agency (ACHCSA). At a meeting attended by you, Mr. Mark Borsuk (legal counsel for our clients), and Mr. John Sturman of Levine•Fricke on March 29, 1994, we recommended using a phased approach in implementing the work plan to optimize well placement.

The Phase 1 investigation will consist of conducting a preliminary ground-water survey and drilling two soil borings that will be completed as shallow monitoring wells (Figure 1). At this time, we expect to drill five borings. The three that are not completed as wells will be used to collect grab ground-water samples using the Hydropunch method.

The results of the Phase 1 investigation will be used to aid in selecting locations for additional ground-water monitoring wells to be proposed, if necessary, in Phase 2. We feel that this approach to selecting well locations would be the most cost-effective way to implement the work plan. We will notify the ACHCSA of any significant deviations from this schedule.

As you know, one shallow ground-water monitoring well was placed in the former gasoline tank excavation. At this time, we propose one additional well on Harrison Street and another additional well on Alice Street. Although the exact locations of the two additional wells will be based on field

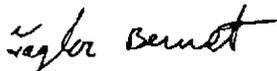
1900 Powell Street, 12th Floor
Emeryville, California 94608
(510) 652-4500
Fax (510) 652-2246

observations, Figure 1 indicates the proposed configuration of the wells and the borings to be sampled for ground water. The exact locations of the wells and borings will be determined in the field based on the locations of underground utilities and observations during drilling.

Unless any unforeseen difficulties arise with permitting, access, weather, or subcontractor availability, we expect that drilling and preliminary ground-water sampling can begin within about one month of our receiving authorization from your office to proceed. Proposed ground-water monitoring wells MW-2 and MW-3 will be developed and sampled within one week of well installation. A report presenting methods and results of Phase 1 investigations and providing recommendations for Phase 2 investigations will be submitted to the ACHCSA within four to six weeks after drilling begins.

Please call me or John Sturman if you have any comments regarding these modifications to the work plan.

Sincerely,



Taylor Bennett
Project Hydrogeologist

Enclosures

cc: Mark Borsuk, Esq.
Randall Morrison, Esq.

**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 Morrison~~ Levine Fricke, 1900 Powell St., 12th Fl.,
Emeryville, CA 94608
Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY

DAVID J. KEARS, Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94621
(415)

June 28, 1994
STID 498

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

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

Dear Alvin H. Bacharach and Barbara J. Borsuk:

This office accepted a Work Plan for Soil and Ground-water Investigation dated October 13, 1993 by Levine-Fricke concerning the above site. This office approved that workplan and a modification in a letter dated April 14, 1994. In that letter it was agreed that a report concerning implementation of the workplan would be submitted to this office by July 1994.

To date there has been no contact with this office concerning the implementation of the workplan. This mainly concerns drilling monitoring wells and sampling at the site. July begins at the end of this week. Lack of field work being accomplished will be considered as non-compliance with the agreed upon schedule of work.

If you have any questions or comments, please contact this office at (510) 271-4330. (Our location has moved to Alameda and the phone system is not complete. If you do call, please be patient.)

Sincerely,

Thomas Peacock, Supervising HMS
Hazardous Material Division

- cc: Kevin Graves, RWQCB
- 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
- Leland Douglas, Douglas Parking Co., 1721 Webster St.,
Oakland, CA 94612
- Mark Borsuk, 1626 Vallejo St., San Francisco, CA 94123-5116

→ John Sturman
1-510-652-2246



DRAFT
PRIVILEGED AND CONFIDENTIAL

LEVINE•FRICKE

ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

August 16, 1994

LEVINE-FRICKE
ENGINEERS, HYDROGEOLOGISTS & APPLIED SCIENTISTS

No. of Pages 2

To	Mark Prosser
Co.	
Dept.	
Fax No.	415-922-1485

From	John Sturman
Emeryville Office	
Phone No. (510)	652-4500
Fax No.	(510) 652-2246

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

**DRAFT
PRIVILEGED AND CONFIDENTIAL**

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 at RWQCB ?



January 9, 1994

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

LEVINE-FRICKE

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 upgradient 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

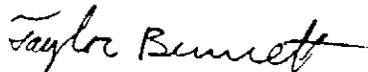
LEVINE-FRICKE

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.

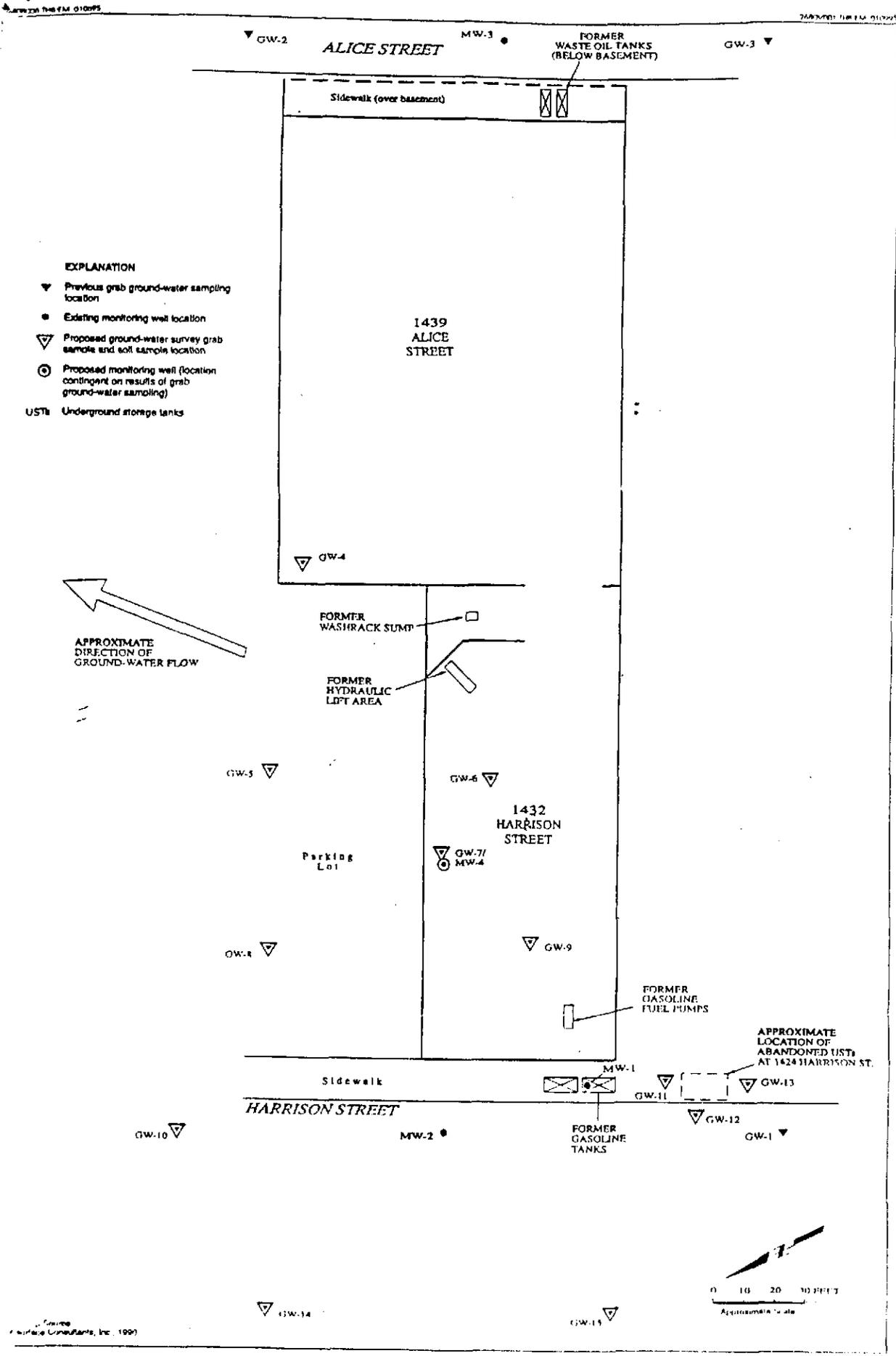


Figure 1: PROPOSED SOIL AND GRAB GROUND-WATER SAMPLING LOCATIONS AT THE HARRISON STREET GARAGE, OAKLAND, CALIFORNIA