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1:20 pm, Mar 17, 2011

Alameda County
Environmental Health

Kenneth E. Beesen
5700 McFarland Road
Sebastopol, CA 95472
(707) 217-9863

COVER SHEET

RE: Work Plan Request: Fuel Leak Case No. RO0003045 and GeoTracker Global ID
T0600101219, 6562 Shattuck Avenue, Oakland, CA 94609

ENCLOSURES

1. Comment on work Plan Request Letter (February 22, 2011) consisting of eight pages.
2. Attachment 1. — Raymond E Walker Job Summary (July 3, 1985)
3. Attachment 2. — Zero Waste Systems, Inc. (May 22, 1985) Comments
4. Attachment 3. — Zero Waste Systems, Inc. Site Sketch with depth measurements
5. List of Landowners Form (completed)

I declare, under penalty of perjury, that the information and /or recommendations contained in the attached document or report is true and correct to the best of my knowledge.

Kenneth E. Beesen

Kenneth E. Beesen
5700 McFarland Road
Sebastopol, CA 95472
(707) 217-9863

March 8, 2011

Alameda County
Health Care Services Agency

Environmental Health Department
Environmental Protection
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700

RE: Work Plan Request; Fuel Leak Case No. RO0003045; GeoTracker Global ID T0600101219

Subject: Please Reconsider Directive for Further Investigation

Dear Barbara Jakub,

In response to your letter of February 22, 2011, I would like to take this opportunity to emphasize several salient factors in the history of the property in question which may influence your decision requesting further investigation of the site.

History

The property in question, 6562 Shattuck Avenue, Oakland, parcel no. 016-1425-019, consists of a 6000 sq. ft. lot, and a 900 sq. ft. metal building. The property is zoned C-10 which allows for an automotive service garage among other light commercial services. Designed as a neighborhood auto service and repair facility and motor fuel dispensing station, the building and infrastructure were built in 1939. The land is completely sealed both by a layer of asphalt and, where the tanks were exhumed, a thick layer of concrete. The interior floor of the building is a concrete slab.

I am unaware of the history of the three underground storage tanks (USTs) which were in place when I purchased the property. They may be the originals or may have been replaced during previous ownership.

I purchased the property in June of 1983 from the estate of Prasitte Sakarindr. Prasitte Sakarindr owned and operated the property from 1966 to 1980. It is my understanding that during a trip to his native Thailand, sometime before 1980, he passed away. The property remained closed and unused for a number of years until I purchased it. When I acquired ownership of the property the building was due for restoration. I immediately began the process of cleaning and upgrading.

It was never my intention to use the property as a motor vehicle fueling station and I never did so. Since the property was suited appropriately for my intended purpose, I had no interest in the USTs or the three fuel dispensing pumps. I determined that the tanks were empty and didn't take much notice of their existence until I received separate letters in 1984 from the City of Oakland Fire Marshall and from the State of California Water Resources Control Board.

The Fire Marshall recommended removal or permanent closure of abandoned or any unused USTs. The SWRCB was concerned with the growing problem of leaking USTs and required all tanks to be registered. I registered the tanks and planned to have them removed from the property as soon as was possible.

After interviewing various contractors and obtaining quotes, I had the three USTs removed in May of 1985. I relied on my contractor to fulfill all laws, follow all regulations, notify the appropriate officials of the project and heed all official recommendations governing UST removal which were in force at the time. As I remember, leaky USTs were becoming a national concern and the processes for regulating, monitoring and effectuating remediation were just being developed.

After the USTs were removed, I continued to operate my automotive service at the location through June of 1996 when I closed the business. I negotiated a lease with the current tenant at that time and am happy to report that the property continues to be leased to the same tenant. The current tenant is a retail plant nursery, a very green and environmentally aware business.

Removal of the USTs

In April, 1985, I hired the Walker Hydraulics Company, a contractor specializing in service station equipment installation, repair and construction. They were qualified and experienced in removal of USTs. I was assured that all current protocol and legal requirements would be followed in the process. Raymond E. Walker, owner of Walker's Hydraulics, notified the Oakland Fire Marshall and obtained a permit for the removal of the tanks (see attached signed letter).

During the excavation, Mr. Gordon Gullett of the Oakland Fire Department and Mr. Dale Bowyer of the Regional Water Resources Control Board were notified when fuel contamination was detected, having been leaked at an earlier time and while the property was under prior ownership. Mr. Dale Bowyer advised soil sampling before proceeding further.

It was noted that all three tanks (1,000 gal., 500 gal., 500 gal.) were intact, without holes or deterioration and serviceable. The tank piping connecting the tanks to the pumps however was deteriorated and Mr. Walker noticed holes which were the source of a leak.

Soil samples were taken by Trevor Pitts of Zero Waste Systems, Inc. and delivered to Brown and Caldwell Analytic Laboratories for analysis. In accordance with the order by Mr. Dale Bowyer, during a two-week wait period for the results of the soil sampling, the contaminated soil was spread over the property at a depth of 12-16 inches, exposed to direct sunlight and summer heat

and stirred every other day to aid in the evaporation and biodegradation of any petroleum hydrocarbons present.

The lab results were obtained and forwarded to Mr. Peter Johnson of the Regional Water Resources Control Board. In a phone conversation with Raymond E. Walker, as relayed in a job summary letter from Mr. Walker (see attachment 1.), Mr. Johnson offered that he had reviewed the job progress details and soil sampling lab analysis. He made the determination that the numbers were acceptable, and given the two-weeks of aeration and processing of the excavated soil, that the hole should be refilled with the excavated soil and closed. Clean fill material (sand, rock or soil) was incorporated in the backfill to make up for the space of the removed tanks; the work site was compacted and closed. I chose the option to seal the site with a concrete slab.

It was my position, as owner of the property, that any order, directive or determination concerning remediation of the site, recommended by Mr. Peter Johnson, be followed precisely. It was my belief that the case file, if there was one, concerning the removal of the USTs, was closed and final. I felt that I had removed a source of potential environmental contamination and complied with the current rules in force at the time. **As a result of my efforts, there has been no discharge of fuel-based pollutants or any other pollutants at the property since 1980 or earlier.**

Site Location, Surrounding Environment and Other Sources of Contamination

The property is located in North Oakland, just south of the Berkeley/Oakland line within three to five miles from the east shore of San Francisco Bay. The area consists of high density single family housing and is intersected by several main thoroughfares. The property is situated on busy Shattuck Avenue. Nearby are Ashby Avenue, Telegraph Avenue, Alcatraz Avenue, Adeline Avenue, and Martin Luther King Jr. Way. Within one half mile to the north of my property, at the corner of Ashby and Shattuck Avenue, are **two former gas stations and two currently in operation**. South of my property, within a few hundred feet is **another former gas station (tanks currently being removed)**. Around the block, at Telegraph and Ashby Avenues are **one closed gas station and one in operation**. Southward, at Telegraph and Alcatraz is **another operating gas station**. **Five other automotive related repair and service facilities** can be found along these thoroughfares including **a former gas station on Shattuck Avenue** south of Alcatraz Avenue. It is possible some of these facilities contain abandoned or unregulated USTs and may contribute to fuel-based soil and groundwater contamination in the area.

Neighborhood sources of fuel-based contamination and other toxics are also possible when citizens inadvertently and otherwise pour or spill these toxics into the soil. These toxics percolate down to the high water table level in the area and affect water sampling data downstream.

The main thoroughfares in the area are heavily traveled by vehicular traffic including municipal buses and trucks. There is undoubtedly measurable contamination of the bay due to toxic run-off from the streets and thoroughfares via the storm drains. I assume some or much of these contaminants can reach groundwater further affecting groundwater quality and sampling data.

Factors for Reconsidering Directive for Further Investigation

1. Mr. Peter Johnson of the Regional Water Resources Control Board authorized closure of the site. During the UST removal project, Mr. Peter Johnson was in contact with Mr. Raymond E. Walker of Walker's Hydraulics, the company I hired to remove the tanks. Mr. Johnson was aware of the project details and was in receipt of the soil sampling analysis. After the two-weeks of stirring and aerating the soil removed from the excavation, he authorized back-fill with the excavated soil and site closure. In the July 3, 1985 job-summary letter written and signed by Mr. Raymond Walker, the following item was noted:

“6. Upon receiving lab report, I contacted Mr. Peter Johnson of the Regional Water Board. He said that the above measures were adequate and to go ahead and fill the excavated site and pour a slab.” (see attachment 1.)

2. No source of fuel leak or spill has existed at the property for over 30 years. Possible residual contamination has neutralized through natural processes. Prior to my purchase of the property in June, 1983, the previous business at the property ceased operation in 1980 or earlier and the facility remained closed and unused. During my ownership of the property, I never put fuel in the USTs or had fuel put in the USTs and I was never a dispenser of fuel. The empty USTs were removed in May, 1985. **It is my understanding that any residual contamination to the soil or groundwater due to previous leaks or unauthorized spills has long-since stabilized and poses no threat to human health or to the environment. According to informational articles cited below, such residual contamination would have evaporated, drifted, been diluted or biodegraded and stabilized to undetectable or safe levels in the last 30 years.**

3. Contaminants reaching the groundwater would have drifted a great distance. In terms of groundwater drift, I cite a document (Publication 8083) written by Professor Thomas Harter, a UC Cooperative Extension Hydrogeology Specialist, University of California, Davis, and Kearney Agricultural Center.

Dr. Harter discusses direction and speed of groundwater movement. He states, “Groundwater velocity is the product of hydraulic conductivity and hydraulic gradient, with adjustments for porosity of the soil material....Typical groundwater velocity in a sandy or gravelly aquifer may range from .5 to 50 feet per day.”

A high water table at the site is significant since possible spills or leaks might have entered it. In the case of my property, the water table level in the excavation was measured by Mr. Trevor Pitt to be 95” and rising. I estimate the static level at the time measured approximately 72” to 84”.

The downward gradient from the site is directly westward toward SF Bay. If we assume a conservative 1 ft/day movement, travel of the groundwater would equate as follows: 1ft/day x 365 days x 30 years = 10,950 feet. 10,950 feet equals 2 miles. According to Dr. Harter's document, it can be estimated that groundwater beneath my property in 1980, contaminated or not, has traveled at least two miles to the west.

Groundwater sampling for contaminants at my property would be indicative of water quality of the general region. Since several potential sources of soil and groundwater contamination exist within a radius of one mile of the property — as noted above — and because 30 years have elapsed since possible leaks or spills at my property, it is my belief that groundwater sampling would be of no value, yet costly, disruptive of the on-site business, a waste of resources and an unreliable indicator.

4. In 1985, Mr. Peter Johnson of the Regional Water Resources Control Board (Regional Water Quality Control Board) likely considered my site a low-risk case. I have attached a **Memorandum** written in December of 1995, presented by the California Regional Water Quality Control Board, San Francisco Region, delineating **guidelines for qualifying a spill site as a low-risk soils case or a low-risk groundwater case.** Though these guidelines were published 10 years after the USBs were removed from my property, I assume Mr. Peter Johnson considered similar qualifications when he made the decision to authorize the closure of my site.

The Memorandum

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

Addressed to: San Francisco Bay Area Agencies Overseeing UST Cleanup
The Subject: Supplemental Instructions to State Water Board December 8, 1995
Interim Guidance on Required Cleanup at Low-Risk Fuel Sites.

Low-risk Soils Case

- a. The leak has been stopped and ongoing sources, including free product have been removed or remediated.
- b. The site has been adequately characterized.
- c. Little or no groundwater impact currently exists and no contaminants are found at levels above established MCLs or other applicable water quality objectives.
- d. No water wells, deeper drinking water aquifers, surface water or other sensitive receptors are likely to be impacted.
- e. The site presents no significant risk to human health.
- f. The site presents no significant risk to the environment.

Low-Risk Groundwater Case

- a. The leak has been stopped and ongoing sources, including free product, have been removed or remediated.
- b. The site has been adequately characterized.
- c. The dissolved hydrocarbon plume is not migrating.
- d. No water wells, deeper drinking water aquifers, surface water, or other sensitive receptors are likely to be impacted.
- e. The site presents no significant risk to human health.
- f. The site presents no significant risk to the environment.

The article points to passive bioremediation as a preferred remedial alternative in dealing with low-risk cases. The memorandum states, “Low risk soils cases should be closed when it is determined that site conditions conform to the above criteria.” “Passive

bioremediation should be the preferred remedial alternative (in low-risk groundwater cases) unless there is a compelling reason to do otherwise.”

5. Natural attenuation of petroleum hydrocarbons may contribute significantly to site remedial goals... in the short term. “Reasonable timeframes” and “a timeframe that is reasonable” are mentioned in an **EPA article (EPA/600/F-98/021)** that discusses natural attenuation of petroleum hydrocarbons in soil and groundwater. The article describes the natural processes of *Volatilization, Sorption, Biodegradation, Dispersion and Dilution, and Chemical Reactions*. I have noticed in other articles the mention of 5-10 year timeframes for the natural forces to do their work. There has not been a discharge at my property for at least 30 years.

6. The East Bay relies on potable water provided by EBMUD. Possible contamination of groundwater or soil from a leak or spill derived from my property more than 30 years ago would have no impact on drinking water supplies today.

7. Soil boring samples would not indicate contamination. At the time of the excavation, the soil from around and below the tanks was removed from the hole and spread over the parcel at a depth of 12-16 inches. It was exposed to direct sunlight and the warm summer air and stirred every other day for two weeks. This action was intended to aid in the evaporation and biodegradation of residual petroleum hydrocarbons. This soil was eventually returned to the excavation. At the time of filling the excavation and closing the site, additional clean fill in the form of soil, sand and stone was added. **The Regional Water Quality Control Board could have ordered the excavated soil hauled away to a toxic waste facility if it were deemed unacceptable as back-fill material.**

8. Soil borings and groundwater sampling collected for chemical analysis would not only be costly, they would also be extremely disruptive of the retail plant nursery business currently occupying and leasing the property. Because the job site is located near the center of the parcel, extreme dislocation of inventory and business property would be necessary to accommodate the large boring equipment. If drilling is required directly over the job site, serious demolition of the very thick layer of concrete slab would be required. Undoubtedly a halt to business operations would result for an extended period. **Significant disruption of this green business would jeopardize its survivability during these recessionary times.**

9. Trevor Pitts of Zero Waste Systems, Inc., taker of soil samples at the site at the time of the excavation, commented in writing as follows: “Water level in excavation about 95” and rising...Samples chosen to be “worst case”... groundwater shows no gasoline sheen or odor.” (See attachments 2.& 3.)

During the wait period of two weeks before Mr. Peter Johnson authorized closure of the job site, I had ample opportunity to observe the excavation each day. **I never detected fuel odors nor did I ever see fuel sheen on the surface of the groundwater.**

Summary

It has always been my goal to be a good steward of the land, to tread lightly and do no harm to our environment. When the issue of the USTs came into my attention, I chose the most effective action to prevent damage to the environment and future liability: I ordered the tanks removed. In the process, I expected compliance with all legal requirements.

I was never in the gasoline sales business and was never a discharger of petroleum hydrocarbons or any other form of environmental contamination.

In terms of removal of the USTs, I believed all requirements had been met. Mr. Peter Johnson of the Regional Water Resources Control Board authorized closure of the site and I felt the matter was permanently closed.

Now, 26 years after the closure of the site and over 30 years since the property had been used as a motor vehicle fueling station, it seems remarkable that the matter would be questioned. It seems clear to me that the site poses no threat to human or environmental health and I cannot imagine how it may ever do so in the future. Currently there is a green business occupying the site.

I fully support and applaud the work of your agency but, with all due respect, feel your attention is misdirected. I respectfully submit that your efforts should be directed toward discovering, investigating and curtailing current and serious environmental threats. My property is not a current and serious environment threat.

My case appears to me to be a matter of lack of proper paperwork. The proper forms for officially signing off and closing my job site may not have existed at the time of the job.

It would greatly relieve me to receive notification that you have reviewed this letter including all the reasons stated above for why your directive to me for further site investigation should be reconsidered and that you have agreed and decided that my case is resolved and officially closed. Please respond.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth E. Beesen". The signature is written in black ink and is positioned below the "Sincerely," text.

Kenneth E. Beesen

Reference Materials:

University of California

Division of Agriculture and Natural Resources

Basic Concepts of Groundwater Hydrology by Professor Thomas Harter

Publication 8083 FWQP Reference Sheet 11.1

State of California –California Environmental Protection Agency

California Regional Water Quality Control Board

San Francisco Bay Region

Letter and Memorandum

Kevin L. Graves, P.E.

Associate Water Resources Control Engineer

Stephen I. Morse, P.E.

Chief, toxics Cleanup Division

Supplemental Instructions to State Water Board December 8, 1995

Interim Guidance on Required Cleanup at Low Risk Fuel Sites

Fact Sheet – Questions and Answers on the “Interim Guidance on Low-Risk Petroleum Hydrocarbon Cleanups”

United States Environmental Protection Agency

Office of Research and Development, Washington, DC 20460

Monitored Natural Attenuation of Petroleum Hydrocarbons

U.S. EPA Remedial Technology Fact Sheet

EPA/600/F-98/021

May, 1999

Daniel F. Pope, Dynamac Corporation

Jerry N. Jones, RSKERC/SPRD/NRMRL/ORD



WALKER'S HYDRAULICS

250 KEATS CIRCLE / PLEASANT HILL, CA 94523 / 935-5518

July 3, 1985

Mr. Ken Beesen
Shattuck Import Service
6562 Shattuck Ave.
Oakland, Ca. 94609

Re: Removal of gasoline storage tanks.

Dear Mr. Beesen,

The following is a list of procedures we followed on removal of your gasoline storage tank as requested by the City of Oakland Fire Dept.:

- 1.. Notified city Fire Marshall and obtained permit.
2. At the time of excavation , we found several holes in the gasoline product lines allowing product to go into backfill area. We notified Mr. Gordon Gullett of Oakland Fire Dept and Mr. Dale Bowyer of the Regional Water Resources Board. They asked that soil samples be taken.
3. Tanks were removed and disposed of. Soil samples (see attached sampling sketch) were taken (see lab report).
4. During the 2 week wait for the lab report, we spread the excavated backfill around the lot to evaporate and dry. The soil was stirred every other day and spread at a depth of 12-16 in.
5. Lab report showed a max. of 42 P.P.M.
6. Upon receiving lab report, I contacted Mr. Peter Johnson of the Regional Water Board. He said that the above measureg were adequate and to go ahead and fill the excavated site and pour a slab.

Thank you for your patience with us on this project.

Sincerely,

Raymond E. Walker



ZERO WASTE SYSTEMS, Inc.
2928 Poplar St. • Oakland, CA 94608
(415) 893-8257

ANALYSIS AND CHAIN OF CUSTODY FORM

ATTACH 2.

Source of material: Shattuck Import Service 652-1397
6562 Shattuck Ave Oakland 94609
Excavation - underground tanks

Owner or generator:
Kenneth Beesen

Who will be billed? Include billing address.
Kenneth Beesen

Comments: Two tanks removed. Water level in excavation about 95" below grade + rising. Samples capped + refrigerated immediately. Odor + information from excavators indicated leaks in pipework at the west end of the tanks. Samples chosen to be "worst case". Ground water shows no gasoline sheen or odor.

Expected material: Gasoline in soil (see sketch) Sample Code or ID
#1, #2, #3

Actual material: (Attach any documentation or printouts to this form.)

Sampled by: TREVOR PITTS (ZWS)	Date: 5-22-85	From: (type of container or area) see sketch	Sampling method: (core sample of soil - core hammer)	Released by: (owner signature and print name) <i>Kenneth E. Beesen</i> KENNETH E. BEESEN
	Time: 4:30 pm			To custody of: (signature and print name) <i>Trevor Pitts</i> TREVOR PITTS

Moved where? To Brown + Caldwell Emeryville	Date: 5-22-85	Time: 4:50 pm left site	Route or shipper: ZWS
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To custody of: Brown + Caldwell

Comments: Fuel BTX analysis

Signature and print name *Hedy J. Ficklin* HEDY J. FICKLIN 5/22/85 5:11 PM

Moved where?	Date:	Time:	Route or shipper:
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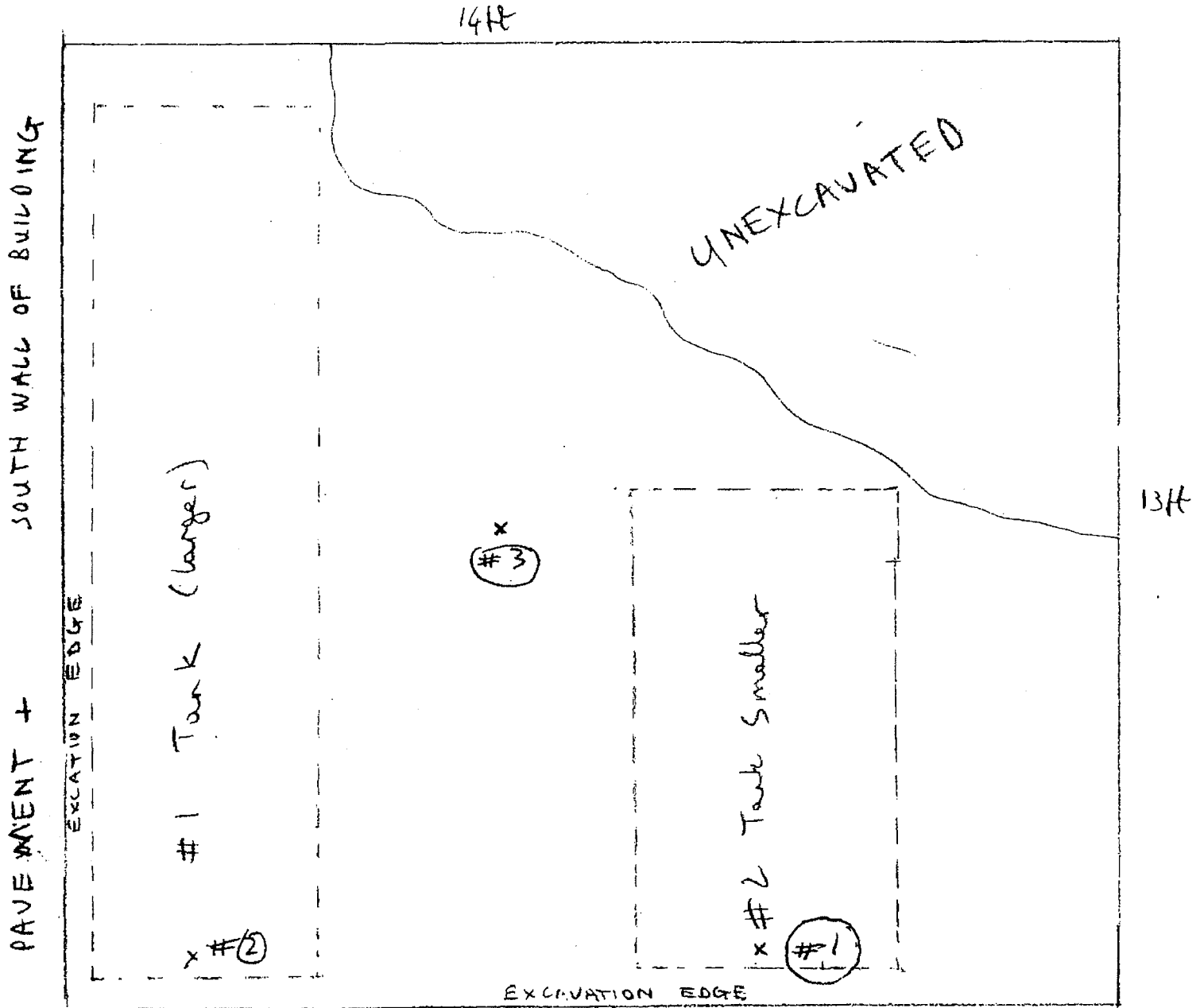
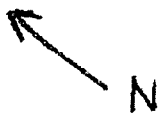
To custody of:

Comments:

Signature and print name

SAMPLING SKETCH

6562 Shattuck Ave 5-22-85



Bottom of # 1 tank	83"	below grade	(1000 gal)
Bottom of # 2 tank	88"	below grade	(550 gal)

Sample #1	90"	below grade	} in undisturbed ground
Sample #2	88"	" "	
Sample #3	48"	" "	

Drawn by Trevor Pitts of Zero Waste Systems Inc On-site