

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



RO# 444

October 18, 1996
STID 933
page 1 of 2

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

Dorothy Jones, Legal Counsel
State Water Resources Control Board
Div. Of Clean Water Programs
PO Box 944212
Sacramento CA 94244-2120

RE: DC Metals site, 1414-3rd St., Oakland CA 94607

Dear Ms. Jones,

The following package has been prepared in response to your inquiry, as addressed to Lori Casias of the SWRCB's UST Cleanup Fund Program, dated 8/5/96. Six issues were raised in that inquiry, and are addressed in the same order:

- 1) Attachment A is a copy of the County's Assessor's records, showing property ownership. This document indicates that Cypress ST. Investments purchased the property on 12/6/89.
- 2) Attachment B is a copy of the Streets and Highway Code, as faxed from the City of Oakland, Contruction and Field Services. Section 5610 deals with sidewalks.
- 3) Attachment C is a copy of a letter from the DA's office to the Secretary of State, requesting records regarding this site. A response has not been received, as of the date of this letter. However, please note that on 11/22/95, legal counsel Craig Judson indicated to Jennifer Eberle of Alameda County that DC Metals is the general partner of Cypress St. Investments. (See the telephone record in Attachment E.) I'm sure that Mr. Judson could provide you with documentation, if his word is not enough.
- 4) Amco Chemical was not initially named as a RP because it was unknown whether they had control of the heating oil UST. The current property owner is usually the place where we start to identify RPs.
- 5) Attachment D is correspondence from the Office of the City Attorney, City of Oakland, dated 8/23/96, which indicates that the City is not responsible for pollution within City easements unless 1) the City actively contributed to the problem, or 2) the City's use and operation of its easement has substantially worsened the condition. Adjoining property owners are seen as RPs because they used the UST(s) for their benefit. Sidewalks have been historically sited as (heating oil) UST locations because they were easy to access for tank installation and servicing.

October 18, 1996

STID 933

page 2 of 2

Dorothy Jones, Legal Counsel

- 6) Attachment E is a copy of telephone records between Alameda County and the City of Oakland, DC Metals, and Cypress Investments.

Please call me at 510-567-6782 if you have any questions.

Sincerely,



Tom Peacock
Manager, LOP

cc: Jennifer Eberle/file

je.933.swrcb

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

2044
RAFAT A. SHAHID, DIRECTOR

September 26, 1996

STIP: 933

DEPARTMENT OF ENVIRONMENTAL HEALTH
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6777

Carla Moore MC N-2-1
US Environmental Protection Agency
75 Hawthorne St.
San Francisco CA 94105-3901

RE: Underground Tanks, DC Metals, 1414 3rd St., Oakland CA 94607

Dear Ms. Moore:

As we discussed, I am enclosing copies of our file documents that strongly indicate two underground storage tanks are present at DC Metals. The former owner of the property, Louis Nagy, applied for a permit from this agency in October of 1987. We have no record of the tanks having been removed. Such a procedure would have been required to be carried out with our oversight beginning in 1985.

In addition to the permit application copies, please find the following:

- Permit applications and permit issued by this office July 27, 1988.
- A drawing of the site done by an environmental consultant, along with the consultant's report. These documents describe the approximate location of the tanks.
- My inspection report made during a site visit last year and my most recent correspondence to the site owner.
- A letter from the owner's attorney. This letter, although dated December, 1995, did not come to my attention until June of 1996, when the attorney faxed it to me.
- A letter from Jennifer Eberle of this office, regarding the underground tank discovered beneath the sidewalk in front of DC Metals. Based on existing file information, there seems to be no connection between this tank and the ones described in the permit applications, this document is for information only.
- The Hazardous Materials Spill Response Report associated with the discovery of the above mentioned tank.

Please call me at (510)567-6770 with any questions regarding these documents.

Sincerely,

Pamela J. Evans
Senior Hazardous Materials Specialist

Enclosures

c: Gordon Coleman, ACDEH
Ariu Levi, ACDEH

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



20444

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

August 30, 1996
LOP STID 933

Attn: Lynn Nakashima
Cal-EPA
Dept. Of Toxic Substances Control
Region 2
700 Heinz Ave., Suite 200
Berkeley CA 94710-2737

RE: DC Metals site, 1414-3rd St., Oakland CA 94607

Lynn,

I have done a cursory review of the unsigned "Draft Remedial Investigation/Feasibility Study Work Plan," prepared by BSK & Associates, dated 7/24/96. As you know, this workplan involves a geophysical survey and 24 soil borings; both soil and grab groundwater samples will be collected by a cone penetration test (CPT) rig. This workplan is deficient in the following ways:

- * Page 11 lists the sampling matrix as TVH and TEH (8015), and semi-VOCs (8270). This is a deficient sampling matrix because it does not include the most pernicious COC thus far discovered: vinyl chloride. The sampling matrix should include EPA method 8010 for HVOCs including vinyl chloride, 8240 for BTEX, AA or ICAP for metals, and TOG (5520).
- * Page 11 indicates that approximately 10% of the soil and groundwater samples collected will be analyzed, while page 10 indicates that shallow groundwater will be sampled from each sampling location. This is a discrepancy. In addition, the total number of soil samples to be analyzed is not indicated.

If you have any questions, please contact me at 510-567-6700, ext 6761.

Sincerely,


Jennifer Eberle
Hazardous Materials Specialist

cc: Acting Chief/file

je.933-C

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

RO#444

May 28, 1996
STID 933

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

Attn: Christine Noma (by facsimile 5/28/96)
Wendel, Rosen, Black, and Dean,
attorneys at law
PO Box 2047
Oakland CA 94604-2047

RE: request for file review, DC Metals site, 1414-3rd St., Oakland CA 94607

Dear Ms. Sanchez,

I have received a letter from your office, signed by Michelle Sanchez, addressed to Juliet Blake of this office, dated May 16, 1996, requesting an appointment to review the above referenced file, among others. The appointment to review this file was tentatively scheduled for 5/30/96 at 9:00 am, but has been postponed.

During our telecon today, I asked Ms. Sanchez who your law firm represents. She indicated that Wendel, et.al. represents DC Metals. Since my previous contact with DC Metals was through another attorney, **you are requested to document your role in writing, as representing DC Metals.**

Please be informed that this matter is potentially in litigation, and all requests to review the official files should therefore be made through the Department of Toxic Substances Control (DTSC), Office of Legal Counsel and Criminal Investigations. If you have any questions, please contact DTSC counsel Orchid Kwei at 916-327-1200, or myself at 510-567-6761.

Sincerely,

Jennifer Eberle
Hazardous Materials Specialist

cc: Attn: Orchid Kwei, DTSC, Office of Legal Counsel and Criminal Investigations, PO Box
806, Sacramento CA 95812-0806
Gil Jensen, Alameda County, Office of District Attorney, Consumer and Environmental
Protection, 7677 Oakport St., Suite 400, Oakland CA 94621
Attn: Barbara Cook, DTSC, Region 2, 700 Heinz Ave., Suite 200, Berkeley CA 94710-
2737
Acting Chief/file

je.933-B

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ST10: 933

20444

RAFAT A. SHAHID, DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
(510) 567-6777

✓Certified Mail # Z 199 066 996
Regular Mail

December 18, 1995

Ray Cherry
D.C. Metals
1414 3rd St.
Oakland CA 94607

RE: Suspected Abandoned Underground Storage Tanks (Site ID#933)

NOTICE OF VIOLATION

Dear Mr. Cherry:

In May, 1995, I inspected your facility. My agency's records show that underground storage tanks (USTs) were operated there by a previous owner. As we discussed that day, and as you have been reminded in a previous Notice, there are no records on file with my office that indicate the tanks were removed. Coincidentally, during June of 1995, the California Department of Transportation reported encountering contaminated soil and a tank in the course of excavation work done adjacent to your property. This tank may or may not be connected with the permit applications submitted by the previous owner of the property.

Because strong evidence exists that USTs exist on your property, and because this office has no evidence that they have been removed, we are requiring you to investigate the presence of USTs and to keep this office informed of your progress. In my previous Notice, I instructed you to inform me in writing of your progress by September 30, 1995. Craig Judson of Bold, Polisner, Maddow, Nelson & Judson sent a letter to my agency's billing department stating that D.C. Metals had "researched the matter and does not have any tanks". This letter (copy attached) is the extent to which you have kept me informed of your progress. The letter does not describe the methods and procedures used to establish that no tanks were removed. In order to present a credible case that the tanks have been removed, you will need to describe the methods and procedures you have undertaken and the names and qualifications of any contractors who performed investigative work. I have telephoned both you and Mr. Judson on several occasions since I received his letter. Mr. Judson has not returned my calls, and there has been no answer at your number.

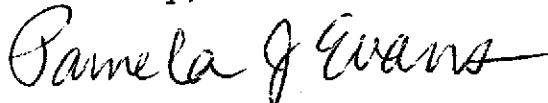
Ray Cherry
D.C. Metals
December 18, 1995
Page 2 of 2

Should you confirm that tanks exist on your property, California law requires that you properly monitor or close them. Pursuant to the California Code of Regulations, Title 23, Division 3, Chapter 16, you must perform one of the following actions by December 31, 1995;

- 1) Submit a tank closure plan to this Department (blank form and guidelines enclosed), or
- 2) Apply for a permit to operate the tank and supply required documentation. I will supply you with the needed forms upon request.
- 3) Provide an adequate investigation report prepared by a qualified contractor.

You may contact me with any questions concerning tank investigation, closure or operation at (510)567-6770.

Sincerely,



Pamela J. Evans
Senior Hazardous Materials Specialist

Enclosure

c: Kevin Tinsley, ACDEH
Jennifer Eberle, ACDEH

**ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY**

DAVID J. KEARS, Agency Director



R0444

RAFAT A. SHAHID, DIRECTOR

11/22/95
STID 933

Lori Casias
State Water Resources Control Board
Division of Clean Water Programs
Local Oversight Program
PO Box 944212
Sacramento CA 94244-2120

DEPARTMENT OF ENVIRONMENTAL HEALTH
Alameda County
Environmental Protection Division
1131 Harbor Bay Parkway, Room 250
Alameda CA 94502-6577
(510) 567-6700

RE: Petition File No. P95-143, DC Metals site, 1414-3rd St., Oakland CA 94607

Dear Ms. Casias,

We have received your letter dated 10/6/95, requesting a response to the petition filed by Craig Judson of Bold, Polisner, Maddow, Nelson and Judson. The following is an historical description of the site.

In June 1995, an Underground Storage Tank (UST) was discovered below the sidewalk by PG&E while trenching in the area west of the driveway on 3rd St. PG&E was apparently hired by CalTrans to do this work. As per telecon on 7/28/95, Kate Liega of CalTrans indicated to the County that she understood that PG&E lowered a weighted string into the UST, and that a black, thick, viscous liquid appeared on the string. The purpose was to determine whether the UST contained gasoline, which would possibly indicate an explosion hazard. The appearance of the black, thick, viscous liquid indicates that the UST may store waste oil or a heavy type of fuel oil, but not likely gasoline. The exact size of the UST is unknown. County Haz Mat files do not contain historical information regarding this UST.

Odors were noted during the trenching operations by PG&E workers. For this reason, soil samples were obtained as follows. Borings were drilled to a depth of 6' below ground surface (bgs). Two of these borings were drilled below the sidewalk on either side of the driveway. The boring on the west side of the driveway, known as BS2, had the following maximum concentrations of contaminants: 2.7 parts per million (ppm) benzene, 32 ppm ethylbenzene, 690 ppm toluene, 190 total xylenes, 300 ppm Oil and Grease, and 3700 ppm Total Petroleum Hydrocarbons as gasoline (TPH-g) 0.760 ppm 1,2-dichloroethene (trans), and 1.90 ppm 1,1,1-trichloroethane. These contaminants fall into the general categories of petroleum hydrocarbon and halogenated volatile organic compounds (HVOCs).

Due to the presence of contamination in proximity to the existing UST below the sidewalk, this case was created and transferred to the Local Oversight Program (LOP).

The site was reportedly used by a business known as Amco Chemical approximately 30 years ago, and was still in operation as Amco Chemical during inspections conducted by our office in 1986

Lori Casias
page 2 of 2
11/22/95

and 1988. The Sanborn (fire insurance) maps, available from a local library, indicate past use of a boiler room in the building adjacent to the UST.

The petitioner claims they do not own the property "or any adjacent property under which the tank is located." However, the County Assessor's files indicate the property owner as "Cypress St. Investments, 1414-3rd St., Oakland CA." During a telecon on 11/22/95 between Craig Judson and Jennifer Eberle of this office, Mr. Judson indicated that Cypress St. Investments is the property owner and is a limited partnership. The general partner is DC Metals, and the limited partners are the Cherry's. Two of the Cherry's are also shareholders and directors in DC Metals. Gil Jensen of our DA's office explained that a general partner has full liability. Hence, the Notice of Requirement to Reimburse is being revised.

The petitioner states that the determination of the agency to consider DC Metals responsible for an UST under its sidewalk area is "arbitrary and capricious." However, as per telecon with Ms. Jamey Ramey of the City of Oakland, Public Works, the State Highway Act says the property owner is responsible for removing USTs below adjacent sidewalks.

Lastly, the petitioner states that the County "demanded" they remove the UST. However, the language in the County's letter to DC Metals, dated 8/2/95, is as follows: "you are requested to either permit or remove this UST." As you know, a Notice of Violation is typically sent out subsequent to the initial letter, when our requests have not been answered, and cooperation has not been realized.

I hope this clarifies this petition. If you have any questions, please contact me at 510-567-6782.

Sincerely,



Tom Peacock
LOP Manager

cc: Craig Judson, Bold, Polisner, Maddow, Nelson and Judson, 500 Ygnacio Valley Rd.,
Suite 325, Walnut Creek CA 94596-3840
Kevin Graves
Gordon Coleman, Acting Chief
Jennifer Eberle
Attn: Ray Cherry, DC Metals, 1414-3rd St., Oakland CA 94607

je.933-a

BOLD, POLISNER, MADDOW, NELSON & JUDSON

A PROFESSIONAL CORPORATION

SUITE 325

500 YGNACIO VALLEY ROAD

WALNUT CREEK, CALIFORNIA 94596-3840

JEFFREY D. POLISNER
ROBERT B. MADDOW
CARL P. A. NELSON
CRAIG L. JUDSON
THOMAS N. STEWART, III

TELEPHONE
(510) 933-7777
TELEFAX
(510) 933-7804

FREDERICK GOLD, JR.
(RETIRED)

August 14, 1995
(sent by fax and mail)
510/337-1139

County of Alameda
Health Care Services Agency
Environmental Health Billing
Drawer N
Alameda, CA 94501

RE: D.C. METALS, INC.
1414 THIRD STREET
OAKLAND, CA 94607
ACCOUNT NO: T51090

*PAM EVANS = 8/15/95
Please verify
mp*

Gentlemen:

This office represents D.C. Metals, Inc. We are in receipt of your billing statement for unknown underground tanks in the sum of \$369.52.

Our client has researched the matter and does not have any UST's on its property.

We ask that you research your files and have someone contact me so that we may better understand what this bill is for, given the fact there are no UST's located on the property.

Thank you very much.

Yours very truly,

Craig L. Judson

CRAIG L. JUDSON

CLJ:baw
Encl./copy of billing statement

cc: Client

*msg to Craig Judson 8/18/95 PE + called DC -
call to Ray Cherry 9/5/95 - No answer @ 1:00 @ 2:30
9/6/95 - " " @ 11:30*

95 AUG 15 PM 1:43
ENVIRONMENTAL HEALTH
ADMINISTRATION
No answer

**ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY**

DAVID J. KEARS, Agency Director



R0444

RAFAT A. SHAHID, DIRECTOR

August 2, 1995
STID 933

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

Attn: Mr. Ray Cherry
DC Metals
✓ 1414-3rd St.
Oakland CA 94607

Dear Mr. Cherry,

As you know, an Underground Storage Tank (UST) was discovered below the sidewalk, West of your driveway on 3rd St. This UST was discovered by PG&E while trenching in the area in June 1995. PG&E was apparently hired by CalTrans to do this work. As per telecon on 7/28/95, Kate Liega of CalTrans indicated to me that she understood that PG&E lowered a weighted string into the UST when it was discovered, and that a black, thick, viscous liquid appeared on the string. This was done to determine whether the UST contained gasoline, which would possibly indicate an explosion hazard. The appearance of the black, thick, viscous liquid indicates that the UST may be storing waste oil or a heavy type of fuel oil, but not likely gasoline.

Odors were noted during the trenching operations by PG&E workers. For this reason, soil samples were obtained as follows. Borings were drilled to a depth of 6' below ground surface (bgs). Two of these borings were drilled below the sidewalk on either side of the driveway. The boring on the west side of the driveway, known as BS2, had the following maximum concentrations of contaminants: 2.7 parts per million (ppm) benzene, 32 ppm ethylbenzene, 690 ppm toluene, 190 total xylenes, 300 ppm Oil and Grease, and 3700 ppm Total Petroleum Hydrocarbons as gasoline (TPH-g) 0.760 ppm 1,2-dichloroethene (trans), and 1.90 ppm 1,1,1-trichloroethane. These contaminants fall into the general categories of petroleum hydrocarbon and halogenated volatile organic compounds (HVOCs). A copy of the laboratory report and chain of custody are attached.

Due to the presence of contamination in proximity to the existing UST below the sidewalk, this case was created and transferred to the Local Oversight Program (LOP). The LOP is a federal and state petroleum underground storage tank cleanup program and the billing is done by the State Water Quality Control Board. A separate Notification letter is being sent to you.

As per our telecon on 8/1/95, I understand that you do not consider yourself responsible for this UST. However, it has been standard procedure in this office to consider the property owner(s) of land adjacent to USTs found below sidewalks as responsible party(ies). The property owner usually owns the adjacent sidewalk area, although the sidewalk is in the public right of way, so that the City can gain access to keep the sidewalk in repair. **Therefore, you are requested to either permit or remove this UST.** Since the existence of this UST was heretofore unknown, it appears that you will not want to permit it, but rather remove it. A blank UST Closure Plan was sent to you in the attachments to our letter dated 7/25/95, signed by Pam Evans. [The 7/25/95

August 2, 1995
STID 933
Attn: Mr. Ray Cherry
DC Metals
page 2 of 2

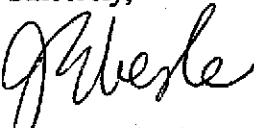
letter was sent to you requesting an investigation of two 10,000-gallon USTs that are believed to exist onsite.] Please make a copy of this form, and use it for the tank removal. Note that a licensed contractor must be hired to perform this work. **Please submit the UST Closure Plan within 45 days, or by September 17, 1995.**

Please be advised that this is a formal request for a UST Closure Plan, pursuant to 23 CCR, Div 3, Ch 16, Section 2670. Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by this agency.

Lastly, an Unauthorized Release Form (URF) must be completed and submitted within 5 days, or by 8/7/95, as per 23 CCR, Div 3, Ch 16, Section 2652. A blank copy has been enclosed; please use a ballpoint pen and press heavily; please submit the entire form; a copy will be sent to you after I receive and sign it.

I understand that Pam Evans has already sent you a list of contractors and consultants. In addition, on 8/1/95, I faxed you nine pages of documentation from our files that two 10,000-gal USTs existed onsite in 1986, 1988. This was as per your request, due to your lack of information regarding these tanks. Please contact me at (510) 567-6761 if you have any questions.

Sincerely,



Jennifer Eberle
Hazardous Materials Specialist

cc: Tom Peacock/Acting Chief/file
Pam Evans

je.933
enclosures

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



20444

RAFAT A. SHAHID, Assistant Agency Director

STIP 933

Certified Mail # Z 773 036 444

July 25, 1995

Ray Cherry
D.C. Metals
1414 3rd St.
Oakland CA 94607

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Division
80 Swan Way, Rm. 200
Oakland, CA 94621
(510) 271-4320

RE: Suspected Abandoned Underground Storage Tanks

NOTICE OF LEGAL OBLIGATION

Dear Mr. Cherry:

On May 31, 1995, I inspected your facility on 3rd St. My agency's records show that underground storage tanks (USTs) were operated there by a previous owner, Louis Nagy. You stated during my visit that you had bought the property from Mr. Nagy with the understanding that there were no underground fuel storage tanks remaining. However, there are no records on file with my office that indicate the tanks were removed. Furthermore, the California Department of Transportation recently reported encountering contaminated soil in the course of excavation work done adjacent to your property. Their report indicates that the contamination is likely to be some type of petroleum product.

In my inspection report, I described steps you could take to investigate the presence of abandoned USTs. I also instructed you to inform me in writing of your progress by June 30, 1995. Although I have recently provided file information to Mr. John Conklin, a consultant who is preparing a workplan for D.C. Metals, I have not received any sort of a progress report from your company.

Because strong evidence exists that USTs exist on your property, and because this office has no evidence that they have been removed, we are requiring you to investigate the presence of USTs and to keep this office informed of your progress. **Your investigation should be completed by August 31, 1995.**

Ray Cherry
D.C. Metals
July 24, 1995
Page 2 of 2

Should you confirm that tanks exist on your property, California law requires that you properly monitor or close them. Pursuant to the California Code of Regulations, Title 23, Division 3, Chapter 16, **you must perform one of the following actions by September 30, 1995;**

- 1) Submit a tank closure plan to this Department (blank form and guidelines enclosed), or
- 2) Apply for a permit to operate the tank and supply required documentation. I will supply you with the needed forms upon request.
- 3) Provide an adequate investigation report prepared by a qualified contractor. This report must establish that USTs do not exist on your property.

You may contact me with any questions concerning tank investigation, closure or operation at (510)567-6770.

Sincerely,

Pamela J. Evans
Senior Hazardous Materials Specialist

Enclosure

c: Kevin Tinsley, ACDEH