

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

July 13, 1998

ENVIRONMENTAL HEALTH SERVICES

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

STID 4147

Jerry and Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

RE: 16035 E. 14th Street, San Leandro

Dear Mr. and Mrs. Petsas:

This letter transmits the enclosed underground storage tank (UST) case closure letter in accordance with Chapter 6.75 (Article 4, Section 25299.37[h]) of the California Health and Safety Code. The State Water Resources Control Board (SWRCB) has required since March 1, 1997 that this agency use this case closure letter for all UST leak sites. We are also transmitting to you the enclosed case closure summary. These documents confirm the completion of the investigation and cleanup of the reported release at this site.

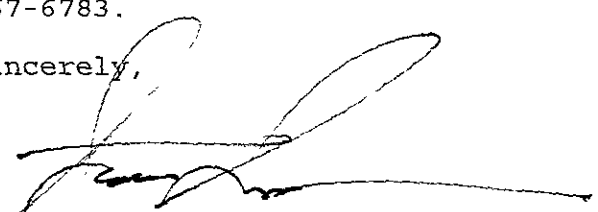
SITE INVESTIGATION AND CLEANUP SUMMARY

Please be advised that the following conditions exist at the site:

- o Up to 750 parts per million (ppm) total petroleum hydrocarbons as gasoline (TPH-G) and 2.1 ppm Benzene, among other fuel constituents, remain in soil beneath the site. Up to 0.33 ppm TPH-G and 0.013 ppm Benzene, among other fuel constituents, remain in groundwater.

If you have any questions, please contact the undersigned at (510) 567-6783.

Sincerely,



Scott O. Seery, CHMM
Hazardous Materials Specialist

Enclosures:

1. Case Closure Letter
2. Case Closure Summary

cc: Dick Pantages, Chief



TANK PROTECT ENGINEERING
of Northern California, Inc.

TRANSMITTAL FORM

DATE: 07/06/98 ^{EP/11/01/2011} PROJECT NO.: 218

98 JUL 10 PM 3:43

TO: Mrs. Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

FROM: Tank Protect Engineering
2821 Whipple Road
Union City, CA 94587-1233

WE ARE SENDING YOU ATTACHED UNDER SEPARATE COVER VIA Mail
THE FOLLOWING ITEMS:

- LETTER(S) PROPOSAL(S) TABLE(S)
- FIGURE(S) REPORT(S) WORKPLAN(S)

COPIES	DATED	DESCRIPTION
1	06/19/98	Well Destruction, 16035 East 14th Street, San Leandro, CA 94578

REMARKS: _____

cc: File

SIGNATURE: 

ENVIRONMENTAL
PROTECTION

98 MAY 14 PM 3:51

16518 Toledo St.
San Leandro, Ca.
May 12, 1998

Mr. Scott Seery
Environmental Protection
1131 Harbor Bay Parkway, St 250
Alameda, Ca. 94502-6577

5/22/98.
I spoke with Lee Petsas today,
reiterating that, if case closure
is desired with wells intact, a letter
from RP which indicates their
understanding of responsibility
and liability for these wells
must be received.
SOS

Dear Mr. Seery:

Received your letter dated April 21, 1998 and apologize for not acknowledging your letter sooner. I received two bids to have the monitoring wells removed and we find at this time that it would be almost impossible to spend that much money to remove the wells.

It has taken a while to get caught up with the financial strain of having the underground tanks removed, the monitoring wells put into place and then having them monitored periodically. We also had a great deal of stress with the tenants, the old ones and then the ones that rented after the old ones moved out. I don't know if you had seen it on TV or read about it in the newspapers, the new tenants had been dealing in all kinds of unsavory deals, including stolen cell phones (they had been "cloning the cell phones".) and reselling them.

We are also under pressure from the planning commission to install wrought iron fences or some type of fence on the corner piece of property.

I haven't been able to get information on the costs of filling the wells with cement or whatever other materials are acceptable. I have been pretty busy and upset with Jerry's health, and I am really not capable at this time with dealing with so many issues and problems.

I am quite aware that the unused wells have to be dealt with, but at this time, I am not able to contend with them. Hope you can understand the situation that I have and the weight on my shoulders.

Scott, I hope you can see my side of the story, I have not forgotten that I have this obligation, but I hope you can give me more time to be able to iron out the majority of problems. The main one of course, is to see what can be done with Jerry's health problem.

Thank you for your understanding and patience.


Mary Petsas

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

STID 4147

April 21, 1998

Jerry and Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

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

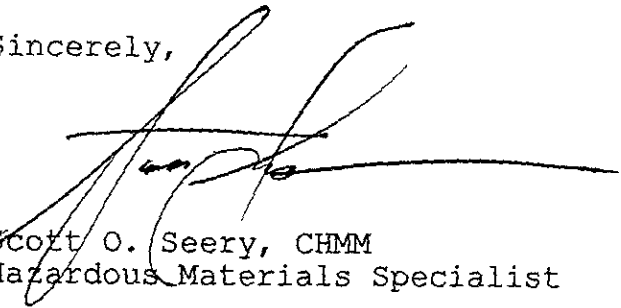
RE: 16035 EAST 14TH STREET, SAN LEANDRO - WELL DESTRUCTION

Dear Mr. and Mrs. Petsas:

In previous correspondence dated November 25, 1997, you were advised that the Alameda County Environmental Health Department, Environmental Protection Division, had received concurrence from the Regional Water Quality Control Board, San Francisco Bay Region (RWQCB), for final closure of the underground storage tank investigation at the referenced San Leandro property. You were also advised that prior to the issuance of a "Remedial Action Completion Certificate" by this office, the monitoring wells at the site must be properly destroyed if you had no legitimate use for them.

To date, we have not been informed of your intentions regarding these wells. Please advise me of your intent. Your case will not be closed until this request is satisfied. I may be reached 510/567-6783.

Sincerely,


Scott O. Seery, CHMM
Hazardous Materials Specialist

cc: Mee Ling Tung, Agency Director
Chuck Hedley, RWQCB
Andreas Godfrey, Alameda County Public Works

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

STID 4147

November 25, 1997

Jerry and Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

RE: 16035 EAST 14TH STREET, SAN LEANDRO

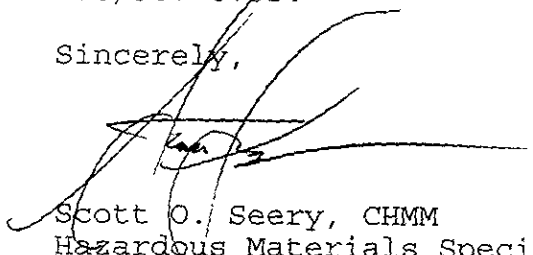
Dear Mr. and Mrs. Petsas:

The Alameda County Environmental Health Department, Environmental Protection Division, has received concurrence from the Regional Water Quality Control Board, San Francisco Bay Region (RWQCB), for final closure of the underground storage tank investigation at the referenced site.

Prior to the issuance of a "Remedial Action Completion Certificate" by this office, however, the monitoring wells at the site must be properly destroyed should you have no further use for them. Well destruction is performed under permit issued by Alameda County Public Works Agency (ACPWA). You should contact Andreas Godfrey of the ACPWA (510/670-5575) to secure well destruction permits.

Please advise me if the wells will be destroyed, and when well destruction has been completed, as appropriate. I may be reached 510/567-6783.

Sincerely,



Scott O. Seery, CHMM
Hazardous Materials Specialist

cc: Mee Ling Tung, Agency Director
Kevin Graves, RWQCB
Andreas Godfrey, ACPWA

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

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
 Hazardous Materials Inspection Form

1131 Harbor Bay Pkwy.
 Suite 250
 Alameda, CA 94502-6577
 (510) 567-6700

II, III

Site ID # _____ Site Name Petsas Today's Date 7/29/96

II.A BUSINESS PLANS (Title 19)

- ___ 1. Immediate Reporting 2703
- ___ 2. Bus Plan Sts 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. MAT'L S

- ___ 10. Registration Form Filed 25533(a)
- ___ 11. Form Complete 25533(b)
- ___ 12. RMPP Contents 25534(c)
- ___ 13. Implement Sch. Req'd? (Y/N) _____
- ___ 14. OffSite Conseq. Assess. 25524(c)
- ___ 15. Probable Risk Assessment 25534(d)
- ___ 16. Persons Responsible 25534(g)
- ___ 17. Certification 25534(f)
- ___ 18. Exemption Request? (Y/N) _____
- ___ 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

Inventory for Existing Tanks

- ___ 6. Method
 - 1) Monthly Test
 - 2) Daily Vadose Semi-annual groundwater One time soils 43 x 45"
 - 3) Daily Vadose One time soils Annual tank test
 - 4) Monthly Gndwater One time soils
 - 5) Daily Inventory Annual tank testing Cont pipe leak det Vadose/gndwater mon.
 - 6) Daily Inventory Annual tank testing Cont pipe leak det
 - 7) Weekly Tank Gauge Annual tank testing
 - 8) Annual Tank Testing Daily Inventory
 - 9) Other _____
- ___ 7. Precip Tank Test Date: _____ 2643
- ___ 8. Inventory Rec. 2644
- ___ 9. Soil Testing 2646
- ___ 10. Ground Water 2647
- ___ 11. Monitor Plan 2632
- ___ 12. Access. Secure 2634
- ___ 13. Plans Submt Date: _____ 2711
- ___ 14. As Built Date: _____ 2635

Site Address 16035 E. 14th St.

City San Leandro Zip 94578 Phone _____

___ MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- ___ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- ___ Business Plans, Acute Hazardous Materials
- Underground Tanks

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

ON-SITE: 1:00 - 2:50

Comments:

On-site to observe removal of a single waste oil UST located within the service bay of this former gasoline station.

Tank was removed intact and appeared to be in sound condition with no evident holes or heavy corrosion. Tank size is estimated @ 285 gal, and was substantially tar wrapped.

Some H&C is apparent, likely from overspillage. Initial sample was collected just below the interface between apparent fill and native material @ an approximate depth of 6 1/2' BG. The excavation was deepened to an approximate depth of 10' BG where GW was encountered. A single sidewall sample was collected from the NW corner of the resultant excavation, just above the GW/vadose zone interface, from materials lacking clear evidence of H&C impact. Approximately 10 yds³ were removed during overex.

Contact: Chuck Kiper
 Title: SEMCO, Pres.
 Signature: Chuck Kiper

Inspector: [Signature]
 Signature: [Signature]

II, III

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY - FILE COPY
 DEPARTMENT OF ENVIRONMENTAL HEALTH
 ENVIRONMENTAL PROTECTION DIVISION
 1131 HARBOR BAY PARKWAY, RM 250
 ALAMEDA, CA 94502-6577
 PHONE # 510/567-6700
 FAX # 510/337-9335

Scott Seery
 Project Specialist

7-17-96
 505

ACCEPTED
 Underground Storage Tank Closure Permit Application
 Alameda County Division of Hazardous Materials
 1131 Harbor Bay Parkway, Suite 250
 Alameda, CA 94502-6577

These closure/removal plans have been received and found to be acceptable and essentially meet the requirements of State and Local Health Laws. Changes to take out the plans indicated by this Department are to ensure compliance with State and local laws. The project proposed herein is now released for issuance of any required building permits for construction.

One copy of the accepted plans must be on the job and available to all contractors and craftsmen involved with the removal.

Any changes or alterations of these plans and specifications must be submitted to this Department due to the Fire and Building Department's responsibility to investigate if such changes affect the health, safety and well-being. Notify this Department at least 72 hours prior to the following required inspections:

MS
 7/23/96
 Removal of Tank(s) and Piping
 Sampling
 Final Inspection

Issuance of a) permit to operate, b) permanent site closure, is dependent on compliance with accepted plans and all applicable laws and regulations.

THERE IS A FINANCIAL PENALTY FOR NOT OBTAINING THESE INSPECTIONS.
 Contact Specialist:

UNDERGROUND TANK CLOSURE PLAN
 * * * Complete according to attached instructions * * *

1. Name of Business *Vacant Building*
 Business Owner or Contact Person (PRINT) *Jerry & Mary Petras*

2. Site Address *16035 E. 14th Street*
 City *San Leandro* Zip _____ Phone _____

3. Mailing Address *16518 Yohedo Street*
 City *San Leandro* Zip *94578* Phone *510-276-2828*

4. Property Owner *Jerry & Mary Petras*
 Business Name (if applicable) _____
 Address *16035 E. 14th Street*
 City, State *San Leandro, CA* Zip *94578*

5. Generator name under which tank will be manifested
Jerry & Mary Petras
 EPA ID# under which tank will be manifested *CA C001215824*

6. Contractor HK2, INC. dba. SEMCO
Address 1751 Leslie Street
City Tam Y Mateo, CA 94402 Phone 415-572-8033
License Type A, B, C, D, P, H, HAZ, C, 57 ID# 719103
ASB

*Effective January 1, 1992, Business and Professional Code Section 7058.7 requires prime contractors to also hold Hazardous Waste Certification issued by the State Contractors License Board.

7. Consultant (if applicable) N/A

Address _____

City, State _____ Phone _____

8. Main Contact Person for Investigation (if applicable)

Name Chuck Kiper Title President

Company HK2, INC. / SEMCO

Phone 415-572-8033

9. Number of underground tanks being closed with this plan 1

Length of piping being removed under this plan UNK.

Total number of underground tanks at this facility (**confirmed with owner or operator) 1

10. State Registered Hazardous Waste Transporters/Facilities (see instructions).

** Underground storage tanks must be handled as hazardous waste **

a) Product/Residual Sludge/Rinsate Transporter

Name Evergreen Environmental EPA I.D. No. CAD980695761

Hauler License No. 0242 License Exp. Date 7/97

Address 6880 Smith Avenue

City Newark State CA Zip 94560

b) Product/Residual Sludge/Rinsate Disposal Site

Name Evergreen Environmental EPA ID# CAD980695761

Address 6880 Smith Avenue

City Newark State CA Zip 94560

c) Tank and Piping Transporter

Name Dexanna, LTD EPA I.D. No. CAD982438566
Hauler License No. 2883 License Exp. Date 4/30/97
Address 3104 Athene Ct.
City Concord State CA Zip 94519

d) Tank and Piping Disposal Site

Name Ericsson, Inc. EPA I.D. No. CAD009466392
Address 255 Park Blvd.
City Richmond State CA Zip 94801

11. Sample Collector

Name Chuck Kuper, Stan Klemetsen or Mark Dyserf
Company HKA, INC / SEMCO
Address 1751 Leslie St.
City San Mateo State CA Zip 94402 Phone 572-8033

12. Laboratory

Name North State Environmental
Address 90 J. Spruce Ave. #W
City So San Francisco State CA Zip 94080
State Certification No. 1386

13. Have tanks or pipes leaked in the past? Yes [] No [] Unknown []

If yes, describe. _____

14. Describe methods to be used for rendering tank(s) inert:

*High Pressure hot water detergent wash;
20/lbs per 1000 gallons of dry ice
pulse w/air (if applicable)*

Before tanks are pumped out and inerted, all associated piping must be flushed out into the tanks. All accessible associated piping must then be removed. Inaccessible piping must be permanently plugged.

The Bay Area Air Quality Management District, 415/771-6000, along with local Fire and Building Departments, must also be contacted for tank removal permits. Fire departments typically require the use of a combustible gas indicator to verify tank inertness. It is the contractor's responsibility to bring a working combustible gas indicator on-site to verify that the tank is inert.

15. Tank History and Sampling Information *** (see instructions) ***

Tank		Material to be sampled (tank contents, soil, groundwater)	Location and Depth of Samples
Capacity	Use History include date last used (estimated)		
250	Waste Oil	Soil and or groundwater	2 feet below tank in native soil - or @ soil/water interface ADD OR WATER IF PRESENT

One soil sample must be collected for every 20 linear feet of piping that is removed. A ground water sample must be collected if any ground water is present in the excavation.

Excavated/Stockpiled Soil

Stockpiled Soil Volume (estimated) <i>Estimated 2-7 yds</i>	Sampling Plan Soil Samples Taken from tank excavation will be collected, placed in brass tubes, sealed with Teflon Tape, caps and placed on ice, transported to a State Certified lab under chain of custody and analyzed for the constituents of the tank. ONE DISCRETE SAMPLE PER 20 YDS ³ FOR ON-SITE REUSE OR PER DISPOSAL SITE
--	--

REQUIREMENTS FOR OFF-SITE DISPOSAL

Stockpiled soil must be placed on bermed plastic and must be completely covered by plastic sheeting.

Will the excavated soil be returned to the excavation immediately after tank removal? [] yes [] no [] unknown

If yes, explain reasoning _____

If unknown at this point in time, please be aware that excavated soil may not be returned to the excavation without prior approval from Alameda County. This means that the contractor, consultant, or responsible party must communicate with the Specialist IN ADVANCE of backfilling operations.

16. Chemical methods and associated detection limits to be used for analyzing samples:

The Tri-Regional Board recommended minimum verification analyses and practical quantitation reporting limits should be followed. See attached Table 2.

17. Submit Site Health and Safety Plan (See Instructions)

Contaminant Sought	EPA or Other Sample Preparation Method Number	EPA or Other Analysis Method Number	Method Detection Limit
Waste and Used Oil or Unknown (All analyses must be completed and submitted)	TPH G	GCFID(5030)	TPH G
	TPH D	GCFID(3550)	TPH D
	TPH AND BTX&E	8260	
	O & G	5520 D & F	O & G
	BTX&E	8020 or 8240	BTX&E
			5520 B & F
			602, 624 or 8260
	CL HC	8010 or 8240	CL HC
			601 or 624
		ICAP or AA TO DETECT METALS: Cd, Cr, Pb, Zn, Ni	
		METHOD 8270 FOR SOIL OR WATER TO DETECT:	
	PCB*		PCB
	PCP*		PCP
	PNA		PNA
	CREOSOTE		CREOSOTE

18. Submit Worker's Compensation Certificate copy ✓

Name of Insurer CALIF. COMP.

19. Submit Plot Plan ***** (See Instructions) *****

20. Enclose Deposit (See Instructions)

21. Report any leaks or contamination to this office within 5 days of discovery. The written report shall be made on an Underground Storage Tank Unauthorized Leak/Contamination Site Report (ULR) form.

22. Submit a closure report to this office within 60 days of the tank removal. The report must contain all information listed in item 22 of the instructions.

23. Submit State (Underground Storage Tank Permit Application) Forms A and B (one B form for each UST to be removed) (mark box 8 for "tank removed" in the upper right hand corner)

I declare that to the best of my knowledge and belief that the statements and information provided above are correct and true.

I understand that information, in addition to that provided above, may be needed in order to obtain approval from the Environmental Protection Division and that no work is to begin on this project until this plan is approved.

I understand that any changes in design, materials or equipment will void this plan if prior approval is not obtained.

I understand that all work performed during this project will be done in compliance with all applicable OSHA (Occupational Safety and Health Administration) requirements concerning personnel health and safety. I understand that site and worker safety are solely the responsibility of the property owner or his agent and that this responsibility is not shared nor assumed by the County of Alameda.

Once I have received my stamped, accepted closure plan, I will contact the project Hazardous Materials Specialist at least three working days in advance of site work to schedule the required inspections.

CONTRACTOR INFORMATION

Name of Business HKA, Inc. dba Semco

Name of Individual BRANDA BEAMES-KIPPE

Signature Brandi Beames-Kippe Date _____

PROPERTY OWNER OR MOST RECENT TANK OPERATOR (Circle one)

Name of Business _____

XName of Individual MARY PETSAS - JERRY PETSAS

XSignature Mary Petras Date 7-8-96

SITE SAFETY PLAN
FOR
UNDERGROUND STORAGE TANK
REMOVAL/CLOSURE

JOBSITE ADDRESS

16035 E. 14th STREET
SAN LEANDRO, CALIFORNIA

HK2, INC. / SEMCO

1751 LESLIE STREET
SAN MATEO, CALIFORNIA 94402

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INTRODUCTION

SEMCO has adopted the following Health & Safety Plan and procedures for the removal and/or closure of underground petroleum storage tanks and associated activities. The purpose of this plan is to provide health and safety guidelines to be adhered to while all work is in progress.

All personnel involved with the tank removal or associated activities will have an assigned responsibility. The outlined responsibilities will establish standards for personnel protective wear and safety procedures, and will provide for emergency actions which could arise during project operations.

SCOPE OF WORK

1.0 Scope of Work:

The tanks will be purged of all remaining residues, and these residues will be stored on site in a 55 gallon approved drum until they are hauled away or pumped out for disposal by a certified hazardous materials hauler.

The tanks will be inerted with a minimum of 20 lbs of dry ice per 1,000 gallons of tank capacity. More ice will be added if necessary to displace the oxygen in the tank to a concentration level below the OSHA approved lower explosive limit. This will be achieved by using a Gastech 1314. When this level is obtained, the tank will be removed, and samples will be collected per the approved work plan.

1.1 Responsibilities of Other Agencies if Present:

- a. The Environmental Health Department is responsible for approval and inspection of procedures, including tank removal, sample procurement and integrity of work plan.
- b. The Fire Department is responsible for inspections relative to safe procedures and conditions of tank prior to removal.

HAZARDS, SPECIAL PRECAUTIONS**2.0 Hazards, Special Precautions:****2.1 Special Precautions:**

During the course of underground storage tank removal, workers could be exposed to petroleum hydrocarbon vapors, liquids, or other wastes. The following precautions will be observed by all individuals engaged in the tank removal activity.

2.1.1 Toxicity Considerations, Petroleum Substances:

All individuals should be aware of appropriate health precautions. When high concentrations of petroleum hydrocarbon vapors are inhaled, symptoms of intoxication may result. These symptoms range from simple dizziness to unconsciousness. Care will be exercised to minimize exposure to these substances when they are present. Avoid skin contact with petroleum substances whenever possible. Use soap and water to remove any petroleum product that contacts skin.

2.1.2 Flammability and Combustibility Consideration:

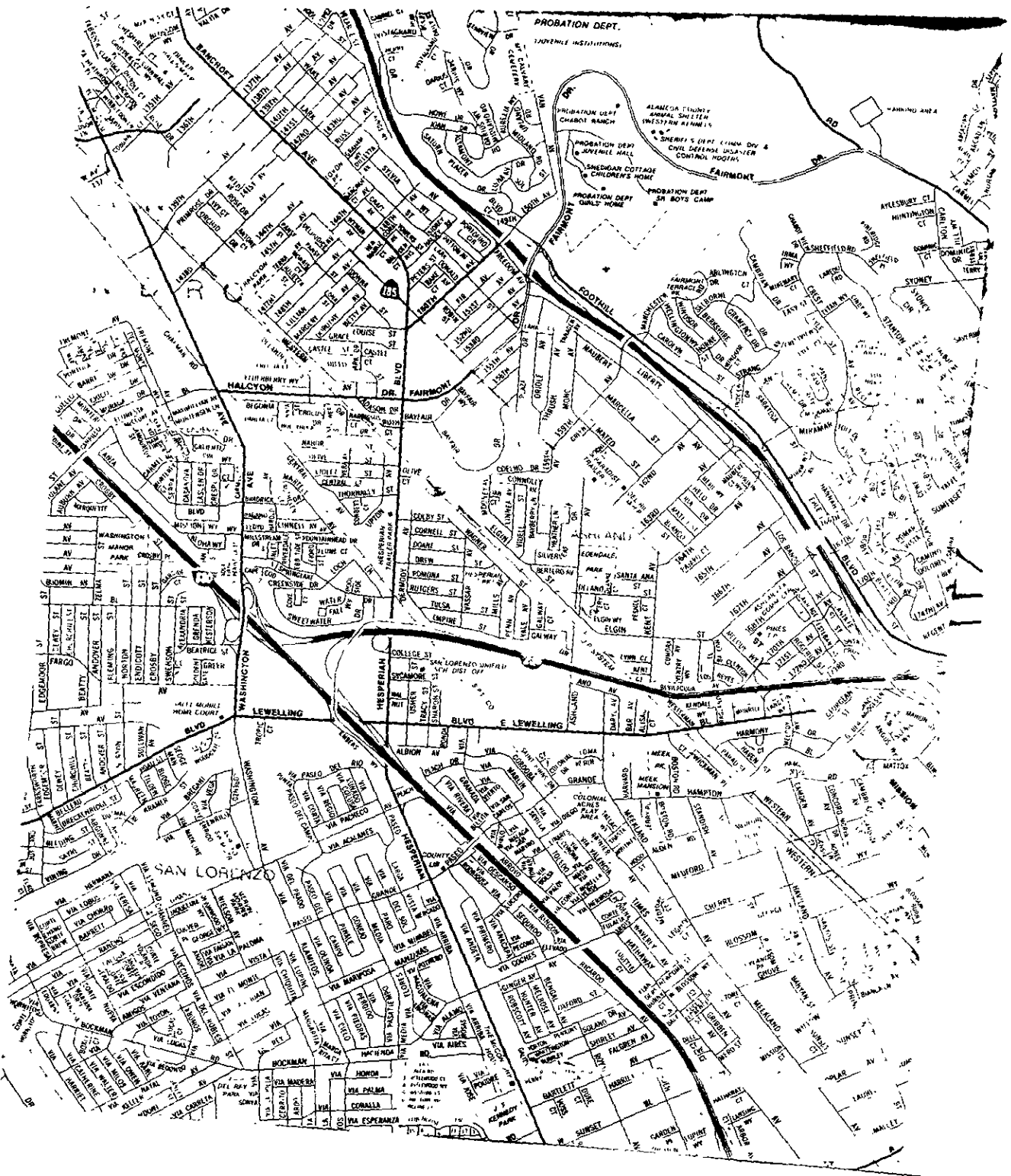
Flammable and combustible vapors are likely to be present in the work area. Precautions will be taken to eliminate all potential sources of ignition to prevent the discharge of static electricity during venting, and to prevent the accumulation of vapors.

2.1.3 Physical Considerations:

During the excavation of underground storage tanks, some physical hazards can be present in the form of large holes, exposed piping, debris piles, and excavation equipment. All workers will be aware of these hazards and take all necessary actions to eliminate accidents. The excavated area will be appropriately marked and barricaded at all times.

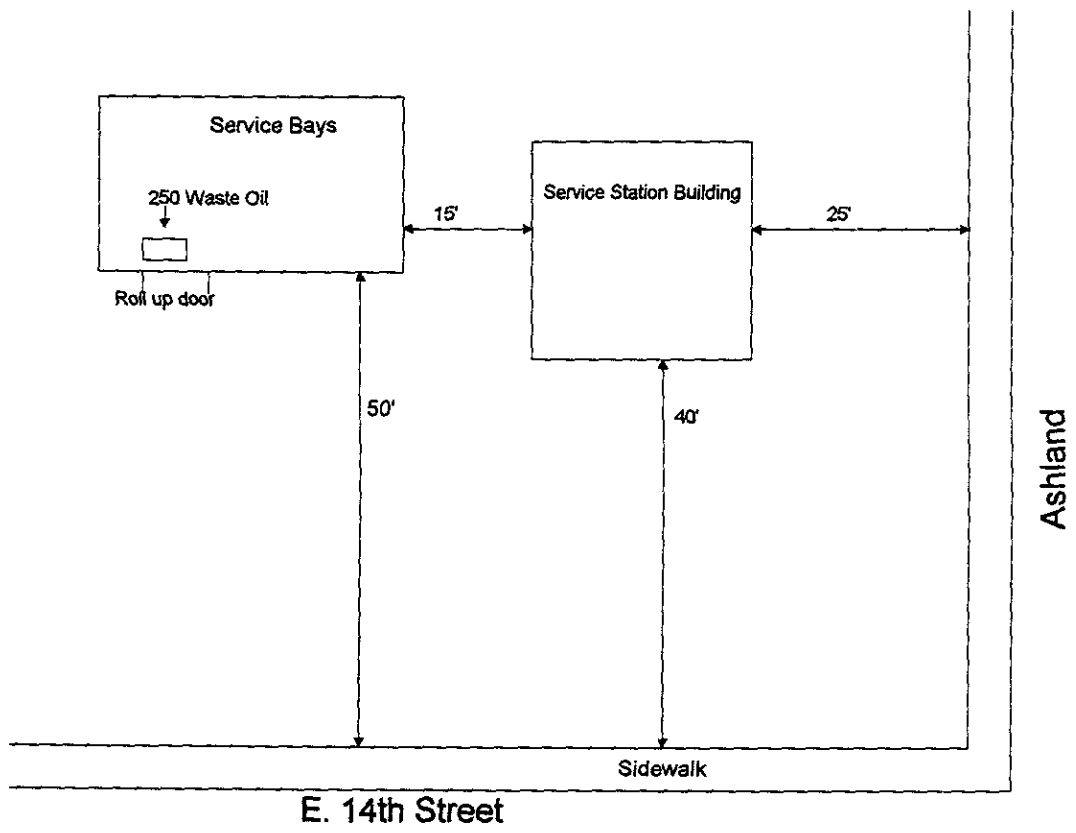
JOBSITE VICINITY MAP

3.0 Jobsite Vicinity Map



SITE MAP

4.0 Site Map



Not to Scale

HK2, INC./ SEMCO
1751 Leslie Street
San Mateo, California
94402

Jerry & Mary Petsas
.16035 E. 14th Street
San Leandro, Calif.

PERSONNEL

5.0 PERSONNEL

SEMCO Employees

5.1 Project Manager

- Manages field operations.
- Ensures the Work Plan is completed on schedule.
- Briefs the field teams on their specific assignments.
- Participates in the preparation of the Site Safety Plan.
- Serves as a liaison with public officials.

5.2 Site Safety Officer

- Implements and enforces the Site Safety Plan.
- Assures that all on-site personnel have received a copy of the Site Safety Plan, have read it and understand it.
- Conducts frequent inspections of site conditions, facilities, equipment, and activities to determine if the Site Safety Plan is adequate and being followed.
- Conducts daily "tailgate" meetings to explain the plan of work for the day and to mention potential hazards of the site.
- Ensures that protective clothing and equipment are properly stored and maintained.
- Knows emergency procedures, excavation route, and notifies local emergency services when necessary.
- Notifies the Health and Safety Manager of all accidents and injuries that occur on site.

5.3 On-Site Personnel

- Are required to document their full understanding of the Site Safety Plan before starting work by signing that they have read the Site Safety Plan and understand it.
- Complies with the Site Safety Plan.
- Notifies the Site Safety Officer of unsafe conditions.
- On-Site employees are held responsible to perform only those tasks for which they believe they are qualified and in their opinion are safe.

LEVEL D: Safety Glasses
Steel Toe Shoes
Hard Hats
Uniform shirt/pants

LEVEL C: Safety Glasses or Goggles w/side shields
Hard Hats
Steel Toe Safety Shoes
Half or Full Face Respirator with Organic Vapor Cartridge
Tyvek or Ploy-Coated Tyvek

EMERGENCY SERVICES

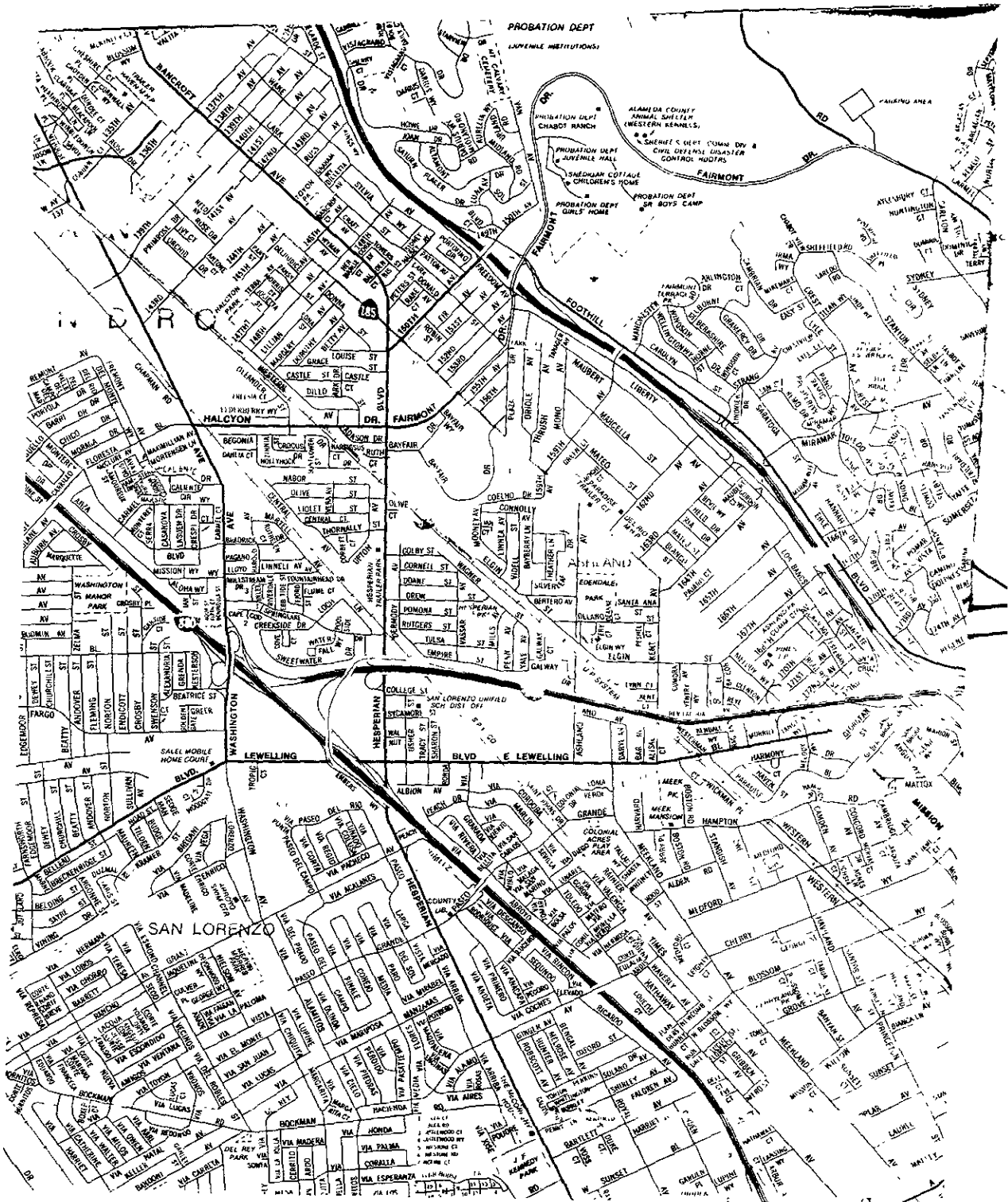
- 6.0 Emergency Service
- 6.1 Persons to contact in case of emergency:
- a. PROJECT MANAGER
 - Name: Chuck Kiper
 - Phone: (415) 572-8033
 - (415) 860-8221 Mobile
 - (415) 377-8660 Pager
 - b. CLIENT CONTACT
 - Name: Jerry & Mary Petsas
 - Phone: 510-276-2828
 - c. SITE CONTACT
 - Name: Chuck Kiper
 - 415-572-8033
 - d. SITE SAFETY OFFICER
 - e. Chuck Kiper or _____
Phone: (415) 572-8033
 - e. HEALTH & SAFETY COORDINATOR
 - Name: Stan Klemetson
 - Phone 415-572-8033

Hospital In Area: Humana Hospital
 510-357-6500 13855 E. 14th Street
 San Leandro, CA

- 6.3 Emergency Routes
 See Hospital Route Map, Page 10
- 6.4 Ambulance: Regional Ambulance
 510-481-5111
- 6.5 Fire Prevention:
 Alameda County Fire Dept.
 510-670-5853
- 6.6 Fire Department:
 SAME
- 6.7 A First Aid Kit will be on site.
- 6.8 Barricades:
 Job site will be barricaded off and construction tape will be used around working area, when work area is left unattended.
- 6.9 Fire Extinguishers will be present on site.

HOSPITAL ROUTE MAP

7.0 Hospital Route Map



CONTINGENCY PLAN

8.0 Contingency Plan:

If an injury occurs, the following action will be taken:

- Medical attention for the injured person immediately.
- Notify the Site Safety Officer.
- Depending on the type and severity of the injury, SEMCO's occupational physician will be notified.
- The injured person's personnel office will be notified.
- An incident report will be prepared. The Site Safety Officer will be responsible for its preparation and submittal to the Health and Safety Director and corporate personnel office within 24 hours.
- The Site Safety Officer will assume charge during a medical emergency.
- EMERGENCY ROUTES--see Hospital Route Map, Page 10.

SAFETY EQUIPMENT

9.0 Safety Equipment

9.1 As a minimum, the following equipment will be on site:

LEL Meter - Gastech 1314

O/M Meter

OSHA - Approved First Aid Kit

40BC Fire Extinguisher

Half Face Respirator with Organic Vapor Cartridges

SAFETY TRAINING

10.0 Safety Training

SEMCO's field employees have received their certificates of training as required by OSHA-SARA agencies, with refresher courses as needed.

MEDICAL MONITORING

11.0 Medical Monitoring

SEMCO requires all Class I truck drivers to have a mandatory physical once a year. SEMCO supplies health insurance to all employees and administers random and mandatory drug and alcohol testing.

12.0 Signatures & Acknowledgments:

I acknowledge having read and understand the preceding Health & Safety Plan:

Signature Date

Signature Date

Signature Date

Signature Date

Signature Date

Signature Date

Signature Date

Signature Date

Signature Date

Signature Date

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY

DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, DIRECTOR

May 3, 1996

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

STID 4147

Mrs. Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

RE: UNITED AUTO CENTER, 16035 E. 14TH STREET, SAN LEANDRO -
WASTE OIL TANK CLOSURE

Dear Mrs. Petsas:

Attached please find a copy of the Alameda County underground storage tank (UST) closure application for the remaining waste oil tank at this site. Deputy Fire Marshall Edward Laudani (Alameda County Fire Department) and I both agreed that this tank may be closed in-place based on its location inside the service bay of the shop.

In-place closure differs from the "normal" UST closure in that the tank is not removed from the ground. Rather, the tank is cleaned and purged of flammable vapors while still in the ground, and filled with cement slurry to render it unusable. Following are the specific requirements for in-place closure according to Article 7, Section 2672(c) and (d) of Title 23, California Code of Regulations:

- o All residual liquid, solids, or sludges shall be removed from the tank and handled as a hazardous waste or recyclable materials in accordance with Chapters 6.5 and 6.7 of the Health and Safety Code;
- o If the tank contained a hazardous substance that could produce flammable vapors at standard temperature and pressure, it shall be inerted to levels that shall preclude explosion or to lower levels as may be required by the local agency;
- o All piping associated with the tank shall be removed and disposed of unless removal might damage structures or other pipes that are being used and that are contained in a common trench, in which case the piping to be closed shall be emptied of all contents and capped;
- o The tank shall be completely filled with an inert solid;

Mrs. Petsas
RE: 16035 E. 14th St. - UST closure
May 3, 1996
Page 2 of 2

- o At least one (1) boring shall be taken as close as possible to the midpoint beneath the tank using a slant boring (mechanical or manual), or other appropriate method such as vertical borings drilled on each long dimensional side of the tank as approved by the local agency.

Adherence to the above closure standards is to be appropriately articulated in the UST closure application prior its submittal to this office for review. A copy of this letter and the closure application should, therefore, be provided to the contractor you eventually select in order to facilitate proper completion of the form. The completed application is to be submitted in **triplicate**. Because site management is already funded through our contract with the State Water Resources Control Board as a Local Oversight Program (LOP) agency, no deposit is required.

We understand that UST closure will be slated after May 15th when the current tenant vacates the premises. This schedule is acceptable to this office. Please contact me at 510/567-6783 should you have any questions.

Sincerely,



Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

attachment

cc: Mee Ling Tung, Agency Director
Ed Laudani, Alameda County Fire Department
Amir Gholami, ACDEH

white -env.health
 yellow -facility
 pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH

1131 Harbor Bay Pkwy.
 Suite 250
 Alameda, CA 94502-6577
 (510) 567-6700

Hazardous Materials Inspection Form

(Petsas)

II, III

Site ID # 447 Site Name United Auto Center Today's Date 4/30/96

Site Address 16035 E. 14th St.

City S. Leandro Zip 94578 Phone 276-3235

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:

I was contacted by Mr. Ray Motrad, owner of the business operating at this site, United Auto Center, about an alleged abandoned waste oil UST still present at the site. Upon my arrival Mr. Motrad showed me the cemented-over access cover to the UST's fill pipe in the floor of the southern-most repair shop at the site. Mr. Motrad broke away the cement "patch" with hammer and chisel, exposing the apparent UST fill pipe. A length of garden hose was inserted into the pipe as a probe. When it was removed, waste oil covered much of it, although it appears the tank is practically empty.

Mr. Motrad also indicated he had observed both Mr. Petsas and his son flush over drains containing used purge water during a rain event this winter, allowing the water off the site and into the storm drain system.

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stds. 25503(b)
- 3. RR Cars > 30 days 25503.7
- 4. Inventory Information 25504(a)
- 5. Inventory Complete 2730
- 6. Emergency Response 25504(b)
- 7. Training 25504(c)
- 8. Deficiency 25505(a)
- 9. Modification 25505(b)

II.B ACUTELY HAZ. MATLS

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25533(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OnSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(p)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

III. UNDERGROUND TANKS (Title 23)

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

Contact: _____

Title: _____

Signature: _____

Inspector: S. Green

Signature: _____

II, III

ALAMEDA COUNTY, DEPARTMENT OF
 ENVIRONMENTAL HEALTH

Hazardous Materials Inspection Form

(Petsoas)

II, III

white -env.health
 yellow -facility
 pink -files

Site ID # 4147 Site Name United Auto Center Today's Date 1/30/96

Site Address 16035 E. 14th St.

City S. Leandro Zip 94578 Phone 276-3238

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- 3. Records Maintenance 2712
- 4. Release Report 2651
- 5. Closure Plans 2670

- 46. Method
 - 1) Monthly Test
 - 2) Daily Vadose
 - Semi-annual groundwater
 - One time soils
 - 3) Daily Vadose
 - One time soils
 - Annual tank test
 - 4) Monthly Gndwater
 - One time soils
 - 5) Daily Inventory
 - Annual tank testing
 - Cont pipe leak det
 - Vadose/gndwater mon.
 - 6) Daily Inventory
 - Annual tank testing
 - Cont pipe leak det
 - 7) Weekly Tank Gauge
 - Annual tank testing
 - 8) Annual Tank Testing
 - Daily Inventory
 - 9) Other

- 7. Precip Tank Test 2643
- Date: _____
- 8. Inventory Rec. 2644
- 9. Soil Testing 2646
- 10. Ground Water. 2647

- 11. Monitor Plan 2632
- 12. Access, Secure 2634
- 13. Plans Submit 2711
- Date: _____
- 14. As Built 2635
- Date: _____

Contact: _____

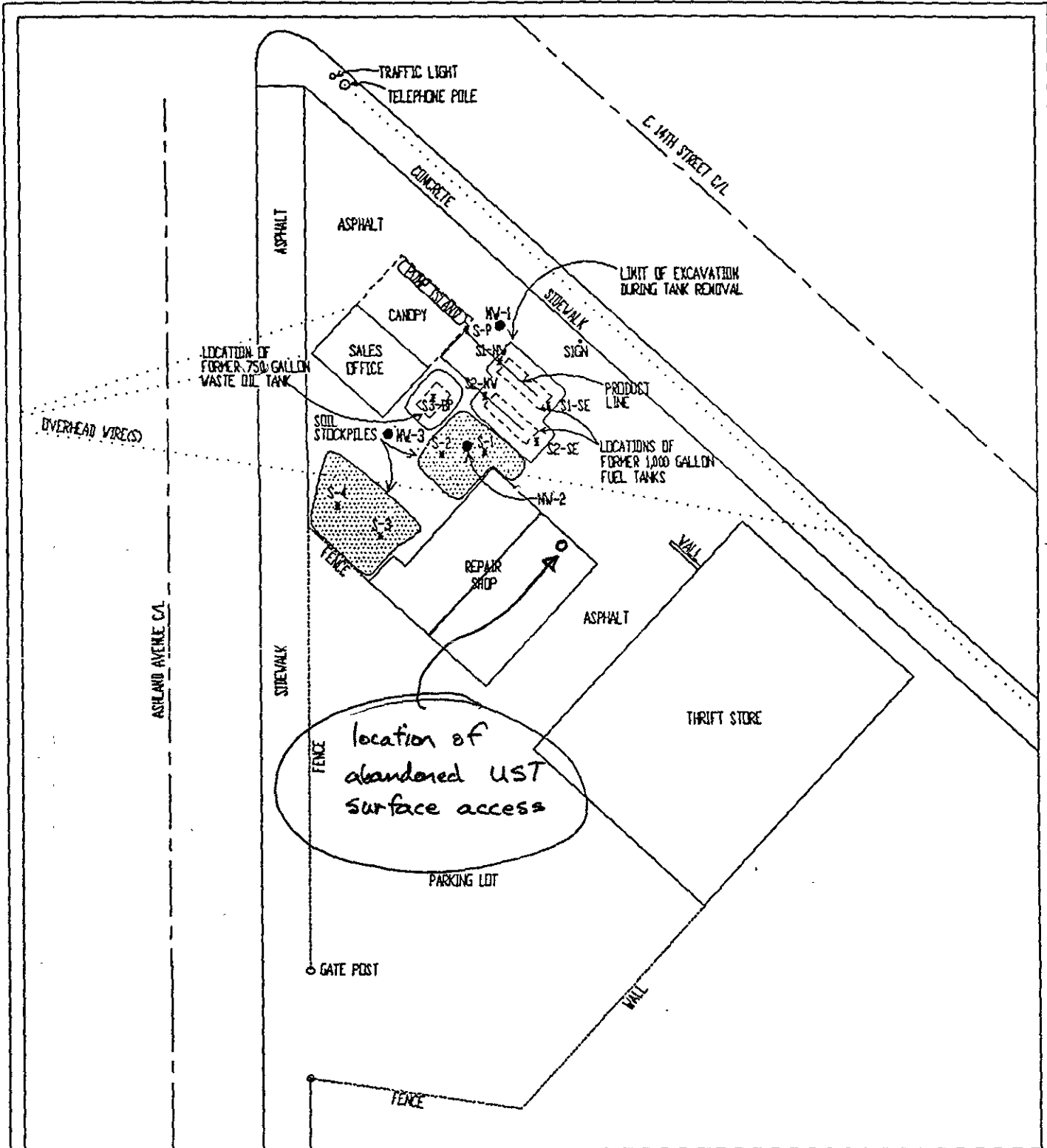
Title: _____

Signature: _____

Inspector: S. Steeny

Signature: _____

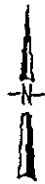
II, III



LEGEND

- SI-NV NAME AND LOCATION OF SOIL SAMPLE
- WELL PROPOSED NAME AND LOCATION OF GROUNDWATER MONITORING WELL

NOTE: HEIGHT OF OVERHEAD WIRES IS APPROXIMATELY 15 FEET.



TANK PROTECT ENGINEERING

SITE PLAN

16035 EAST 14TH STREET
SAN LEANDRO, CA 94578

DATE	12/18/91
FIGURE	2
FILE #	218A-2
DRAWN BY	MAC
CHECKED BY	JVM

16518 Juleb St.
San Francisco, Ca.
July 17, 1995

Dear Scott,

I am concerned & anxious to know how long the monitoring of the underground wells will be.

We received about \$8,000 from the State Fund but that only "plugged" a few of the astronomical amounts we have paid out and are still not caught up with the debts and bills we owe. I wonder, is there ever going to be an end to this nightmare?

I have been very stressful to me and to my family (I spent 5 days in the hospital - thankfully it wasn't the suspected heart attack).

Scott, if there is some hope or reassurance that the monitoring will end soon, please let me know so that I can feel a sense of relief.

Hope to hear from you soon.

Mary Peters
276-2828

**California Regional Water Quality Control Board
San Francisco Bay - Region 2**

Internal Memo

95 JUN -6 AM 11:30

**TO: DAM
SIM
SRR**

**FROM: Brad Job (LBJ) X1382
DATE: June 2, 1995**

**SUBJECT: COMMENTS AND RESPONSES FROM REGION 1 UNDERGROUND
TANK WORKSHOP 1/25/95**

On January 25, 1995 Region 1 held a workshop for UST responsible parties. A forum was provided for these parties to express their comments and concerns to the Region 1 Board and staff. A total of five of the cases discussed were located in Region 2. Mr. Luis Rivera of the Region 1 staff transmitted tapes of the testimony to me, and I subsequently collected and compiled the following responses from Region 2 and local agency staff .

**Mr. Dave Zedrick
2400 Sir Francis Drake Blvd.
Fairfax, Marin County
Owner of Dave's Pit Stop
Lead Agency: SFBRWQCB**

Complaint: Two primary issues were raised by Mr. Zedrick. First, he complained that the work requested by RWQCB is unnecessary and the site in question should be closed. Second, he worries that the SB2004 Fund may not fully reimburse his expenses if he does the requested work.

Response: Regional Board staff believe that the requested work is necessary and is very modest in scope and cost (about \$10,000.) Soil samples from the site in question have previously shown extremely high concentrations of TPH-g (up to 5100 ppm) and no groundwater samples have been acquired to date.

In regards to reimbursement, the SB2004 Fund has consistently approved reimbursement for work requested by the RWQCB. Staff clearly spelled out, in detail, the specific scope of the work needed to investigate the site. There should have been no ambiguity and the requested work will be reimbursable if Mr. Zedrick complies with the directive. The Regional Board directive is still outstanding.

**Mr. Bernard Gallegos
4650 North Palm Avenue
Fresno, Ca 93706
Property Owner (farmer)**

↓

Lead Agency: Alameda County Public Health Department

Complaint: Mr. Gallegos complained that the SWRCB has wrongly identified him and his wife as a responsible party. He further complained that he did not understand the origin and nature of the LOP oversight charges he has been requested to reimburse.

Response: Counsel for Mr. Gallegos, Mr. Hans Herb, filed a petition with the SWRCB appealing Mr. Gallegos' designation as a responsible party. The appeal was denied by the SWRCB and Mr. Gallegos was confirmed to be a responsible party. An addendum to the appeal was subsequently filed and the SWRCB denied it also. The SWRCB has determined that the Mr. Gallegos is correctly named as a responsible party.

Regional Board staff believe that once the opportunity for appeals had been exhausted it was the responsibility of Mr. Gallegos' counsel to inform Mr. Gallegos of his obligation to reimburse LOP oversight charges and proceed with investigation and cleanup. According to the testimony provided, Mr. Gallegos' counsel has not adequately informed his client of the status of the case. The site has since received SB2004 funding and is proceeding with investigation and cleanup.

Hans Raven

999 Carmody Road

Petaluma, Ca 94952

Property Owner

Lead Agency: Sonoma County Dept. of Health Services

Complaint: Mr. Raven disputes that any investigation is necessary regarding groundwater underlying his ranch property. He claims that there is no water underneath the site and refused to utilize the \$150,000 committed to his site from the SB2004 Fund for further investigation.

Response: Regional Board staff met with Mr. Raven to discuss his site and the requested investigation. Mr. Raven denied the existence of any groundwater underlying his site, despite his own statement that he recently observed water approximately one foot below the top of the casing in the on-site monitoring well. The monitoring well is located up-gradient of the former UST and thus cannot provide information regarding the extent of contamination.

High concentrations of TPH (up to 1000 ppm) have been detected in soils from the tank cavity. This condition presents a threat to groundwater, which is used as a source of drinking water. Regional

Board staff believe that a perched aquifer exists on-site and the extent of any impact must be assessed before recommendations regarding cleanup can be made. Mr. Raven subsequently agreed to conduct a limited groundwater (Hydropunch) investigation.

John Marchesini
1546 Lincoln Ave.
Calistoga, Ca
Manager of Calistoga Gliders
Lead Agency: Napa County Department of Environmental Management

Complaint: Mr. Marchesini was requested to re-excavate soils from the former tank pit which subsequently revealed no significant contamination. Mr. Marchesini also question why he was forced to clean the contaminated groundwater to drinking water standards when the water, hot mineral water, could never be used for consumption.

Response: Regional Board staff have investigated Mr. Marchesini's concern's and discussed them with him. Although Mr. Marchesini claims that he was requested to re-excavate without good cause, the request for re-excavation was made only after it could not be determined that contaminated soils had been properly disposed or treated. Lacking evidence as to the disposition of the contaminated soil, it was inferred that the contaminated soil had been placed back into the excavation without proper approval. With regards to cleanup levels, it has never been the contention of staff that MCL's must be achieved at this site in order to protect the existing beneficial uses.

Subsequent monitoring has shown a decrease in groundwater pollutant levels and the site is currently being considered for case closure by the Napa County Department of Environmental Management. Mr. Marchesini stated that he is in the process of submitting his final claim to the SB2004 Fund.

Mr. Pedro Lizaur
11571 Buena Vista Dr.
Los Altos Hills
Santa Clara
Homeowner
Lead Agency: Santa Clara Valley Water District

Complaint: Mr. Lizaur voiced three primary concerns; money, standards and procedures, and liability and closures. Mr. Lizaur claims that reimbursement was difficult to receive prior to 1992. He complains that the standards are too stringent and infeasible, and the procedures are complex and vary depending on the case handler, making it

difficult to understand how to proceed. He finds it bothersome to have this constant overhanging liability with many double standards and impossible to get a closure in his region.

Response: Regional Board staff discussed Mr. Lizaur's comments and concerns with Jim Crowley, the section leader for the Santa Clara Valley Water District (SCVWD). Mr. Crowley assured staff that many of Mr. Lizaur's concerns were unfounded and that SCVWD staff would follow up with Mr. Lizaur. Mr. Lizaur was requested to provide additional information regarding the site. Consideration of the new information allowed SCVWD to determine that the site presents no significant threat to groundwater or beneficial uses. The case is currently being submitted to the Regional Board for case closure.

ACORD. CERTIFICATE OF INSURANCE

05/07/96

PRODUCER

Insurance Center of Merced
2908 North G Street
P. O. Box 2268
Merced, CA 95344

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

- COMPANY
A California Comp
- COMPANY
B
- COMPANY
C
- COMPANY
D

INSURED

HK2, Inc
Semco, Inc.
1741 Leslie Street
San Mateo, Ca 94402

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CD LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT				GENERAL AGGREGATE \$ _____ PRODUCTS-COMP/OP AGG \$ _____ PERSONAL & ADV INJURY \$ _____ EACH OCCURRENCE \$ _____ FIRE DAMAGE (Any one (Yrs)) \$ _____ MED EXP (Any one person) \$ _____
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$ _____ BODILY INJURY (Per person) \$ _____ BODILY INJURY (Per accident) \$ _____ PROPERTY DAMAGE \$ _____
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ _____ OTHER THAN AUTO ONLY \$ _____ EACH ACCIDENT \$ _____ AGGREGATE \$ _____ EACH OCCURRENCE \$ _____ AGGREGATE \$ _____
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				STATUTORY LIMITS \$ _____ EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input checked="" type="checkbox"/> INCL <input type="checkbox"/> EXCL	W964137662	04/05/96	04/05/97	
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

TEN DAY NOTICE OF CANCELLATION FOR NON-PAYMENT OF PREMIUM.
All California Operations

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT. BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

Wayne Meador
AUTHORIZED REPRESENTATIVE



Building Quality



HAZARDOUS SUBSTANCES REMOVAL AND REMEDIAL ACTIONS CERTIFICATION

Pursuant to the provisions of Section 7058.7 of the Business and Professions Code, the Registrar of Contractors does hereby certify that the following qualifying person has successfully completed the hazardous substances removal and remedial actions examination.



Qualifier: STANLEY LOUIS KLEMETSON

License No.: 719103

Business Name: HK2, INC., DBA SEMCO

WITNESS my hand and official seal this
21ST day of FEBRUARY 1996

David R. Rellier
Registrar of Contractors

131-36 (12/91)

This certification is the property of the Registrar of Contractors, is not transferable, and shall be returned to the Registrar upon demand when suspended, revoked, or invalidated for any reason.

A 6875

State of California
Contractors State License Board

Pursuant to Chapter 9 of Division 3 of the Business and Professions Code
and the Rules and Regulations of the Contractors State License Board,
the Registrar of Contractors does hereby issue this license to:

HK2 INC dba SEMCO



to engage in the business or act in the capacity of a contractor
in the following classification(s):

- A - GENERAL ENGINEERING CONTRACTOR
- B - GENERAL BUILDING CONTRACTOR
- C57 - WELL DRILLING (WATER)
- D40 - SERVICE STATION EQUIPMENT AND MAINTENANCE

Witness my hand and seal this day,

February 22, 1996

Issued February 21, 1996

Signature of Licensee

Signature of License Qualifier

This license is the property of the Registrar of Contractors, is not
transferrable, and shall be returned to the Registrar upon demand
when suspended, revoked, or invalidated for any reason. It becomes
void if not renewed.



State of
California
Department of
Consumer
Affairs

Paul W. Johnson

Registrar of Contractors

719103

License Number

State of California
Contractors State License Board

Pursuant to Chapter 9 of Division 3 of the Business and Professions Code
and the Rules and Regulations of the Contractors State License Board,
the Registrar of Contractors does hereby issue this license to:

HK2 INC dba SEMCO



to engage in the business or act in the capacity of a contractor
in the following classification(s):

ASB - ASBESTOS
HAZ - HAZARDOUS SUBSTANCES REMOVAL



Witness my hand and seal this day,

February 22, 1996

Issued February 21, 1996

Paul W. Johnson
Registrar of Contractors

Signature of Licensee

Signature of License Qualifier

This license is the property of the Registrar of Contractors, is not
transferrable, and shall be returned to the Registrar upon demand
when suspended, revoked, or invalidated for any reason. It becomes
void if not renewed.

Registrar of Contractors

719103

License Number



State of California
CONTRACTORS STATE LICENSE BOARD
ACTIVE LICENSE



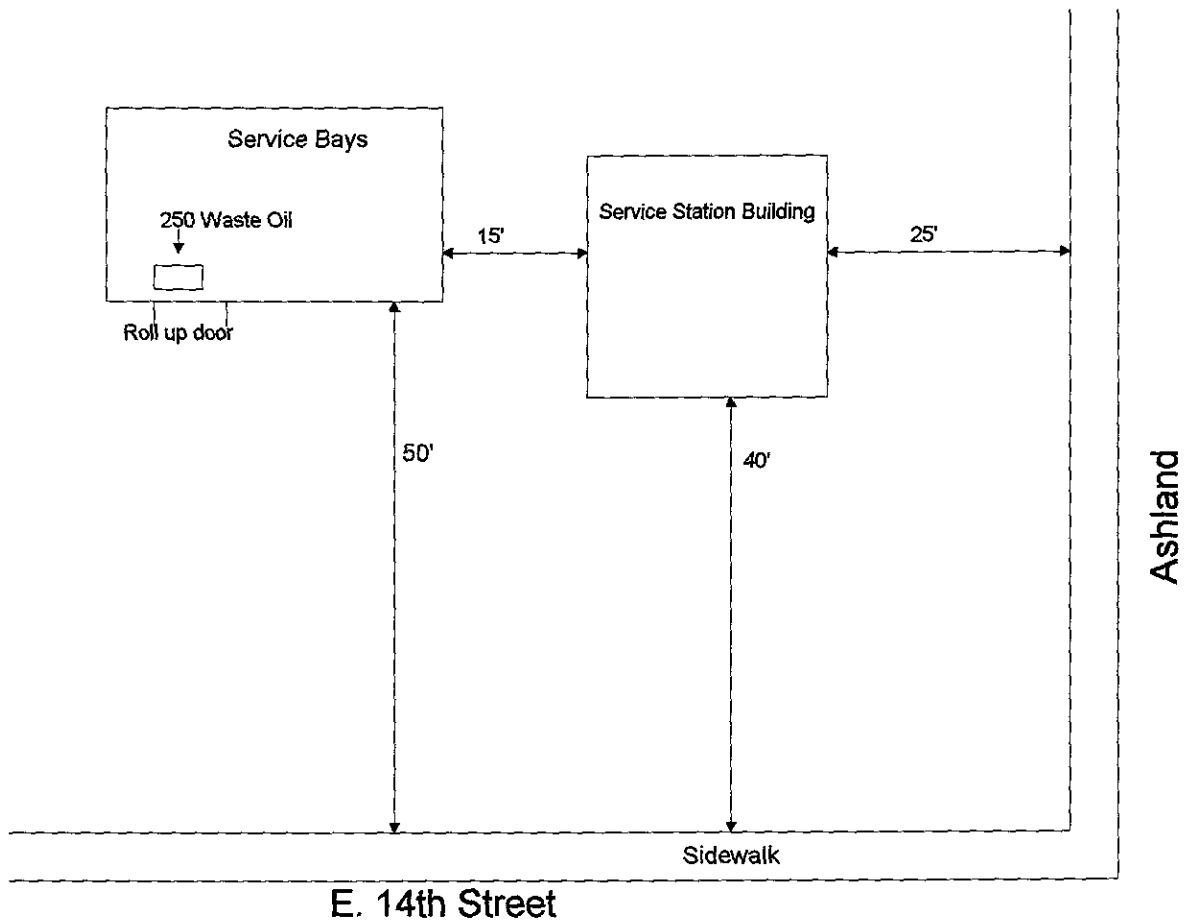
License Number **719103** Entity **CORP**

Business Name **HK2 INC DBA SEMCO**

Classification(s) **A B C57 C61/D40 ASB HAZ**

Expiration Date **02/28/98**





Not to Scale

HK2, INC./ SEMCO
 1751 Leslie Street
 San Mateo, California
 94402

Jerry & Mary Petsas
 16035 E. 14th Street
 San Leandro, Calif.

ALAMEDA COUNTY
HEALTH CARE SERVICES



AGENCY
DAVID J. KEARS, Agency Director

RAFAT A. SHAHID, Assistant Agency Director

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

March 6, 1995

Mr. Brad Job
California Regional Water Quality Control Board
San Francisco Bay Region
2101 Webster Street, Ste. 500
Oakland, CA 94612

RE: MATTER OF BEATRICE GALLEGOS AND GREGORY GARCIA AS IT
PERTAINS TO REAL PROPERTY LOCATED AT 16035 E. 14TH STREET,
SAN LEANDRO, ALAMEDA COUNTY

Dear Mr. Job:

I reviewed the taped testimony of Bernard R. Gallegos as recorded during the January 25, 1995 RWQCB Region I Underground Storage Tank (UST) Workshop. As we discussed the week of February 26, 1995, enclosed please find a summary of case milestones associated with the subject site. Copies of certain documents which demonstrate the overall tone of this case are attached to this letter, and are identified by highlighted activity/item dates.

<u>DATE</u>	<u>ACTIVITY / ITEM</u>
12/30/91	UST closure application approved by Alameda County Department of Environmental Health (ACDEH). Application submitted on behalf of property owner, the Petsases.
2/4/92	UST closure. Unauthorized release identified.
2/6/92	Unauthorized leak report (ULR) recorded.
3/6/92	UST closure report / work plan for soil excavation and ground water investigation submitted by consultant on behalf of Petsases.
4/13/92	Addendum to work plan.
5/8/92	Notice of Requirement to Reimburse (NORR) issued to the Petsases following transfer of project oversight responsibility to the ACDEH Local Oversight Program (LOP). Petsases are identified as a "responsible party" (RP) pursuant to § 2720, Article 11, Title 23, Division 3, Chapter 16, California Code of Regulations (CCR).

Brad Job
RE: Gallegos / Garcia
March 6, 1995
Page 2 of 5

- 11/3/92 Informed by Petsas's attorney, Mr. Mark Johnson, of his client's application to the SB2004 Petroleum Trust Fund for reimbursement of costs incurred during implementation of pending corrective action.
- ~~2/11/93~~ M. Johnson submits to ACDEH a data package and site history with supporting documents which substantially indicate Beatrice Gallegos and Gregory Garcia are RPs pursuant to provisions of 23CCR and RCRA (42 USC § 6991(3)).
- 3/26/93 ACDEH informed by Petsas that they do not have the finances to continue with the installation of monitoring wells.
- ~~4/2/93~~ NORR issued to Gallegos / Garcia.
- ~~5/2/93~~ Hans Herb, attorney for Gallegos/Garcia, notification to ACDEH that a petition with the SWRCB challenging ACDEH's naming of Gallegos/Garcia as RPs had been filed.
- ~~6/15/93~~ SWRCB notice to H.Herb acknowledging receipt of petition **and concurring with ACDEH's decision to name petitioners as RPs**. SWRCB invites filing of addendum should there be additional information to be considered.
- ~~7/15/93~~ H.Herb addendum to SWRCB petition arguing, among other issues, that petitioners were never owners of the subject USTs and, therefore, should not be included as RPs.
- 7/30/93 Pre-Enforcement Review Panel (PERP) notification to all responsible parties % their commensurate attorneys. PERP to convene 8-31-93.
- ~~8/3/93~~ ACDEH correspondence to Theodore Cobb, SWRCB staff council, articulating ACDEH's understanding that consideration of the recent appeal to SWRCB would be "stayed" pending the outcome of the pending PERP.
- ~~8/4/93~~ H.Herb letter to ACDEH et al in response to PERP notice alleging such is "...clearly illegal, unconstitutional, and violative of [his] clients' due process rights." Terms the panel a "star chamber." Warns of his intent to seek legal action against ACDEH should they not comply with his requests.

Brad Job
RE: Gallegos / Garcia
March 6, 1995
Page 3 of 5

~~8/6/93~~ H.Herb letter to T. Cobb (SWRCB) regarding 8/3/93 ACDEH correspondence to SWRCB.

~~8/6/93~~ Gil Jensen (Alameda County Senior Deputy District Attorney) letter to H. Herb regarding the pending PERP and commenting on his 8/4/93 letter.

8/13/93 Preliminary site assessment (PSA) report submitted to ACDEH on behalf of Petsases.

~~8/16/93~~ B. Gallegos letter to David Kears, Director of ACDEH, presenting her statement of facts in the case and arguing why she should not be considered a RP.

~~8/19/93~~ H.Herb letter to G. Jensen alleging ACDEH's "...direct and irreconcilable financial conflict in this matter..." and expressing his desire to be informed of the legality of the PERP procedures.

~~8/27/93~~ M. Johnson rebuttle to Gallegos/Garcia addendum to SWRCB petition including supporting documents which discuss, among other issues, the clear conveyance of "service station equipment" w/ property during distribution of estate in wake of 12/82 death of Joseph Garcia, former husband of B. Gallegos. Additionally presented are recorded documents with similar language, i.e., conveyance of service station equipment, during 4/71 discharge of guardianship to G. Garcia (son) and conveyance of ½ interest in property to same.

8/31/93 PERP meeting. H.Herb did not appear personally, but sent associate. No new facts presented. Petsases and M.Johnson present.

~~9/1/93~~ ACDEH letter to Dave Deaner (SWRCB) regarding recent SB2004 fund rejection to Petsas application for reimbursement and presenting mitigating facts which should allow Petsas eligibility.

~~9/14/93~~ H.Herb letter to G. Jensen warning him about Jensen's "misconduct."

9/27/93 M.Petsas letter to ACDEH indicating present financial peril they then faced following SB2004 eligibility rejection and because of no contribution from other RPs.

Brad Job
RE: Gallegos / Garcia
March 6, 1995
Page 4 of 5

~~9/27/93~~ RWQCB official directive following PERP presenting RP designation and request for technical reports. Petsas, Gallegos, Garcia named as RPs.

~~10/7/93~~ SWRCB response to Gallegos/Garcia addendum to SWRCB petition dated 7/15/93 presenting case law citations regarding ownership of "trade fixtures" (e.g., USTs) upon lease termination. Gallegos/Garcia identified as "owners" with respect to UST laws.

10/26/93 M.Petsas letter to Lori Casias (SWRCB-LOP liaison) enclosing ½ invoice amount for ACDEH case oversight, indicating other RPs (Gallegos/Garcia) have not contributed at all to the project costs.

~~11/4/93~~ H.Herb letter to Alameda Co. Board of Supervisors (BoS) requesting they "...instruct [G. Jensen] to fulfill his role as a public servant by responding to legitimate inquiry by a tax-paying citizen." Presents his version of case background (absent the issues which clearly identify his clients as RPs). Requests the matter to be placed on the BoS agenda ASAP.

~~12/17/93~~ H.Herb letter to Steve Ritchey (RWQCB), G.Jensen, ACDEH giving case "update" from his perspective.

~~12/20/93~~ G.Jensen letter to H.Herb in response to 12/17/93 H.Herb letter.

~~12/23/93~~ M.Johnson letter regarding (reported) refusal of Gallegos/Garcia to cooperate in complying with 9/27/93 RWQCB directive. Requests 60 day extension to comply.

12/27/93 ACDEH letter granting 60 day extension to Petsases.

~~1/4/94~~ Notice of Violation (NOV) issued to Gallegos/Garcia for their failure to submit required technical reports pursuant to 9/27/93 RWQCB directive.

~~1/6/94~~ H.Herb cover letter to "lawsuit" filed in Solano County against G.Jensen, SWRCB and RWQCB. (Note: suit never served.)

~~1/6/94~~ RWQCB letter regarding failure of Gallegos/Garcia to comply with 9/27/93 RWQCB directive.

Brad Job
RE: Gallegos / Garcia
March 6, 1995
Page 5 of 5

1/26/94 Meeting between RWQCB (L.Feldman), M.Johnson, H.Herb.
~~2/2/94~~ H.Herb letter to G.Jensen, ACDEH, RWQCB, SWRCB
(T.Cobb et al.) erroneously and incorrectly
presenting "facts" with respect to issues discussed
and evidence presented during 1/26/94 meeting @
RWQCB. Indicates the presentation of a
"...declaration indicating the tank had been in
operation since..." purchase of the site by Petsases.
This purported declaration was never presented at the
subject meeting.

~~2/10/94~~ H.Herb letter "correcting" misstatement in 2/2/94
letter regarding so-called "declaration." Copy of
subject "declaration" is attached yet does not speak
to the issue of the USTs being operated after sale of
site.

~~2/24/94~~ M.Johnson letter requesting another extension to
comply with 9/27/93 RWQCB directive pending decision
regarding Petsas's SB2004 application.

~~4/1/94~~ H.Herb letter indicating dismissal of lawsuit -
places agencies "on notice."

~~4/8/94~~ SWRCB letter indicating denial to consider addendum
to previous SWRCB petition on behalf of
Gallegos/Garcia. Indicates Gallegos/Garcia **are**
correctly named as RPs.

2/21/95 SWRCB approves SB2004 funding for Petsas.

Please inform me should you require additional assistance in your
evaluation of this case. I may be reached at 510/567-6783.

Sincerely,



Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

attacments

cc: Rafat A. Shahid, Agency Director
Gil Jensen, Alameda County District Attorney's Office
Kevin Graves, RWQCB

STATE WATER RESOURCES CONTROL BOARD**DIVISION OF CLEAN WATER PROGRAMS**

2014 T STREET, SUITE 130

P.O. BOX 944212

SACRAMENTO, CALIFORNIA 94244-2120

(916) 227-4360

(916) 227-4530 (FAX)

RECEIVED
SEP 20 11:05

FEB 21 1995

SND 4147

J. Petsas

16518 Toledo Street

San Leandro, CA 94578

UNDERGROUND STORAGE TANK CLEANUP FUND, CLAIM NO. 006537, FOR SITE ADDRESS: 16035 E. 14th Street, San Leandro, CA 94578

The State Water Resources Control Board (SWRCB) takes pleasure in issuing the attached Letter of Commitment in an amount not to exceed **\$45,000**. This Letter of Commitment is based upon our review of the corrective action costs incurred to date and your application received on May 14, 1992 and may be modified by the SWRCB in writing by an amended Letter of Commitment.

The SWRCB will take steps to withdraw this Letter of Commitment after 90 calendar days from the date of this transmittal letter unless you proceed with due diligence with your cleanup effort. This means that you must take positive, concrete steps to ensure that corrective action is proceeding with all due speed. For example, if you have not started your cleanup effort, you must obtain three bids and sign a contract with one of these bidders within 90 calendar days. If your cleanup effort has already started and was delayed, you must resume the expenditure of funds to ensure that your cleanup is proceeding in an expeditious manner. You are reminded that you must comply with all regulatory agency time schedules and requirements. We constantly review the status of all active claims, and failure to proceed with due diligence will be grounds for withdrawal of this Letter of Commitment.

You should read the terms and conditions listed in the Letter of Commitment. Also attached you will find.

- A "Reimbursement Request Instructions" package. **You should retain this package for future reimbursement requests.** Among other information, the package includes instructions for completion of the "Reimbursement Request" form and the "Spreadsheet". These instructions must be followed when seeking reimbursement for corrective action costs incurred after January 1, 1988. Included in these instructions are samples of Reimbursement Request forms and completed Spreadsheets. Within the package also included are:
 - A "Bid Summary Sheet" to document data on bids received.
 - Recommended Minimum Invoice Cost Breakdown.
 - A "Certification of Non-Recovery From Other Sources" which must be returned before any reimbursements can be made.
- "Reimbursement Request" forms which you must use to request reimbursement of costs incurred.
- "Spreadsheet" forms which you must use in conjunction with your Reimbursement Request.
- "Vendor Data Record" (Std. Form 204) which must be completed and returned with your first Reimbursement Request.

If you have any questions regarding the Letter of Commitment or the Reimbursement Request package, please contact Blessy Torres at (916) 227-4535.

Sincerely,

Dave Deaner, Manager
Underground Storage Tank
Cleanup Fund Program

Attachments

cc: Mr. Steve Morse
California Regional Water Quality
Control Board, San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612

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

LETTER OF COMMITMENT FOR REIMBURSEMENT OF COSTS

CLAIM NO: 006537

AMENDMENT NO: 0

CLAIMANT: J. Petsas

BALANCE FORWARD: \$0

CO-PAYEE: None

JOINT CLAIMAINT: None

THIS AMOUNT: \$45,000

NEW BALANCE: \$45,000

CLAIMANT ADDRESS: 16518 Toledo Street
San Leandro, CA 94578

TAX ID/SSA NO: 551-18-0122

Subject to availability of funds, the State Water Resources Control Board (SWRCB) agrees to reimburse J. Petsas (Claimant) for eligible corrective action costs at 16035 E. 14th Street, San Leandro, CA 94578 (Site). The commitment reflected by this Letter is subject to all of the following terms and conditions:

1. Reimbursement shall not exceed \$45,000 unless this amount is subsequently modified in writing by an amended Letter of Commitment.
2. The obligation to pay any sum under this Letter of Commitment is contingent upon availability of funds. In the event that sufficient funds are not available for reasons beyond the reasonable control of the SWRCB, the SWRCB shall not be obligated to make any disbursements hereunder. If any disbursements otherwise due under this Letter of Commitment are deferred because of unavailability of funds, such disbursements will promptly be made when sufficient funds do become available. Nothing herein shall be construed to provide the Claimant with a right of priority for disbursement over any other claimant who has a similar Letter of Commitment.
3. All costs for which reimbursement is sought must be eligible for reimbursement and the Claimant must be the person entitled to reimbursement thereof.
4. Claimant must at all times be in compliance with all applicable state laws, rules and regulations and with all terms, conditions, and commitments contained in the Claimant's Application and any supporting documents or in any payment requests submitted by the Claimant.
5. No disbursement under this Letter of Commitment will be made except upon receipt of acceptable Standard Form Payment Requests duly executed by or on behalf of the Claimant. All Payment Requests must be executed by the Claimant or a duly authorized representative who has been approved by the Division of Clean Water Programs.
6. Any and all disbursements payable under this Letter of Commitment may be withheld if the Claimant is not in compliance with the provisions of Paragraph 5 above.
7. Neither this Letter of Commitment nor any right thereunder is assignable by the Claimant without the written consent of the SWRCB. In the event of any such assignment, the rights of the assignee shall be subject to all terms and conditions set forth in this Letter of Commitment and the SWRCB's consent.
8. This Letter of Commitment may be withdrawn at any time by the SWRCB if completion of corrective action is not performed with reasonable diligence.

IN WITNESS WHEREOF, this Letter of Commitment has been issued by the SWRCB this 2nd day of February, 1995.

STATE WATER RESOURCES CONTROL BOARD

BY [Signature]
Manager, Underground Storage Tank Cleanup Fund Program

BY [Signature]
Chief, Division Administrative Services

STATE USE:
CALSTARS CODING:
0550-569.02 - 30530
\$ _____

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

PETE WILSON, Governor

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

2014 T STREET, SUITE 130

P.O. BOX 044212

SACRAMENTO, CA 94244-2120



FAX (916) 227-4349
FAX (916) 227-4530
FAX (916) 227-4595

TRANSMITTAL OF FAX MATERIAL

DATE: 2-2-95

FROM TO: Scott Seery
FAX # (510) 337-9335

TO: ~~FROM:~~ DIVISION OF CLEAN WATER PROGRAMS
FAX # (916) ~~227-4349~~
CLEANUP FUND FAX (916) 227-4530
Planning Facilities FAX (916) ~~227-4595~~

Cheryl Gordon

*(If you did not receive all your FAX,
please call (916) 227-4539)*

NO. OF PAGES 4 (including this sheet)

For your information

Per your request

For your review and comments

REMARKS: _____

CLAIM NO. 8236

LOCAL AGENCY NO. STID 4147

SITE ADDRESS 16035 E. 14th St. San Leandro CA 94578

CORRECTIVE ACTION COMPLIANCE DOCUMENTATION

PAGE 3

DATE ACTION REQUIRED/RESPONSE

See attached

CONFIRMATION OF CORRECTIVE ACTION COMPLIANCE:

After reviewing the lead agency site file, the claim reviewer has determined that the claimant is in substantial compliance with corrective action requirements.

Carol Gordon
REVIEWER'S SIGNATURE

12-12-94
DATE SIGNED

LEAD AGENCY CONCURRENCE:

As of this date, the lead agency representative concurs with the determination that the claimant is in compliance with applicable corrective action requirements.

[Signature]
SIGNATURE

2-2-95
DATE SIGNED

STAFF RECOMMENDATION:

APPROVED REFERRED TO TEAM LEADER - See Comments, Page 2.

REVIEWER'S SIGNATURE:

DATE SIGNED

DETAILED REVIEW CHECKLIST

PAGE 3

Claimant: Jerry Petsas
 Claim #: 8236

STID # 4147

Address: 16035 E. 14th St., San Leandro

<u>Date</u>	<u>Action Required/Response</u>
8/19/85	Eden Fire Protection Dist Complaint Blank: Put station back into service or remove UST w/in 90 days.
9/5/85	Eden Fire Protection Dist ltr: Put station back into service or remove USTs w/in 90 days.
10/14/85	Cl. ltr: tanks capped, requesting 1-yr extension.
10/29/85	Eden Fire Prot. Dist. ltr: Extension granted.
10/28/86	Eden Fire Prot. Dist. ltr: remove tanks w/in 90 days.
12/8/86	Cl.ltr: Req. 8-12 mos. extension.
4/4/90	Haz/Mat Inspection Form: Tanks still in ground.
5/31/90	Co. ltr: NOV-Register tanks and remove or use. respond w/in 15 days.
6/11/90	Permit Application.
8/20/90	Co. ltr: Final NOV-Submit tank closure plan or permit tanks.
7/18/91	Co. ltr: Submit Closure Application by 9/1/91.
8/5/91	Atty ltr: requesting permission to fill tanks and close in place.
11/5/91	Co. notes in file: Atty is CL son, unwilling to spend any money on tanks, hasn't investigated alternative funding, wants deed restriction on property, money from sale of another Petsas property used for purchase of another property.
11/7/91	Atty ltr: wants Co. to give other alternative to tank removal.
2/4/92	UST Closure Plan and Haz/Mat Inspection Form: Tank removal (3 tanks). Throughgoing holes, piping bad.
2/21/92	Tank Protect Engrg: Lab. analytical Results.
3/6/92	Tank Protect Engrg: Tank Closure Report and WP for

Overexcavation.

- 8/13/93 Tank Protect PSA Report.
- 9/10/93 Tank Protect Report of Gradient Determination and 3rd Qtr GW Sampling.
- 9/27/93 Reg. 2 ltr to Petsas/Gallego/Garcia: w/in 90 days, submit WP to define plume, technical summary reports due qtrly.
- 12/23/93 Atty lr: requesting 60-day extension for SWI.
- 12/27/93 Co. lr to Atty: Extension granted, SWI WP due 2/28/94.
- 1/4/94 Co. ltr to Gallegos/Garcia: WP was due 12/27/93.
- 1/6/94 Hans Herb ltr transmitting copy of Complaint for Injunction against RWQCB, Alameda Co., etc.
- 1/6/94 Reg. 2 ltr to Hans Herb: Will suspend enforcement action 30 days to allow clients to discuss with staff.
- 1/7/94 Tank Protect Report of Gradient Determination and 4th Qtr GW Sampling.
- 2/10/94 Hans Herb ltr: wants Garcia/Gallegos (previous owners) removed as RPs.
- 4/13/94 Tank Protect Engrg: Addenda to 3/6/92 WP.
- 4/14/94 Tank Protect: Report of Gradient Determination and 1st Qtr GW Sampling.
- 12/12/94 Co. considers clmt in compliance due to mitigating circumstances. The county has not required any further action from the claimant at this time due to claimant's financial condition. The claimant has spent in excess of 20K. I have agreed to sign off contingent upon the reimbursement monies being used to further the cleanup, not used simply for what has already been spent by the claimant.

STID 4147

RECEIVED TANK PROTECT
140005 P.M. 10/28/94
S.W. 100 20
SAN LEANDRO, CA 94562
510-271-4320

October 28, 1994

Mrs. Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

RE: 16035 EAST 14TH STREET, SAN LEANDRO

Dear Mrs. Petsas:

I have completed review of the October 12, 1994 Tank Protect Engineering (TPE) quarterly monitoring report for the referenced site. TPE recommends that analysis of ground water samples for the presence of oil and grease be discontinued. This office concurs with this recommendation.

Therefore, target analytes for future sampling need only include TPH-G and BTEX for water sampled from well MW-2, and TPH-D, TPH-G, and BTEX for that sampled from wells MW-1 and -3.

Please call me at 510/567-6783 should you have any questions.

Sincerely,



Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

cc: Rafat A. Shahid, Agency Director
Gil Jensen, Alameda County District Attorney's Office
Ed Laudani, Alameda County Fire Department
John Mrakovich, Tank Protect Engineering

STATE WATER RESOURCES CONTROL BOARD

PAUL R. BONDERSON BUILDING
901 P STREET
P.O. BOX 100
SACRAMENTO, CALIFORNIA 95812-0100
(916) 657-0941
FAX: (916) 657-0932

1. DAM - FYI
are the appropriate parties being named by the LOP?
PPD
DHH
PETE WILSON, Governor



APR 8 1994

CERTIFIED MAIL

Mr. Hans W. Herb
Attorney at Law
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

Dear Mr. Herb:

PETITION FOR REVIEW FOR LOCAL OVERSIGHT PROGRAM OF BEATRICE GALLEGOS/GREGORY GARCIA, SITE NO. 00004147. FILE NO. 93-110.

The State Water Resources Control Board (SWRCB) will not review this petition. The dispute concerning the former owner of the service station site does not raise a significant issue meriting the consideration of the SWRCB. Prior precedent supports the inclusion of former property owners if the pollution can be attributed to activities they allowed and benefited from on their property.

If you have any questions about this matter, please call Ted Cobb in the Office of the Chief Counsel at (916) 657-0406.

Sincerely,

ORIGINAL SIGNED BY

Walt Pettit
Executive Director

cc: Mr. Steven R. Ritchie, Executive Officer ✓
California Regional Water Quality
Control Board, San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612

ALCO
HAZMAT
94 MAY 11 AM 11:41

ALAMEDA COUNTY - ENVIRONMENTAL HEALTH - HAZARDOUS MATERIALS DIVISION

MEMORANDUM

DATE: March 21, 1994

TO: Gil Jensen, Alameda County District Attorney's Office

FROM: Scott Seery *LS*

SUBJ: Petsas case, 16035 E. 14th Street, San Leandro - STID 4147

Ms. Lori Senitte, SWRCB legal department, informed me today of the status of the Petsas' SB2004 application. You may recall that the initial application submitted to the SWRCB was denied based on the fact that the USTs at this site had not been permitted, as of the cut off date of January 1, 1990. This decision was appealed to the Board because of mitigating facts in the case that arguably prevented the Petsas' from reasonably knowing of the permit requirements. It has been reported that neither the Petsases nor their tenants ever operated the USTs since the Petsases owned the site. Hence, in the absence of any agency contact, the Petsases were never in a position to receive information from fuel suppliers, or others in the industry, regarding UST permitting and monitoring requirements, among others.

Ms. Senitte indicated that she sent a letter on 3/4/94 to the Petsas' attorney, Mr. Mark Johnson, requesting the submittal by 4/1/94 of any other arguments to be considered before she presents her recommendation to the Board. Her feeling is that the Petsas' have a good case, and that, based on the facts of which she is currently aware, she will likely recommend that the Board accept the Petsas' application. This action, if accepted by the Board, will waive the requirement for a \$20K deductible (the present requirement for those cases in which the RPs were not in compliance with the UST law as of 1/1/90), allowing the \$10K deductible to apply in this case.

The status of the the Hans Herb/Garcia/Gallegos appeal is unknown to me at this time.

Lori Senitte 916/227-4398

February 28, 1994

Lester-

How would you recommend responding to this letter? I understand that your office is awaiting some word from SWRCB re: the Garcia/Gallegos appeal.

Scott

271-4530

ITO AND JOHNSON
ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

(415) 362-3503
(415) 989-1137 FAX

February 24, 1994

Mr. Scott Seery
Alameda County Health Agency
Department of Hazardous Materials,
80 Swan Way, Room 200
Oakland, CA 94621

Re: 16035 E. 14th Street, San Leandro, California
LOP Site ID # 4147

Dear Mr. Seery:

This letter is a request for an extension of time to comply with the September 27, 1993 letter issued by the California Regional Water Quality Control Board ("RWQCB") regarding the site at 16035 East 14th Street, San Leandro, California. The motivation to request this extension stems primarily from the statements made by Mr. Lester Feldman of the RWQCB and Mr. Edgar Howell of your office, who both stated that an extension of time to comply with the September 27 letter would be appropriate where decisions in this case are pending before both the RWQCB and the State Water Quality Control Board (SWQCB).

The extension is requested because Mr. and Mrs. Petsas are awaiting decisions by the SWQCB and the RWQCB which directly affect the funding available to comply with the RWQCB's September 27 letter. Until the decisions are made no funding will be available to perform the work requested by the RWQCB. Therefore, Mr. and Mrs. Petsas request an extension of time to comply with the September 27 letter until the SWQCB and the RWQCB make their decisions.

ALCO
HAZMAT
94 FEB 25 AM 11:33

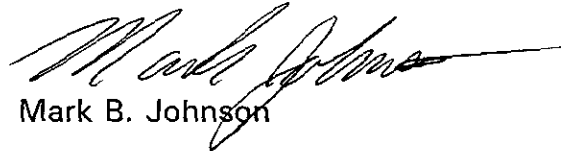
Mr. Scott Seery
February 24, 1994

Page 2

Thank you for your time and assistance.

Very truly yours,

ITO AND JOHNSON

A handwritten signature in black ink, appearing to read "Mark B. Johnson", with a long horizontal flourish extending to the right.

Mark B. Johnson

cc: Mr. and Mrs. Petsas

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

(707) 576-0757

Telecopier:

(707) 575-0364

February 10, 1994

HANS W. HERB

Gilbert A. Jensen, Esq.
Senior Deputy District Attorney
ALAMEDA COUNTY DISTRICT
ATTORNEY'S OFFICE
7677 Oakport St., Suite 400
Oakland, California 94612

Mr. Edgar Howell
ALAMEDA COUNTY HEALTH CARE
SERVICES AGENCY
Hazardous Materials Program
80 Swan Way, Room 200
Oakland, California 94621

**VIA FACSIMILE AND
U.S. MAIL TO ALL**

Mr. Steven R. Richie
Mr. Lester Feldman
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
2101 Webster St., Suite 500
Oakland, California 94612

William Attwater, Esq.
Theodore A. Cobb, Esq.
STATE WATER RESOURCES CONTROL BOARD
P. O. Box 100
Sacramento, California 95812-0100

Re: Garcia/Gallegos v. Gilbert Jensen, Alameda County, SWRCB,
BARWOCB, et al.
Solano County Superior Court Case No.: L002217
Our File No.: 01-126-01

Gentlemen:

I am writing this letter to correct a misstatement contained in my previous correspondence of February 2, 1994. Specifically, although I referred to a declaration which I understood had been provided to the Regional Water Quality Control Board at a recent

February 9, 1994

Page 2

meeting, I now understand no such declaration was provided. However, I am providing a copy of the declaration with this letter.

As you will recall, this matter arises out of a request by the Alameda County Health Care Services Agency and the Regional Water Quality Control Board that our clients Gregg Garcia and Beatrice Gallegos, a permanently disabled Vietnam veteran and his widowed mother who is on Social Security, pay for the cleanup from an underground storage tank located in San Leandro, California. The purported basis for seeking to hold our clients responsible was the erroneous belief that the tank was not operated after our clients sold the property two decades ago. However, as the declaration demonstrates, the tank and gas pumps were in a safe operating condition in 1983 -- four years after the Garcia/Gallegos petitioners were involved at the site.


Given this information, we believe the legal assertions in our letter to be sound (i.e., that petitioners cannot be held responsible under existing Water Board law absent some demonstrable evidence that they were owners or operators at the time contamination was discovered). Further, I believe this action to be consistent with recent guidelines promulgated by the State Board concerning who should be named as responsible parties.

I, again, wish to apologize for the misstatement in my letter and any hardship which resulted therefrom. As most of you have been informed, at the time my letter was drafted, I was operating under the assumption that William Hand had provided the documents to the Regional Board as he had been instructed. Unfortunately, he apparently did not. For what it's worth, appropriate disciplinary action has been taken with regard to Mr. Hand's malfeasance.

If you have any comments or questions, please feel free to contact me.

Very truly yours,

LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/ach
Enclosure

COPY

STATEMENT OF WILLIAM GRITZUK
SAN LEANDRO CALIF.^R

^R

As far back as early 1972 I had wanted to establish my retail used car sales business at the corner of E. 14th St and Ashland Ave. in San Leandro, Calif. I had seen the corner property operating continuously as a gasoline service station. I knew the service station had been there several years operated by or under Seaside Oil Company. Later in 1972 I knew I had to relocate my business, so in Sept 1972 I approached the land owner Mrs. Beatrice Gallegos and her husband Bernard Gallegos about leasing the service station property for retail sales of used cars.

I remember Seaside Oil Co. occupied the property for several years and operated in sales of gasoline and petroleum products either directly or under sub-tenents.

When I took over the station on Sept. 15, 1972 it had been rented and occupied less than one year by two partners named Thorpe and Phiffer. They sold gasoline and petroleum products and repaired Volkswagen automobiles. About two or three months after they left one of the partners (Mr. Thorpe) returned and removed about 50 gallons of gasoline from the tanks and took it with him. I did not buy at wholesale nor sell at retail or otherwise any gasoline and petroleum products. My principle and only business interests was sales of used cars.

I remained tenent of Mrs. Gallegos and her son Gregg Garcia from Sept. 1972 until after sale of the property on April 3, 1979. I continued as tenent under ownership of Mr. Jerry and Mary Petsas until May or June 1983.

From my experiences around and on the service station property I knew that the underground tanks and the gasoline pumps were in safe operating conditions. Never in all the years did I receive or hear of any information, news, report or even an inkling of dangerous or pollution discharge from the underground tanks.

I will testify about the safe conditions of the tanks and pumps.

This statement is made as to the information therein to the best knowlege and recollection of the undersigned.

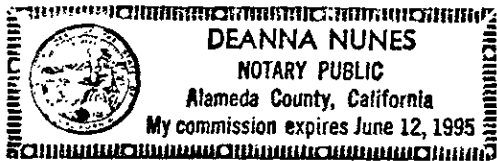
Signed William Gritzuk

Date January 14, 1994

State of California)
)
County of Alameda)

On January 14, 1994 before me, the undersigned notary public, personally appeared William Gritzuk _____ personally known to me -OR- X proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

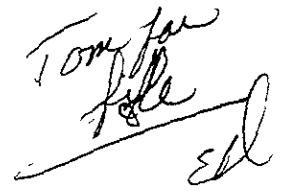
WITNESS my hand and official seal.



Deanna Nunes
Signature of Notary

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404



(707) 576-0757
Telecopier:
(707) 575-0364

February 2, 1994

HANS W. HERB

Arizona
California
Washington

ALAMEDA
HAZARDOUS

94 FEB -3 PM 12:17

Gilbert A. Jensen, Esq.
Senior Deputy District Attorney
ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE
7677 Oakport St., Ste. 400
Oakland, CA 94621

Mr. Edgar Howell
ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
80 Swan Way, RM 200
Oakland, CA 94621

Mr. Steven R. Richie
Mr. Lester Feldman
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
San Francisco Bay Region
2101 Webster St., Ste. 500
Oakland, CA 94612

William Attwater, Esq.
Theodore A. Cobb, Esq.
STATE WATER RESOURCES CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Re: Garcia/Gallegos v. Gilbert Jensen; Alameda County; SWRCB;
BARWQCB; et al.
Solano County Superior Court Case No.: L223317
Our File No. 01-126-01

Gentlemen:

The purpose of this letter is to update you on the status of this lawsuit.

First, we were encouraged recently when we were informed that we were going to be provided with an opportunity to meet with the Regional Water Quality Control Board to dispute the erroneous finding of our clients' liability by the Alameda Local Oversight Program. While I was unable to attend the January 26, 1994 meeting at the Bay Area

Gilbert A. Jensen, Esq.
Mr. Edgar Howell
Mr. Steven R. Richie
Mr. Lester Feldman
William Attwater, Esq.
Theodore A. Cobb, Esq.
February 2, 1994
Page 2

Regional Water Quality Control Board (due to an unexpected emergency), I understand the meeting was productive.

Specifically, I understand the Garcia/Gallegos petitioners were able to provide the Regional Board with a declaration indicating that the tanks had been in operation since they sold the site almost two decades ago. There is no dispute that the Petsases (the current property owners) were the "owners" of the tanks pursuant to Health & Safety Code §25299.20. They provided documents confirming the fact that they purchased the tanks when they purchased the property. The only remaining issue was whether the tank had been operated since the Garcias and Gallegos had sold the property. With this issue finally put to rest, we hope that everyone will realize there is no basis, under current law, to have our clients held liable. Again, it is worthy of note that our clients are not alleged to have caused or permitted any discharges at the site. In fact, the evidence is uncontroverted that neither Mr. Garcia nor Mrs. Gallegos had anything to do with the operation of the site. The sole basis to attempt to hold them responsible was that they were in the chain of title and were erroneously assumed to be strictly liable.

I have also been informed that a formal decision from the Regional or State Board may be forthcoming. Presumably before any formal decision is issued, there will have to be some opportunity to be heard.¹

Although I am disappointed that it took this level of action to cause changes to occur, I am greatly encouraged by the progress that has been made in this matter. Further, I understand even more positive changes will be forthcoming.

Finally, we have repeatedly stressed that it is not our desire to engage in litigation if voluntary compliance can be obtained. One of the true travesties of the current system is that it encourages so much litigation. We have long advocated the use of science and common sense rather than the legal process to resolve disputes of this nature.

Further, we are encouraged that attention is finally being focused on the true issues. That is, we are concerning ourselves with how to actually implement cleanup rather than how we can point more fingers. It is no secret that neither the current property owners, the

¹If the Board is inclined to remove petitioners from the order, petitioners will almost certainly waive any right to a hearing.

Gilbert A. Jensen, Esq.
Mr. Edgar Howell
Mr. Steven R. Richie
Mr. Lester Feldman
William Attwater, Esq.
Theodore A. Cobb, Esq.
February 2, 1994
Page 3

Petsases, nor our clients, a permanently disabled Vietnam veteran and an elderly widow on social security have the financial resources to address this problem even if their liability was ultimately established. Threatening someone with fines and penalties of \$10,000 a day when they do not have the money to perform the cleanup in the first place is highly counterproductive. Further, the only thing these threats do is force people to spend their last few dollars defending themselves rather than addressing the concerns of the environment.

Based on the good progress that has been made thus far and the prudent exercise of restraint by all parties, I believe we are finally on the right course. Hence, true to our word of putting the environment before the lawyers, we intend to hold off on serving our lawsuit. However, this does not mean, nor should it be construed to mean, that we will not aggressively assert our rights in the future should compliance not be maintained. It simply means we want to see the effort, energy and focus put on the environment not on the attorneys.

We will keep you informed of our progress and hope to be able to report a positive resolution of this matter shortly. Meanwhile, if you have any questions, please feel free to contact me at (800) 767-9562.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/tcf

cc: Mr. Gregory J. Garcia
Mrs. Beatrice S. Gallegos
Interested Party Mailing List

Gilbert A. Jensen, Esq.
Mr. Edgar Howell
Mr. Steven R. Richie
Mr. Lester Feldman
William Attwater, Esq.
Theodore A. Cobb, Esq.
February 2, 1994
Page 4

INTERESTED PARTY MAILING LIST

Mary Petsas
c/o Mark Johnson
ITO AND JOHNSON
220 Montgomery St. Suite 1500
San Francisco, CA 94104-9736

CALIFORNIA ENVIRONMENTAL
INSIDER
P.O. Box 884973
San Francisco, CA 94188-4973

CALIFORNIA ENVIRONMENTAL
LAW REPORTER
136 Carlin Road
Conklin, NY 13748-1531

BNA TOXIC LAW REPORTER
1231 25th Street, N.W.
Washington, D.C. 20037

THE DAILY JOURNAL
1390 Market St., Suite 1210
San Francisco, CA 94102

THE RECORDER
625 Polk St., Suite 500
San Francisco, CA 94123

16518 Toledo St.
San Leandro, Ca.

ALCO
HAZMAT

January 27, 1994

94 JAN 31 PM 2:29

Dear Mr. Seery,

yesterday Gerry and I and our attorney Mark Johnson attended the meeting in Oakland that was conducted by Mr. Lester Feldman.

Our problem and concern is that we are definitely out of funds - to date we have not received help from the State Funds or from Mr. Gregory Garcia or his mother Mrs. Beatrice Sallegos. Mr. Garcia and Mrs. Sallegos claim that they will have to go into bankruptcy and can not give us any financial help. They also claim they are not a responsible party to the tank situation, although we purchased the property from them - it was then a used car lot and has been a car lot since we acquired it.

We have received the report from the last monitoring report but we will not be able to continue with the remaining tests that will be required, until we get help from someone. It has been very stressful to us physically as well as financially.

Can you advise us of any channels we might pursue to get some help?

Thank you for any advise or help.

Hope to hear from you soon.

Sincerely yours,

Mary Petras

cc: Mr. Lester Feldman
Mr. Edgar Howell
Mr. Thomas Percock
Mr. Mark Johnson

ALAMEDA COUNTY - ENVIRONMENTAL HEALTH - HAZARDOUS MATERIALS DIVISION

MEMORANDUM

DATE: January 24, 1994

TO: Gil Jensen

FROM: Scott Seery, Hazardous Materials Division

SUBJ: Petsas/Gallegos/Garcia - 16035 E.14th Street, San Leandro
STID 4147

Mark Johnson, the attorney representing the Petsases in this LOP case, informed me last Friday that a meeting has been scheduled between Hans Herb, representing Gallegos/Garcia, Lester Feldman (RWQCB) and himself on January 26 to discuss compliance with the recent January 6, 1994 RWQCB enforcement letter. The noted RWQCB letter was written as an apparent consequence of Gallegos/Garcia's failure to submit a technical work plan for further assessment of the subject site, per the September 27, 1993 RWQCB directive following the August 31, 1993 Pre-Enforcement Review Panel (PERP) decision.

STATE OF CALIFORNIA

PETE WILSON, Governor

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION
2101 WEBSTER STREET, SUITE 500
OAKLAND, CA 94612
(510) 286-1255



January 6, 1994
File No. 2198.17(LF)

RECEIVED
JAN 11 1994

Hans W. Herb
Attorney At Law
50 Santa Rosa Ave., Fifth Floor
Santa Rosa, CA 95404

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPD

SUBJECT: 16035 East 14th Street, Oakland, California

Dear Mr. Herb:

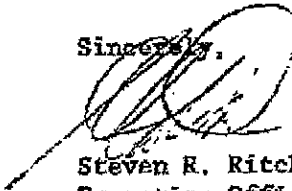
This letter is written as follow-up to this Regional Board's staff request for a technical report under Section 13267 (b) of the California Water Code for the subject site dated September 27, 1993. This letter required your clients, Gallegos and Garcia, as well as the Petsas', as dischargers under the California Water Code, to comply with the technical report request by December 27, 1993. My understanding is that there has been no substantiative attempt towards compliance with this technical report request. Therefore, all of the above named dischargers are in violation of the California Water Code and subject to civil penalties per Section 13268.

This Regional Board staff has received numerous letters relative to this site from you addressed to Alameda County officials, who work in cooperation with this Board on the leaking underground storage tank (UST) program. The non-compliance with the requirements of the UST program for this site resulted in referral of the subject site to this Board for appropriate follow-up enforcement action. Hence, the issuance of the previously discussed "13267 letter". For your information, referral of cases to this Board is contained in the Local Oversight Program (LOP) contract between Alameda County and the State Water Resources Control Board. No meeting, hearing or other procedure currently exists for this activity. You have written about the "Pre-Enforcement Hearing Panel" conducted by Alameda County on this matter. This Panel was created by my staff and Alameda County staff as a method to allow for responsible parties to show why a pending referral should not occur. These panels are simply meetings, a chance to have Regional Board staff involved prior to any referral, and thus I do not believe any special procedures should be established. You have continually referred to these meetings as criminal proceedings without due process. Our intent in creating and supporting this Panel program is to provide one additional chance to resolve these matters at the LOP level, prior to entering the Water Board enforcement process.

You have indicated in your letters that the naming of your clients as responsible parties was not a proper action in this Board's 13267 letter of September 27, 1993. I made this decision based upon the evidence which I and staff reviewed. You have the right to appeal to the State Board both the local agency decision, as well as my decision to name your clients as dischargers, which I understand that you have done. Please understand that an appeal of the Regional Board's action to the State Board does not "stay" the action. However, in the interest of fairness, and in providing complete communication on this matter, I will not initiate enforcement action against the dischargers for 30 days allowing your clients and the other named dischargers another opportunity to discuss the case with my staff. Of course, Alameda County staff will be invited to attend the meeting.

Please contact Lester Feldman of my staff at (510) 286-1332 to arrange a meeting.

Sincerely,



Steven R. Ritchie,
Executive Officer

cc: Mark B. Johnson, attorney for Petsas'
Ed Howell, Alameda County LOP
Gil Jensen, Alameda County DA's Office
Mike Harper, State Water Resources Control Board, LOP Manager
William Attwater, Esq., SWRCB



**ALAMEDA COUNTY
DISTRICT ATTORNEY'S
OFFICE**

**CONSUMER & ENVIRONMENTAL
PROTECTION DIVISION**

FACSIMILE TRANSMITTAL

TO: 569-4757
Fax Phone Number

DATE: _____

NAME: SCOTT

AGENCY: HARVEST

FROM: (510) 569-0505
Fax Phone Number

SENDER: 614

SPECIAL INSTRUCTIONS/COMMENTS: _____

NUMBER OF PAGES: _____

IF PROBLEMS, PLEASE CALL: (510) 569-9281

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION
 2101 WEBSTER STREET, SUITE 500
 OAKLAND, CA 94612
 (510) 286-1255



January 6, 1994
 File No. 1201746
 94 JAN 20 10 17 (LF)
 00 PM 3:00
 HAZMAT
 ALCO

Hans W. Herb
 Attorney At Law
 50 Santa Rosa Ave., Fifth Floor
 Santa Rosa, CA 95404

SUBJECT: 16035 East 14th Street, Oakland, California

S. Leonardo

Dear Mr. Herb:

This letter is written as follow-up to this Regional Board's staff request for a technical report under Section 13267 (b) of the California Water Code for the subject site dated September 27, 1993. This letter required your clients, Gallegos and Garcia, as well as the Petsas', as dischargers under the California Water Code, to comply with the technical report request by December 27, 1993. My understanding is that there has been no substantive attempt towards compliance with this technical report request. Therefore, all of the above named dischargers are in violation of the California Water Code and subject to civil penalties per Section 13268.

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You have indicated in your letters that the naming of your clients as responsible parties was not a proper action in this Board's 13267 letter of September 27, 1993. I made this decision based upon the evidence which I and staff reviewed. You have the right to appeal to the State Board both the local agency decision, as well as my decision to name your clients as dischargers, which I understand that you have done. Please understand that an appeal of the Regional Board's action to the State Board does not "stay" the action. However, in the interest of fairness, and in providing complete communication on this matter, I will not initiate enforcement action against the dischargers for 30 days allowing your clients and the other named dischargers another opportunity to discuss the case with my staff. Of course, Alameda County staff will be invited to attend the meeting.

Please contact Lester Feldman of my staff at (510) 286-1332 to arrange a meeting.

Sincerely,



Steven R. Ritchie,
Executive Officer

cc: Mark B. Johnson, attorney for Petsas'
Ed Howell, Alameda County LOP
Gil Jensen, Alameda County DA's Office
Mike Harper, State Water Resources Control Board, LOP Manager
William Attwater, Esq., SWRCB

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

STID 4147

January 4, 1994

Ms. Beatrice S. Gallegos
4650 No. Palm Avenue
Fresno, CA 93704

Mr. Gregory J. Garcia
344 Rollingwood Drive
Vallejo, CA 94591

RE: 16035 East 14th Street, San Leandro, Alameda County

NOTICE OF VIOLATION

Dear Ms. Gallegos and Mr. Garcia:

On September 27, 1993, the San Francisco Bay Regional Water Quality Control Board (RWQCB) issued a letter in which you were legally designated responsible parties (RP), as defined under Section 2720 of Article 11, Title 23, California Code of Regulations. A copy of this RWQCB letter was attached to covers from this office, sent via certified mail, dated September 29, 1993. Mr. and Mrs. Petsas were also named as co-responsible parties with notice served in the same fashion.

The cited September 27 RWQCB letter requests, under authority of California Water Code Section 13267(b), the submittal of a work plan, among others, for the further assessment of soil and ground water pollution associated with leaks from the underground storage tanks (UST) formerly located at this site. This work plan was due within 90 days, on December 27, 1993. This date has since passed, and no work plan has been submitted on your behalf.

This office had hoped that you would have taken the opportunity during this 90 day period to open channels of communication with your co-responsible parties, the Petsases, to pursue a joint investigation. We understand that this has not occurred. For your information, the Petsases, at the request of their attorney, were recently granted a 60 day extension to the due date for work plan submittal after demonstration of their intent and desire to fulfill their responsibility to complete the assessment of the site. It is unfortunate that such intent has not been communicated to this agency on your behalf.

Ms. Gallegos and Mr. Garcia
RE: 16035 E. 14th Street, San Leandro
January 4, 1994
Page 2 of 2

Please be advised that California Water Code Section 13267(b) provides for fines of up to \$1000 per day of delinquency. Please be further advised that your case has been referred to the Alameda County District Attorney's Office for enforcement of the RWQCB request for technical reports.

Please contact me at 510/271-4530 should you have any questions about the content of this letter.

Sincerely,

ORIGINAL SIGNED

Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

cc: Rafat A. Shahid, Assistant Agency Director
Gil Jensen, Alameda County District Attorneys Office
Edward Laudani, Alameda County Fire Department
Steven Ritchie, RWQCB
Mark Johnson, Esq.
Hans Herb, Esq.

P 062 128 326

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

Sent to	Gregory Garcia	\$
Street and No.	344 Rollingswood Drive	
City, State and Zip Code	Vallejo, CA 94591	
Postage		
Certified Fee		
Special Delivery Fee		
Registered Delivery Fee		
Additional charges at showing to origin and Post Department		
Postage, Fee of postage to origin Date of receipt of delivery		
TOTAL Postage and Fees		\$
Postmark or Date		

PS Form 3800 JULY 1993

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
 Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge)
 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Gregory Garcia 344 Rollingwood Drive Vallejo, CA 94591	4. Article Number P 062 128 326
5. Signature <input checked="" type="checkbox"/> Address	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
6. Signature <input type="checkbox"/> Agent X	Always obtain signature of addressee or agent and DATE DELIVERED . 8. Addressee's Address (ONLY if requested and fee paid)
7. Date of Delivery JAN 14 1994	

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

<p>In Re The Property Known As :)) 16035 East 14th Street) San Leandro, CA 94578) _____)</p>	<p>Proof of Service of Notice of Violation</p>
--	---

I Scott Seery, do hereby certify that I served Beatrice S. Gallegos with a copy of the attached **Notice of Violation** by certified mailer # P 062 128 325.

Dated: 1-4-94 _____
(Signature)

PS Form 3800, June 1987

<p>Return Receipt showing to whom and Date Delivered Return Receipt showing to and Address of Delivery FOIA Postage and Fees Postmark or Date</p>	<p>Certified Fee Special Delivery Fee Restricted Delivery Fee Return Receipt showing to whom and Date Delivered Return Receipt showing to and Address of Delivery FOIA Postage and Fees Postmark or Date</p>
--	--

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

P. 062 128 325

Sent to Beatrice S. Gallegos
 Street and No. 4650 N. Palm Ave
 P.O. State and ZIP Code Fresno, CA 93704
 Postage \$

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

STID 4147

December 27, 1993

Mr. Mark Johnson
Ito and Johnson
Mills Tower, Suite 1500
220 Montgomery Street
San Francisco, CA 94104-9736

RE: 16035 E. 14th STREET, SAN LEANDRO

Dear Mr. Johnson:

Thank you for your December 23, 1993 letter requesting a 60 day extension to the due date for submittal of a soil and water investigation (SWI) work plan. As you are aware, this work plan was requested in the September 27, 1993 San Francisco Bay Regional Water Quality Control Board (RWQCB) letter officially presenting the legal designation of "responsible party" (RP), following the August 31, 1993 Pre-Enforcement Review Panel. Your clients, Jerry and Mary Petsas, were named as RPs by the RWQCB in the referenced letter, as were Beatrice S. Gallegos and Gregory J. Garcia.

Your request for a 60 day extension has been granted to your clients, Mr. and Mrs. Petsas. Hence, the SWI work plan is due for submittal by February 28, 1994. As always, should you have any questions, please call me at 510/271-4530.

Sincerely,

Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

cc: Rafat a. Shahid, Assistant Agency Director
Gil Jensen, Alameda County District Attorney's Office
Steve Ritchie, RWQCB
Jim Ferdinand, Alameda County Fire Department
Mr. and Mrs. Petsas

ALCO
HAZMAT
93 DEC 27 PM 12:14

ITO AND JOHNSON
ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

(415) 362-3503
(415) 989-1137 FAX

December 23, 1993

Mr. Scott Seery
Alameda County Health Agency
Department of Hazardous Materials,
80 Swan Way, Room 200
Oakland, CA 94621

Re: 16035 E. 14th Street, San Leandro, California
LOP Site ID # 4147

Dear Mr. Seery:

In its September 27, 1993 letter, the California Regional Water Quality Control Board ("RWQCB") identified Mrs. Beatrice Gallegos, Mr. Gregory J. Garcia and Mr. and Mrs. Jerry Petsas as responsible parties for the cleanup of the site located at 16035 East 14th Street, San Leandro, California. Additionally, the RWQCB requested the responsible parties to submit "a work plan to define the lateral and vertical extent of pollution in soil and groundwater" at the site.

During the past two months, Mr. and Mrs. Jerry Petsas have repeatedly requested that Mr. Garcia and Mrs. Gallegos cooperate in complying with the RWQCB's requests. Mr. Garcia and Mrs. Gallegos have refused to cooperate. Because negotiations have not been as successful as anticipated and Mr. and Mrs. Petsas desire to cooperate with the RWQCB, they request a sixty day extension in which to comply with the requests stated in the RWQCB's September 27 letter.

From our informal discussions, I understand that a request to your office is the proper means to obtain an extension. If there is any additional information you need, please contact me. Thank you for your assistance and best wishes for the

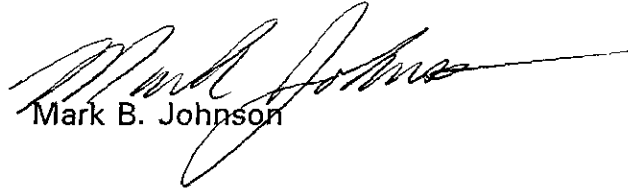
Scott Seery
December 23, 1993

Page 2

New Year.

Very truly yours,

ITO AND JOHNSON



Mark B. Johnson

cc: Mr. and Mrs. Petsas



Alameda County
District Attorney's Office
John J. Meehan, District Attorney

December 20, 1993

Hans W. Herb
Attorney at Law
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

Re: People v Garcia, Gallegos and Petsas RWQCB 01-1164 & 2198.17, LOP 4147

Dear Mr Herb:

This office is in receipt of your latest correspondence in the above matter dated December 17, 1993. We feel compelled to respond to some erroneous assumptions contained in this letter, which, if not corrected, could be potentially very harmful to the interests of your clients.

On September 27, 1993 the San Francisco Bay Regional Water Quality Control Board issued you clients together with co-responsible parties Petsas, a legally binding request for environmental protection actions within 90 days pursuant to Water Code Section 13267 (b). The order clearly indicates that the Water Code, and not the Health and Safety Code, as recited in your letter, was the basis of the RWQCB action. This self executing statutory process will be enforced by this office. It is an act of the Regional Board and not the State Water Resources Board. I am sure you are aware that this action is a specific enforcement proceeding running to the jeopardy of your clients and the Petsas which cannot be stayed by policy appeals to local, state or federal political bodies which you cite in your most recent letter.

The office of the District Attorney is required to enforce the laws of the State of California in an independent fashion which does not allow for the kinds of policy input which your letter suggests. We apply the evidence which is brought to us, to the law, in thousands of cases each year, to make independent prosecutorial decisions. Such a decision has been arrived at in the case of your clients. We suggest you use the protections guaranteed your client by the law, to protect their interests, and are concerned that you seem to be relying on other issues in this case.

Very truly yours,

JOHN J. MEEHAN
District Attorney

By: 
Gilbert A. Jensen
Senior Deputy District Attorney

JJM:GAJ:gaj

cc: Mark B. Johnson, Attorney at Law

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

December 17, 1993

(707) 575-0757
Telecopier:
(707) 575-0384

VIA FACSIMILE AND U.S. MAIL

HANS W. HERB

Steven R. Rickie, Executive Officer
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612

Gilbert A. Jensen, Esq.
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALAMEDA
7677 Oakport Street, Suite 400
Oakland, CA 94621

Mr. Scott Seery
ALAMEDA COUNTY HEALTH DEPARTMENT
800 Swan Way, Suite 200
Oakland, CA 94621

Re: RWOCB File 01-1164 and 2198.17
Site 16035 East 14th Street, San Leandro, CA
Our Client: Garcia/Gallegos
Our File No: 01-126-01

Gentlemen:

I am writing to update the status of the above-referenced matter.

As I am sure you are all aware, the Governor's office has appointed a special task force to determine how to establish a proper dispute resolution and appeal process for local over-site programs. I understand from conversations with Mr. McDonald at the State Board, as well as written communications from the office of Mr. Pettit (the SWRCB Executive Officer), that the task force will be completing its work early in the first quarter of 1994.

At that time, we understand recommendations will be submitted on how to address the inconsistencies in the handling of matters between local agencies and the State Board. It is our understanding that all appeals, state wide, have been put on hold until the task force determines the proper forum for appeals and the procedures which will be followed.

Mr. Steven R. Richie
Gilbert A. Jensen, Esq.
Mr. Scott Seery
December 17, 1993
Page 2

Second, we have been working actively with the Alameda County Board of Supervisors as to how to deal with the local issues involving the Health Department and District Attorney's office. I understand that two members of the Board of Supervisors, Supervisor Carson and Supervisor Perata, have indicated that the Board of Supervisors is willing to intervene and assist in resolving this problem on the local level to the extent possible.

Unfortunately, as we read Health and Safety Code 8525297.1(d)(3) and (h), as well as Health and Safety Code 8525299.37(e),(f), it appears there may be nothing immediate the local Board can legally do. As you know, the Health and Safety Code could not be more clear that an appeal of an Order issued by a local agency must proceed along the detailed procedure set forth in the code sections referred to above. Since the State Board has not taken any action on the Garcia/Gallegos petition at this point, we believe there is nothing the Board of Supervisors can do other than to make sure that individual employees are restrained from interfering with the legal process. Since we understand everyone has voluntarily agreed to wait for proper direction from the Governor's task force and the State Board, we assume that the Board of Supervisors' intervention at this time will be unnecessary.

I am please that this issue appears to be on the way to a rational and common-sense solution. Frankly, we are ecstatic with the positive responses which have arisen out of this situation. As I am sure you know, this event, in part, caused the State Board to implement a state-wide priority ranking system for the cleanup of sites. The unreasonable hardships which were being placed on individual property owners by arbitrary, capricious and unscrupulous staff actions have been curtailed. Further, through efforts of this office and the Environmental Resource Council, streamlining of the underground tank cleanup program has been greatly expanded. With new information brought to the table by the California and U.S. Environmental Protection Agencies and the correction of erroneous information which had been promulgated by uninformed regulators, we are actually beginning to see cleanups moving forward.

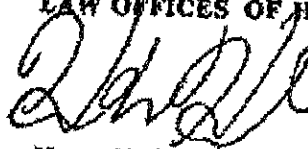
Most important to me, as an American, is the fact that due process is finally being added to the cleanup system. The egregious actions in this case got the attention of environmental officials throughout the State, and indeed the Country. It caused even the most ardent environmentalist to question whether the actions should have been condoned. We are glad to see the system working and a rational, common-sense balance being put into practice.

Mr. Steven R. Richie
Gilbert A. Jensen, Esq.
Mr. Scott Seery
December 17, 1993
Page 3

Our goal is, and always has been, to cleanup sites, not to see money frivolously wasted on lawyers and legal fees. By establishing a system that is fair and reasonable, effort, energy and expense can now be spent where it is truly needed --cleaning up contaminated sites.

We are glad that we have been able to be of service in this matter and that we are well on our way toward achieving sound and common-sense solutions. We applaud the efforts of all of you who assisted in this process. If you have any questions or comments, please contact me at 800-767-7692.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/tcl

cc: Interested Party Mailing List

William Attwater, Esq.
Office of Chief Counsel
STATE WATER RESOURCE CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Mary Petsas
c/o Mark Johnson
ITO AND JOHNSON
220 Montgomery St. Suite 1500
San Francisco, CA 94104-9736

CALIFORNIA ENVIRONMENTAL
INSIDER
P.O. Box 884973
San Francisco, CA 94188-4973

CALIFORNIA ENVIRONMENTAL
LAW REPORTER
136 Carlin Road
Conklin, NY 13748-1531

BNA TOXIC LAW REPORTER
1231 25th Street, N.W.
Washington, D.C. 20037

THE DAILY JOURNAL
1390 Market St., Suite 1210
San Francisco, CA 94102

THE RECORDER
625 Polk St., Suite 500
San Francisco, CA 94123



**ALAMEDA COUNTY
DISTRICT ATTORNEY'S
OFFICE**

**CONSUMER & ENVIRONMENTAL
PROTECTION DIVISION**

FACSIMILE TRANSMITTAL

TO: 569-4757
Fax Phone Number

DATE: 12-20-93

NAME: SCOTT BEERY

AGENCY: _____

FROM: (510) 569-0505
Fax Phone Number

SENDER: GIL JENSEN

SPECIAL INSTRUCTIONS/COMMENTS: _____

NUMBER OF PAGES: 12

IF PROBLEMS, PLEASE CALL: (510) 569-9281

CONSUMER & ENVIRONMENTAL PROTECTION DIVISION, 7677 OAKPORT STREET, #400, OAKLAND, CA 94621

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

December 17, 1993

(707) 576-0757
Telecopier:
(707) 575-0364

VIA FACSIMILE AND U.S. MAIL

HANS W. HERB

Steven R. Richie, Executive Officer
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
San Francisco Bay Region
2101 Webster Street, Suite 500
Oakland, CA 94612

Gilbert A. Jensen, Esq.
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ALAMEDA
7677 Oakport Street, Suite 400
Oakland, CA 94621

Mr. Scott Seery
ALAMEDA COUNTY HEALTH DEPARTMENT
800 Swan Way, Suite 200
Oakland, CA 94621

Re: RWQCB File 01-1164 and 2198.17
Site 16035 East 14th Street, San Leandro, CA
Our Client: Garcia/Gallegos
Our File No: 01-126-01

Gentlemen:

I am writing to update the status of the above-referenced matter.

As I am sure you are all aware, the Governor's office has appointed a special task force to determine how to establish a proper dispute resolution and appeal process for local over-site programs. I understand from conversations with Mr. McDonald at the State Board, as well as written communications from the office of Mr. Pettit (the SWRCB Executive Officer), that the task force will be completing its work early in the first quarter of 1994.

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Mr. Steven R. Richie
Gilbert A. Jensen, Esq.
Mr. Scott Seery
December 17, 1993
Page 2

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Petras
16305 E. 14th
S. Leandro

12/16/93

MEMO to file:

I spoke w/ Mark Johnson today, attorney for the Petras. Apparently he was not aware that the Sept. 27, 1993 RWQCB letter designating RPs and requesting technical reports/work plan was requesting any additional assessment work to be done, necessitating a work plan. I explained the PSA, SWI, CAP process and sequence, indicating that the cited RWQCB letter was requesting what amounts to a SWI work plan. The extent of the plume needs to be defined.

He said that he had not been contacted by Gallegos/Garcia's attorney. I suggested that this may be the right time, as the 90 day submittal deadline approaches (~Dec. 26) and the DA's office has been given the "green light" to pursue enforcement action if need be. He said he was going to immediately contact Mr. Herb, and that he would inform me by early next week re: his progress.

I said I would grant an extension if needed.

SAS

Mark Johnson called back after he spent ~ hour speaking w/ Hans Herb. His impression is that ~~the~~ Gallegos/Garcia haven't the \$\$ to move on the project. He told me, incidently, that Herb told him that Garcia was selling his car to pay attorney fees. (I wonder where Herb is with his appeal/petition with the SWRCB?)

SAS

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

(707) 576-8757
Telecopier:
(707) 575-0364

November 4, 1993

HANS W. HERB

ALAMEDA COUNTY BOARD OF SUPERVISORS

Ms. Gail Steele
Mr. Keith Carson
Mr. Don Perata
Mr. Edward R. Campbell
Ms. Mary King
1221 Oak Street, Suite 536
Oakland, CA 946112

RECEIVED
NOV 08 1993

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPD

John J. Meechan, Esq.
ALAMEDA COUNTY DISTRICT ATTORNEY
7677 Oakport St., Ste. 400
Oakland, California

RE: Alameda County Health Care Services Agency
Garcia/Gallegos
Site: 160 East 14th St., Oakland, California
Our File No. 01-126-01

Ladies & Gentlemen:

I am writing to request your assistance with a matter of great concern to me and the 22,500 citizens of California faced with the devastating financial and emotional impact of the high cost of cleanup from leaking underground storage tanks.

Specifically, despite my repeated requests, all of my polite requests for even a simple letter from the Alameda County District Attorney's Office have gone unanswered. Therefore, I am asking that you please instruct your Assistant Deputy District Attorney, Gil Jensen, to fulfill his role as a public servant by responding to a legitimate inquiry by a tax-paying citizen.

If, for any reason, you are unable to persuade Mr. Jensen to answer my letters, I will have no alternative other than to bring this matter to the attention of other elected officials in an attempt to achieve compliance.

ALAMEDA COUNTY BOARD OF SUPERVISORS
ALAMEDA COUNTY DISTRICT ATTORNEY
November 4, 1993
Page 2

BACKGROUND

By way of background, we represent Beatrice Gallegos and Greg Garcia. In the 1960s, Mrs. Gallegos, a retired citizen existing on social security, and her son Greg, a permanently disabled Vietnam veteran, inherited a former gasoline service station located on East 14th Street in San Leandro. In 1977, after Mr. Garcia returned from Vietnam, the property, which had been held in trust for him as a minor, was sold by the trustee to Mr. and Mrs. Petsas. The Petsases operated a used car lot and automobile repair facility on the property. At the time of the sale, two underground storage tanks and two pumps existed on the property. The sale was "as is" with full disclosure of all defects. The tanks were in good working order and were in use by a tenant at the time of the sale.

The underground storage tanks had previously been utilized by Seaside Oil Company, which leased the site from Mrs. Gallegos and Mr. Garcia. At no time did Mrs. Gallegos or Mr. Garcia ever operate any business on the site nor did they use the tanks. They were merely passive land owners, who leased their property.

In 1993, fourteen years after they were last involved with the property, Mrs. Gallegos and Mr. Garcia were informed by the Alameda County Health Care Services Agency that they were responsible for a potential half-million dollar cleanup from the underground storage tanks previously used at the site. This news was devastating, as one can imagine, to a retired social security recipient and a permanently disabled Vietnam veteran.

It was particularly troublesome since, at the time Mrs. Gallegos and Mr. Garcia owned the site, it was in full compliance with all state and federal governmental regulations. In fact, at the time the Garcia/Gallegos parties sold this site, no underground storage tank laws existed. In fact, it would be almost half a dozen years before any laws governing the topic would finally be implemented.

Nevertheless, the Garcia/Gallegos have been vigorously pursued by the Alameda County District Attorney's Office in an attempt to force them to pay the Alameda County Health Care Services Agency and the District Attorney more than \$100 per hour for the privilege of being harassed. The entire concept is unconscionable and must be dealt with promptly to avoid making a mockery of the free society in which we live.

Ironically, the State of California through its Environmental Protection Agency (EPA) actually agrees with the Garcia/Gallegos and contends that Alameda County has no business interfering with a program administered by the State of California. However, equally ironic is the fact that the Alameda County District Attorney's Office and Health Care Services

ALAMEDA COUNTY BOARD OF SUPERVISORS
ALAMEDA COUNTY DISTRICT ATTORNEY
November 4, 1993
Page 3

Agency have refused to comply with any of the State-wide laws or regulations, since they appear to want to keep all of the "reward" money for themselves.

Despite repeated requests that the District Attorney's office provide the Garcia/Gallegos with some shred of legal authority for this "witch-hunt," no response has been received.

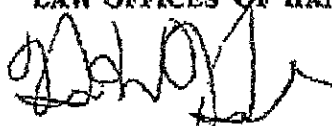
In fact, we understand that the Alameda County District Attorney's Office has refused to speak to anyone, including the media, about the lack of legal authority for the conduct in which it is engaging. (The D.A. even refuses to give information to the legal papers about why he thinks he has the authority to overrule the Garcia/Gallegos petition to the State Water Resources Control Board.)

The purpose of this letter is to request your assistance in the following matters:

- (1) We ask that you require your employees to promptly respond to legitimate requests for information by citizens regarding the County's conduct; and,
- (2) We also ask that this matter be set on the agenda as soon as possible. Further, we ask that you not execute any contracts with the State over how similar cases will be dealt with until a full inquiry is conducted.

Should you have any questions or comments, please do not hesitate to contact me at (800) 767-9562.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/mca

cc: Interested Party Mailing List

William Attwater, Esq.
Office of Chief Counsel
STATE WATER RESOURCE CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Gil Jenson, Esq.
District Attorney's Office
COUNTY OF ALAMEDA
1225 Fallon #100
Oakland, CA 94612

Mary Petsas
c/o Mark Johnson
JOHNSON & JOHNSON
44 Montgomery St. Suite 4100
San Francisco, CA 94104

CALIFORNIA ENVIRONMENTAL
INSIDER
P.O. Box 884973
San Francisco, CA 94188-4973

CALIFORNIA ENVIRONMENTAL
LAW REPORTER
136 Carlin Road
Conklin, NY 13748-1531

BNA TOXIC LAW REPORTER
1231 25th Street, N.W.
Washington, D.C. 20037

THE DAILY JOURNAL
1390 Market St., Suite 1210
San Francisco, CA 94102

THE RECORDER
625 Polk St., Suite 500
San Francisco, CA 94123

RAC

Service Since 1966

ROBERT A. COOK & STAFF, INC.

November 4, 1993

ALAMEDA COUNTY HAZARDOUS
MATERIALS DIVISION
80 Swan Way, Room 200
Oakland, CA 94621
Attn: Scott Seesy

Re: Site 16035 East 14th Street, San Leandro

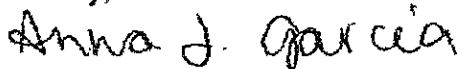
Dear Mr. Seesy:

We have received a request from the Law Offices of Hans W. Herb to come out to your office and copy the file pertaining to 16035 East 14th Street in San Leandro.

Per our phone conversation, we are sending a copier to copy this file on Friday, November 5, 1993, at 2:00 p.m.

Thank you for your cooperation in this matter and we apologize for the short notice.

Sincerely,



Anna J. Garcia

Corporate Office:

2025 Gateway Pl., Ste. 330
San Jose, CA 95110
[408] 441-7000
FAX [408] 441-7070

Branch Offices:

3750 Auburn Blvd., Ste. B
Sacramento, CA 95821
[916] 483-7030
FAX [916] 483-7037

3438 Mendocino Ave., Ste. A
Santa Rosa, CA 95403
[707] 528-2300
FAX [707] 528-8047

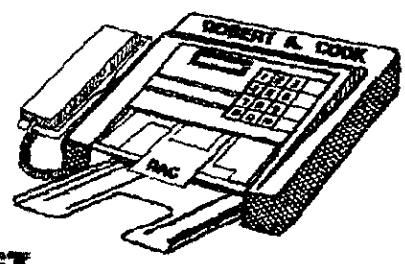
1320 E. Shaw Ave., Ste. 124
Fresno, CA 93710
[209] 224-0909
FAX [209] 224-1122

5730 Uplander Way, Ste. 203
Culver City, CA 90230
[310] 837-7111
FAX [310] 837-6521

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Service Since 1966

ROBERT A. COOK & STAFF, INC.
2025 Gateway Place, Suite 330
San Jose, CA 95110
Telephone: (408) 441-7000
Telecopier: (408) 441-7070



TELECOPIER COVER SHEET

Date 11/4/93 Page 1 of 2

Please deliver to: Scott Seasy

Fax: 610 569-4757

From: Anna Garcia

Ext: 259

Subject: copy file

<input type="checkbox"/>	PER YOUR REQUEST	<input type="checkbox"/>	FOR YOUR APPROVAL
<input checked="" type="checkbox"/>	FOR YOUR INFORMATION	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	PLEASE REPLY	<input type="checkbox"/>	

Message: _____

93 NOV -2 AM 10: 58

16518 Toledo St.
San Leandro, Ca.
Oct. 26, 1993

Dear Mr. Avery,

I am enclosing a copy of the letter that I am
mailing to Mr. Loui Casias, at the State Water
Resource Control Board.

Mary, Petrea

16518 Toledo St.
San Leandro, Ca.
Oct. 26, 1993

Dear Mr. Baslar,

Enclosing a check for \$509.⁸⁸ for half payment of the 10-19-93 bill for site # 4147.

I cannot pay the full amount - we are financially struggling from the monies we have spent to remove the underground tanks, dispose of the dirt and now contend with the expenses of the monitoring wells.

We did not install the underground tanks, never, ever used them. I feel that the parties that installed them and benefitted from the use of them for years, then sold the property to us, should be held accountable for the balance of this bill.

To date, they have not offered to help with the clean up or any other of the expensive processes we have been saddled with.

Yours truly,

Wang Peterson

STATE WATER RESOURCES CONTROL BOARD

DIVISION OF CLEAN WATER PROGRAMS

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



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

93 OCT -8 PM 12: 50

OCT 07 1993

CERTIFIED MAIL NO. P 088 542 572

Mr. Hans W. Herb, Esq.
Attorney at Law
50 Santa Rosa, Avenue, 5th Floor
Santa Rosa, CA 95404

Dear Mr. Herb:

PETITION, UNDERGROUND STORAGE TANK LOCAL OVERSIGHT PROGRAM, SITE NO. 4147,
SONOMA COUNTY, FILE NO. 93-110

This is in response to the Addendum to the Petition dated July 15, 1993 submitted on behalf of Beatrice Gallegos and Gregory Garcia (Petitioners). This addendum was submitted in response to our letter dated June 15, 1993. We will address the issues in the order presented in this addendum.

Our letter dated June 15, 1993 was an attempt to mediate the petition or to resolve it informally and in no way was intended to prevent a hearing by the State Water Board if such a hearing is appropriate. The petition procedures adopted by the State Water Board do have provisions to dismiss a petition at any time if the petition is withdrawn or the petition fails to raise substantial issues that are appropriate for review.

Section 6991(3) of 42 U.S.C. (RCRA) defines the terms "owner" and "operator". Sections 6991b(h)(6)(a), 6991b(h)(7)(A) and 6991b(h)(4) make owners and operators liable for corrective action and for local oversight costs.

As we explained in our June 15, 1993 letter, Petitioners have been identified as responsible parties because they were the last owners of the tanks before the discontinuation of their use. As you indicate in the original petition, a number of subleasees operated the tanks after Seaside Oil Company vacated the property and prior to Petitioners selling the property to Mr and Mrs. Petsas in 1979.

Unless there is an express agreement in a lease to the contrary, any improvements constructed on the leased premises are the property of the landlord at the termination of the lease (*Gett v. McManus* (1873) 47 Cal. 56; *Long v. Keller* (1980) 104 Cal. App 3d 312, 321). Also, under California law, a tenant has a statutory right to remove certain fixtures, known as trade fixtures, at the end of the lease (Cal. Civil Code Section 1019). Once the term of the lease ends and the tenant surrenders the property, trade fixtures not previously removed are deemed abandoned and become the property of the landlord (*Rinaldi v. Goller* (1987) 48 Cal. 2d. 276, 282; *Wolfen v. Clinical Data Inc.* (1993) 16 Cal. App 4th 171, 178 n. 2.). Therefore, at the end of the lease, when the tanks were abandoned, the property owner would become the owner of the tanks.

Mr. Hans W. Herb, Esq.

-2-

Unless we hear from you to the contrary, we will assume you wish to proceed with the petition. You will be notified of further action by the State Water Board on this matter. If you have any questions, please telephone Lori Casias at (916) 227-4325.

Sincerely,



for Mike Harper, Chief
Local Oversight Program

cc: Beatrice S. Gallegos
Gregory J. Garcia
Mary Petsas
Scott Seery, Alameda County
Dorothy Jones, State Water
Board Legal Counsel

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SAN FRANCISCO BAY REGION

2101 WEBSTER STREET, SUITE 500

OAKLAND, CA 94612

(510) 286-1255



93 SEP 28 PM 3: 13

Jerry and Mary Petsas
16518 Toledo Street
San Leandro, CA 94578

September 27, 1993
File: 01-1164 & 2198.17

Beatrice S. Gallegos
4650 No. Palm Avenue
Fresno, CA 93704

Gregory J. Garcia
344 Rollingwood Drive
Vallejo, CA 94591

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 Mr. and Mrs. Petsas, Mr. Gallegos, and Mr. Garcia:

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 16035 E. 14th Street, San Leandro, from an underground storage tank release. 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 ACHD staff were unsuccessful in eliciting your co-operation in resolving these issues through normal correspondence.

A Pre-Enforcement Review Panel was held at the ACHD offices on August 31, 1993, attended by Mr. Richard Hiett 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.

Enforcement Panel Meeting
Page 2 of 2

As a responsible party, you are required to conduct both soil and groundwater investigations to determine the extent of the environmental contamination resulting from the release. You are also required to perform a minimum of monitoring and sampling of the wells presently located at the site, and submit summary reports documenting the results of this work. Therefore you are requested to submit technical reports within 90 days of the date of this letter specifically addressing the following numbered items:

- 1) A work plan to define the lateral and vertical extent of pollution in soil and groundwater;
- 2) Technical summary reports due quarterly, summarizing the results of quarterly groundwater monitoring and sampling.

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.

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. Scott Seery at ACHD. Please inform Mr. Seery 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. Seery, of ACHD, at (510) 271-4530.

Sincerely,



Steven R. Ritchie
Executive Officer

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

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)
Mary Petsas)
16035 East 14th Street)
San Leandro, California)
_____)
Notice of Official Action
By the San Francisco Bay
Regional Water Quality
Control Board

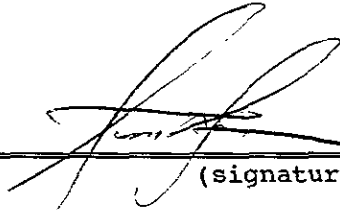
Dear Sirs:

The attached **Official Notice of Request for Technical Reports pursuant to Water Code Section 13267(b)** has been forwarded to this office for legal service, and oversight. As the Agency responsible for enforcing the terms of this **Official Action**, all communication should continue to be directed to this office. Please make arrangements to comply by calling me at (510) 271-4530 to coordinate all future activities.

Failure to comply could result in liability for civil or administrative penalties of up to \$1000 per day of delinquency.

I Scott Seery, do hereby certify that I served
Gregory J. Garcia with a copy of the attached **Notice of Official Action by the Regional Board** by certified mailer
P 113 815 053.

Dated: 9-29-93



(signature)



P 113 815 053

Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent to <i>Gregory Garcia</i>	
Street and No. <i>344 Rollingwood Dr.</i>	
P.O. State and ZIP Code <i>Vallejo 94591</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: *SS*
Gregory Garcia
344 Rollingwood Dr.
Vallejo CA 94591

4a. Article Number
P 113 815 053

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
OCT - 8 1993

5. Signature (Addressee)
[Signature]

6. Signature (Agent)
[Signature]

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)	Notice of Official Action
)	By the San Francisco Bay
Mary Petsas)	Regional Water Quality
16035 East 14th Street)	Control Board
San Leandro, California)	
<hr/>		

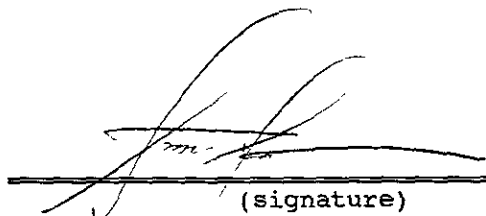
Dear Sirs:

The attached **Official Notice of Request for Technical Reports pursuant to Water Code Section 13267(b)** has been forwarded to this office for legal service, and oversight. As the Agency responsible for enforcing the terms of this **Official Action**, all communication should continue to be directed to this office. Please make arrangements to comply by calling me at (510) 271-4530 to coordinate all future activities.

Failure to comply could result in liability for civil or administrative penalties of up to \$1000 per day of delinquency.

I Scott Seery, do hereby certify that I served Beatrice S. Gallegos with a copy of the attached **Notice of Official Action by the Regional Board** by certified mailer # P 113 815 052.

Dated: 7-28-83



(signature)

SS

113 815 052



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sender <i>Beatrice Gallegos</i>	
Street and No. <i>4650 N. Palm Ave</i>	
P.O., State and ZIP Code <i>Fresno, 93704</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
 - Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to: *SS*
Beatrice Gallegos
4650 N. Palm Ave.
Fresno CA 93704

4a. Article Number
P 113 815 052

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
10-2-93

5. Signature (Addressee)
Beatrice Gallegos

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)	Notice of Official Action
)	By the San Francisco Bay
Mary Petsas)	Regional Water Quality
16035 East 14th Street)	Control Board
San Leandro, California)	
<hr/>		

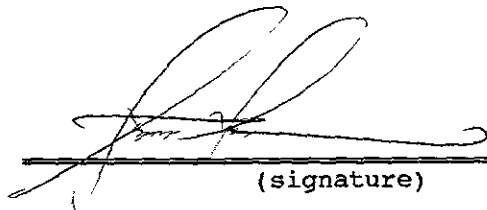
Dear Sirs:

The attached Official Notice of Request for Technical Reports pursuant to Water Code Section 13267(b) has been forwarded to this office for legal service, and oversight. As the Agency responsible for enforcing the terms of this Official Action, all communication should continue to be directed to this office. Please make arrangements to comply by calling me at (510) 271-4530 to coordinate all future activities.

Failure to comply could result in liability for civil or administrative penalties of up to \$1000 per day of delinquency.

I Scott Seery, do hereby certify that I served
Jerry and Mary Petsas with a copy of the attached Notice of
Official Action by the Regional Board by certified mailer
P 113 815 051.

Dated: 9-29-93



(signature)

SS

P 113 815 051



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

PS Form 3800, June 1991

Sent to	
Jerry + Mary Petras	
Street and No.	
16578 Toledo St.	
P.O. State and ZIP Code	
San Leandro 94578	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: SS
 Jerry & Mary Petras
 16578 Toledo St.
 San Leandro CA 94578

4a. Article Number
 P 113 815 051

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

Thank you for using Return Receipt Service.

16518 Toledo St.
San Leandro, Ca.

Sept. 27, 1993

93 SEP 28 PM 3:15

Dear Scott:

We are writing to you in regards to the monitoring wells at 16035 East 14th St. We find that we are in an overwhelming situation, to date we've incurred over \$8,000 for the wells, testing etc., we have an outstanding bill of \$1,939.80. We don't even see an end or light at the end of this "tunnell". We are mentally, physically and financially exhausted.

The removal of the 3 tanks were very costly & we have no way of knowing how much more work and expense will be required to complete the testing of the wells.

We are unable to borrow more money, in addition we lost our rental fees of \$1,000 per month due to the fire at 16039 East 14th St.

We spoke with Jeff from the Tank Protect Engineering and explained our situation & asked him if we can temporarily stop the testing. He suggested that we contact you and see what can be done.

We were hoping to get some help from the state fund or from the former owners who sold us the property. We also have a large outstanding bill to our attorney, Mr. Johnson, who has done wonderful work for us, and we

and hoping that we can pay him soon.

Scott, we hope you can give us some advice & or help on the monitoring situation. At this point, we have no other recourse, we are being honest with you and the Tank Protect people and explaining why we can't continue with the monitoring process. If the testing can be temporarily halted, it would be a great relief to us.

Sincerely yours,

Jerry & Mary Petras

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

September 14, 1993

(707) 576-0757
Telecopier:
(707) 575-0364

HANS W. HERB

Gilbert Jensen, Esq.
Senior Deputy District Attorney
ALAMEDA COUNTY DISTRICT ATTORNEY'S OFFICE
7677 Oakport St., Ste. 400
Oakland, California

RECEIVED
SEP 16 1993

RE: Alameda County Health Care Services Agency
Garcia/Gallegos
Site: 160 East 14th St., Oakland, California
Our File No. 01-126-01

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPD

Dear Mr. Jensen:

I have yet to receive a substantive response from your office concerning any possible legal basis you might have for the "star chamber" you have been conducting in Alameda County.¹ The lack of a response on your part leads me to believe that there is no legal basis for holding such hearings. After all, you are a public servant and were there such authority, you would be duty bound to so advise me and the public you serve as to the basis for your actions.

Separate and apart from your public servant role in this matter, I am extremely concerned about this matter as an attorney, and in particular, a District Attorney. As you know, you are an officer of the court. As I am sure you are aware, acting outside of your authority could subject you to possible disciplinary action. The fact that you are working as a government employee, to my knowledge, is not an established immunity under the State Bar Act for violating the Rules of Professional Conduct. Further, under these rules, you as a District Attorney, are held to a higher standard of care. Your job is to ferret out justice. If the District Attorney's office is involved in an illegal conspiracy to violate citizens' rights, that is a sad commentary on the state of our profession. I certainly hope I am mistaken.

Although you purport to represent both the Regional Water Quality Control Board and the Alameda Health Care Services Agency, our office has received conflicting reports regarding your representation. In particular, our clients in the Garcia/Gallegos action

¹ I think a better description is an auto-de-fe. See attached.

Mr. Gilbert Jensen
September 14, 1993
Page 2

received a Notice of Responsibility from the State Water Resources Control Board purporting to act under the Local Oversight Program contract. I had discussions in Sacramento with Sandra Malos, the Program Administrator, who vehemently assured me that she, not you, was the final arbitrator of decisions concerning actions taken by their contractors. Further, the Regional Water Quality Control Board has counsel, Gary Grimm, who is employed by the State Water Resources Control Board, Office of Chief Counsel. The State Board has no knowledge of you representing the Bay Area RWQCB. We have asked the Board to investigate this matter and report to us as to your legal standing to represent RWQCB. In short, our office is receiving conflicting reports about your authority to represent any agency (other than the District Attorney's Office) in connection with this matter.

In addition, in order to clear this matter up, we are asking the State to audit the billing to the Local Oversight Program. If billing reflects that time spent on the auto-de-fe' is billed to the Local Oversight Program, then we will assume that the Local Oversight Program is the responsible agency and follow the appropriate direction from the Contract Administrator. However, that would obviously raise a very severe issue as to how your time was billed to an LOP Contract if the auto-de-fe' procedure involved was governed by the Regional Water Quality Control Board. In fact, there would be, at a minimum, a billing irregularity, and possibly something much more severe.

Either way, our clients want to set the record straight. They want to know who they are dealing with, under what authority those seeking to sanction them believe they are operating, and to whom they may appeal. Under the facts, as you have explained them, we are in a quandary to figure out who is telling the truth.

I trust you will do me the courtesy and perform your role as a public servant by providing me, in writing, and in detail, the specific factual and legal basis for your belief that you are authorized to act in the manner in which you are acting.


If I do not receive a satisfactory response, we will take further legal action.²

² I can tell you that we have already addressed this issue with the Chairman of the State Water Resources Control Board, who is, I am sure, also anxiously awaiting a reply.

Mr. Gilbert Jensen
September 14, 1993
Page 3

If you have any comments or questions, please feel free to contact me.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/bm

cc: Dan Lungren, Esq.
John J. Meehan, Esq.
Ms. Sandra Malos, SWRCB
Mr. John Caffrey
Special Interested Parties Mailing List

The *Suprema*, as the court became known, was not only feared from its very inception but also perceived as a threat in the sense that no one was entirely sure as to the full extent of its power. With its methods and virtually unfettered powers, the *Suprema* became a power unto itself; not only did the court dissociate itself increasingly from the influence and the intervention of the Curia, but also from the power of the Spanish kings.

Even before the *Suprema* began its activities, the work of the Inquisition had already been associated with some of the most ruthless men in history. Joining this infamous group was Tomás Torquemada who became Grand Inquisitor at the age of eighteen. About 100,000 people were sentenced under his jurisdiction.

It can be said without exaggeration that he was not only the "practitioner" of the Inquisition but also the "theoretician" behind it. His guidelines, which represented a summary of the philosophy and methods of the Inquisition in Spain and elsewhere, soon became an established handbook for the work of the courts. It details the secret workings of the Inquisition, its role as a court of first and last resort for accused heretics, the finality of its irreversible decisions, the immediate excommunication and burning of all who refused to confess their guilt and the penalties of those who did. Thus it sets forth the general procedures of all medieval Inquisitions which were shamelessly carried out by the secular authorities in conjunction with the Church.

Although some of these principles were extended following the spread of the Reformation in Spain, Torquemada's guidelines never lost their authority. The *actus fidei*—in Portuguese the *auto-de-fé* (Spanish: *auto-da-fé*)—soon passed into the language as a byword.

It is evident that under these circumstances, the Inquisition was not only feared but also, very rapidly, came to be hated. In Spain, as previously in other countries, inquisitors met unpleasant deaths. In 1485, for example, Inquisitor Peter Arbueze was murdered in Saragossa Cathedral. Nor did the Spanish clergy ever really fully accept the methods used by the inquisitors, although their reservations were of no avail in bringing about change. The Spanish alliance of "the throne and the altar" proved highly effective; the confiscation of property from heretics provided the king with an appreciable source of revenue. Not only that, but the Inquisition did achieve a kind of peace, albeit uneasy, in the country. The common people grudgingly accepted the activities of the Inquisition, and the *auto-da-fé* became a popular, if gruesome, form of public spectacle.

In many ways, the initial work of the Spanish Inquisition can be explained though not exonerated. Nevertheless, there were—and still are today—many ready excuses as to the necessity for such an institution. It is clear that the complex circumstances on the Pyrenean Peninsula toward the end of the 15th century and at the

beginning of the 16th did not exactly make the task of unification under one government easy, but that fact did not automatically justify all the means that were brought to bear, including the *Suprema* itself. As for the inquisitors themselves, the conduct of Tomás Torquemada can be condemned without hesitation, but the case of another major inquisitor and politician, Francisco Jiménez (Ximénez) de Cisneros, is not so clear-cut. Jiménez was a member of the Minorite Order and had progressed from being Queen Isabella's confessor to being one of her advisers. He was also a man of learning and had extraordinary political abilities which he sought to use in the reform of the Church in Spain. He founded the university in Alcalá which for a long time remained a center of humanistic theology. Jiménez himself, working with other scholars, compiled a polyglot Bible text and had it printed at his own expense. His role as a politician was such an important one that before the government of Charles V took over in Spain, he had been at the head of the government. He was Archbishop of Toledo and a cardinal, and later held office as Grand Inquisitor. He decided the life or death of many guilty or innocent people.



Francisco González Jiménez (Ximénez) de Cisneros (1417–1517). Copperplate engraving by François Edelinck based on a contemporary painting. Staatliche Kunstsammlungen Dresden, Kupferstichkabinett.

William Attwater, Esq.
Office of Chief Counsel
STATE WATER RESOURCE CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Gil Jenson, Esq.
District Attorney's Office
COUNTY OF ALAMEDA
1225 Fallon #100
Oakland, CA 94612

Mary Petsas
c/o Mark Johnson
JOHNSON & JOHNSON
44 Montgomery St. Suite 4100
San Francisco, CA 94104

CALIFORNIA ENVIRONMENTAL
INSIDER
P.O. Box 884973
San Francisco, CA 94188-4973

CALIFORNIA ENVIRONMENTAL
LAW REPORTER
136 Carlin Road
Conklin, NY 13748-1531

BNA TOXIC LAW REPORTER
1231 25th Street, N.W.
Washington, D.C. 20037

THE DAILY JOURNAL
1390 Market St., Suite 1210
San Francisco, CA 94102

THE RECORDER
625 Polk St., Suite 500
San Francisco, CA 94123

bcc:

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID KEARS Agency Director



93 SEP -1 PM 3:40
RAFATA SHAHID, ASST AGENCY DIRECTOR
DEPARTMENT OF ENVIRONMENTAL HEALTH

September 1, 1993

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

Mr. David Deaner
State Water Resources Control Board
Division of Clean Water Programs
2014 T Street, Ste. 130
P.O. Box 944212
Sacramento, CA 94244-2120

RE: SB2004 FUND APPLICATION - PETSAS PROPERTY, 16035 EAST 14TH
STREET, SAN LEANDRO, ALAMEDA COUNTY

Dear Mr. Deaner:

It has come to our attention that an application for SB2004 funds has been submitted to your office on behalf of Mr. and Mrs. Jerry Petsas ("applicants"), owners of the referenced site. We understand that an initial review of the applicants' funding request resulted in it being rejected. Mr. Mark Johnson, council for the applicants, informed me yesterday that an appeal has, or will be, submitted to your office for further reconsideration. Mr. Johnson indicated that he does not expect to hear of a decision regarding this appeal until sometime around March 1994.

Mr. Johnson informed me that the original application was rejected because the tanks at the subject site were not in compliance with the underground storage tank laws as of the established cut off date of January 1, 1990. Our records do not dispute this fact. However, there are several other issues surrounding this apparent noncompliance which we hope your office will additionally consider when re-evaluating the applicants' case.

The applicants purchased the property in March 1979 to supplement their retirement income. A used car lot was reportedly on the site at the time of the property transfer, as continues to the present. There was no service station operating at the site at time of the property transfer, nor has one operated since. The applicants were not openly aware that underground storage tanks (UST) were even present at the site.

During August 1985, the Eden Consolidated Fire Protection District (ECFPD) advised the applicants that the USTs had to be removed, per Alameda County Fire Code Section 79.221. This was the first time the applicants apparently became aware that the USTs were still in place, and that some regulation governed their use, or, in this case, non-use. The applicants did not have the means to remove the USTs at this time. Upon a request from the

Mr. David Deaner
RE: 16035 E. 14th Street, San Leandro
September 1, 1993
Page 2 of 3

applicants and approval from ECFPD, the tanks were capped and a one year extension granted before the tanks were either to be removed or reused. The following year (December 1986) another 8-12 month extension was requested by the applicants. Our records do not reflect that a response from ECFPD to this last request was made.

The Alameda County Environmental Health Department, Hazardous Materials Division (ACDEH), first began implementation of the UST laws and regulations during 1987. An attempt was made to identify all the USTs in our jurisdiction in order to notify tank owners of the requirement to register and monitor their tanks, and to receive an operating permit. Invariably, even with the best intent, certain sites escaped our initial attention. The subject site was apparently amongst the group of tank sites overlooked during this initial registration drive. The ACDEH was never advised of the subject USTs by the ECFPD.

The applicants did not become aware of the state UST regulations until sometime around April 1990. The applicants were advised of their requirement to register the USTs in correspondence from this office dated May 31, 1990. The applicants complied with this request immediately, and submitted registration forms dated June 11, 1990. The applicants were also advised of the need to close the USTs should they not be placed back into service. Once the applicants had the means to perform these closures, they did, commencing in February 1992. Unfortunately, these tanks had leaked, causing marked environmental impact.

Please consider that the applicants were never in the gas station owner/operator "loop." They never operated or purchased fuel for the tanks. They were not recipients of petroleum industry literature. And they were never advised of any requirements beyond the Alameda County Fire Code, until April 1990. Further, the applicants purchased the site before the UST laws were in affect, and before case law established the need for prudent "due diligence" investigations prior to purchasing such properties.

The applicants are, however, a retired couple of modest means faced with tens of thousands of dollars of assessment and potential clean-up costs. They have already spent over \$20,000 on this project. A recently-completed Preliminary Site Assessment identified significant ground water impact, and the need to expand the case into a Soil and Water Investigation and off-site assessment. This work will require liquid assets the applicants simply do not have, and, hence, the work will not proceed at any but a glacial pace.

Mr. David Deaner
RE: 16035 E. 14th Street, San Leandro
September 1, 1993

Clearly, the spirit of the UST cleanup fund was to assist responsible parties finding themselves in the financial predicament in which the applicants are presently found. Our experience has shown that the subject applicants and their story are not unique. Many responsible parties have similar tales to tell.

In closing, we respectfully request that your office consider the mitigating issues associated with the applicants' appeal, rule in their favor, and accelerate the rate at which this appeal is processed and funding provided. Please feel free to contact me at 510/271-4320, or Mr. Scott Seery of my staff at 510/271-4530, to discuss the case in more detail.

Sincerely,



Edgar B. Howell, III
Chief, Hazardous Materials Division

EBH/SOS

cc: Rafat A. Shahid, Assistant Agency Director
Mark Johnson, Esq., council for applicants
files

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

Mary Petsas
16035 East 14th Street, San Leandro 94578)

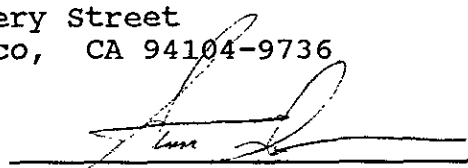
Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on August 31, 1993 at **10:45 a.m.** in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

1. **Beatrice S. Gallegos .**
Gregory J. Garcia
c/o Hans Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

✓ 2. **Mary Petsas**
c/o Mark Johnson
Johnson and Johnson
Mills Tower, Suite 1500
220 Montgomery Street
San Francisco, CA 94104-9736

Dated: August 6, 1993
(Second Mailing)



(signature)

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

)
)
)

Notice of
Pre-Enforcement
Review Panel

Mary Petsas
16305 East 14th
San Leandro, CA 94578

I Scott SEERY, do hereby certify

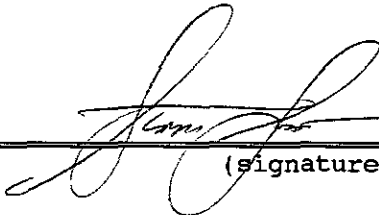
that I served Mary Petsas c/o Mark Johnson

with a copy of the attached Notice of Pre-Enforcement Review

Panel on August 31, 1993 by certified

mailer # P 113 815 030

Dated: Aug. 6, 1993

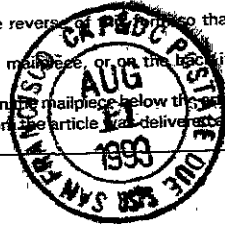


(signature)

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

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I also wish to receive the following services (for an extra fee):

1. Addressee's Address
2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mark Johnson
 Johnson's Johnson
 Mills Tower, Ste. 1500
 220 Montgomery Street
 San Francisco, CA 94104-9736

4a. Article Number
 P 113 815 030

4b. Service Type

Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery:

5. Signature (Addressee)

[Signature]

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent):

[Signature]

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-630 **DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

P 113 815 030



Receipt for Certified Mail

No Insurance Coverage Provided
 Do not use for International Mail
 (See Reverse)

Sent to <i>Mark Johnson</i>	
Street and No <i>220 Montgomery, #1500</i>	
P.O., State and ZIP Code <i>San Francisco, CA 94104-9736</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, June 1991

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

)
)
)

Notice of
Pre-Enforcement
Review Panel

Mary Petsas
16305 East 14th
San Leandro, CA 94578

I Scott Seery, do hereby certify

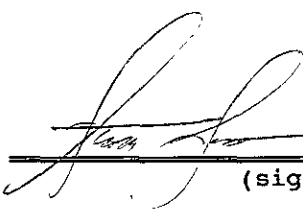
that I served Mary Petsas c/o Mark Johnson

with a copy of the attached **Notice of Pre-Enforcement Review**

Panel on August 31, 1993 by certified

mailer # P 113 815 028

Dated: 7-30-93



(signature)

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mark Johnson
 Johnson & Johnson
 44 Montgomery St., Ste. 4100
 San Francisco, CA 94104

4a. Article Number

P 113 815 028

4b. Service Type

- Registered Insured
- Certified COD
- Express Mail Return Receipt for Merchandise

7. Date of Delivery

8/9/93

5. Signature (Addressee)

Mark Johnson

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 ☆ U.S.G.P.O. : 1992-307-530

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

P 113 815 028



Receipt for Certified Mail

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PS Form 3800, June 1991

Sent to <i>Mark Johnson</i>	
Street and No. <i>44 Montgomery St., Ste. 4100</i>	
P.O. State and ZIP Code <i>San Francisco, CA 94104</i>	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

Mary Petsas
16035 East 14th Street, San Leandro 94578)

Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on August 31, 1993 at **10:45 a.m.** in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

1. **Beatrice S. Gallegos**
Gregory J. Garcia
c/o Hans Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404
- ✓ 2. **Mary Petsas**
c/o Mark Johnson
Johnson and Johnson
44 Montgomery Street, Ste. 4100
San Francisco, CA 94104

Dated: July 30, 1993


(signature)

Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division

In Re The Property Known As :)

Proof of Service of

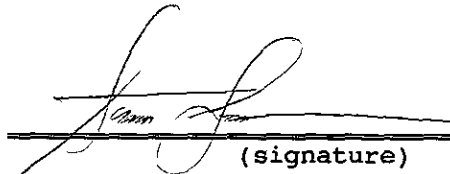
)
)
)

Notice of
Pre-Enforcement
Review Panel

Mary Petsas
16305 East 14th
San Leandro, CA 94578

I Scott SEERY, do hereby certify
that I served Beatrice S. Gallegos and Gregory J. Garcia
c/o Hans Herb with a copy of the attached Notice of
Pre-Enforcement Review Panel on
August 31, 1993 by certified
mailer # P 113 815 029

Dated: 7-30-93



(signature)

SOS

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

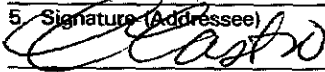
3. Article Addressed to
 Hans Herb
 50 Santa Rosa Ave, 5th Floor
 Santa Rosa, CA 95404

93 AUG -5 PM 4-02

4a. Article Number
 P 113 815 029

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 8-3-93

5. Signature (Addressee)


8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

Thank you for using Return Receipt Service.

PS Form 3811, December 1991 ☆ U.S.G.P.O. 1992-307-530 **DOMESTIC RETURN RECEIPT**

P 113 815 029



Receipt for Certified Mail

No Insurance Coverage Provided
 Do not use for International Mail
 (See Reverse)

PS Form 3800, June 1991

Sent to Hans Herb	
Street and No. 50 Santa Rosa Ave, 5th Floor	
P.O. State and ZIP Code Santa Rosa, CA 95404	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

Mary Petsas
16035 East 14th Street, San Leandro 94578)

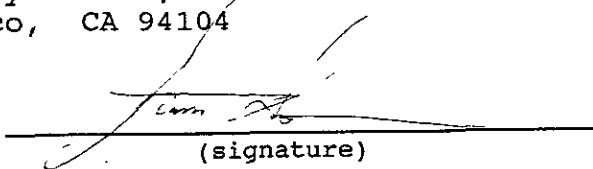
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Gregory J. Garcia
c/o Hans Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

2. **Mary Petsas**
c/o Mark Johnson
Johnson and Johnson
44 Montgomery Street, Ste. 4100
San Francisco, CA 94104

Dated: July 30, 1993


(signature)

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

(707) 576-0757
Telecopier:
(707) 575-0364

August 19, 1993

VIA TELECOPIER (510) 569-0505

Gilbert A. Jenson, Esq.
Senior Deputy District Attorney
Alameda County District Attorney's Office
7677 Oakport Street, Suite 400
Oakland, CA 94621

RECEIVED HANS W. HERB
AUG 23 1993

DISTRICT ATTORNEY
ALAMEDA COUNTY
CEPD

Re: Alameda County Health Care
Services Agency v. Garcia/Gallegos
Site: 16035 East 14th Street, Oakland, California
Our File No.: 01-126-01
Your File No.: Unknown

Dear Mr. Jenson:

This will acknowledge receipt and thank you for your August 6, 1993 letter.

Your letter misconstrues our client's intent. Our letter was to inform you that our clients will not be attending the "hearing" on August 31, 1993 absent some legal basis for holding such a hearing. However, because our client's interest will be at issue, we will be sending counsel to appear on our client's behalf.

As you can imagine, we are understandably confused about the procedures, if any, which will govern this proceeding. While we are familiar with the California Water Code and the procedures set forth for review by the State Board, we do not know what your procedures are. We follow the legal procedure in the Water Code for resolving these types of disputes. Since the hearing will apparently go forward outside of the existing legal system, we need to know what procedural safeguards, if any, will be afford our clients.

For example, the California Code of Regulations sections applicable to the Water Boards, (§ 648 et seq) sets forth the procedure Boards utilize for review in similar matters. It also sets forth the procedures by which we can subpoena and cross-examine witnesses and review the evidence. (See also California Code of Regulations § 2050 et seq.) There will need to be a reporter and we would like to know how we can obtain copies of the transcript. Likewise, we would like to know what, if any, evidence may be introduced in advance of the hearing.

Gilbert A. Jenson, Esq.
August 19, 1993
Page 2

We need to know the qualifications and expertise of the hearing officer. Is this someone with knowledge of the law in an understanding of the technical issues raised in this matter? Is this person subject to bias such as receiving financial gain or professional acknowledgment for their work?¹ Whoever thought up this procedure must have had someone in mind for a hearing officer and we would need to know who that individual will be.

Finally, if there are any written procedures that need to be followed, particularly any that require filings in advance of the hearing, we would like to know of them as soon as possible. Please send by return fax any written procedures which will apply.

Please note that by appearing at the hearing to cross-examine witnesses and challenge the evidence, our clients are not in any way waiving their right to assert that the procedure is illegal and void per se. Further, should the proceedings be determined by a court to be illegal, we will seek to recover all of our attorney's fees.

Again, it is not our desire to make this an adversarial process. Having handled over 400 underground storage tank claims, I know the frustration people and agencies go through in trying to work out the thorny and complicated liability issues involved. However, I still believe that we must ultimately operate within the system of laws in our society. No matter how frustrating, difficult and aggravating these laws are, I do not believe the solution is to simply ignore them.

Again, I do encourage you and your office to work within the system legislature and the State Board to seek ways to make meaningful changes to the laws to avoid these problems.

If you have any questions or comments, please feel free to contact me at (800) 767-9562.

Very truly yours,
LAW OFFICES OF HANS W. HERB


Hans W. Herb

HWH/tcf

¹ As I am sure you know, the Alameda County Health Care Services Agency has a direct and irreconcilable financial conflict in this matter. The issue to be decided at the hearing is whether the Gallegos/Garcia petitioners need to hire the Alameda Health Care Services Agency at 150% of the agency's costs to oversee the cleanup.

2/2/77

→ CD/Arise please advise on
situation and
advise me of
how can we
help.

RPC
8/24/93

Mrs. Beatrice S. Gallegos
4650 N. Palm Ave.
Fresno, CA 93704

August 16, 1993

In Re: Property Known As
Mary Petsas
16035 E. 14th St. San Leandro, CA 94578
Site 4147

Mr. David J. Kears, Agency Director
Alameda County Health Care Services Agency
80 Swan Way Room 200
Oakland, CA 94612

Dear Sir:

I have received your notices imposing liabilities upon my role as an unsuspecting innocent heir. Needless to say, this struck a blunt impact upon my mental and physical health --- an unbelievable shocker.

Briefly, a short history of events involving the situs property, related to the best of my recollection.

On or about March, 1945 my late husband, Joseph Garcia, 1922 - 1961, inherited this property from his parents. It was improved commercial property with an automobile service station operating under lease with Seaside Oil Company, Santa Barbara, CA. Seaside maintained the petroleum/gasoline equipment and negotiated with it's own station operators.

Throughout the entire ownership, my husband was lessor to Seaside Oil Co. and after his death in 1961, I and our son Gregg inherited by descent. We continued with the lease performing simply as landlords with lessees. We did not at any time operate a business on the land. Never did the question of underground storage tanks' ownership arise. Being underground additions we had no information they were either improvements or land components. At no time during our ownership did any municipality or government agency inform us that regulation permits were required concerning underground storage tanks. No problems, discussions or suspicion of leakage from storage tanks were ever mentioned by any lessee, or anyone else, to us at any time.

We sold the situs property to Mr. & Mrs Jerry Petsas of San Leandro, Calif. in March 1979. Since that date we have had no knowledge of or involvement with the property. First notice we have ever received about any problem is by certified mail from Alameda County Health Care Services Agency dated April 2, 1993, informing us about "release" from underground storage tanks that was first reported 02/04/92 and that I and my son (Gregg) are identified as "responsible parties".

Suddenly, we are confronted with the alarming and intimidating notice from ACHCS Agency with the caption

"Notice of Requirement to Reimburse".

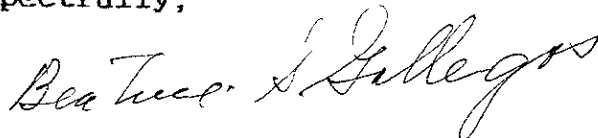
We were immediately bewildered, confused and in shock.

Our retirement livelihood is wholly dependent on Social Security benefits assisted by Supplement Security Income (MediCal) assistance. That is, total dependence on these sources for month-to-month subsistence.

A woman age 74 yrs. afflicted with diabetes mellitus, cirrhosis of the liver, high blood pressure, etc. and my husband (79 yrs) with chronic cardiac arrhythmia, are both under doctors' care. We ardently thank God for SSA, SSI AND Medicare protection.

I attest that the above information is true and correct to the best of my recollection and present knowledge.

Respectfully,



Mrs Beatrice S. Gallegos

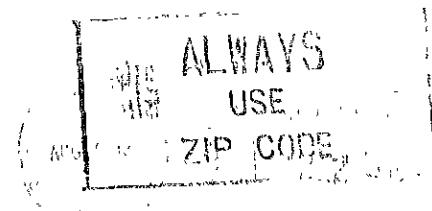
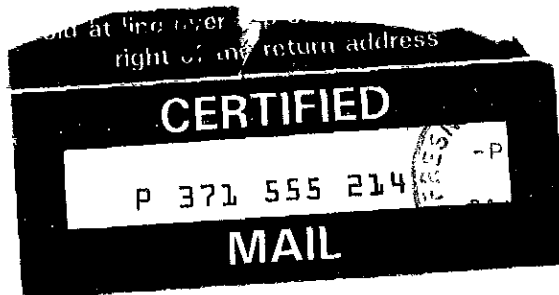
cc's: List on attached page.

Attachment -- page 3

Copies have been sent to the following:

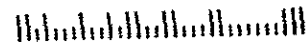
Stephen R. Ritchie
John Caffrey
Theodore A. Cobb
Dorothy Jones, Legal Counsel
Hans W. Herb, Esq.

Mrs. Beatrice S. Gallegos
4650 N. Palm Ave.
Fresno, CA 93704



Mr. David J. Kears, Agency Director
Alameda County Health Care Services Agency
80 Swan Way Room 200
Oakland CA 94612

**RETURN RECEIPT
REQUESTED**



93 AUG 16 AM 11:58

ITO AND JOHNSON
ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

(415) 362-3503
(415) 989-1137 FAX

August 12, 1993

Alameda County
District Attorney's Office
Attn: Mr. Gilbert A. Jensen
7677 Oakport Street, Suite 400
Oakland, CA 94621

Re: *In Re the Property Known As 16035 East 14th Street, San Leandro, CA,
Mary Petsas, Beatrice S. Gallegos, Gregory J. Garcia Potentially Responsible
Parties*

Dear Mr. Jensen:

Thank you for the notice regarding the August 31 Pre-Enforcement Review Panel hearing. As you know this office represents Mr. and Mrs. Petsas who are interested parties to the above matter.

Mr. and Mrs. Petsas would like to make a presentation at the hearing and desire to know if there are any procedural matters or submissions which need to be addressed prior to the meeting.

Please be aware that this office has had a change of address. Our new


Mr. Gilbert A. Jensen
August 12, 1993

Page 2

address is as shown above. Thank you for your assistance.

Very truly yours,

ITO AND JOHNSON



Mark B. Johnson

cc: Mr. Scott Seery
Mr. Hans Herb
Mr. and Mrs. Petsas

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

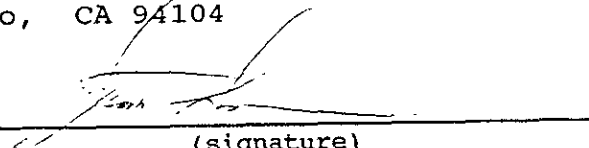
Mary Petsas
16035 East 14th Street, San Leandro 94578)

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1. **Beatrice S. Gallegos**
Gregory J. Garcia
c/o Hans Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404
- ✓ 2. **Mary Petsas**
c/o Mark Johnson
Johnson and Johnson
44 Montgomery Street, Ste. 4100
San Francisco, CA 94104

Dated: July 30, 1993


(signature)

ALAMEDA COUNTY ENVIRONMENTAL HEALTH-HAZARDOUS MATERIALS DIVISION
LOCAL OVERSIGHT PROGRAM

PHONE 510-271-4530
FAX 510-569-4757

FACSIMILE COVER SHEET

DATE: 8-11-93

PAGES: 2 (incl. cover sheet)

TO: Mark Johnson
FAX: 415 / 989-1137

FROM: Scott Seery

SUBJECT: RCRA vs. SWRCB responsible Party identification

ALAMEDA COUNTY ENVIRONMENTAL HEALTH-HAZARDOUS MATERIALS DIVISION
LOCAL OVERSIGHT PROGRAM

PHONE 510-271-4530
FAX 510-569-4757

FACSIMILE COVER SHEET

DATE: 8-6-93

PAGES: 45 (incl. cover sheet)

TO: Marilyn (Ted Cobb's office), SWRCB
FAX: 916-653-0428

FROM: Scott Seery

SUBJECT: PETSAS / CALLEGOS / GARCIA
16035 E. 14th Street, San Leandro, Alameda County

Marilynn-

Here are the documents missing from the 8/3/93
correspondence to Ted Cobb.

Scott

ITO AND JOHNSON
ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

(415) 362-3503
(415) 989-1137 FAX

August 6, 1993

TO: Mr. Scott Seery
FAX NO.: 510 569 4767
NO. OF PAGES: 5 (Including cover sheet)
PERSON SENDING: Mark Johnson
SENT BY:
AT: _____ AM PM

ADDITIONAL INFORMATION:

Scott, I look forward to discussing your thoughts regarding the attached proposal.

If you have experienced difficulty with your transmission, please call 415 362-3503.

LAW OFFICES OF HANS W. HERB

EV

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

August 6, 1993

(707) 576-0757
Telecopier:
(707) 575-0364

VIA PRIORITY MAIL

Al 0100

HANS W. HERB

Mr. Theodore A. Cobb
Senior Staff Council
STATE WATER RESOURCES CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Mr. Scott O. Seery, CHMM
Senior Hazardous Materials Specialist
ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
80 Swan Way, room 200
Oakland, CA 94621

Re: Petitions of Gallegos and Garcia
Site: 16035 East 14th Street, San Leandro, CA
(Alameda County LOP)
Our File No.: 01-126-01

Dear Messrs. Cobb and Seery:

This will acknowledge receipt of a copy of Mr. Seery's August 3, 1993 letter addressed to Mr. Cobb.

We must take exception to and forcefully resist the suggestion by Mr. Seery that the Alameda County Health Care Service Agency can unilaterally derail our petition pending before the State Water Resources Control Board. The idea that a County employee could overrule the five member State Board is preposterous. If one party to the dispute could have unilaterally resolved the matter, we would have already done so in our own favor.

We again register our most strenuous objection to Alameda County's intentional interference with our clients' ability to exercise their constitutionally guaranteed civil rights. We have already placed Alameda County on written notice that such conduct abridges our clients Fifth and Fourteenth amendment Constitutional rights, as well as common sense notions of due process and fairness.

The idea that a regulatory agency would unilaterally, without any hearing, without any evidence, and without any direct contact whatsoever with an individual attempt to essentially levy a fine that may run into the millions of dollars is, to put it

Mr. Theodore A. Cobb
Mr. Scott O. Seery, CHMM
August 6, 1993
Page 2

mildly, shocking to the conscience. America is a free and democratic society that is based on a Constitution. Our Constitution, unlike others, does not condone a regulatory free-for-all where the "rule of the individual" prevails over the "rule of law." Our clients ask nothing more than the rights guaranteed to them by the U. S. and California Constitutions. Those rights include fundamental fairness and due process.

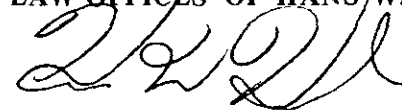
Please accept this letter as it is offered. I understand the frustration, hassle and hardship of working within the confines of the legal system. Environmental statutes and regulations are complex and difficult. They are understood by few, if any practitioners. The legal framework is a maze of double talk, complicated rules and procedures that often appear at odds with each other and frustrate the rights of appeal and due process. Nevertheless, the solution is not to throw out the Constitution or ignore the law, but instead to operate within the system. Just as we don't allow the police to shoot the murderer, we cannot let the regulator ignore the protections the Constitution offers our clients.

If Alameda County feels the current legal system is unfair, its remedy is with the Legislature not with the Petitioners.

While I commend Alameda County for having the foresight to explore new options and possibilities, I encourage it to seek counsel with a competent lawyer familiar with the applicable laws. Once it does, I am certain it will realize the errors of its ways and perhaps be able to fashion a remedy that meets with basic constitutional and legal protections. Until then we must again demand that the County cease and desist in interfering with our client's civil rights.

If you have any questions or comments, please feel free to contact me.

Very truly yours,
LAW OFFICES OF HANS-W. HERB



Hans W. Herb

HWH/tcf

cc: Mr. David J. Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
Interested party mailing list

INTERESTED PARTY'S LIST

William Attwater, Esq.
Office of Chief Counsel
STATE WATER RESOURCES CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Gil Jenson, Esq.
District Attorney's Office
COUNTY OF ALAMEDA
1225 Fallon #100
Oakland, CA 94612

Mary Petsas
c/o Mark Johnson
JOHNSON & JOHNSON
44 Montgomery St. Suite 4100
San Francisco, CA 94104

CALIFORNIA ENVIRONMENTAL INSIDER
P.O. Box 884973
San Francisco, CA 94188-4973

CALIFORNIA ENVIRONMENTAL LAW REPORTER
136 Carlin Road
Conklin, NY 13748-1531

BNA TOXIC LAW REPORTER
1231 25th Street, N.W.
Washington, D.C. 20037

THE DAILY JOURNAL
1390 Market St., Suite 1210
San Francisco, CA 94102

THE RECORDER
625 Polk St., Suite 500
San Francisco, CA 94123

Mark Borsuk, Esq.
1626 Vallejo St.
San Francisco, CA 94123

LAW OFFICES OF HANS W. HERB

AUG - 5 1993

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

August 4, 1993

CD please review and take the necessary corrective action
(707) 576-0757
Telecopier:
(707) 575-0364

VIA OVERNIGHT MAIL

Mr. David J. Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
80 Swan Way Room 200
Oakland, CA 94621

HANS W. HERB
8/5/93
contacted
scoll

RE: L.O.P. Site: 16035 East 14th Street,
San Leandro, CA
Our Clients: Beatrice S. Gallegos/
Gregory Garcia
Our File No: 01-126-01

Dear Messrs. Kears, Shahid & Howell:

In our mail today we received a curious document purporting to be from your offices (see attached). The hand-addressed certified mail letter contained a single piece of paper captioned "Notice of Pre-Enforcement Review Panel."

According to the document, a "star chamber" of regulatory officials will meet in Oakland on August 31, 1993, at 10:45 a.m. to discuss how to avoid the legal constraints which prohibit our clients' participation in the cleanup of the above-referenced site. The letter contains no reference to any legal authority for such a procedure. The reason for this is that the procedure is clearly illegal, unconstitutional, and violative of our clients' due process rights.

I implore the County to seek the advice of competent legal counsel regarding the County's concerns. I know the County is upset and frustrated and is looking to "lash out" wherever it can. Unfortunately, however, there are legal constraints which must be respected by the County. To learn more about the legal constraints prohibiting such activity, you should ask your attorney to review the California Health and Safety Code, beginning at §25280, and §13300 et. seq. of the California Water Code. The procedure to address your concerns can be found at Title 23, Chapter 6, §2050 et. seq. More importantly, the attorney you select would do well to review your local oversight contract with the State Water Resources Control Board which requires that all disputes be resolved following the procedures established by the State Water Resources Control Board. The State Water Board has a procedure whereby petitions may be reviewed by the five member State Water Resources Control Board. The State Water

Mr. David Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
August 4, 1993
Page 2

Resources Control Board has a legal department which can assist you with understanding the procedures. Their decisions form the basis for establishing future cases.

In this case, we have already explained to the State Water Resources Control Board that fundamental notions of due process and constitutional law are implicated. With all due respect to you and your staff, the issues involved in our petition to the State Board are legal issues which require the attention of experienced lawyers familiar with California law. Once the State Board has issued its decision on our petition, you will be advised by them of the result. In the meantime, although I appreciate your frustration, there is simply no legal way to proceed as suggested by the mystery document (if it in fact really did come from your office).

The purpose of this letter is to advise you that under California Code of Civil Procedure §1021.5, we have the right and duty to bring a legal action to enjoin and prohibit the Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Material Division from proceeding with this action. If it is necessary for us to proceed with legal action we will be entitled to recover all of the legal fees. The Alameda County Health Care Services Agency will be responsible for payment of those fees.

You should also note that it is not our desire "to beat up" misguided agencies. Instead, we seek to encourage governmental agencies to voluntarily comply with their legal obligations. It is only if an agency will not voluntarily cease and desist in illegal and unconstitutional conduct that we will pursue legal action. Should we find it necessary to proceed with legal action in this case we will argue that your agency was well aware of the illegality of the practice and was given ample opportunity to voluntarily cease and desist the practice.

In our experience courts award substantially higher attorney's fees in cases where the offending governmental agency was informed that a practice was illegal, was encouraged to obtain legal counsel, and continued despite the clear lack of authority. For that reason, we again encourage and implore you to consider consultation with an attorney at least marginally familiar with the issues raised by this matter.

Finally, should you decide to proceed with this matter, please advise me of all the applicable procedures, rules, authority, and regulation for such a procedure. Please also provide me with written confirmation of the independent neutral third-party's qualifications, experience and expertise in this field. We also demand a full, complete, and accurate written transcript of any proceedings along with copies of all evidence, charges, and other relevant documents.

Mr. David Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
August 4, 1993
Page 3

If you have any comments or questions, please feel free to contact me at 800-767-9562.

Very truly yours,
LAW OFFICES OF HANS W. HERB

A handwritten signature in black ink, appearing to read 'Hans W. Herb', written in a cursive style.

Hans W. Herb

HWH/bm

cc: Attached List

Mr. David Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
August 4, 1993
Page 4

William Attwater, Esq.
Office of Chief Counsel
STATE WATER RESOURCE CONTROL BOARD
P.O. Box 100
Sacramento, CA 95812-0100

Gil Jenson, Esq.
District Attorney's Office
COUNTY OF ALAMEDA
1225 Fallon #100
Oakland, CA 94612

Mary Petsas
c/o Mark Johnson
JOHNSON & JOHNSON
44 Montgomery St. Suite 4100
San Francisco, CA 94104

CALIFORNIA ENVIRONMENTAL INSIDER
P.O. Box 884973
San Francisco, CA 94188-4973

CALIFORNIA ENVIRONMENTAL LAW REPORTER
136 Carlin Road
Conklin, NY 13748-1531

BNA TOXIC LAW REPORTER
1231 25th Street, N.W.
Washington, D.C. 20037

THE DAILY JOURNAL
1390 Market St., Suite 1210
San Francisco, CA 94102

THE RECORDER
625 Polk St., Suite 500
San Francisco, CA 94123

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :)

Notice of
Pre-Enforcement
Review Panel

Mary Petsas

16035 East 14th Street, San Leandro 94578)

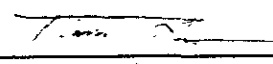
Notice is hereby given that upon the motion of the Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board a **Review Panel** will convene on August 31, 1993 at 10:45 a.m. in the offices of the Alameda County Hazardous Materials Division located at 80 Swan Way, Room 200, Oakland, CA 94621. This **Review Panel** will convene for the purpose of determining responsible parties as well as appropriate closure, site assessment, clean-up and mitigation of contamination at the above location.

The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

- ✓ 1. **Beatrice S. Gallegos**
Gregory J. Garcia
c/o Hans Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

2. **Mary Petsas**
c/o Mark Johnson
Johnson and Johnson
44 Montgomery Street, Ste. 4100
San Francisco, CA 94104

Dated: July 30, 1993



(signature)



Alameda County
District Attorney's Office
John J. Meehan, District Attorney

93 AUG -9 AM 11: 22

August 6, 1993

Hans W. Herb
Attorney at Law
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

Re: ***In Re the Property Know As 16035 East 14th Street, Oakland CA
Mary Petsas, Beatrice S. Gallegos and Gregory J Garcia Potentially
Responsible Parties***

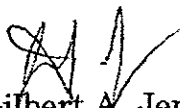
Dear Mr. Herb:

This office represents the San Francisco Bay Regional Water Quality Control Board, and the Alameda County Health Care Services Agency, Department of Environmental Health Hazardous Materials Program in the above matter. We are in receipt of the enclosed letter dated August 4, 1993 to representatives of the Agency apparently protesting a scheduled fact-finding pre enforcement meeting to be attended by the above agencies and our office.

While it is rare for persons potentially subject to prosecution for administrative, civil or criminal violations to not be interested in meeting with our office and the interested agencies before the necessity for legal action, we honor your clients apparent decision. Nevertheless, since the other potentially responsible party Ms Petsas wishes to attend, the scheduled Review Panel will meet as previously scheduled. Should your clients change their mind, they are of course welcome to attend.

Very truly yours,

JOHN J. MEEHAN
District Attorney

By: 
Gilbert A. Jensen
Senior Deputy District Attorney

JJM:GAJ:gj

cc: Attached List

Hans W. Herb
August 6, 1993
Page 2

David Kears, Agency Director

Rafat Shahid, Assistant Agency Director

Edgar Howell

William Attwater, Esq.

Mary Petsas
c/o Mark Johnson Esq.

California Environmental Insider

California Environmental Law Reporter

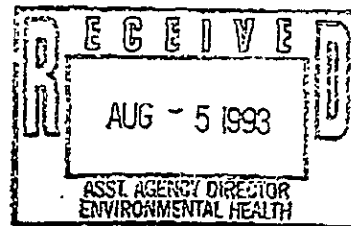
BNA Toxic Law Reporter

The Daily Journal

The Recorder

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404



Arizona
California
Washington

August 4

CD Please
(707) 578-0757
Telecopier:

VIA OVERNIGHT MAIL

Mr. David J. Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director;
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
80 Swan Way Room 200
Oakland, CA 94621

RE: L.O.P. Site: 16035 East 14th Street,
San Leandro, CA
Our Clients: Beatrice S. Gallegos/
Gregory Garcia
Our File No: 01-126-01

Dear Messrs. Kears, Shahid & Howell:

In our mail today we received a curious document purporting to be from your offices (see attached). The hand-addressed certified mail letter contained a single piece of paper captioned "Notice of Pre-Enforcement Review Panel."

According to the document, a "star chamber" of regulatory officials will meet in Oakland on August 31, 1993, at 10:45 a.m. to discuss how to avoid the legal constraints which prohibit our clients' participation in the cleanup of the above-referenced site. The letter contains no reference to any legal authority for such a procedure. The reason for this is that the procedure is clearly illegal, unconstitutional, and violative of our clients' due process rights.

I implore the County to seek the advice of competent legal counsel regarding the County's concerns. I know the County is upset and frustrated and is looking to "lash out" wherever it can. Unfortunately, however, there are legal constraints which must be respected by the County. To learn more about the legal constraints prohibiting such activity, you should ask your attorney to review the California Health and Safety Code, beginning at §25280, and §13300 et. seq. of the California Water Code. The procedure to address your concerns can be found at Title 23, Chapter 6, §2050 et. seq. More importantly, the attorney you select would do well to review your local oversight contract with the State Water Resources Control Board which requires that all disputes be resolved following the procedures established by the State Water Resources Control Board. The State Water Board has a procedure whereby petitions may be reviewed by the five member State Water Resources Control Board. The State Water

Mr. David Kears, Agency Director
Mr. Rafat A. Shabid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
August 4, 1993
Page 2

Resources Control Board has a legal department which can assist you with understanding the procedures. Their decisions form the basis for establishing future cases.

In this case, we have already explained to the State Water Resources Control Board that fundamental notions of due process and constitutional law are implicated. With all due respect to you and your staff, the issues involved in our petition to the State Board are legal issues which require the attention of experienced lawyers familiar with California law. Once the State Board has issued its decision on our petition, you will be advised by them of the result. In the meantime, although I appreciate your frustration, there is simply no legal way to proceed as suggested by the mystery document (if it in fact really did come from your office).

The purpose of this letter is to advise you that under California Code of Civil Procedure §1021.5, we have the right and duty to bring a legal action to enjoin and prohibit the Alameda County Health Care Services Agency, Department of Environmental Health, Hazardous Material Division from proceeding with this action. If it is necessary for us to proceed with legal action we will be entitled to recover all of the legal fees. The Alameda County Health Care Services Agency will be responsible for payment of those fees.

You should also note that it is not our desire "to heat up" misguided agencies. Instead, we seek to encourage governmental agencies to voluntarily comply with their legal obligations. It is only if an agency will not voluntarily cease and desist in illegal and unconstitutional conduct that we will pursue legal action. Should we find it necessary to proceed with legal action in this case we will argue that your agency was well aware of the illegality of the practice and was given ample opportunity to voluntarily cease and desist the practice.

In our experience courts award substantially higher attorney's fees in cases where the offending governmental agency was informed that a practice was illegal, was encouraged to obtain legal counsel, and continued despite the clear lack of authority. For that reason, we again encourage and implore you to consider consultation with an attorney at least marginally familiar with the issues raised by this matter.

Finally, should you decide to proceed with this matter, please advise me of all the applicable procedures, rules, authority, and regulation for such a procedure. Please also provide me with written confirmation of the independent neutral third-party's qualifications, experience and expertise in this field. We also demand a full, complete, and accurate written transcript of any proceedings along with copies of all evidence, charges, and other relevant documents.

Mr. David Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
August 4, 1993
Page 3

If you have any comments or questions, please feel free to contact me at 800-767-9562.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/bm

cc: Attached List

Mr. David Kears, Agency Director
Mr. Rafat A. Shahid, Assistant Agency Director
Mr. Edgar Howell
ALAMEDA COUNTY HEALTH SERVICES AGENCY
HAZARDOUS MATERIALS PROGRAM
August 4, 1993
Page 4

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ALAMEDA COUNTY ENVIRONMENTAL HEALTH-HAZARDOUS MATERIALS DIVISION
LOCAL OVERSIGHT PROGRAM

PHONE 510-271-4530
FAX 510-569-4757

FACSIMILE COVER SHEET

DATE: 8-5-93

PAGES: 45 (incl. cover sheet)

TO: Gil Jensen
FAX: 569-0505

FROM: S. SEERY

SUBJECT: Petsas, 16035 E. 14th, S. Leandro

Gil - Here's a brief summary of Hans Herb's interaction here (3rd hand). Apparently, a copy service arrived unannounced at some point in the recent past, was reportedly advised of the need for an appointment? \$75 per hour charge, refused to pay, and left. At some point before or after, this copy service sent a letter dated July 1st to Rob Weston, who called them immediately to set up an appointment. Apparently (it would seem), none was made. (Rob Weston has more info on this point.)

July 23rd HERB sends a scathing letter to KEARS, Campbell and Booby. This was referred to Rafat, and then down to Ed. Ed spoke to Herb, reportedly ironing the miscommunication out. Ed followed up with a letter to HERB. This was followed by the 8-3-93 memo from Rafat to KEARS. I received this info just today, and spoke with both Ed and WESTON about it. I thought all was resolved. I don't know whether HERB ever received the file info he needed. Ed seemed pleased that this case was to be heard Aug 21st

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
DEPARTMENT OF ENVIRONMENTAL HEALTH
MEMORANDUM

DATE: August 3, 1993
TO: David J. Kears
FROM: Rafat A. Shahid
SUBJECT: **CONCERNS RAISED BY HANS W. HERB, ATTORNEY-AT-LAW
RE AVAILABILITY OF ACCESS TO PUBLIC RECORDS**

The concerns raised by Hans W. Herb, Attorney-at-Law, were fully addressed. We established communication and provided the necessary procedure to allow him access to the public records and Mr. Herb was fully satisfied with the agreement.

Please find attached the letter addressed to Mr. Herb. This information was communicated to the County Counsel's Office.

Enclosure
RAS:fh

HERB/Public Records

File: Scott Seung ✓

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. REAPS, Agency Director



RAFAT A. SHAHID, Assistant Agency Director

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

July 30, 1993

Hans W. Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA. 95404

Dear Mr. Herb:

In response to your letter of July 23, 1993, I contacted your office and spoke to your assistant Alicia on July 29, 1993.

The files you are requesting to copy are files relating to the removal and subsequent cleanup of contamination from fuel tanks which were located at 16035 E. 14th. Street, San Leandro, Ca.. Since your clients are prior owners of the property, you may have your copy company make an appointment with me for time to make the copies, I would appreciate at least 3 days prior notice so that I may be able to have the files available for them. This will avert any misunderstanding as has occurred previously.

If you have any questions please call me at (510) 271-4320.

Sincerely:

A handwritten signature in cursive script, appearing to read "Edgar B. Howell", with a horizontal line extending to the right.

Edgar B. Howell, Chief
Hazardous Materials Division
Alameda County Environmental Health Department

c. Rafat A. Shahid, Asst. Agency Director
Jason Lauren, County Counsel's Office

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Ed
Tridder 8/9/93

Arizona
California
Washington

July 23, 1993

(707) 576-0757
Telecopier:
(707) 575-0364

HANS W. HERB

Edward R. Campbell, President
ALAMEDA COUNTY BOARD OF SUPERVISORS
1225 Fallon Street, Room 536
Oakland, CA 94612

Kelvin H. Booty, Jr., Esq.
ALAMEDA COUNTY COUNSEL
1225 Fallon Street, Room 463
Oakland, CA 94612

David J. Kears, Agency Director
ALAMEDA COUNTY HEALTH CARE
SERVICE AGENCY
80 Swan Way, Room 200
Oakland, CA 94612

RE: Our Clients: Gregory J. Garcia/Beatrice S. Gallegos
Site: 16035 E. 14th Street, San Leandro, CA
Our File No. 01-126-01

Greetings:

For the past several months I have been attempting to view or obtain copies of public records in the possession of the Alameda County Health Care Service Agency. I have been informed that in order to review these records our clients must pay a minimum \$75.00 service fee to view these public records.

This is contrary to California law as well as the democratic process generally. The documents that we have been requesting are absolutely critical to our clients' evaluation of claims that have been asserted against them by the Alameda County Health Care Service Agency and others. Our clients are a mother and son. The mother is on social security and the son is on permanent disability. All we want are the public documents which will help us to identify exactly what claims are being asserted by the Alameda County Health Care Service Agency and others against our clients and what, if any, legal basis there are for asserting these claims.

We voluntarily provided a registered, certified, photocopy service which went to the Alameda County Health Care Service Agency to attempt to copy the file. This was done entirely at our expense and would have provided no burden whatsoever on the county. Nevertheless, the Alameda County Health Care Service Agency demanded that the \$75.00 service fee be provided in order to let the copy service in the building. We understand that there are only two pages of documents in the county's file. Thirty-five dollars a page for coping charges is, per se, unreasonable.

ALAMEDA COUNTY BOARD OF SUPERVISORS
ALAMEDA COUNTY COUNSEL
ALAMEDA COUNTY HEALTH CARE SERVICE AGENCY
RE: Garcia/Gallegos
July 23, 1993
Page 2

We are writing this letter to request that you provide our indigent clients with whatever assistance you can in obtaining these public records. If these documents are not voluntarily produced we will have no other alternative other than to seek an injunction or other order from the Alameda County Superior Court. In such action we will necessarily request recovery of all attorneys fees incurred in obtaining these public documents.

Your assistance in this matter will be greatly appreciated.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/scr

cc: Beatrice S. Gallegos
Gregory J. Garcia

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

STID 4147

August 3, 1993

Mr. Theodore A. Cobb, Senior Staff Council
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

RE: PETITIONS SUBMITTED ON BEHALF OF BEATRICE GALLEGOS AND
GREGORY GARCIA (PETITIONERS) - 16035 EAST 14TH STREET, SAN
LEANDRO, ALAMEDA COUNTY

Dear Mr. Cobb:

Attached please find copies of "Pre-Enforcement Review Panel" notices sent to the attorneys representing the petitioners and current property owner for the Review Panel convening August 31, 1993. Attached please also find for your reference a copy of the petitioners' original petition notice to the SWRCB and attorney's cover letter addressed to Alameda County.

We understand that a recent appeal made to the SWRCB on behalf of the petitioners will be placed on hold until after the Review Panel has met August 31st and revised orders, if any, are issued.

Please call me at 510/271-4530 should you have any questions.

Sincerely,


Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

cc: Rafat A. Shahid, Assistant Agency Director
Gil Jensen, Alameda County District Attorney's Office
Rich Hiett, RWQCB
Hans Herb, Hans Herb Law Firm
Mark Johnson, Johnson and Johnson
files

**Alameda County Health Care Services Agency, Department of
Environmental Health, Hazardous Materials Division**

In Re The Property Known As :) **Notice of
Pre-Enforcement
Review Panel**

Mary Petsas
16035 East 14th Street, San Leandro 94578)

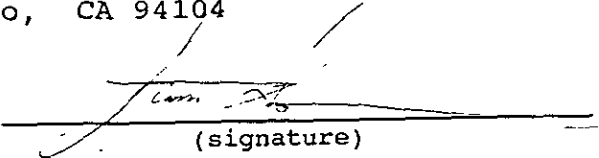
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The Alameda County Hazardous Materials Division, and the San Francisco Bay Regional Water Quality Control Board have named and served notice of this **Review Panel** on the following persons or entities as having proposed responsibility for closure, site assessment, clean-up and mitigation of contamination at the above location, and by this notice all parties named herein are informed of the right to appear and show cause, if any they have, for the exclusion or inclusion of any of the parties served herein from said responsibility or obligations:

- ✓ 1. **Beatrice S. Gallegos**
Gregory J. Garcia
c/o Hans Herb
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

2. **Mary Petsas**
c/o Mark Johnson
Johnson and Johnson
44 Montgomery Street, Ste. 4100
San Francisco, CA 94104

Dated: July 30, 1993


(signature)

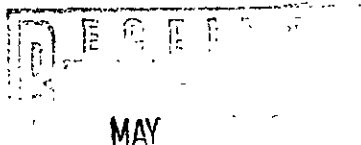
LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Arizona
California
Washington

(707) 576-0757
Telecopier:
(707) 575-0364

May 2, 1993



HANS W. HERB

David J. Kears, Agency Director
ALAMEDA COUNTY HEALTH CARE
SERVICES AGENCY
80 Swan Way, Room 200
Oakland, CA 94621

RE: Site: 10635 E. 14th St., San Leandro, CA
Site I.D. No: 4147

Dear Mr. Kears:

This letter is to advise you that Beatrice S. Gallegos and Gregory J. Garcia have filed the attached Petition with the State Water Resources Control Board, appealing your agency's decision to name them as responsible parties in connection with the underground storage tank investigation at the above-referenced site.

Pursuant to California Code of Regulations, §2050, please provide the State Water Resources Control Board with a list of all persons other than those shown in the Petition, if any, known by your agency to have an interest in this matter.

Further, please prepare your record in this matter and submit it as required by the State Board.

Very truly yours,
LAW OFFICES OF HANS W. HERB

Hans W. Herb

HWH/mca
Enclosure

cc: Ms. Beatrice S. Gallegos
Mr. Gregory J. Garcia

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

In the Matter of the Petition
of Gregory J. Garcia and
Beatrice S. Gallegos

SWRCB No: _____

PETITION FOR REVIEW
OF DECISION BY ALAMEDA COUNTY
HEALTH CARE SERVICES AGENCY
NAMING PETITIONERS AS RESPONSIBLE PARTIES

Hans W. Herb, Esq.
LAW OFFICES OF HANS W. HERB
50 Santa Rosa Ave., 5th Fl.
Santa Rosa, CA 95404
(707) 576-0757
(800) 757-9562

Attorneys for
Gregory J. Garcia and
Beatrice S. Gallegos

LAW OFFICES OF HANS W. HERB

50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, California 95404

Ed
Triche 8/7/93

Arizona
California
Washington

July 23, 1993

(707) 576-0757
Telecopier:
(707) 575-0364

HANS W. HERB

Edward R. Campbell, President
ALAMEDA COUNTY BOARD OF SUPERVISORS
1225 Fallon Street, Room 536
Oakland, CA 94612

Kelvin H. Booty, Jr., Esq.
ALAMEDA COUNTY COUNSEL
1225 Fallon Street, Room 463
Oakland, CA 94612

David J. Kears, Agency Director
ALAMEDA COUNTY HEALTH CARE
SERVICE AGENCY
80 Swan Way, Room 200
Oakland, CA 94612

RE: Our Clients: Gregory J. Garcia/Beatrice S. Gallegos
Site: 16035 E. 14th Street, San Leandro, CA
Our File No. 01-126-01

Greetings:

For the past several months I have been attempting to view or obtain copies of public records in the possession of the Alameda County Health Care Service Agency. I have been informed that in order to review these records our clients must pay a minimum \$75.00 service fee to view these public records.

This is contrary to California law as well as the democratic process generally. The documents that we have been requesting are absolutely critical to our clients' evaluation of claims that have been asserted against them by the Alameda County Health Care Service Agency and others. Our clients are a mother and son. The mother is on social security and the son is on permanent disability. All we want are the public documents which will help us to identify exactly what claims are being asserted by the Alameda County Health Care Service Agency and others against our clients and what, if any, legal basis there are for asserting these claims.

We voluntarily provided a registered, certified, photocopy service which went to the Alameda County Health Care Service Agency to attempt to copy the file. This was done entirely at our expense and would have provided no burden whatsoever on the county. Nevertheless, the Alameda County Health Care Service Agency demanded that the \$75.00 service fee be provided in order to let the copy service in the building. We understand that there are only two pages of documents in the county's file. Thirty-five dollars a page for copying charges is, per se, unreasonable.

ALAMEDA COUNTY BOARD OF SUPERVISORS
ALAMEDA COUNTY COUNSEL
ALAMEDA COUNTY HEALTH CARE SERVICE AGENCY
RE: Garcia/Gallegos
July 23, 1993
Page 2

We are writing this letter to request that you provide our indigent clients with whatever assistance you can in obtaining these public records. If these documents are not voluntarily produced we will have no other alternative other than to seek an injunction or other order from the Alameda County Superior Court. In such action we will necessarily request recovery of all attorneys fees incurred in obtaining these public documents.

Your assistance in this matter will be greatly appreciated.

Very truly yours,
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/scr

cc: Beatrice S. Gallegos
Gregory J. Garcia

ROBERT A. COOK & STAFF, INC.

July 1, 1993

ALAMEDA COUNTY HAZARDOUS
MATERIALS DIVISION
80 Swan Way
Room 200
Oakland, CA 94621
Attn: Rob Weston

Re: Site 16035 East 14th Street, San Leandro

Dear Mr. Weston:

We have received a request from the Law Offices of
Hans W. Herb to come out to your office and copy the
file pertaining to 16035 East 14th Street in San
Leandro.

Please notify me at (408) 441-7000 ex 262 when this
file will be available for copying.

Our understanding is that a check for \$75.00 will be
issued at the time of copying.

Thank you


Kathy Barbaccia

STATE WATER RESOURCES CONTROL BOARD
DIVISION OF CLEAN WATER PROGRAMS
2014 T STREET, SUITE 130
P.O. BOX 944212
SACRAMENTO, CA 94244-2120
916/227-4325
Facsimile 916/227-4349



JUN 15 1993

CERTIFIED MAIL NO. P 088 542 564

Mr. Hans W. Herb
Attorney at Law
50 Santa Rosa Avenue, Fifth Floor
Santa Rosa, CA 95404

Dear Mr. Herb:

ACKNOWLEDGMENT OF RECEIPT OF PETITION, SITE NO. 4147, 16035 EAST 14TH STREET,
SAN LEANDRO, ALAMEDA COUNTY

This will acknowledge receipt of the petition submitted on behalf of Beatrice Gallegos and Gregory Garcia (Petitioners). The petition challenges a decision made by Alameda County to name the Petitioners jointly responsible with the current property owner (Mary Petsas) for the cleanup costs.

The petition states that the Petitioners sold the subject site to Ms. Petsas in March of 1979 and that they had no other connections to the property from that point on.

According to information obtained from Alameda County, the tanks were never used after the sale of the property to Ms. Petsas. In other words, the Petitioners were the last owners of the tanks before the discontinuance of their use.

Oversight costs for this site are funded from the Federal Petroleum Trust Fund (Trust Fund). The Trust Fund is regulated under the Resource Conservation Recovery Act (RCRA) which defines a responsible party in 42 U.S.C. Section 6991(3) as:

(A) In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and

(B) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on November 8, 1984, any person who owned such tank immediately before the discontinuation of its use. (Emphasis added).

California Code of Regulations, Title 23, Division 3, Section 2720 (Corrective Action Requirements) defines a responsible party as "any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred".

Mr. Hans W. Herb

-2-

Ms. Petsas has been identified as a responsible party because she is an owner of contaminated property. The Petitioners have been identified because they were the last owners of the tanks before the discontinuation of their use.

If after reviewing the above information, you still wish to proceed with the petition, an amended petition must be submitted within 30 days from the date of this letter. The amended petition should include additional issues since the issue in the original petition has now been resolved.

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

Sincerely,

Donna Schmeck

for Sandra L. Malos, Chief
Local Oversight Program

cc: Beatrice S. Gallegos
Gregory J. Garcia
Mary Petsas
✓ Scott Seery
Dorothy Jones,
State Water Board Legal Counsel

Petsas
16035 - E. 14th St.
S. Leandro

MEMO to file:

3/31/93

I spoke with Mary Petsas today. We spoke (again) about the SB2004 issue. Currently, the Petsas' are not eligible for the fund because the USTs were not registered/permited or closed by 1/1/90, the cut-off date established by the SWRCB. The tanks were registered in 1991, soon after Bill Faulhaber of this office informed them of the need to do so, and removed 2/92.

I told Mrs. Petsas that I will continue to be lenient with scheduling the PSA consistent with their ability to fund this work. I will not be writing a letter to this effect.

808

16518 Toledo St.
San Leandro, Ca.
March 26, 1993

Mr. Scott Seery
80 Swan Way, Rm 200
Oakland, Ca. 94621

93 MAR 25 11 31 AM

Dear Mr. Seery,

You may recall a phone conversation we had a few weeks ago in regards to the monitoring wells for 16035 A East 14th St., San Leandro.

As I stated to you then, we are still seeking a way to be able financially to have the wells installed.

Please correct me if I misunderstood you, as I recall you assured me that we weren't under pressure to have the wells installed immediately.

I realize you are very busy, I tried calling you. I also left a message with your phone mail. Would you take a few minutes and send me a letter and let me know if I am correct in my "recall" of our conversation.

Thank you for your attention to this letter.

Mary Peters

16035 E. 14th St
San Leandro CA
94578

JOHNSON AND JOHNSON
ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

(415) 362-3503
(415) 989-1137 FAX

March 3, 1993

5710
4147

Mr. Edgar Howell
Division of Hazardous Materials,
80 Swan Way, Room 200
Oakland, CA 94621

Dear Mr. Howell:

This letter is addressed to you at the recommendation of Mr. Scott Seery. My clients, Mr. and Mrs. Petsas, have removed three abandoned underground storage tanks from their San Leandro property, and have had their claim to the Underground Storage Tank Cleanup Fund for funding rejected. The basis for the rejection was that they had six years between 1984 to 1990 to permit their tanks and should have obtained permits during that period.

I was wondering if you could give me some background regarding the Alameda County local oversight program, and whether it has been continuously possible since 1984 to obtain underground storage tanks permits.

If I may, I would like to give you a call next week to discuss this matter.

Very truly yours,

JOHNSON AND JOHNSON


Mark B. Johnson

Enclosures: None

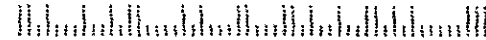
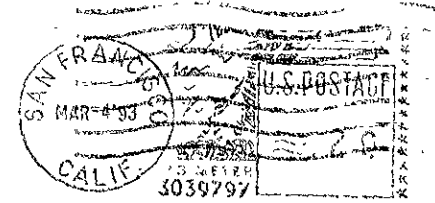
cc: Mr. and Mrs. Petsas

JOHNSON AND JOHNSON

ATTORNEYS AT LAW
MILLS TOWER, SUITE 1500
220 MONTGOMERY STREET
SAN FRANCISCO, CA 94104-9736

*Scott
Tom
see memo
Ed*

Mr. Edgar Howell
Department of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621



ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY



DAVID J. KEARS, Agency Director

December 28, 1992

Mr. Mark Johnson
Johnson and Johnson
44 Montgomery Street, Ste. 4100
San Francisco, CA 94104

MAHEE K. SHAHID, ASST. AGENCY DIRECTOR
DEPARTMENT OF ENVIRONMENTAL HEALTH
Statewide Resource Control Board
Solid Waste Control Program
Hazardous Waste Control Program
San Francisco Bay Area
San Francisco, CA 94111
(415) 774-2000

RE: 16035 EAST 14TH STREET, SAN LEANDRO

Dear Mr. Johnson:

Enclosed please find copies of several documents in response to your letter of December 24, 1992. You will find that I have been unable to completely satisfy your request, as we discussed today by phone, the reasons for which will be explained in this letter.

A listing of the enclosed documents is as follows:

- 1) A copy of the UST "Leak Report" dated February 6, 1992.
- 2) A copy of an October 29, 1985 letter from Chief James Ferdinand of Eden Consolidated Fire Protection District (ECFPD) which addresses the need for capping the USTs, and provides a one year extension to the property owners so that they may decide to either place the tanks into service, or have them removed.

The noted letter was sent to this department from ECFPD as a copy attached to (a copy of) the October 14, 1985 letter from Mr. Jerry Petsas. Your December 24 correspondence requested another copy of the cited Petsas letter. To receive a copy of the original Petsas letter, please contact Chief Ferdinand at 510/670-5853.

Generally speaking, the usual course of events following a tank closure is for the consultant representing a property or tank owner to submit a final report to the local agency once all the data have been received and organized. Following agency review of these data, a determination is made whether further assessment is needed to delineate the extent of any unauthorized release. Should such a determination be made, a letter requesting a Preliminary Site Assessment (PSA) work plan will be issued by the local agency to the responsible party.

The sequence of events surrounding the subject UST closure went a bit differently. There were evident odors and soil contamination noted once the tanks were uncovered. All the tanks had throughgoing holes. It was clear to all those present during the UST closures that an unauthorized release had occurred at this site.

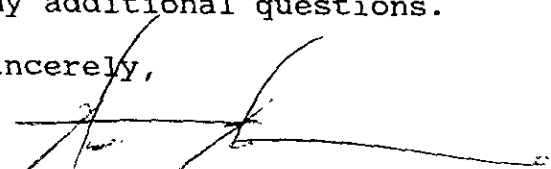
Mr. Mark Johnson
RE: 16035 E.14th Street, San Leandro
December 28, 1992
page 2 of 2

Tank Protect Engineering (TPE), the consultancy hired by the property owners to perform and report on the UST closures, submitted a March 6, 1992 UST closure report. A PSA proposal accompanied the noted closure report under the same March 6, 1992 cover. In my review of the case file, it appears that a PSA request letter was never addressed to the property owners. This step appears to have been omitted as a consequence of the rather accelerated rate at which the events following UST closure transpired.

Following a meeting with TPE's John Mrakovich on April 9, 1992 to discuss the scope of work at the site, TPE submitted an addendum to the initial work plan. This addendum, dated April 13, 1992, was reviewed and verbally approved via a phone conversation with Mr. Mrakovich on April 15, 1992.

I hope this information will satisfy your needs. Please do not hesitate to call me at 510/271-4320, or -4530, should you have any additional questions.

Sincerely,



Scott O. Seery, CHMM
Senior Hazardous Materials Specialist

enclosures

cc: Rafat A. Shahid, Assistant Agency Director
Gil Jensen, Alameda County District Attorney's Office
John Jang, RWQCB
Jim Ferdinand, Eden Consolidated Fire Protection District
Ed Howell - files

JOHNSON AND JOHNSON

ATTORNEYS AT LAW

44 MONTGOMERY STREET, SUITE 4100
SAN FRANCISCO, CALIFORNIA 94104
(415) 362-3503 (415) 989-1137 FAX

December 24, 1992

Mr. Scott Seery
Alameda County Health Agency
Division of Hazardous Materials,
Department of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

Re: 16035 E. 14th Street, San Leandro, California
LOP Site ID # 4147

Dear Mr. Seery:

I hope you are enjoy a Happy Holiday season.

Currently I am working to revise the Underground Storage Tank Cleanup Fund application for Mr. and Mrs. Petsas. To complete the application, would you please send me the following information:

1. The "Leak Report" from the Alameda County Public Health Department reporting discovery of an unauthorized release of petroleum.
2. The "Preliminary Site Assessment" which shows that corrective action is required.
3. A copy of the attached letter without the background information.

Thank you for your assistance and Best Wishes for the New Year.

Very truly yours,

JOHNSON AND JOHNSON


Mark B. Johnson

Enclosures: One

Petsas
16035 E. 14th
S. Leandro

MEMO to file:

11/4/92

I spoke yesterday with the Petsas' new attorney, ~~John~~ Mark Johnson (415/362-3503), Johnson
Johnson, 44 Montgomery St., S.F. 94104.

We discussed the current status of the project, the expected duration of time for the investigation to be completed, sampling schedules, criteria for determining if the scope of the project would need expansion, "closure" requirements for RWQCR sign-off, and the status of his clients SB2004 application. I FAXed him a copy of LG 122 which explains the criteria for UST "decommissioning" as opposed to "closure" for older USTs, and the Sec. 2670 (i) 23 CCR exemption limits.

I presented a potential argument he might try articulating to the SB2004 administrators in order to get funding.

Today (11/4) I spoke with John Marakovich of Tank Protect Engineering (TPE), the company handling the UST closure and associated tasks, and the PSA proposal. He said the UST pit had been overexcavated and back filled sometime by the end of March 1992. Wells have not yet been installed. He cited the clients wish to recover financially before initiating this next task. He said he did not have a potential schedule for the well installations.

SDS

JOHNSON AND JOHNSON

ATTORNEYS AT LAW

44 MONTGOMERY STREET, SUITE 4100
SAN FRANCISCO, CALIFORNIA 94104
(415) 362-3503 (415) 989-1137 FAX

November 3, 1992

Mr. Scott Seery
Alameda County Health Agency
Division of Hazardous Materials,
Department of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

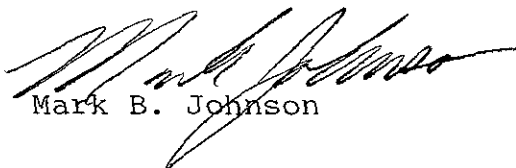
Re: 16035 East 14th Street, San Leandro, California 94578

Dear Scott:

Thank you for taking the time out of your busy schedule to discuss the Petsas case with me and to suggest that LG-122 may be a basis for an appeal to the Underground Storage Tank Cleanup Fund.

I certainly appreciate your assistance and look forward to working with you.

Very truly yours,



Mark B. Johnson

**Alameda County Department of Environmental Health
Hazardous Materials Division**

80 Swan Way, Rm. 200, Oakland, CA 94621
Ph: 510-271-4320

BILLING FOR SERVICES

STID# _____

A. Site Name UNITED AUTO Phone _____

Site Address 16035 E 14 ST SAN LEANDRO 94578
(If no address, description of area) Number Street City Zip

Prior Business Name _____ Prior Owner's Name MARY PETSAS

B. Service Requestor JANICE HAGAN, PRIVATE PARTY 791-0442
Contact Person Company Name Phone

Billing Address 37419 WILLOWOOD DRIVE FLEMONT 95436
Number Street City Zip

<u>Category of Service</u>		#Hours	x \$	/Hr	\$
<input checked="" type="checkbox"/> Site Search		1.0		71	71
<input type="checkbox"/> File Search					
<input type="checkbox"/> Other					
		#Copies	x \$	/Copy	\$
		23		1	23
					\$ NA
		Other	x \$		
					TOTAL CHARGE: \$ 94

REMARKS: SITE SEARCH OF ALL KNOWN INFORMATION ON SUBJECT SITE.

BILL TO BE MAILED FOR THIS SERVICE.

You will receive an invoice in accordance with Article 11 of Chapter 6, Title 3 of the Ordinance Code of Alameda County

Service Requestor JAN HAGAN *Jan Hagan* Date OCT 29, 1992
printed name signature

HazMat Specialist ROBERT WESTON *Robert Weston* Date 10/29/92
printed name signature

BILLING ADJUSTMENT FORM

Billing Acct.#	
<input type="checkbox"/>	Generator . . . H _____
<input type="checkbox"/>	HMMP L _____
<input checked="" type="checkbox"/>	UST T <u>AR2022</u>

Date: 5/7/92
HazMat Std# : _____

Caller : _____ Phone : _____

Company Name : United Auto Center

Site Address : 16035 E. - 14th St. San Leandro 94578
City Zip

Requested Changes : _____

Initials: _____

Rescind Bill with explanation and date (if available):

- Generator _____
- HMMP (AB2185) _____
- UST Removed 12/91 S.S.

Continue Billing With Following Changes:

- | | | |
|---|--------|-------|
| | From : | To : |
| <input type="checkbox"/> Change number of EMPLOYEES | _____ | _____ |
| <input type="checkbox"/> Change number of TANKS | _____ | _____ |
| <input type="checkbox"/> HMMP (AB2185) | | |
| <input type="checkbox"/> Updated information | | |

Business Name _____ Phone: _____

SITE Address _____
City Zip

BILLING Address _____
City Zip

Inspector: [Signature] Date: 5-9-92

Sent to Billing
on 5/8/92
Rev 12/91 Mac-BillAdj-2

DATE: 5/6/92
TO : Local Oversight Program
FROM: EJA
SUBJ: Transfer of Eligible Oversight Case

Site name: Mary Petsas
Address: 16035 E. 14th St. City Saraland zip 94578
Closure plan attached? N DepRef remaining \$ _____
DepRef Project # _____ STID #(if any) 4147
Number of Tanks: 3 removed? N Date of removal Feb 4, 1992
Leak Report filed? N Date of Discovery _____
Samples received? N Contamination: Soil
Petroleum N Types: Avgas Jet leaded unleaded Diesel
fuel oil waste oil kerosene solvents
Monitoring wells on site _____ Monitoring schedule? Y N
LUFT category 1 2 3 * H S C A R W G O
Briefly describe the following:
Preliminary Assessment submitted workplan 3/27/92
Remedial Action _____
Post Remedial Action Monitoring _____
Enforcement Action _____

Soil Sample up to 880 ppm TPH-G ; 1,300 ppm ^{PH} TOG ; 950 ppm TPH-D
54 ppm TOG



TANK PROTECT ENGINEERING

2821 Whipple Road
Union City, CA 94587
(415) 429-8088 • (800) 523-8088
FAX (415) 429-8089

reviewed 4-15-92
and approved
SOS

April 13, 1992

Mr. Scott O. Seery
Alameda County Health Agency
Division of Hazardous Materials
Department of Environmental Health
80 Swan Way, Room 350
Oakland, California 94621

Re: April 9, 1992 Meeting Regarding Addenda to March 6, 1992 Workplan for Mrs. Mary Petsas, 16035 East 14th Street, San Leandro, CA 94578

Dear Mr. Seery:

As a result of the subject meeting, this letter presents addenda to Tank Protect Engineering's (TPE) March 6, 1992 Tank Closure Report and Workplan for Overexcavation of Contaminated Soil and Installation of Groundwater Monitoring Wells.

The addenda are:

- Locations of the 3 proposed groundwater monitoring wells have been moved based on the results of a file review conducted by a representative of TPE in the office of the California Regional Water Quality Control Board-San Francisco Bay Region. The new locations are presented in the attached figure.
- When collecting soil samples from the soil borings for lithologic logging and chemical analysis, samples will be collected at about 5-foot depth intervals and at any changes in lithology.

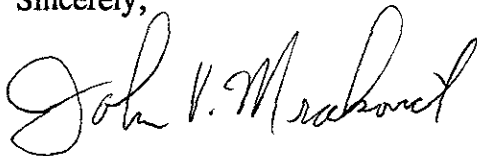
92 APR 14 PM 2:32

Soil and groundwater samples collected for chemical analysis from groundwater monitoring wells MW-1 and MW-3, estimated to be in a downgradient direction from the former location of the underground tanks (see attached figure), will be analyzed for total petroleum hydrocarbons as diesel and gasoline (TPHD and TPHG); benzene, toluene, ethylbenzene, and xylenes; and oil and grease. Soil and groundwater samples collected for chemical analysis from groundwater monitoring well MW-2 will be analyzed for TPHG and BTEX.

Drill cuttings will be added to the on-site soil stockpile consisting of soil excavated from around the former waste oil tank during tank removal and overexcavation activities. If the stockpile has been disposed of prior to well installation activities, the drill cuttings will be stored on site, contained in plastic or 55-gallon steel drums labeled to show contents, date stored, suspected contamination, expected date of removal, company name, contact, and telephone number.

Based on the above addenda, TPE will proceed with installation of 3 groundwater monitoring wells at the subject site. If you have any questions, please call me at (510) 429-8088.

Sincerely,

A handwritten signature in black ink that reads "John V. Mrakovich". The signature is written in a cursive style with a large initial "J".

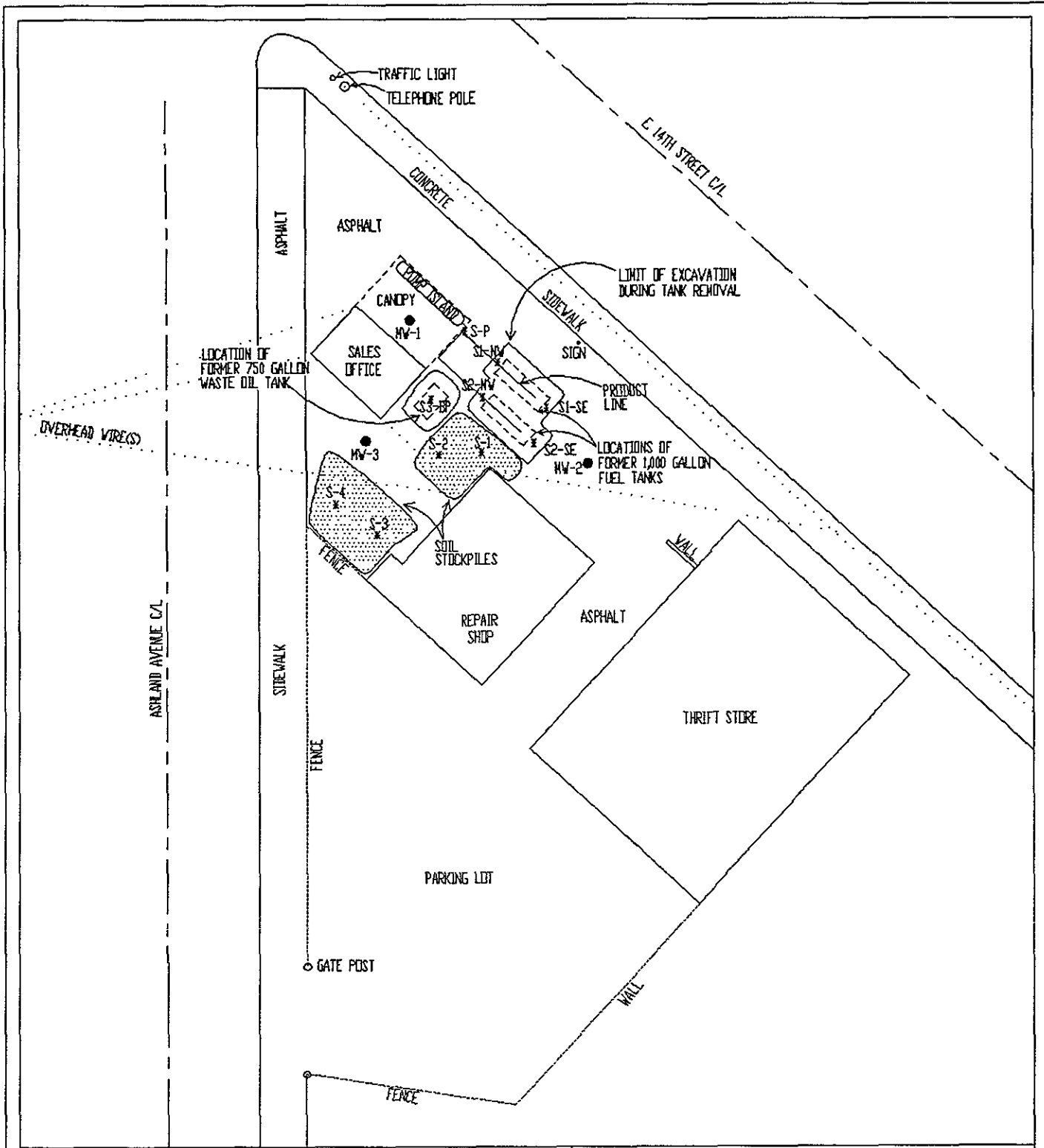
John V. Mrakovich

Registered Geologist Number 4665

cc: file

Mrs Mary Petsas

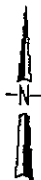
California Regional Water Quality Control Board-San Francisco Bay Region



LEGEND

- SI-NW * NAME AND LOCATION OF SOIL SAMPLE
- MW-1 ● PROPOSED NAME AND LOCATION OF GROUNDWATER MONITORING WELL

NOTE: HEIGHT OF OVERHEAD WIRES IS APPROXIMATELY 15 FEET.



TANK PROTECT ENGINEERING

SITE PLAN

16035 EAST 14TH STREET
SAN LEANDRO, CA 94578

DATE	12/18/91
FIGURE	2
FILE #	218C-2
DRAWN BY	MAC
CHECKED BY	JVM

UNDERGROUND STORAGE TANK UNAUTHORIZED RELEASE (LEAK) CONTAMINATION SITE REPORT

EMERGENCY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		HAS STATE OFFICE OF EMERGENCY SERVICES REPORT BEEN FILED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		FOR LOCAL AGENCY USE ONLY I HEREBY CERTIFY THAT I HAVE DISTRIBUTED THIS INFORMATION ACCORDING TO THE DISTRIBUTION SHOWN ON THE INSTRUCTION SHEET ON THE BACK PAGE OF THIS FORM.	
REPORT DATE 02/06/92		CASE #		SIGNED: <i>[Signature]</i> DATE: 2/6/92	
REPORTED BY	NAME OF INDIVIDUAL FILING REPORT SCOTT O. SEERY		PHONE (510) 271-4320	SIGNATURE <i>[Signature]</i>	
	REPRESENTING <input checked="" type="checkbox"/> LOCAL AGENCY <input type="checkbox"/> OWNER/OPERATOR <input type="checkbox"/> REGIONAL BOARD <input type="checkbox"/> OTHER		COMPANY OR AGENCY NAME ALAMEDA CO. ENVIRON. HEALTH DEPT. HAZARDOUS MATERIALS DIV.		
	ADDRESS 80 SWAN WAY, 2nd. 200 OAKLAND CA 94621				
RESPONSIBLE PARTY	NAME JERRY + MARY PETSAS <input type="checkbox"/> UNKNOWN		CONTACT PERSON		PHONE (510) 595-0505
	ADDRESS 16518 TOLEDO STREET SAN LEANDRO CA 94578				
SITE LOCATION	FACILITY NAME (IF APPLICABLE) (UNITED AUTO CENTER)		OPERATOR		PHONE ()
	ADDRESS 16035 E. 14th Street SAN LEANDRO ALAMEDA 94578				
	CROSS STREET ASHLAND AVE.				
IMPLEMENTING AGENCIES	LOCAL AGENCY AGENCY NAME ALAMEDA CO. HEALTH		CONTACT PERSON SCOTT SEERY		PHONE (510) 271-4320
	REGIONAL BOARD SAN FRANCISCO BAY		CONTACT PERSON LESTER FELDMAN		PHONE (510)
SUBSTANCES INVOLVED	(1) NAME GASOLINE			QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN	
	(2) NAME WASTE OIL			QUANTITY LOST (GALLONS) <input checked="" type="checkbox"/> UNKNOWN	
DISCOVERY/ABATEMENT	DATE DISCOVERED 02/04/92		HOW DISCOVERED <input type="checkbox"/> INVENTORY CONTROL <input type="checkbox"/> SUBSURFACE MONITORING <input type="checkbox"/> NUISANCE CONDITIONS <input type="checkbox"/> TANK TEST <input checked="" type="checkbox"/> TANK REMOVAL <input type="checkbox"/> OTHER		
	DATE DISCHARGE BEGAN <input checked="" type="checkbox"/> UNKNOWN		METHOD USED TO STOP DISCHARGE (CHECK ALL THAT APPLY) <input type="checkbox"/> REMOVE CONTENTS <input checked="" type="checkbox"/> CLOSE TANK & REMOVE <input type="checkbox"/> REPAIR PIPING <input type="checkbox"/> REPAIR TANK <input type="checkbox"/> CLOSE TANK & FILL IN PLACE <input type="checkbox"/> CHANGE PROCEDURE <input type="checkbox"/> REPLACE TANK <input type="checkbox"/> OTHER		
	HAS DISCHARGE BEEN STOPPED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, DATE 02/05/92				
SOURCE/CAUSE	SOURCE OF DISCHARGE <input checked="" type="checkbox"/> TANK LEAK <input type="checkbox"/> UNKNOWN <input checked="" type="checkbox"/> PIPING LEAK <input type="checkbox"/> OTHER		CAUSE(S) <input type="checkbox"/> OVERFILL <input type="checkbox"/> RUPTURE/FAILURE <input type="checkbox"/> SPILL <input checked="" type="checkbox"/> CORROSION <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER		
	CHECK ONE ONLY <input type="checkbox"/> UNDETERMINED <input type="checkbox"/> SOIL ONLY <input type="checkbox"/> GROUNDWATER <input type="checkbox"/> DRINKING WATER - (CHECK ONLY IF WATER WELLS HAVE ACTUALLY BEEN AFFECTED)				
CURRENT STATUS	CHECK ONE ONLY <input type="checkbox"/> NO ACTION TAKEN <input checked="" type="checkbox"/> PRELIMINARY SITE ASSESSMENT WORKPLAN SUBMITTED <input type="checkbox"/> POLLUTION CHARACTERIZATION <input type="checkbox"/> LEAK BEING CONFIRMED <input type="checkbox"/> PRELIMINARY SITE ASSESSMENT UNDERWAY <input type="checkbox"/> POST CLEANUP MONITORING IN PROGRESS <input type="checkbox"/> REMEDIATION PLAN <input type="checkbox"/> CASE CLOSED (CLEANUP COMPLETED OR UNNECESSARY) <input checked="" type="checkbox"/> CLEANUP UNDERWAY				
	TUBE				
REMEDIAL ACTION	CHECK APPROPRIATE ACTION(S) (SEE BACK FOR DETAILS) <input checked="" type="checkbox"/> EXCAVATE & DISPOSE (ED) <input type="checkbox"/> REMOVE FREE PRODUCT (FP) <input type="checkbox"/> ENHANCED BIO DEGRADATION (IT) <input type="checkbox"/> CAP SITE (CD) <input type="checkbox"/> EXCAVATE & TREAT (ET) <input type="checkbox"/> PUMP & TREAT GROUNDWATER (GT) <input type="checkbox"/> REPLACE SUPPLY (RS) <input type="checkbox"/> CONTAINMENT BARRIER (CB) <input type="checkbox"/> NO ACTION REQUIRED (NA) <input type="checkbox"/> TREATMENT AT HOOKUP (HU) <input type="checkbox"/> VENT SOIL (VS) <input type="checkbox"/> VACUUM EXTRACT (VE) <input type="checkbox"/> OTHER (OT)				
	COMMENTS 3 USTs removed, all with corrosion holes. Contractor will be over-excavating affected soil. PSA will be required. Shallow (<20') ground water exists.				

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 (United Auto Center) Petsas property Today's Date 2/14/92

Site Address 16035 E. 14th St.

City San Leandro Zip 94576 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

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

Comments: 1:00 - 1:15 / 3:00 - 5:00 (2.25)
 On-site to witness UST closures. Two (2) of the UST's appear to be 1,000 gallon each, instead of 500 gallon. The remaining 500 gallon tank still had water/product inside, and was being pumped upon arrival. Previously excavated soil/backfill was contaminated by apparent fuel HC's based upon discoloration and strong product odor. Left site for ~ 1.75 hrs. to allow time for inerting the 500 gallon tank and removing liquids

Product piping from one UST has severe through-going rust holes, up to several centimeters across (see photo).

East tank removed ~ 3:25. It is bare steel construction and ^{appears to be} excellent shape (Kaiser Steel insignia is still clearly visible). Through-going holes were discovered on the bottom of this tank (photos).

West tank removed ~ 3:45. This UST is also of bare steel construction. And, as with the east tank, its condition ^{appears to be} excellent. However, several areas of severe corrosion and through-going holes were found along its

II.A BUSINESS PLANS (Title 19)

- 1. Immediate Reporting 2703
- 2. Bus. Plan Stats. 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. MAT'L'S

- 10. Registration Form Filed 25533(a)
- 11. Form Complete 25533(b)
- 12. RMPP Contents 25534(c)
- 13. Implement Sch. Req'd? (Y/N)
- 14. OffSite Conseq. Assess. 25524(c)
- 15. Probable Risk Assessment 25534(d)
- 16. Persons Responsible 25534(g)
- 17. Certification 25534(f)
- 18. Exemption Request? (Y/N) 25536(b)
- 19. Trade Secret Requested? 25538

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

Monitoring for Existing Tanks

- 6. Method
 - 1) Monthly Test
 - 2) Daily Vadose Semi-annual groundwater One time soils
 - 3) Daily Vadose One time soils Annual tank test
 - 4) Monthly Gndwater One time soils
 - 5) Daily Inventory Annual tank testing Cont pipe leak det Vadose/gndwater mon.
 - 6) Daily Inventory Annual tank testing Cont pipe leak det
 - 7) Weekly Tank Gauge Annual tank testing
 - 8) Annual Tank Testing Daily inventory
 - 9) Other _____

- 7. Precis Tank Test Date: 2643
- 8. Inventory Rec. 2644
- 9. Soil Testing . 2646
- 10. Ground Water. 2647

- New Tanks
- 11. Monitor Plan 2632
 - 12. Access, Secure 2634
 - 13. Plans Submit Date: 2711
 - 14. As Built Date: 2635

Rev 6/88

Contact: Lyle Travis
 Title: proj mng - TPE
 Signature: _____

Inspector: S. Green
 Signature: _____

II, III

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 Petras Property Today's Date 2/4/92

II.A BUSINESS PLANS (Title 19)

- ___ 1. Immediate Reporting 2703
- ___ 2. Bus. Plan Stds. 25503(b)
- ___ 3. RR Cars > 30 days 25503.7
- ___ 4. Inventory Information 25504(a)
- ___ 5. Inventory Complete 2730
- ___ 6. Emergency Response 25504(b)
- ___ 7. Training 25504(c)
- ___ 8. Deficiency 25505(a)
- ___ 9. Modification 25505(b)

Site Address 16035 E. 14th St.

City San Leandro Zip 94578 Phone _____

___ MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

II.B ACUTELY HAZ. MAT'L S

- ___ 10. Registration Form Filed 25533(a)
- ___ 11. Form Complete 25533(b)
- ___ 12. RMPP Contents 25534(c)
- ___ 13. Implement Sch. Req'd? (Y/N) _____
- ___ 14. OffSite Conseq. Assess. 25524(c)
- ___ 15. Probable Risk Assessment 25534(d)
- ___ 16. Persons Responsible 25534(g)
- ___ 17. Certification 25534(i)
- ___ 18. Exemption Request? (Y/N) 25536(b)
- ___ 19. Trade Secret Requested? 25538

- ___ 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)

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

- Monitoring for Existing Tanks
- ___ 6. Method
 - 1) Monthly Test
 - 2) Daily Vadose
Semi-annual groundwater
One time soils
 - 3) Daily Vadose
One time soils
Annual tank test
 - 4) Monthly Gndwater
One time soils
 - 5) Daily Inventory
Annual tank testing
Cont pipe leak det
Vadose/gndwater mon.
 - 6) Daily Inventory
Annual tank testing
Cont pipe leak det
 - 7) Weekly Tank Gauge
Annual tank testing
 - 8) Annual Tank Testing
Daily Inventory
 - 9) Other _____

- ___ 7. Precis Tank Test Date: _____ 2643
- ___ 8. Inventory Rec. 2644
- ___ 9. Soil Testing . 2646
- ___ 10. Ground Water. 2647

- New Tanks
- ___ 11. Monitor Plan 2632
 - ___ 12. Access. Secure 2634
 - ___ 13. Plans Submit Date: _____ 2711
 - ___ 14. As Built Date: _____ 2635

Comments:

~~Tank and bottom~~

Tanks (2) loaded on Erickson flatbed for transport.

Third tank still being inverted; more dry ice added; water/product being pumped into 55-gallon drums

Left site at 5:00, will return to witness sampling on 2/5. 3rd tank will apparently be ~~removed~~ removed, bearing complications, tonight, witnessed by fire marshall.

Contact: Lyle Travis
 Title: proj mng - TPE
 Signature: [Signature]

Inspector: S. Seery
 Signature: _____

II, III

white -env.health
yellow -facility
pink -files

ALAMEDA COUNTY, DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Inspection Form

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

II, III

Site ID # _____ Site Name _____ Today's Date 2/5/92

II.A BUSINESS PLANS (Title 19)

- ___ 1. Immediate Reporting 2703
- ___ 2. Bus. Plan Stas. 25503(b)
- ___ 3. R/R Cars > 30 days 25503.7
- ___ 4. Inventory Information 25504(a)
- ___ 5. Inventory Complete 2730
- ___ 6. Emergency Response 25504(b)
- ___ 7. Training 25504(c)
- ___ 8. Efficiency 25505(a)
- ___ 9. Modification 25505(b)

Site Address 16035 E. 14th Street

City San Leandro Zip 94578 Phone _____

MAX AMT stored > 500 lbs, 55 gal., 200 cft.?

Inspection Categories:

- ___ I. Haz. Mat/Waste GENERATOR/TRANSPORTER
- ___ II. Business Plans, Acute Hazardous Materials
- III. Underground Tanks

II.B ACUTELY HAZ. MATLS

- ___ 10. Registration Form Filed 25533(a)
- ___ 11. Form Complete 25533(b)
- ___ 12. RMPP Contents 25534(c)
- ___ 13. Implement Sch. Req'd? (Y/N) _____
- ___ 14. OffSite Conseq. Assess. 25524(c)
- ___ 15. Probable Risk Assessment 25534(d)
- ___ 16. Persons Responsible 25534(g)
- ___ 17. Certification 25534(f)
- ___ 18. Exemption Request? (Y/N) 25536(b)
- ___ 19. Trade Secret Requested? 25538

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

Comments: 10-11:30 ; 2:30-3:00
On-site to witness sampling.

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

- Monitoring for Existing Tanks
- ___ 6. Method
 - 1) Monthly Test
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Semi-annual groundwater
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 - 3) Daily Vadose
One time soils
Annual tank test
 - 4) Monthly Groundwater
One time soils
 - 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. Precs Tank Test 2643
Date: _____
- ___ 8. Inventory Rec. 2644
- ___ 9. Soil Testing . 2646
- ___ 10. Ground Water. 2647

- New Tanks
- ___ 11. Monitor Plan 2632
 - ___ 12. Access, Secure 2634
 - ___ 13. Plans Submit 2711
Date: _____
 - ___ 14. As Built 2635
Date: _____

3rd UST removed last evening, witnessed by ECFD inspectors. This tank was apparently added w/ large holes. GW is now welling into UST pit. Eight 55-gallon drums of GW/gas removed from this tank

- Native soil at south end of [east] UST appears to be a mix of both clay and sandy-gravel / gravelly-sand horizons; north end is clayey. Samples (2) collected, one from ea. end. ~~Product odor evident.~~ Depth ~8.5' BG.

- Native soil from below both ends of [west] UST appears to be clay, fairly stiff. Samples (2) collected, one from ea. end. ~~Product odor evident.~~

- Native soil beneath [w.o. tank] appears to be both a fractured shale/siltstone (?) w/ more of the same clay below. (Fractured material is likely fill). One (1) sample collected from below center of this tank; depth ~8.5' BG. ~~Product odor evident.~~

- One (1) sample collected below piping near is [unclear]

Contact: Lyle Travis
Title: project mgr - TPE
Signature: _____

Inspector: S. Sgany
Signature: _____

Project Specialist (print) Scott Seery

ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY
DEPARTMENT OF ENVIRONMENTAL HEALTH **ACCEPTED**
HAZARDOUS MATERIALS DIVISION

80 SWAN WAY, ROOM 200 DEPARTMENT OF ENVIRONMENTAL HEALTH
OAKLAND, CA 94621 470 - 27th Street, Third Floor
PHONE NO. 415/271-4320 Oakland, CA 94612
Telephone: (415) 874-7237

These plans have been reviewed and found to be acceptable and essentially meet the requirements of State and local health laws. Changes to your plans indicated by this Department are to assure compliance with State and local laws. The project proposed herein is now released for issuance of any required building permits for construction.

One copy of these accepted plans must be on the job and available to all contractors and craftsmen involved with the removal.

Any change or alterations of these plans and specifications must be submitted to this Department and to the Fire and Building Inspection Department to determine if such changes meet the requirements of State and local laws. Notify this Department at least 48 hours prior to the following required inspections:

- 405 2/4/92 Removal of Tank and Piping
- 407 2/5/92 Sampling
- Final Inspection

Issuance of a permit to operate is dependent on compliance with accepted plans and all applicable laws and regulations.

THERE IS A FINANCIAL PENALTY FOR NOT OBTAINING THESE INSPECTIONS.

UNDERGROUND TANK CLOSURE PLAN

*** * * Complete according to attached instructions * * ***

1. Business Name _____

Business Owner MARY PETSAS

2. Site Address 16035 EAST 14TH

City SAN LEANDRO CA Zip 94578 Phone (510) 276-2828

3. Mailing Address 16518 TOLEDO STREET

City SAN LEANDRO, CA Zip 94578 Phone (510) 276-2828

4. Land Owner MARY PETSAS

Address _____ City, State _____ Zip _____

5. Generator name under which tank will be manifested _____

MARY PETSAS

EPA I.D. No. under which tank will be manifested CAC000702440

6. Contractor TANK PROTECT ENGINEERING OF NORTHERN CALIFORNIA

Address 2821 WHITTLE ROAD

City UNION CITY CA 94587-1233 Phone (510) 429-8088

License Type A ID# 575837

7. Consultant TANK PROTECT ENGINEERING OF NORTHERN CALIFORNIA

Address 2821 WHITTLE ROAD

City UNION CITY CA 94587-1233 Phone (510) 429-8088

8. Contact Person for Investigation

Name MARY PETSAS Title _____

Phone (510) 276-2828

9. Number of tanks being closed under this plan 3 tanks

Length of piping being removed under this plan 20 feet

Total number of tanks at facility 3

10. State Registered Hazardous Waste Transporters/Facilities (see instructions).

** Underground tanks are hazardous waste and must be handled **
as hazardous waste

a) Product/Residual Sludge/Rinsate Transporter

Name N/A ALVISO INDEPENDENT OIL CO EPA I.D. No. CA000048571

Hauler License No. 0821 License Exp. Date JUN/92

Address P.O. BOX 184

city ALVISO state CA zip 95002

b) Product/Residual Sludge/Rinsate Disposal Site

Name N/A DEMENNO / KERDOON EPA I.D. No. CA1080013352

Address 2000 ALAMEDA STREET

city COMPTON State CA zip 90222

c) Tank and Piping Transporter

Name ERICKSON, INC. EPA I.D. No. CAD009466392
Hauler License No. _____ License Exp. Date _____
Address 255 PARR BLVD
City RICHMOND State CA Zip 94801

d) Tank and Piping Disposal Site

Name ERICKSON, INC. EPA I.D. No. CAD009466392
Address 255 PARR BLVD
City RICHMOND State CA Zip 94801

11. Experienced Sample Collector

Name LYLE TRAVIS
Company TANK PROTECT ENGINEERING
Address 2821 WHIPPLE ROAD
City UNION CITY State CA Zip 94587-123 Phone (510) 429-8088

12. Laboratory

Name SEQUOIA ANALYTICAL
Address 680 CHESAPEAK DRIVE
City REDWOOD CITY State CA Zip 94063
State Certification No. 145

13. Have tanks or pipes leaked in the past? Yes [] No []

If yes, describe. UNKNOWN

14. Describe methods to be used for rendering tank inert

Use 15 lbs. of dry ice per each 1,000 gallon capacity for each tank.

Verify with on-site LEL meter. OR PER LOCAL FD REQUIREMENTS.

Before tanks are pumped out and inerted, all associated piping must be flushed out into the tanks. All accessible associated piping must then be removed. Inaccessible piping must be plugged.

The Bay Area Air Quality Management District (771-6000), along with local Fire and Building Departments, must also be contacted for tank removal permits. Fire departments typically require the use of explosion proof combustible gas meters to verify tank inertness. It is the contractor's responsibility to bring a working combustible gas meter on site to verify tank inertness.

15. Tank History and Sampling Information

Tank		Material to be sampled (tank contents, soil, ground-water, etc.)	Location and Depth of Samples
Capacity	Use History (see instructions)		
500 GALLON	GASOLINE	SOIL	One sample at fill or pump end of the tank.
500 GALLON	GASOLINE	SOIL	" "
500 GALLON	WASTE OIL	SOIL	" "
	PIPING	SOIL	One sample every 20 lineal feet, or under swing joint dispenser.
Groundwater to be sampled if encountered.			

One soil sample must be collected for every 20 feet of piping that is removed. A ground water sample must be collected should any ground water be present in the excavation.

Excavated/Stockpiled Soil	
Stockpiled Soil Volume (Estimated)	Sampling Plan One sample for every 20 cubic yards maximum or 1 sample every 50 cubic yards minimum.

Stockpiled soil must be placed on bermed plastic and must be completely covered by plastic sheeting.

16. Chemical methods and associated detection limits to be used for analyzing samples

The Tri-Regional Board recommended minimum verification analyses and practical quantitation reporting limits should be followed. See attached Table 2.

Contaminant Sought	EPA, DHS, or Other Sample Preparation Method Number	EPA, DHS, or Other Analysis Method Number	Method Detection Limit
Gasoline TPHG BTEX	EPA 5030 EPA 5030	GCFID 8020/8240	1ppm .005ppm
Waste Oil TPHG TPHD BTEX O & G CL CH METALS PCB, PCP, PNH, Creosote	EPA 5030 EPA 3550 EPA 5030 EPA SM 5520 E & F (Gravimetric) EPA 5030 AA, Cd, Cr, Ni, Zn, Pb	GCFID GCFID 8020/8250 8010/8240 AA/ICAP 8270	1ppm 1ppm .005ppm
If groundwater encountered:	TPHG 5030/GCFID TPHD 3510/GCFID BTEX 5030/602 or 624 CL HC 601 or 624		

17. Submit Site Health and Safety Plan (See Instructions)

18. Submit Worker's Compensation Certificate copy

Name of Insurer STATE COMPENSATION INSURANCE FUND

19. Submit Plot Plan (See Instructions)

20. Enclose Deposit (See Instructions)

21. Report any leaks or contamination to this office within 5 days of discovery. The report shall be made on an Underground Storage Tank Unauthorized Leak/Contamination Site Report form. (see Instructions)

22. Submit a closure report to this office within 60 days of the tank removal. This report must contain all the information listed in item 22 of the instructions.

I declare that to the best of my knowledge and belief the statements and information provided above are correct and true.

I understand that information in addition to that provided above may be needed in order to obtain an approval from the Department of Environmental Health and that no work is to begin on this project until this plan is approved.

I understand that any changes in design, materials or equipment will void this plan if prior approval is not obtained.

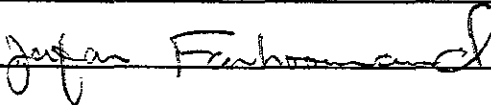
I understand that all work performed during this project will be done in compliance with all applicable OSHA (Occupational Safety and Health Administration) requirements concerning personnel health and safety. I understand that site and worker safety are solely the responsibility of the property owner or his agent and that this responsibility is not shared nor assumed by the County of Alameda.

Once I have received my stamped, accepted closure plan, I will contact the project Hazardous Materials Specialist at least three working days in advance of site work to schedule the required inspections.

Signature of Contractor

Name (please type) Jafar Farhoomand

Signature _____



Date 12/30/91

Signature of Site Owner or Operator

Name (please type) _____

Signature _____



Date 12-30-91

TPE SITE SAFETY PLAN

TANK PROTECT ENGINEERING OF NORTHERN CALIFORNIA, INC.
SITE SAFETY PLAN *

Site 16035 E. 14th Street Project Number 218
Original Site Safety Plan: Yes () No () Revision Number _____
Plan Prepared by Tank Protect Engineering Date 12/30/91
Plan Approved by _____ Date 12/30/91

Please respond to each item as completely as possible. Where an item is not applicable, please mark "N/A".

1. KEY PERSONNEL AND RESPONSIBILITIES

(Include name, telephone number and health and safety responsibilities; i.e., project manager - Joe Smith - responsible for supervision of all site activities.)

Project Manager Lyle Travis
Site Safety Manager Ahmad Shah
Alternate Site Safety Manager Lyle Travis
Field Team Members Allen Kafai
Ahmad Shah

Agency Reps: [Please specify by one of the following symbols: Federal: (F), State: (S), Local: (L), Contractor(s): (C)]

(L) Alameda County Health Care Services Agency Rep.

* Note: The Health and Safety Plan must adhere to the requirements pursuant to 29 CFR Part 1910.120.

TPE SITE SAFETY PLAN

2. JOB HAZARD ANALYSIS

2.1 OVERALL HAZARD EVALUATION

Hazard Level: High () Moderate (X) Low () Unknown ()
Hazard Type: Liquid () Solid () Sludge () Vapor/Gas (X)

Known or suspected hazardous materials present on site
SEE BELOW; GASOLINE VAPORS CONTAIN BENZENE, TOLUENE, XYLENES,
ETHYLBENZENE

Characteristics of hazardous materials included above (complete for each chemical presents):

MATERIAL #1

Corrosive ()	Ignitable (X)	Toxic (X)	Reactive ()
Volatile (X)	Radioactive ()	Biological Agent ()	
Exposure Routes:	Inhalation (X)	Ingestion ()	Contact (X) SKIN & MUCOUS MEMERANE

MATERIAL #2

Corrosive ()	Ignitable ()	Toxic ()	Reactive ()
Volatile ()	Radioactive ()	Biological Agent ()	
Exposure Routes:	Inhalation ()	Ingestion ()	Contact ()

MATERIAL #3

Corrosive ()	Ignitable ()	Toxic ()	Reactive ()
Volatile ()	Radioactive ()	Biological Agent ()	
Exposure Routes:	Inhalation ()	Ingestion ()	Contact ()

MATERIAL #4

Corrosive ()	Ignitable ()	Toxic ()	Reactive ()
Volatile ()	Radioactive ()	Biological Agent ()	
Exposure Routes:	Inhalation ()	Ingestion ()	Contact ()

TPE SITE SAFETY PLAN

2.2 JOB-SPECIFIC HAZARDS

For each labor category specify the possible hazards based on information available (i.e., Task-driller, Hazards-trauma from drill rig accidents, etc.) For each hazard, indicate steps to be taken to minimize the hazard.

TASK - TANK REMOVAL; HAZARD - GASOLINE VAPOR EXPLOSION
TO MINIMIZE - USE 15 LB OF DRY ICE PER EACH 1,000 GALLON CAPACITY
TO INERT VAPOR PRESENT IN TANK

The following additional hazards are expected on site (i.e., snake infested area, extreme heat, etc.):

Measures to minimize the effects of the additional hazards are:

3. MONITORING PLAN

3.1 (a) Air Monitoring Plan

Action levels for implementation of air monitoring. Action levels should be based on published data available on contaminants of concern. Action levels should be set by persons experienced in industrial hygiene.

Level (i.e.,.5 ppm)	Action Taken (i.e., commence perimeter monitoring)
<hr/>	N/A <hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

TPE SITE SAFETY PLAN

(b) Air Monitoring Equipment

Outline the specific equipment to be used, calibration method, frequency of monitoring, locations to be monitored, and analysis of samples (if applicable).

AIR MONITORING WILL BE DONE BY USING GASTECH MODEL 1314.

HEXANE WILL BE USED FOR CALIBRATION OF THE GASTECH.

If air monitoring is not to be implemented for this site, explain why:

THIS CASE INVOLVES ONLY TANK REMOVAL

3.2 Personnel Monitoring

(Include hierarchy of responsibilities decision making on the site)

SAFETY OFFICER ADVISES FIELD MANAGER WHO DELEGATES RESPONSIBILITIES TO INDIVIDUAL TEAM WORKERS.

3.3 Sampling Monitoring

(a) Techniques used for sampling

INSERT A PROBE INSIDE THE TANK TO DETERMINE LEL AND OXYGEN LEVELS.

(b) Equipments used for sampling GASTECH MODEL 1314

1 - HYDROCARBON SUPER SURVEYOR

2 - BRASS SLEEVE AND SAMPLER WITH HAMMER

TPE SITE SAFETY PLAN

- (c) Maintenance and calibration of equipments _____
USE HEXANE FOR CALIBRATION
EQUIPMENT WILL BE CALIBRATED PRIOR TO OPERATION

4. PERSONAL PROTECTIVE EQUIPMENT (PPE)

Equipment used by employees for the site tasks and operations being conducted. Be Specific (i.e., hard hat, impact resistance goggles, other protective glove, etc.).

HARD HAT, PROTECTIVE GLOVES

5. SITE CONTROL AND SECURITY MEASURES

The following general work zone security guidelines should be implemented:

- Work zone shall be barricaded and caution tape used.
- Excavations shall be closed when drilling and sampling activities are not actually taking place.
- No excavations shall be left unattended. Visitors will not enter the work zone unless they have attended a project safety briefing.
- Persons will not leave the work zone without first passing through the decontamination zone.

6. DECONTAMINATION PROCEDURE

List the procedures and specific steps to be taken to decontaminate equipment and PPE.

N/A

TPE SITE SAFETY PLAN

7. TRAINING REQUIREMENTS

Prior to mobilization at the job site, employees will attend a safety briefing. The briefing will include the nature of the wastes and the site, donning personal protection equipment, decontamination procedures and emergency procedures.

8. MEDICAL SURVEILLANCE REQUIREMENTS

If any task requires a very high personnel protection level, personnel shall provide assurances that they have received a physical examination and they are fit to do the task. Also personnel will be instructed to look for any symptom of heat stress, heat stroke, heat exhaustion or any other unusual symptom. If there is any report of that kind it will be immediately followed through, and appropriate action will be taken.

9. STANDARD OPERATION PROCEDURES

Tank Protect Engineering of Northern California, Inc. (TPE) is responsible for the safety of all TPE employees on site. Each contractor shall provide all the equipment necessary to meet safe operation practices and procedures for their personnel on site and be responsible for the safety of their workers.

A "Three Warning" system is utilized to enforce compliance with Health and Safety procedures practices which will be implemented at the site for worker safety:

- * Eating, drinking, chewing gum or tobacco, and smoking will be allowed only in designated areas.
- * Wash facilities will be utilized by workers in the work areas before eating, drinking, or use of the toilet facilities.
- * Containers will be labeled identifying them as waste, debris or contaminated clothing.

TPE SITE SAFETY PLAN

- * All Excavation/drilling work will comply with regulatory agencies requirement.
- * All site personnel will be required to wear hard hats and advised to take adequate measures for self protection.
- * Any other action which is determined to be unsafe by the site safety officer.

10. CONFINED SPACE ENTRY PROCEDURES

No one is allowed to enter any confined space operation without proper safety measures. Specifically in case of an excavated Tank Pit no one should enter at no time.

11. EMERGENCY RESPONSE PLAN

Fire extinguisher(s) will be on site prior to excavation. Relevant phone numbers:

Person	Title	Phone No.
<u>Lyle Travis</u>	Project Manager	<u>(510) 429-8088</u>
_____	Fire	911 or _____
_____	Police	911 or _____
_____	Ambulance	911 or _____
_____	Poison Control Center	<u>(800)523-2222</u>
_____	Site Phone	_____
_____	Nearest off-site no.	_____
_____	Medical Advisor	_____
<u>Mary Petsas</u>	Client Contact	<u>(510) 276-2828</u>

TPE SITE SAFETY PLAN

U.S EPA - ERT _____ (201) 321-6660
Chemtrec _____ (800) 424-9300
Centers for Disease Control _____ Day (404) 329-3311
Night (404) 329-2888
National Response Center _____ (800) 424-8802
Superfund/RCRA Hotline _____ (800) 424-8802
TSCA Hotline _____ (800) 424-9065
National Pesticide Information Services _____ (800) 845-7633
Bureau of Alcohol, Tobacco, and Firearms _____ (800) 424-9555

HEALTH AND SAFETY COMPLIANCE STATEMENT

I, Lyle Travis, have received and read a copy of the project Health and Safety Plan.

I understand that I am required to have read the aforementioned document and have received proper training under the occupational Safety and Health Act (29 CFR, Part 1910.120) prior to conducting site activities at the site.

Lyle Thomas G. Travis

12/30/91

Signature

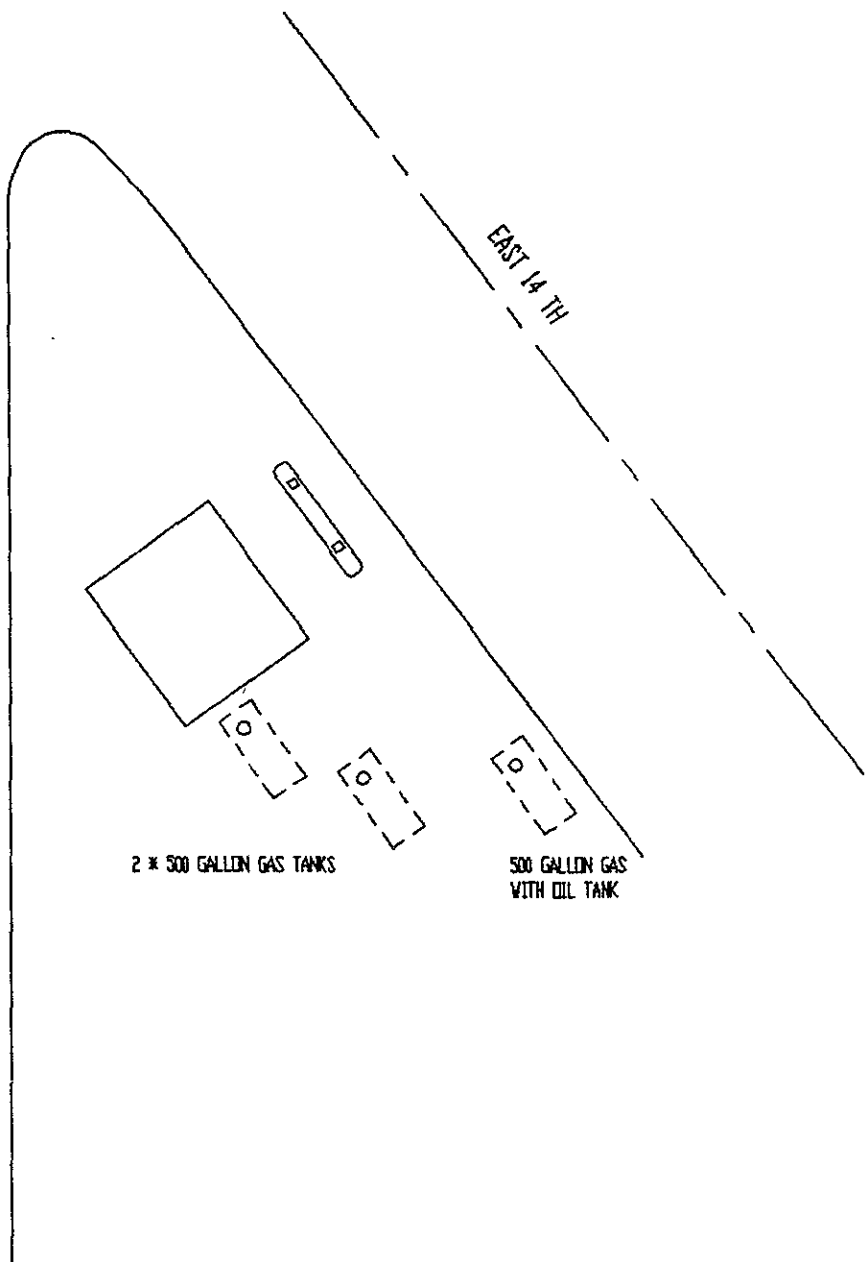
Date

Humana Hospital
13855 E. 14th Street
San Leandro, CA 94578
Emergency # (510) 667-4545

Go south on E.14th street and the hospital will be on your right hand side.

ASHLAND AVE

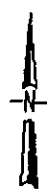
EAST 14 TH



2 * 500 GALLON GAS TANKS

500 GALLON GAS WITH OIL TANK

NOT TO SCALE



TANK PROTECT ENGINEERING

SITE PLAN

16035 EAST 14 TH AVE
SAN LEANDRO, CA 94578

DATE	12/18/91
FIGURE	1
FILE #	218A-1
DRAWN BY	ASH
CHECKED BY	LT

Specializing in
Automatic Transmissions



UNITED AUTO CENTER

Quality Used Cars, Trucks & Vans
Sales & Service

Ray *Mofrad*
16035A East 14th Street
San Leandro, CA 94578

Victor
(510) 276-3238
Fax (510) 276-3240

Petsas

ETHAN A. GLAUBIGER
ATTORNEY AT LAW

THE LAW OFFICES OF
ETHAN A. GLAUBIGER

50 SANTA ROSA AVENUE
SUITE 521
SANTA ROSA, CA 95404
(707) 578-4505



Lyle T. Travis
Civil Engineer

Tank Protect Engineering
of Northern California
Environmental Management

Specializing in Underground Tank
● Removal ● Installation ● Soil & Water Clean Up

2821 Whipple Rd.
Union City, CA 94587
Engr. Contr. Lic. No. 575897

(415) 429-8088
(800) 523-8088
FAX: (415) 429-8089

MARK JOHNSON

JOHNSON AND JOHNSON
ATTORNEYS AT LAW

44 MONTGOMERY STREET, SUITE 4100 (415) 362-3503
SAN FRANCISCO, CALIFORNIA 94104 (415) 989-1137 FAX