

# McDermott Will & Emery

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June 5, 2006

VIA E-MAIL AND U.S. MAIL

Chris Davidson  
Brownfields Project Manager  
City of Livermore  
City Hall  
1052 South Livermore Avenue  
Livermore, CA 94550

Alameda County  
JUN 30 2006  
Environmental Health

Re: Former Mobil 99-LIV, 187 North L Street, Livermore, California

Dear Mr. Davidson:

This letter responds to your March 1, 2006 letter to Exxon Mobil Corporation ("ExxonMobil") regarding the above referenced property ("Property"). During our April 20, 2006 telephone conversation, you graciously agreed to extend ExxonMobil's time to respond to this letter until today, June 5, 2006. Based on the Property's historical background and soil and groundwater investigations at the site, as set forth below, ExxonMobil has improperly been designated as a responsible party by Alameda County Environmental Health ("ACEH").

Factual Background

Based on a review of the grant deed and title searches for the Property, the Property was originally owned by S.C. and K.O. Buck, who sold it to Leslie Holm in 1948. Leslie Holm sold it to Mona Holm in 1960. Mona Holm owned the property from 1960 to 1972, when the Property was purchased by G.R. Donnelly. G.R. Donnelly sold the site to Arrow Rentals in 1977 and Arrow Rentals owned the site until 1979. From 1979 to present, records indicate that the Property has been owned by Don Sul, Inc. and is still operated as Arrow Rentals, an equipment rental business.

The Property operated as a Mobil service station from 1951 to 1969. Between 1969 and 1972, Phil's Tire Service operated at the Property. Arrow Rentals maintained UST operations at the Property as a service station from 1972 to 1993. During this time, in June 1985, Pitcock Petroleum accidentally pumped approximately 600 gallons of gasoline into a tank backfill monitoring well located within the backfill of the 1,000 gallon UST owned by Arrow Rentals. A declaration by Gary Pinks documenting his observation of this incident is attached hereto as

U.S. practice conducted through McDermott Will & Emery LLP.

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Exhibit A. Immediately after the fuel release, Mr. Sullins of Arrow Rentals put a hose down the tank backfill well and flushed the well "for a period of several days" (interview with Mr. Sullins documented in the Phase 1 Assessment Report, Woodward-Clyde, December 1988).

Five USTs were located onsite during the former Mobil station operations: three 1,500-gallon, one 4,000-gallon, and one 6,000-gallon (Figure 1, attached hereto as Exhibit B). The three 1,500-gallon tanks were removed by Arrow Rentals in 1972 when it occupied the property (Figure 2, attached hereto as Exhibit C). In 1972, Arrow Rentals installed a new dispenser pump island and product piping connections to the remaining two tanks (the 4,000- and 6,000-gallon USTs). The location of the new dispenser pump island has not been indicated on a site map, but documents indicate that it was located approximately 25 feet north of the 4,000- and 6,000-gallon USTs near the location of boring B-F (Figure 1, attached hereto as Exhibit B). The 4,000- and 6,000-gallon USTs continued to be in operation by Arrow Rentals before removal in 1985. Arrow Rentals installed a new 1,000-gallon UST in 1984 with what appears to be a dispenser located adjacent to the UST (Figure 9, attached hereto as Exhibit D).

#### Environmental Assessment

Soil and groundwater investigations also indicate that ExxonMobil is improperly named as a responsible party. ExxonMobil's consultant, ETIC Engineering, Inc. ("ETIC") has reviewed the available documents, and it is ETIC's opinion that there is not sufficient data to support the contention that Mobil's former operations significantly contributed to the hydrocarbon-impacted soil and groundwater underlying the site. The following is a summary of the key reasons why ExxonMobil should not be designated as a responsible party:

- There is a documented 1985 Pitcock Petroleum product release of approximately 600 gallons of gasoline into the tank backfill well of the 1,000-gallon UST operated by Arrow Rentals.
- In November 1991, a 0.14 foot thick layer of floating product was noted in well W-1s. The floating product in well W-1s has been positively linked to the type of gasoline inadvertently pumped into the above-mentioned well.
- A water hose was placed in the tank backfill well for a period of several days to flush the product. This most likely expedited the vertical and lateral distribution of the product into the soil and groundwater underlying the site.
- The highest concentrations of TPH-g and BTEX in soil and groundwater are detected in the borings and wells that are located downgradient of the known release of product in 1985.
- Only four of the 13 soil samples collected in the immediate vicinity of the three 1,500-gallon USTs contained concentrations of petroleum hydrocarbons. These samples contained relatively low concentrations of TPH-g ranging from 1.2 to 8.2 mg/kg. Arrow Rentals claims that these USTs were removed because they were leaking, but there were

no tank tightness test results in the file. Based on the analytical results of the soil samples, Arrow Rentals' claim that the 1,500-gallon USTs were "leaking" cannot be verified.

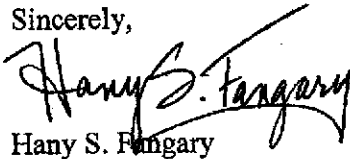
- Benzene concentrations in groundwater have ranged from as high as 14,000 µg/L in 1997 to 3,700 µg/L detected in April 2004. The high benzene concentrations detected in groundwater samples collected in 1997 most likely indicate a more recent release of petroleum hydrocarbons. Mobil had been off of the site for 28 years by this time.
- There were no detectable concentrations of TPH-g or BTEX in the 10 soil samples collected from the approximate 45 feet of former Mobil product piping which was removed in 1992. There were no observed holes or cracks in the piping and no staining was observed in the soil.
- A Declaration signed by Michael P. Comer on 12 February 1991 (attached hereto as Exhibit E) indicates that he assisted property owners in removal of USTs and that he was present during the removal of the 4,000-gallon and 6,000-gallon USTs in 1985. His declaration states that there were no noticeable odors of gasoline coming from the soils at the bottom of the tank pit. Mr. Comer concluded that the two USTs which were removed had not been leaking.
- There is a lack of significant detectable concentrations of hydrocarbons in shallow soil samples (depths ranging from 2 feet bgs to 20 feet bgs) collected in the vicinity of the five former Mobil USTs, the approximate 45 feet of product piping which was removed, and the former Mobil pump island discussed above.
- The higher concentrations of hydrocarbon impacted soils encountered at depths greater than 20 feet bgs to approximately 40 feet bgs are located upgradient of the former Mobil USTs and downgradient of the documented product release that occurred in 1985.
- Historical groundwater fluctuations from approximately 18 feet bgs to approximately 40 feet bgs could indicate that impacted soils at depths greater than 20 feet would be due to groundwater fluctuations.

Based on the foregoing, ExxonMobil has not taken any corrective action at the Property. In fact, ACEH has determined the current property owner, Don Sul, to be the primary responsible party. Don Sul is submitting a Work Plan on June 8, 2006 to address the issues relating to contamination at the Property. ExxonMobil anticipates that this Work Plan will satisfy the

Chris Davidson  
June 5, 2006  
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Livermore Redevelopment Agency's request for a remediation action plan. If the Agency wishes to discuss the issues raised in this letter further, or if the Agency needs additional technical support for the information provided in this letter, please call me at (310) 284-6157.

Sincerely,

A handwritten signature in black ink, appearing to read "Hany S. Fungary". The signature is stylized with a large, sweeping initial "H" and a long, horizontal stroke extending to the right.

Hany S. Fungary

HSF/jm

cc: Ruth Ivory-Moore, Esq.  
Moye Young, Esq.  
Mario F. Reid  
Gene Ortega  
Christa G. Marting  
Ted Moise

LAS99 1458115-1.037771.0257

# EXHIBIT A

## DECLARATION OF GARY R. PINKS

My name is Gary R. Pinks.

I have personal knowledge of all the facts stated in this declaration and, if called as a witness, I could and would testify to them under oath.

I am the Manager at Arrow Rentals at 187 North "L" Street in Livermore, California. On or about June 18, 1985 I was so employed and on duty at Arrow Rentals when the Petcock Petroleum driver arrived to deliver an order of regular gasoline. Our usual order was for 500 gallons of regular grade gasoline.

The driver has to check in with me to get the key to the underground storage tank. On this day, it was a different driver from the driver who usually came from Petcock Petroleum. On this day, the Petcock driver was a shorter, older guy about 50 years old. I gave him the key to the 1000 gallon tank ( as shown on attached diagram).

He was outside filling for what seemed like a long time. I stepped outside to see what was happening and saw the he had the nozzle from the gasoline truck in the vapor well rather than the mouth of the tank. I called his attention to the mistake he was making.

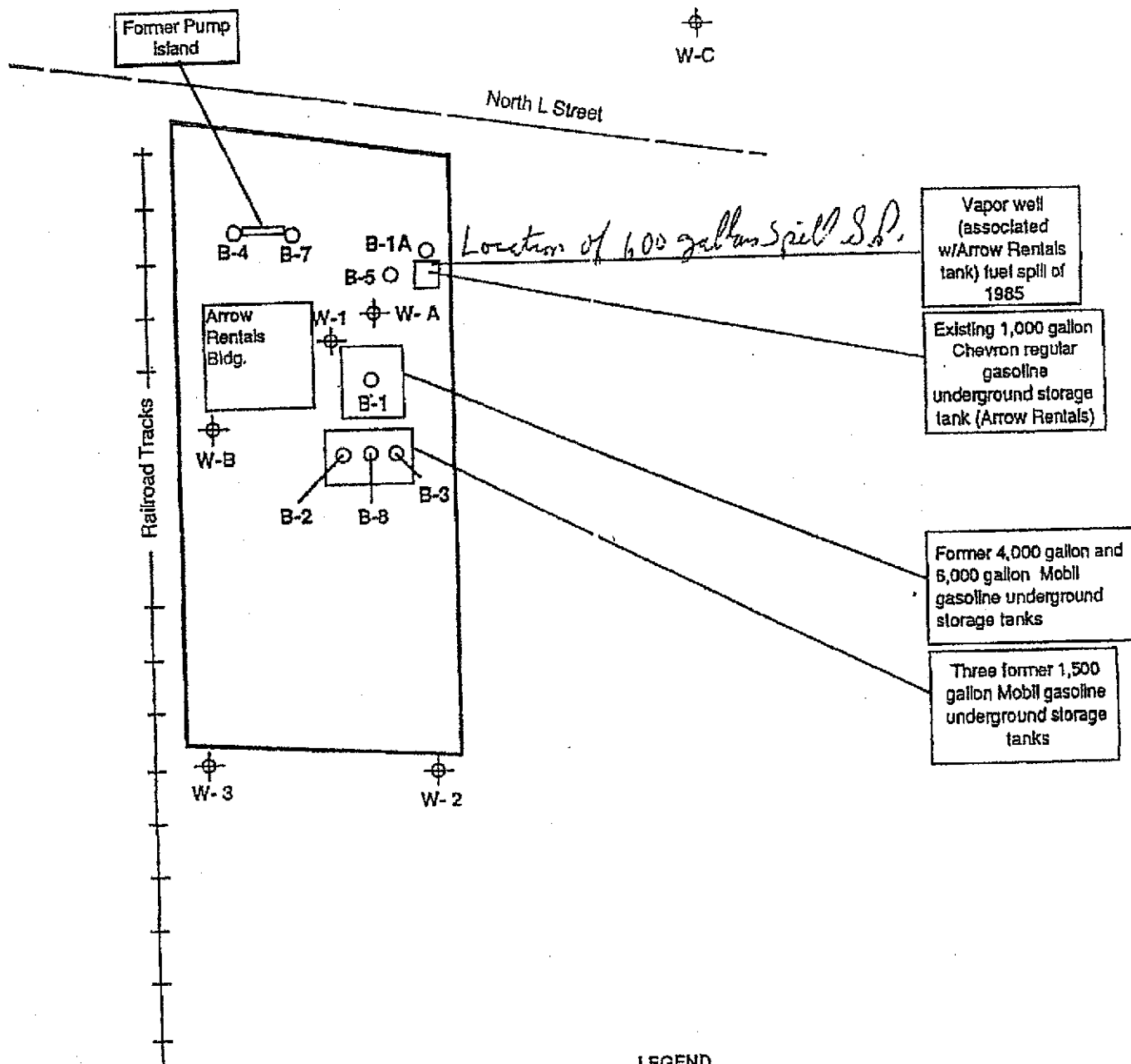
He pulled the nozzle out of the vapor well and put it back on the truck. He then immediately called the Petcock Petroleum office on his truck radio and said he was at Arrow Rentals and had just dropped 600 gallons of gas into the dirt. I was standing by his truck and heard his office advise him to get off the radio and to call from the phone inside. One of my employees, Robert Coleman, was also standing by when the radio conversation took place. The Petcock driver did make a phone call from inside Arrow Rentals and then he left.

A day or so after the spill, the regular driver for Petcock showed up and delivered the gasoline we had originally ordered.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Dated this 12 day of February, 1991 at Livermore  
California.

Gary R. Pinks  
Gary R. Pinks



# LEGEND

Approximate Soil Boring Location



Approximate Monitoring Well Location



Project No. 90C0321A	ARROW RENTALS 187 North L Street Livermore, California	SITE PLAN	NOVEMBER 1990
	Woodward-Clyde Consultants		FIGURE-1

ATTACHMENT TO GARY PINK'S DECLARATION

# EXHIBIT B



FIGURE 1

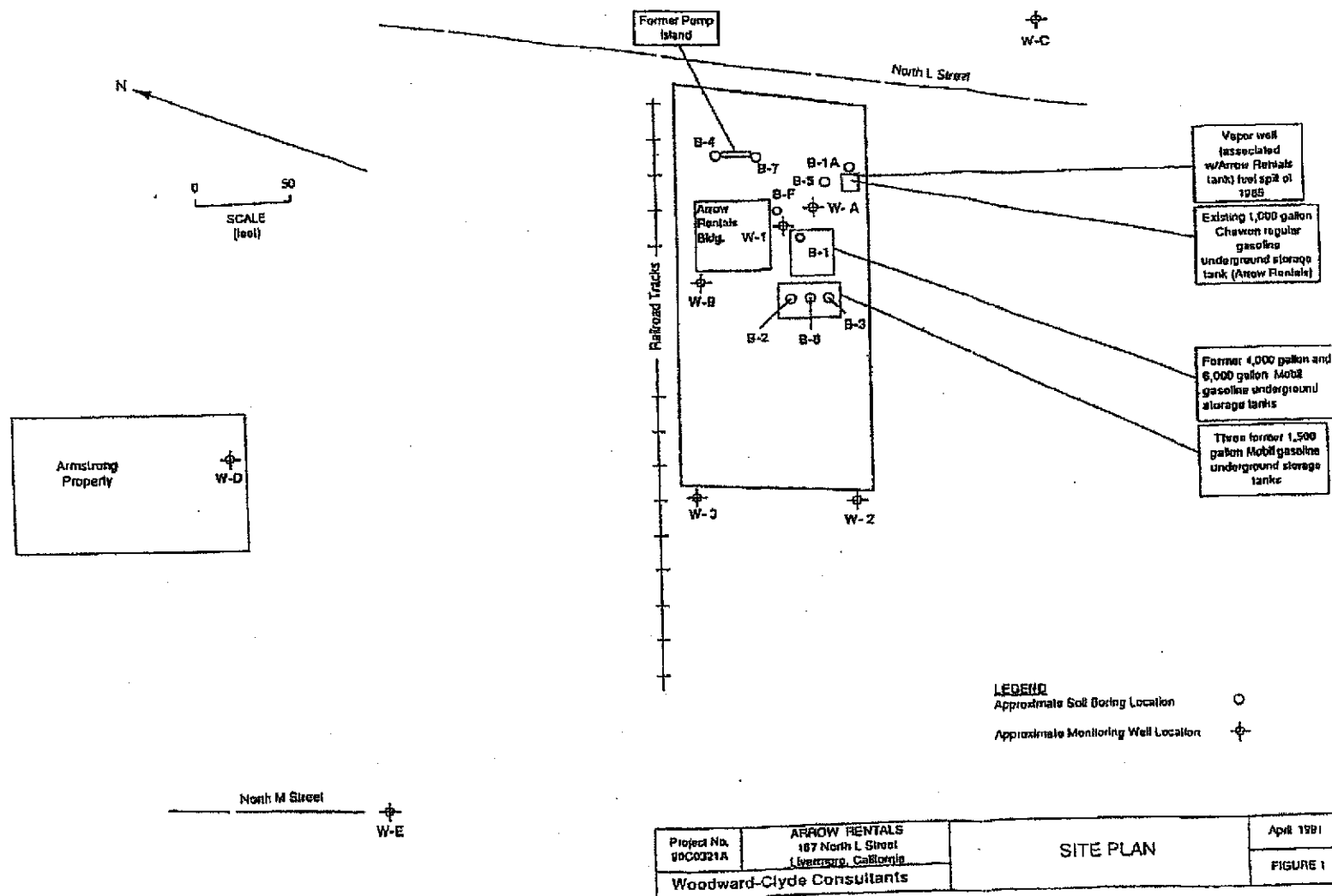


FIGURE 1

# EXHIBIT C

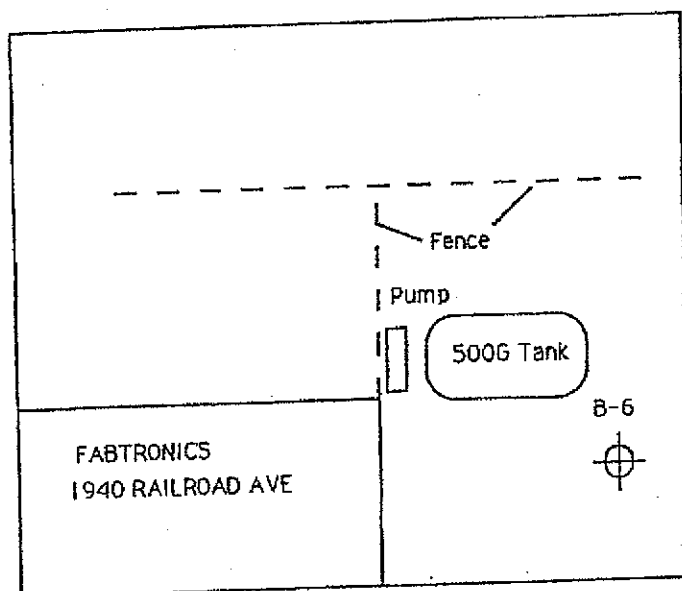
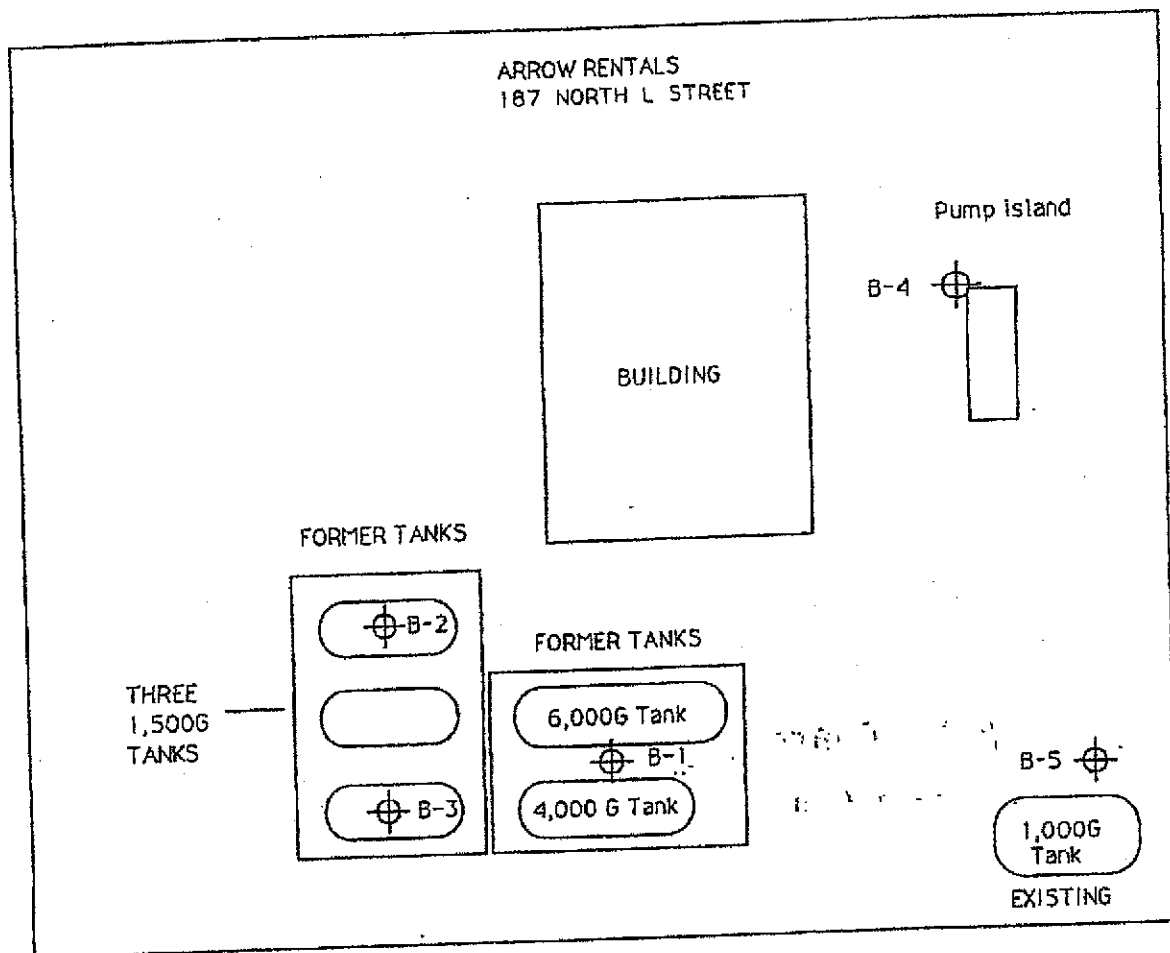


FIGURE 2

Project No.	RAILROAD AVE. PROPERTY	BORING LOCATIONS	FIGURE 2
Woodward-Clyde Consultants			

# EXHIBIT D

FIGURE 9

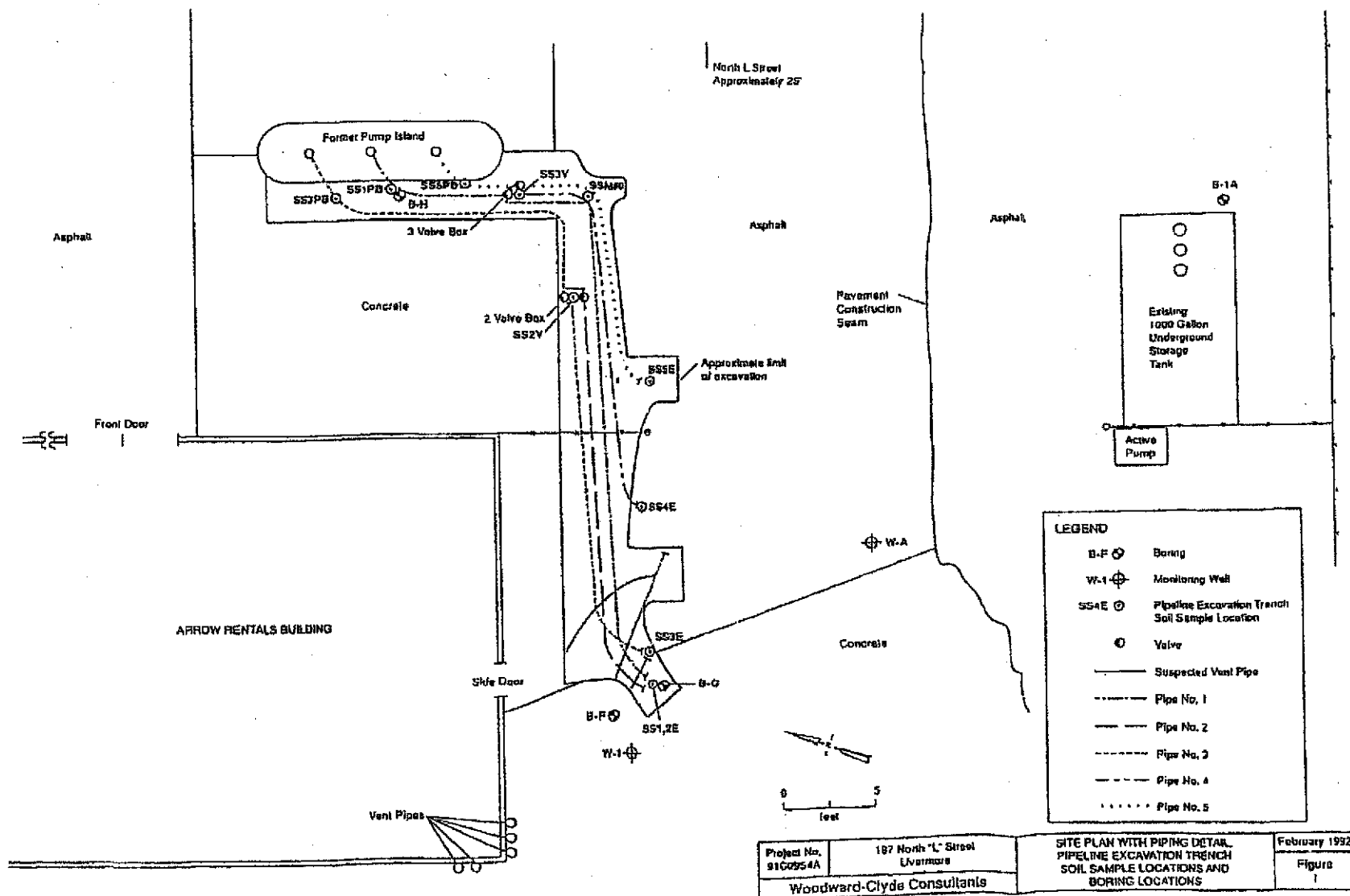


FIGURE 9

# EXHIBIT E

DECLARATION OF MICHAEL P. COMER

My name is Michael P. Comer.

I have personal knowledge of all the facts stated in this declaration and if called as a witness, I could and would testify competently to them under oath.

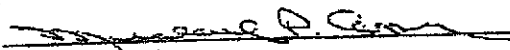
I am the owner of Comer Petroleum Equipment. In my business, I frequently assist people in the removal of old underground storage tanks.

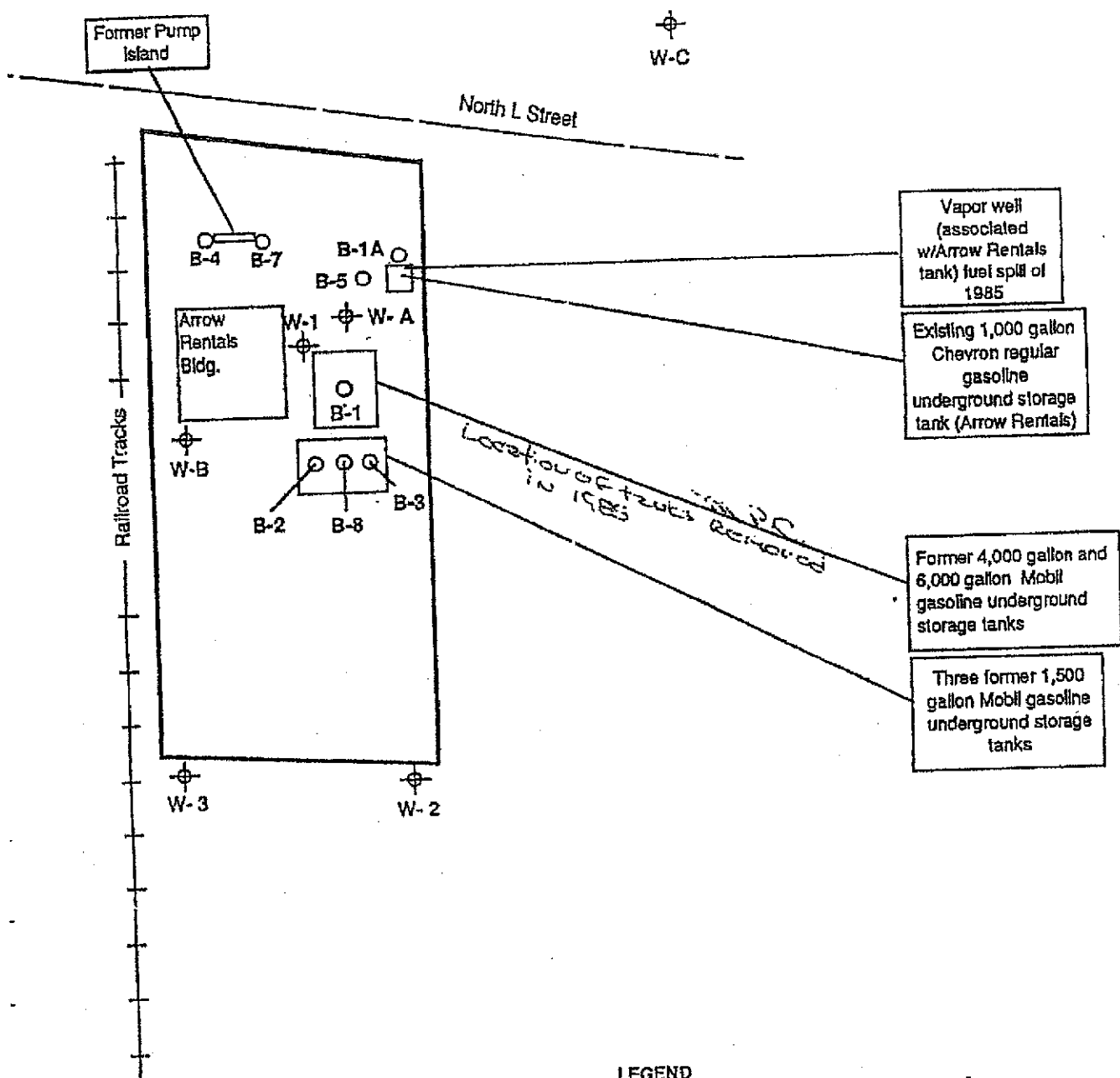
In the spring of 1985 I assisted Tony Sullins in the removal of two underground petroleum tanks (one approximately 4000 gallons and one approximately 6000 gallons) at Arrow Rentals in Livermore (as shown on attached map). When we were disconnecting plumbing going to the tank and the plumbing associated with the fill boxes, there was an odor of gasoline which is normal.

When we pulled the tanks out of the ground there was no noticeable odor of gasoline coming from the soils at the bottom of the tank pit. Nor did the soil in the tank pit have the dark discolored look which is characteristic of a tank which has been leaking underground. Based upon my experience with tank removal, I concluded that the two underground storage tanks which we removed from Arrow Rentals that day had not been leaking.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this 2/12/91 day of February, 1991 at Alameda, CA,  
California.

  
Michael P. Comer



# **LEGEND**

Approximate Soil Boring Location



Approximate Monitoring Well Location



Project No. 90C0321A	ARROW RENTALS 187 North L Street Livermore, California	SITE PLAN	NOVEMBER 1990
	Woodward-Clyde Consultants		FIGURE 4

ATTACHMENT TO MICHAEL COMER'S DECLARATION