

Detterman, Mark, Env. Health

From: Michael Lamphere [mlamphere@lampherelaw.com]
Sent: Monday, July 14, 2014 6:32 PM
To: 'ayanez@waterboards.ca.gov'; 'lbabcock@waterboards.ca.gov'
Cc: Detterman, Mark, Env. Health; erik.oehlschlager@errg.com; pelco1969@sbcglobal.net
Subject: FW: Emailing: 2014-5-15.L.MOL to Babcock & Yanez (SWRCB) re UST fund appeal.pdf
Attachments: 2014-5-15.L.MOL to Babcock & Yanez (SWRCB) re UST fund appeal.pdf

Importance: High

Dear Ms. Babcock & Ms. Yanez:

This follows my email & letter of May 15, 2014, where my client, Apex Refrigeration Corporation (dba Pelco, Pelco Sales & Service and Pelco Distributors) formally appealed from the April 18, 2014 claim denial by the Claim Review Unit. That letter is attached again for your reference.

It has been two months since my letter but we have not had a response from the Fund Manager, Ms. Babcock. I am confident that when you review the information I relayed to you, you will accept this claim.

My client's financial situation continues to deteriorate. They must have their State UST Fund claim approved if they are to complete the ongoing UST cleanup project at 1550 Park Ave., Emeryville, California. Consequently, your prompt attention and reply to this appeal would be greatly appreciated.

Sincerely,
Michael O. Lamphere

LAMPHERE LAW OFFICES
900 Larkspur Landing Circle, Suite 179
Larkspur, CA 94939
Phone: 415-461-9727
Fax: 415-461-9725
Email: mlamphere@lampherelaw.com

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-----Original Message-----

From: Michael Lamphere
Sent: Thursday, May 15, 2014 4:49 PM
To: ayanez@waterboards.ca.gov; lbabcock@waterboards.ca.gov
Cc: Mark.Detterman@acgov.org; erik.oehlschlager@errg.com; pelco1969@sbcglobal.net
Subject: Emailing: 2014-5-15.L.MOL to Babcock & Yanez (SWRCB) re UST fund appeal.pdf
Importance: High

Dear Ms. Babcock & Ms. Yanez:

Please find attached our client, Apex Refrigeration Corporation's, formal appeal to the Fund Manager regarding the UST Cleanup Fund claim denial of April 18, 2014. Please review, and respond, as soon as possible to the undersigned.

Sincerely,
Michael O. Lamphere

LAMPHERE LAW OFFICES
900 Larkspur Landing Circle, Suite 179
Larkspur, CA 94939
Phone: 415-461-9727
Fax: 415-461-9725
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Your message is ready to be sent with the following file or link attachments:

2014-5-15.L.MOL to Babcock & Yanez (SWRCB) re UST fund appeal.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

LAMPHERE LAW OFFICES

900 Larkspur Landing Circle, Suite 179

Larkspur, California 94939

Tel (415) 461-9727

Fax (415) 461-9725

Attorneys

Paul O. Lamphere, Esq. (Ret.)

Michael O. Lamphere, Esq.

[Email: mlamphere@lampherelaw.com]

May 15, 2014

Via Email & Certified U.S. Mail

Lisa Babcock, P.G., C.E.G.,
Fund Manager,
Underground Storage Tank Cleanup Fund
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

Adriana Yanez
Claims Review Unit,
Underground Storage Tank Cleanup Fund
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

**RE: UNDERGROUND STORAGE TANK CLEANUP FUND
(FUND), FINAL STAFF DECISION TO REJECT CLAIM**
SWRCB Claim No.: 020064
Claimant: Apex Refrigeration Corporation
(dba Pelco, Pelco Sales & Service and Pelco Distributors)
Site Address: 1550 Park Ave., Emeryville, CA 94608
Our File No.: 8203

Dear Ms. Babcock & Ms. Yanez:

The undersigned represents claimant, Apex Refrigeration Corporation, which also does business as Pelco, Pelco Sales & Service and Pelco Distributors, with regards to the above-referenced UST cleanup fund claim application for the UST removal project identified as Alameda County Environmental Health (ACEH) Case No.: RO0003069 and GeoTracker Global I.D. No.: 1000002519.

Ms. Babcock & Ms. Yanez
May 15, 2014
Page 2

We are in receipt of Ms. Yanez' April 18, 2014 letter, which is attached for your reference, and in which the State Water Resources Control Board (SWRCB) staff has denied the UST fund claim of our client based on the erroneous fact that prior "Notice of Responsibility" (NOR) letters issued by ACEH do not identify the "Responsible Party" (RP) as Apex, but rather as Pellegrini Refrigeration and Restaurant Equipment Services Company.

As discussed below, this is an incorrect finding and decision by the Claim Review Unit. Accordingly, my client disagrees with this claim denial and hereby requests that it be immediately reviewed by the Fund Manager, pursuant to the appeal process in Section 2814 of the Petroleum Underground Storage Tank Cleanup Fund Regulations, and that after such review, the claim accepted by the UST Cleanup Fund forthwith.

At the outset, it should be noted Ms. Yanez' letter instructs my client to submit any requests/appeals to the Fund Manager "within thirty (30) calendar days from the date of this letter". However, although the letter is dated April 18, 2014, the SWRCB's mailer was not post-marked until May 8, 2014. See attached mailer envelope. Also, this letter was not received by my client until May 11, 2014. It is currently unknown why there was a 20 day delay between the signing and the mailing of this letter, but suffice to say that my client was prejudiced by this delay in that it had only 10 days to respond, rather than 30 days. In any event, we have been able to submit this appeal to the Fund Manager in a timely fashion.

Per Ms. Yanez' letter, the following informational items are required to be submitted to the Fund Manager for purposes of any appeal. We addressed these items as they were numbered in that letter:

(1) A statement describing how the claimant is damaged by the prior Staff Decision

My client, Apex, is damaged by the Claim Review Unit's/Staff's decision in that the current UST cleanup project is currently scheduled for further site characterization and future groundwater cleanup of released materials at the site of the prior UST and, without the assurance of State UST Cleanup Fund payments and/or reimbursements, my client will not be able to financially proceed with the approved work plan.

My client, Apex, does currently have in place its environmental contractor, ERRG, to perform the required boring, sampling, laboratory testing and eventual cleanup, but without UST Cleanup Fund acceptance of its claim, Apex will not be able to keep ERRG retained.

Time is of the essence in as much as both ACEH, by and through its senior hazardous

Ms. Babcock & Ms. Yanez
May 15, 2014
Page 3

materials specialist, Mark E. Detterman, PG, CEG, and the City of Emeryville Public Works Dept., are overseeing this project and expecting it to proceed immediately towards completion without delay.

(2) **A description of the remedy or outcome desired**

My client, Apex, desires for the Fund Manager to review this appeal, reverse the prior denial of this claim, and immediately accept the claim, so that it can be paid and/or reimbursed for any and all UST cleanup costs and so that the cleanup project can proceed without further delays.

(3) **A explanation of why the claimant, Apex, believes the Staff Decision is erroneous, inappropriate or improper**

The Claim Review Unit's/Staff's decision is erroneous because the ACEH issued two (2) NORs in this matter and, upon careful inspection of the same, it is clear that the proper and legal RP in this circumstance is in fact, Apex Refrigeration Corporation, not Pellegrini Refrigeration and Restaurant Equipment Company.

Specifically, and in response to item No. 1 in Ms. Yanez' letter, the NOR dated December 9, 2010, which is attached and is "Highlighted" for emphasis, does initially identify in the top left-hand corner of page 1 the "Responsible Party" as "Pennie Barger, Pellegrini Refrig. & Restau. Equip., 1550 Park Ave, Emeryville, CA 94608-3502". But in the main body of this NOR, in the middle of the first paragraph of page 1, it is clearly stated that:

"For purposes of implementing section 25297.15, this agency has identified **APEX REFRIGERATION CORP** as the primary or active Responsible Party. . . " (emphasis added).

Moreover, this NOR contains an "Attachment A - Responsible Parties Data Sheet", which on page 1 or 2 states that:

"RP has been named a Primary RP - **PENNIE BARGER APEX REFRIGERATION CORP**, 155 PARK AVE / EMERYVILLE, CA 94608-3502 / Phone (510) 653-9850". (emphasis added).

And page 2 of 2 of Attachment A also states that "ACEH has named the responsible parties for this site as detailed below" as follows:

“Responsible Party Identification

Pellegrini Refrigeration & Restaurant Equipment Co. is the former property owner associated with the underground storage tank (UST). Pellegrini Refrigeration & Restaurant Equipment Co. is a responsible party for the site because it owned an UST used for the storage of a hazardous substance (Definition 1) and owned the property associated with an unauthorized release (Definition 3).

Apex Refrigeration Corporation was the property owner associated with the underground storage tank (USD at the time of tank removal. The Apex Refrigeration Corporation is a responsible party for the site because it owns the property associated with an unauthorized release (Definition 3).” (emphasis added).

This is a correct statement of the history of ownership and the adjacent UST site. Specifically, Apex Refrigeration Corporation purchased the property located at 1550 Park Ave., Emeryville, California, on March 17, 2003, from Pellegrini Refrigeration and Restaurant Equipment, Inc. A copy of the “Corporation Grant Deed” is attached.

Additionally, on March 14, 2003, Pellegrini Refrigeration and Restaurant Equipment, Inc. conveyed and assigned to Apex all of its assets, properties, notes, accounts, causes of action, securities, debts, liabilities, etc. See attached “Conveyance and Assignment”.

Thereafter, Pellegrini Refrigeration and Restaurant Equipment, Inc. was legally and effectively dissolved pursuant to its plan of complete distribution and liquidation, adopted December 31, 2002, and submitted to, and confirmed by, the California Secretary of State. The corporate entity known as “Pellegrini Refrigeration and Restaurant Equipment, Inc.” no longer exists, and did not legally exist at the time of the initial UST detection and cleanup in 2009.

The undersigned has personal knowledge of the above facts in as much as I handled the purchase and sale agreement between Apex and Pellegrini Refrigeration and Restaurant Equipment, Inc., and I handled the dissolution of Pellegrini Refrigeration and Restaurant Equipment, Inc. as well.

Additionally, ACEH issued a further NOR dated June 15, 2011, which is attached and is “Highlighted” for emphasis. Again, similar to the NOR of December 9, 2010, careful reading of the notice reveals that the actual primary and actual “Responsible Party” is Apex Refrigeration Corp in as much as the legal entity of Pellegrini Refrigeration and Restaurant Equipment, Inc. did not exist anymore.

Ms. Babcock & Ms. Yanez
May 15, 2014
Page 5

Both of these NORs identifies the main ACEH caseworker and contact for this Local Oversight Program as Mark Detterman, as mentioned above. Mr. Detterman has been made aware of this UST Cleanup Fund Claim Denial. He agrees that the claim denial is incorrect since it is based on an erroneous finding that Pellegrini Refrigeration and Restaurant Equipment, Inc. is the “RP” for this project. He agrees that the primary and active “RP” is Apex; as demonstrated in his attached email-letter to Ms. Yanez dated May 13, 2014.

Regarding ACEH’s June 29, 2011, directive for clean up, we understand that item No. 2 in Ms. Yanez’ letter stated: “. . . *Please submit a copy from the [ACEH] directing the claimant [Apex] to clean up the contamination at the subject site*”. Out of an abundance of caution, and assuming that Mr. Detterman’s May 13, 2014 email-letter to Ms. Yanez will not suffice, we are specifically asking him by way of his “cc” hereto to prepare such a notice now, with copy to the SWRCB Underground Storage Tank Cleanup Fund, attn: Fund Manager, Lisa Babcock, specifically directing Apex Refrigeration Corporation to clean up the contamination at the subject site.

Item No. 3 in Ms. Yanez’ letter also requested a copy of the UST removal permit for the subject UST. All that my client has been able to find in that regard is the attached “Operating Permit Application - Tank Information” from the City of Emeryville dated December 7, 2009.

Item No. 4 in Ms. Yanez’ letter also requested clarification of Apex’s “dba” names; specifically “Pelco” and “Pelco Sales & Service”. The short answer is that in 1993 Apex bought the business equipment, and operating names, of Pellegrini Refrigeration and Restaurant Equipment, Inc, which included its “doing business as” fictitious name of “Pelco”. See attached “Fictitious Business Name Statement” filed May 10, 1993, with the Alameda County Clerk. See also attached renewal dated and filed August 30, 2014.

Item No. 5 in Ms. Yanez’ letter has been answered above and shown in the attachments hereto.

Accordingly, based on the above, we ask that the Fund Manager review this claim denial immediately and, assuming she agrees with our position, send confirmation to us that the UST Cleanup Fund application and claim of Apex has been approved.

Of course, if any further information or documentation is required by you, we will be happy to supply this you upon request. Again, time is of the essence, so we would appreciate your expedited review and reply to this appeal.

Ms. Babcock & Ms. Yanez
May 15, 2014
Page 6

If you have any questions, please do not hesitate to call me. We look forward to hearing from you as soon as possible.

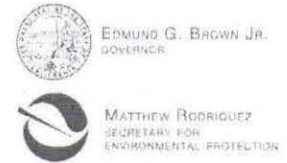
Very truly yours,

A handwritten signature in black ink, appearing to read "Michael O. Lamphere". The signature is fluid and cursive, with a large initial "M" and "L".

MICHAEL O. LAMPHERE

encls.: (as indicated)

cc: Pennie Barger, Secretary/Treasurer of Apex Refrigeration Corporation
Bogdan Sakalski, President of Apex Refrigeration Corporation
Mark E. Detterman, PG, CEG, Senior Hazardous Materials Specialist for ACEH
Erik Oehlschlager, PG, Project Manager for ERRG, Inc.



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

April 18, 2014

Apex Refrigeration Corporation
Dbas: Pelco Sales & Service
Pennie Barger
1550 Park Avenue
Emeryville, CA 94608

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), FINAL STAFF DECISION TO REJECT CLAIM: CLAIM NO. 020064; FOR SITE ADDRESS: 1550 PARK AVENUE, EMERYVILLE

On January 2, 2014, a "Staff Decision to Reject Claim" letter was sent to you. The letter informed you that your claim is not eligible for placement on the Fund's Priority List, and stated the reason(s) for that determination. The letter requested specific information / documentation necessary to determine eligibility.

The Notice of Responsibility issued by the Alameda County – Department of Environmental Health, dated December 01, 2010, identifies Pellegrini Refrigeration and Restaurant Equipment Company as the responsible party.

The Directive issued by the Alameda County – Department of Environmental Health, dated June 20, 2011, directs Pellegrini Refrigeration and Restaurant Equipment Company, to prepare a Site Investigation Work plan.

The documentation and information submitted does not identify Apex Refrigeration Corporation as the responsible party directed by the local regulator to undertake corrective action for the unauthorized release.

Since you did not submit the additional documentation and/or information requested, your claim is not eligible for participation in the Fund. My decision is based on the following authority:

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE OFFICER

Applicable Authority

Fund Regulations Section 2811.2 states:

A Fund application for reimbursement of corrective action costs shall contain the following:

(n) any other information or supporting documentation reasonably required by the Division to determine the eligibility, reimbursable amount due, or appropriate priority class of the claim.

H&SC Section 25299.57 states a claim may be paid if:

(d)(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

Fund Regulations Section 2811 states:

(a) An owner or operator of an underground storage tank or residential tank for which a permit is required under section 25284 of the Health and Safety Code shall be entitled to reimbursement for eligible corrective action, regulatory technical assistance, and third party compensation costs if...

(5) ...Any corrective action performed was performed in accordance with the written or oral directives of the appropriate regulatory agency....

Fund Regulations Section 2811.2 states:

A Fund application for reimbursement of corrective action costs shall contain the following:

(n) any other information or supporting documentation reasonably required by the Division to determine the eligibility, reimbursable amount due, or appropriate priority class of the claim.

NOTE: The sections cited are found in the Petroleum Underground Storage Tank Cleanup Fund Regulations, Title 23, Division 3, Chapter 18, of the California Code of Regulations, or Petroleum Underground Storage Tank Cleanup Fund Statutes, California Health and Safety Code (H&SC), Division 20, Chapter 6.75.

If you disagree with this Final Staff Decision, you may appeal to the Fund Manager pursuant to Section 2814 of the *Petroleum Underground Storage Tank Cleanup Fund*

Regulations. If you would like review of the decision by the Fund Manager, please submit your request along with any additional documentation to:

Lisa Babcock, P.G., C.E.G., Fund Manager
Claim No. 020064
Underground Storage Tank Cleanup Fund
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

A request to the Fund Manager should be submitted within thirty (30) calendar days from the date of this letter and must include, at a minimum: (1) a statement describing how the claimant is damaged by the prior Staff Decision; (2) a description of the remedy or outcome desired; and (3) an explanation of why the claimant believes the Staff Decision is erroneous, inappropriate or improper.

Should you decide to appeal this Decision, you must submit the following:

1. The Notice of Responsibility (NOR) issued by the Alameda County Health Care Services Agency, dated December 9, 2010, cannot be accepted. The NOR identifies Pellegrini Refrigeration & Restaurant Equipment Company, as the responsible party. **Please submit a copy of the first letter issued from Alameda County Health Care Services Agency the claimant, Apex Refrigeration Corporation as a responsible party.**
2. The Directive issued by the Alameda County Health Care Services Agency, dated, June 29, 2011, cannot be accepted. The Directive is issued to Pellegrini Refrigeration & Restaurant Equipment Company. **Please submit a copy from the Alameda County Health Care Services Agency directing the claimant Apex Refrigeration Corporation to clean up the contamination at the subject site.**
3. Please submit a copy of the UST removal permit for the subject UST listed in claim application.
4. Page one of your claim application identifies, Pelco Sales & Services and Pelco Distributors as dba's. The Fictitious Business Name Statement submitted only identifies Pelco and does not reflect the dba's identified in your claim application. **Please clarify this discrepancy.**
5. Information submitted with the claim application reflects that directives or other documentation was not in the claimant's name. In order to be considered an eligible claimant, **Apex Refrigeration Corporation** must:

Apex Refrigeration Corporation
Claim No. 020064

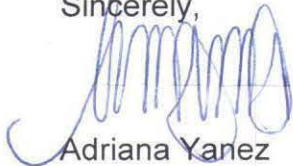
4

- Have been identified as the responsible party directed by the Alameda County Health Care Services Agency to undertake corrective action for the unauthorized release, and

Please submit clarification and documentation to support you meet the criteria outlined above.

If you have any questions, please contact me at (916) 324-8508.

Sincerely,



Adriana Yanez
Claims Review Unit
Underground Storage Tank Cleanup Fund

cc: Mark Detterman
Alameda County LOP
1131 Harbor Bay Parkway
Alameda, CA 94502

STATE WATER RESOURCES
CONTROL BOARD
DIVISION OF FINANCIAL ASSISTANCE
P.O. BOX 944212
SACRAMENTO, CA 94244-2120



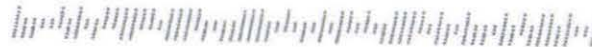
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Apex Refrigeration Corp.
Dba: Polco Sales & Services
Pennie Barger
1550 Park Ave
Emeryville, CA 94608

9460893585



ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

ALEX BRISCOE, Agency Director



DEPARTMENT OF ENVIRONMENTAL HEALTH
OFFICE OF THE DIRECTOR
1131 HARBOR BAY PARKWAY
ALAMEDA, CA 94502
(510) 567-6777
FAX (510) 337-9135

Certified Mail #: 7009 2820 001 4372 5037

December 9, 2010

NOTICE OF RESPONSIBILITY

Site Name & Address:

PELEGRINI REFRIGERATION & RESTAU. EQUIP. CO.
1550 PARK AVE
EMERYVILLE, CA 94608

Local ID: RO0003069
Related ID: NA
RWQCB ID: NA
Global ID: T10000002519

Responsible Party:

PENNIE BARGER
PELEGRINI REFRIG. & RESTAU. EQUIP.
1550 PARK AVE
EMERYVILLE CA 94608-3502

Date First Reported: 3/12/2010

Substance: 128 Bunker fuel oil

Funding for Oversight: LOPS - LOP State Fund

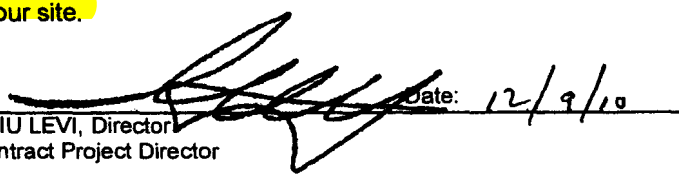
Multiple RPs?: Yes

Pursuant to sections 25297.1 and 25297.15 of the Health and Safety Code, you are hereby notified that the above site has been placed in the Local Oversight Program and the individual(s) or entity(ies) shown above, or on the attached list, has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site. Section 25297.15 further requires the primary or active Responsible Party to notify all current record owners of fee title before the local agency considers cleanup or site closure proposals or issues a closure letter. For purposes of implementing section 25297.15, this agency has identified APEX REFRIGERATION CORP as the primary or active Responsible Party. It is the responsibility of the primary or active Responsible Party to submit a letter to this agency, within 20 calendar days of receipt of this notice that identifies all current record owners of fee title. It is also the responsibility of the primary or active Responsible Party to certify to the local agency that the required notifications have been made at the time a cleanup or site closure proposal is made or before the local agency makes a determination that no further action is required. If property ownership changes in the future, you must notify this local agency within 20 calendar days from when you are informed of the change.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 341-5808 or telephone (916) 341-5650.

Pursuant to section 25296.10(c)(6) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact this office for further information about the designation process.

Please contact your caseworker DETTERMAN, MARK, at this office at (510)567-6876 if you have questions regarding your site.


Date: 12/9/10
ARIU LEVI, Director
Contract Project Director

Action: Add
Reason: New Case

Attachment A: Responsible Parties Data Sheet

cc: Jenniffer Jordan, SWRCB, D. Drogos, File

ALAMEDA COUNTY ENVIRONMENTAL HEALTH
LUFT LOCAL OVERSIGHT PROGRAM

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET

December 9, 2010

Site Name & Address:

PELLEGRINI REFRIGERATION & RESTAU. EQUIP. CO
1550 PARK AVE
EMERYVILLE, CA 94608

Local ID: RO0003069

Related ID: NA

RWQCB ID: NA

Global ID: T10000002519

All Responsible Parties

RP has been named a Primary RP - PENNIE BARGER
PELLEGRINI REFRIGERATION & RESTAURANT EQUIPMENT CO.
155 PARK AVE | EMERYVILLE, CA 94608-3502 | Phone (510) 653-9850

RP has been named a Primary RP - PENNIE BARGER
APEX REFRIGERATION CORP
155 PARK AVE | EMERYVILLE, CA 94608-3502 | Phone (510) 653-9850

Responsible Party Identification Background

Alameda County Environmental Health (ACEH) names a "Responsible Party," as defined under 23 C.C.R Sec. 2720. Section 2720 defines a responsible party 4 ways. An RP can be:

1. "Any person who owns or operates an underground storage tank used for the storage of any hazardous substance."
2. "In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use."
3. "Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred."
4. "Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance."

ACEH has named the responsible parties for this site as detailed below.

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET (Continued)

December 9, 2010

Responsible Party Identification

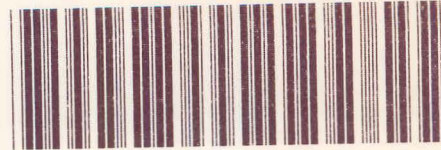
Existence of Unauthorized Release

One approximately 1,000-gallon underground storage tank (UST) that stored diesel, heating oil, or bunker oil was excavated and removed from the beneath the sidewalk at the site on February 8, 2010. Upon consultation with the adjacent property owner, the City of Emeryville removed the UST on behalf of the property owner. This action was taken to facilitate the completion of street improvements along Park Avenue. No holes were reported. Pit water had an oily sheen and was foamy, was pumped out, but did not recharge. Two confirmation soil samples were collected from beneath the excavation and one was collected from the soil stockpile. TPH as diesel (5.8 and 15 mg/kg) was detected beneath the excavation, while a concentration of TPH as diesel (830 mg/kg) was detected in the four-point stockpile sample; both indicate than an unauthorized release had occurred.

Responsible Party Identification

Pellegrini Refrigeration & Restaurant Equipment Co. is the former property owner associated with the underground storage tank (UST). Pellegrini Refrigeration & Restaurant Equipment Co. is a responsible party for the site because it owned an UST used for the storage of a hazardous substance (Definition 1) and owned the property associated with an unauthorized release (Definition 3).

Apex Refrigeration Corporation was the property owner associated with the underground storage tank (UST) at the time of tank removal. The Apex Refrigeration Corporation is a responsible party for the site because it owns the property associated with an unauthorized release (Definition 3).



3 PGS

APN: 049-1036-003

Recording Requested By:

Michael O. Lamphere, Esq.

When recorded mail to:

Michael O. Lamphere, Esq.
Lamphere Law Offices, LLP
900 Larkspur Landing Circle
Suite 179
Larkspur, CA 94939

)
)
)
)
) PCOR
) KSM
) JRT
) 3
) MT

Mail Tax Statements to:

Pennie Barger
Corporate Secretary & Treasurer,
APEX REFRIGERATION, CORPORATION
1550 Park Ave.
Emeryville, CA 94608

CORPORATION GRANT DEED

The Undersigned GRANTOR(S) Declares:

The Documentary transfer tax to be paid is \$ 13,200.00.
In the State of California, County of Alameda, City of Emeryville.

GRANTOR, Pellegrini Refrigeration and Restaurant Equipment, Inc., a California corporation, hereby grants to **GRANTEE, Apex Refrigeration Corporation**, a California corporation, all that property situated in the City of Emeryville, County of Alameda, State of California, described as:

Parcel "A", Parcel Map No. 3079, Filed November 15, 1979, Map Book 113, Page 58, Alameda County Records, but excepting therefrom any portion of the property as described in the Deed to Mario Pellegrini and Virginia Pellegrini recorded June 20, 1978, Reel 447, Image 412;

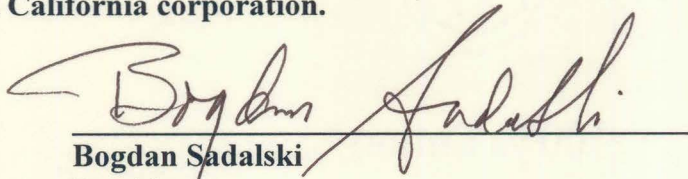
and further described as:

All of the right, title and interest of every nature and kind whatsoever, of the party of the first part, in and to a certain spur track over, along and upon the following described route in the town of Emeryville,

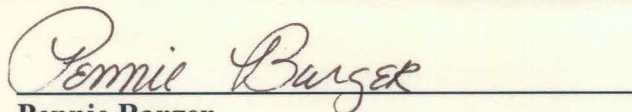
County of Alameda, State of California, to wit: Commencing at a point on the northerly line of Park Ave., Distant 8.6 feet at right angles easterly from the west line of Hallack St., running thence northerly and parallel to said line of Hallack St. a distance of 145 feet, more or less, to a connection with a certain spur track of the Southern Pacific Railway Company in said Hallack St., and together with all the right, title and interest of Air Reduction Company of California in and to a certain spur track agreement made by Southern Pacific Railway Company to and with one Oscar Sutro, dated March 3, 1917, and numbered document T-1719, which said spur track agreement, and the interests therein and thereof, of said Oscar Sutro were theretofore duly assigned by said Oscar Sutro to Air Reduction Company of California by a duly executed assignment in writing, dated April 4, 1917. Being the same property conveyed to the party of the first part by Air Reduction Pacific Company by deed, dated December 30, 1949 and recorded on January 26, 1950 in Book 6003, page 453 of Official Records of Alameda County, California, as conveyed by Air Reduction Company, incorporated, to GEE-JAY, Inc., by deed recorded May 7, 1964, Instrument No. AW/72958, Reel 1197, Image 20.

DULY EXECUTED on March 14, 2003, at Emeryville, California, by:

Pellegrini Refrigeration and Restaurant Equipment, Inc.
A California corporation.



Bogdan Sadalski
President,
Pellegrini Refrigeration and Restaurant Equipment, Inc.



Pennie Barger
Secretary & Treasurer,
Pellegrini Refrigeration and Restaurant Equipment, Inc.

[Acknowledgment (Civ. Code § 1189(a)) continued on next page.]

[Mail tax statements as directed above.]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of ALAMEDA } ss.

On MARCH 14, 2003, before me, LINDA HERMAN, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared BOGDAN SADALSKI AND PENNIE F. BARGER,
Name(s) of Signer(s)

- personally known to me
- 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.



Place Notary Seal Above

WITNESS my hand and official seal.
Linda Herman
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: CORPORATION GRANT DEED

Document Date: MARCH 14, 2003 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): PRESIDENT; SECRETARY TREASURER
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____



CONVEYANCE AND ASSIGNMENT

Under the plan of complete distribution and liquidation adopted December 31, 2002, by Pellegrini Refrigeration and Restaurant Equipment, Inc. (the Corporation), a California corporation, hereby grants, conveys, sells, assigns, and transfers over in equal undivided interests in the following properties of the Corporation to the shareholders of its parent corporation, Apex Refrigeration Corporation, a California corporation, who are specifically described as Bogdan Sadalski, Terry M. Pellegrini, Pennie F. Barger, Jeanette Barger, and Michael J. Lee, the following:

1. All of the Corporation's bank accounts, cash, and currency;
2. All of the Corporation's accounts receivable, promissory notes, mortgages, pledges, other encumbrances, other evidences of indebtedness, and other obligations of others owing to the Corporation;
3. All of the Corporation's causes of action and choses in action;
4. All of the Corporation's stock, bonds, and other securities; and
5. Any and all other property of whatever kind or nature and wherever located, and all the Corporation's right, title, and interest in that property.

The specific enumeration or description of properties in this conveyance and assignment is not intended to limit the assets and properties that it covers; it is the intent of the Corporation by this instrument to convey all of its assets and properties of any and all kinds or character to the shareholders listed above.

This Conveyance and Assignment is made under the plan of distribution and liquidation adopted and approved by written consent of the above-named shareholders of the Corporation on December 31, 2002, in complete liquidation of the Corporation and in complete cancellation of all outstanding shares of capital stock of the Corporation.

Title to all properties shall become fully and completely conveyed and transferred to the above-named shareholders by the making of this instrument and delivery of it to the shareholders, but the Corporation agrees, at the shareholders' request, to make, execute, and deliver to the shareholders such other and further deeds, bills of sale, conveyances, and assignments as may be desirable or convenient to further evidence the conveyance, assignment, and transfer effected by this Conveyance and Assignment.

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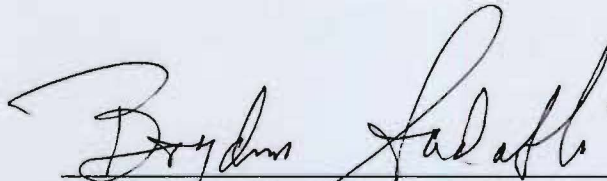
IN WITNESS, the Corporation has caused this Conveyance and Assignment to be executed and its corporate seal to be affixed by its duly authorized officers on the date set forth below.

Dated: March 14, 2003.

Pellegrini Refrigeration and Restaurant Equipment, Inc.
A California corporation.



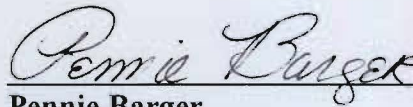
[Seal]



Bogdan Sadalski
President,
Pellegrini Refrigeration and Restaurant Equipment, Inc.



[Seal]



Pennie Barger
Secretary/Treasurer,
Pellegrini Refrigeration and Restaurant Equipment, Inc.

[Acknowledgment continued on next page.]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of ALAMEDA } ss.

On MARCH 14, 2003, before me, LINDA HERMAN, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared BOGDAN SADALSKI, PENNIE F. BARGER,
Name(s) of Signer(s)

- personally known to me
- I 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.



Place Notary Seal Above

WITNESS my hand and official seal.

Linda Herman
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: CONVEYANCE AND ASSIGNMENT

Document Date: MARCH 14, 2003 Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): PRESIDENT; SECRETARY TREASURER
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: _____



ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

ALEX BRISCOE, Agency Director



DEPARTMENT OF ENVIRONMENTAL HEALTH
OFFICE OF THE DIRECTOR
1131 HARBOR BAY PARKWAY
ALAMEDA, CA 94502
(510) 567-6777
FAX (510) 337-9135

Certified Mail #: 7009 2820 001 4372 7529

June 15, 2011

NOTICE OF RESPONSIBILITY

Site Name & Address:

PELLEGRINI REFRIGERATION & RESTAU. EQUIP. CO.

1550 PARK AVE
EMERYVILLE, CA 94608

Local ID: RO0003069
Related ID: NA
RWQCB ID: NA
Global ID: T10000002519

Responsible Party:

PENNIE BARGER
PELLEGRINI REFRIG. & RESTAU. EQUIP.
155 PARK AVE
EMERYVILLE CA 94608-3502

Date First Reported: 3/12/2010

Substance: 128 Bunker fuel oil

Funding for Oversight: LOPS - LOP State Fund

Multiple RPs?: Yes

Pursuant to sections 25297.1 and 25297.15 of the Health and Safety Code, you are hereby notified that the above site has been placed in the Local Oversight Program and the individual(s) or entity(ies) shown above, or on the attached list, has (have) been identified as the party(ies) responsible for investigation and cleanup of the above site. Section 25297.15 further requires the primary or active Responsible Party to notify all current record owners of fee title before the local agency considers cleanup or site closure proposals or issues a closure letter. **For purposes of implementing section 25297.15, this agency has identified APEX REFRIGERATION CORP as the primary or active Responsible Party.** It is the responsibility of the primary or active Responsible Party to submit a letter to this agency, within 20 calendar days of receipt of this notice that identifies all current record owners of fee title. It is also the responsibility of the primary or active Responsible Party to certify to the local agency that the required notifications have been made at the time a cleanup or site closure proposal is made or before the local agency makes a determination that no further action is required. If property ownership changes in the future, you must notify this local agency within 20 calendar days from when you are informed of the change.

Any action or inaction by this local agency associated with corrective action, including responsible party identification, is subject to petition to the State Water Resources Control Board. Petitions must be filed within 30 days from the date of the action/inaction. To obtain petition procedures, please FAX your request to the State Water Board at (916) 341-5808 or telephone (916) 341-5650.

Pursuant to section 25296.10(c)(6) of the Health and Safety Code, a responsible party may request the designation of an administering agency when required to conduct corrective action. Please contact this office for further information about the designation process.

Please contact your caseworker DETTERMAN, MARK, at this office at (510)567-6876 if you have questions regarding your site.



ARIU LEVI, Director
Contract Project Director

Date: 6/17/11

Action: Add
Reason: New Case

Attachment A: Responsible Parties Data Sheet

cc: Jennifer Jordan, SWRCB, D. Drogos, File

ALAMEDA COUNTY ENVIRONMENTAL HEALTH
LUFT LOCAL OVERSIGHT PROGRAM

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET

June 15, 2011

Site Name & Address:
PELEGRINI REFRIGERATION & RESTAU. EQUIP. CO
1550 PARK AVE
EMERYVILLE, CA 94608

Local ID: RO0003069
Related ID: NA
RWQCB ID: NA
Global ID: T10000002519

All Responsible Parties

RP has been named a Primary RP - PENNIE BARGER
PELEGRINI REFRIGERATION & RESTAURANT EQUIPMENT CO.
155 PARK AVE | EMERYVILLE, CA 94608-3502 | Phone (510) 653-9850

RP has been named a Primary RP - PENNIE BARGER
APEX REFRIGERATION CORP
155 PARK AVE | EMERYVILLE, CA 94608-3502 | Phone (510) 653-9850

Responsible Party Identification Background

Alameda County Environmental Health (ACEH) names a "Responsible Party," as defined under 23 C.C.R Sec. 2720. Section 2720 defines a responsible party 4 ways. An RP can be:

1. "Any person who owns or operates an underground storage tank used for the storage of any hazardous substance."
2. "In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use."
3. "Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred."
4. "Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance."

ACEH has named the responsible parties for this site as detailed below.

ATTACHMENT A - RESPONSIBLE PARTIES DATA SHEET (Continued)

June 15, 2011

Responsible Party Identification

Existence of Unauthorized Release

One approximately 1,000-gallon underground storage tank (UST) that stored diesel, heating oil, or bunker oil was excavated and removed from the beneath the sidewalk at the site on February 8, 2010. Upon consultation with the adjacent property owner, the City of Emeryville removed the UST on behalf of the property owner. This action was taken to facilitate the completion of street improvements along Park Avenue. No holes were reported. Pit water had an oily sheen and was foamy, was pumped out, but did not recharge. Two confirmation soil samples were collected from beneath the excavation and one was collected from the soil stockpile. TPH as diesel (5.8 and 15 mg/kg) was detected beneath the excavation, while a concentration of TPH as diesel (830 mg/kg) was detected in the four-point stockpile sample; both indicate that an unauthorized release had occurred.

Responsible Party Identification

Pellegrini Refrigeration & Restaurant Equipment Co. is the former property owner associated with the underground storage tank (UST). Pellegrini Refrigeration & Restaurant Equipment Co. is a responsible party for the site because it owned an UST used for the storage of a hazardous substance (Definition 1) and owned the property associated with an unauthorized release (Definition 3).

Apex Refrigeration Corporation was the property owner associated with the underground storage tank (UST) at the time of tank removal. The Apex Refrigeration Corporation is a responsible party for the site because it owns the property associated with an unauthorized release (Definition 3).

From: [Detterman, Mark, Env. Health](mailto:Detterman.Mark.Env.Health)
To: ["ayanez@waterboards.ca.gov"](mailto:ayanez@waterboards.ca.gov)
Cc: erik.oehlschlager@errg.com; pelco1969@sbcglobal.net; [Michael Lamphere](mailto:Michael.Lamphere)
Subject: RE: Fuel Leak Case No. R00003069 and GeoTracker Global 10 T1000002519 / Case: In re Apex Refrigeration / Our File #8203
Date: Tuesday, May 13, 2014 2:04:42 PM
Attachments: [DIR L 2011-06-29.pdf](#)
[DIR L 2013-01-24.pdf](#)
[DIR L 2013-07-25.pdf](#)
[DIR L 2014-02-03.pdf](#)
[ENF L 2012-03-14.pdf](#)
[NOR L 2011-06-15.pdf](#)
Importance: High

Hi Adriana,

I wanted to followup on the denial of this claim. I am the Alameda County Environmental Health (ACEH) Local Oversight Program (LOP) case worker for the site (which you know as Claim 020064). I am not sure why the first page of the Notice of Responsibility (NOR) that was uploaded to Geotracker and to the ACEH webpage for this case does not include the APEX Refrigeration Corp. sheet; however, if you will note on page two of the NOR (entitled Attachment A - Responsible Parties Data Sheet), two parties are listed as RPs; both Pellegrini and Apex. On page two, are the four definitions the State requires to be used to identify an RP. On page three of the NOR that is on Geotracker, each party is identified by the appropriate definition(s). APEX is again identified on that page (page three). Because APEX purchased the assets of Pellegrini, it is the surviving corporation of the two.

I have also attached a copy of the last three directive letters (DIRs), and one enforcement letter. Each is addressed to Pennie Barger at both companies due to the structure of the sale of the assets of Pellegrini to APEX. The only directive letter that does not is the June 29, 2011 letter (also attached), which was incorrect and corrected in the four subsequent letters.

Additionally, my electronic case files indicates that APEX should have received the first page of the NOR, as my Word version contains the certified mail number associated with the letter. I would guess that for some reason it was not copied when it was converted to a PDF format. The USPO website does not allow a search for a certified letter this old, as we have attempted to determine what happened from that end as well.

Finally, I do not have a record of a December 9, 2010 NOR. It is not in our database system, or on our webpage, nor on Geotracker. The only NOR that I have record of is the one dated June 15, 2011, which has been uploaded to Geotracker. If the earlier 2010 NOR existed, ACEH considers the 2011 NOR to be the correct one (also attached)

Will APEX need to go through the entire appeals process to rectify this situation? Because the appeal process only exists for 30 days after April 18, or this Sunday, what is your best advice? Can this be handled informally, or is it best to handle formally and involve Lisa Babcock? I would like to allow this site to progress to closure as quickly as possible.

If you have questions, please let me know. My contact information is below.

Thanks for your attention,

Mark Detterman
Senior Hazardous Materials Specialist, PG, CEG
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502
Direct: 510.567.6876
Fax: 510.337.9335
Email: mark.detterman@acgov.org

PDF copies of case files can be downloaded at:

<http://www.acgov.org/aceh/lop/ust.htm>

-----Original Message-----

From: Michael Lamphere [<mailto:mlamphere@lampherelaw.com>]

Sent: Tuesday, May 13, 2014 11:19 AM

To: Detterman, Mark, Env. Health

Cc: erik.oehlschlager@errg.com; pelco1969@sbcglobal.net

Subject: RE: Fuel Leak Case No. R00003069 and GeoTracker Global 10 T1000002519 / Case: In re Apex Refrigeration / Our File #8203

Importance: High

<<2014-4-18.L.Yanez (SWRCB) to Barger re Claim Denial.pdf>> Dear Mr. Detterman:

As you know, I'm the attorney for Apex Refrigeration regarding our UST cleanup project, Fuel Leak Case No. R00003069 and GeoTracker Global 10 T1000002519. This is a critically important matter for which we need your assistance immediately.

Attached is the 4-18-14 claim denial letter from the State UST Cleanup Fund. Without these funds, my client cannot pay for this cleanup. Consequently, it is imperative that we reverse this denial and get the fund to accept Apex's claim.

As you'll see from the denial letter, the SWRCB has unfortunately gotten off track on who the "Responsible Party" (RP) is on this project. They reference the County's NOR of 12-1-2010, but fail to mention the County's subsequent NOR of 6-15-2011, which is also attached, which clearly states the RP is "APEX REFRIGERATION CORP".

Unfortunately, ACEH's letters/notices on this matter subsequently continued to confused the name of the RP with the former corporation name of "Pellegrini Refrigeration & Restaurant Equipment, Co." (PRRE), which no longer exists, and was specifically purchased by Apex in the 2002-2003 time frame. Title to the business property at 1550 Park Ave. also transferred from PRRE to Apex on 3-17-2003. See attached recorded "Corporation Grant Deed". And a "Conveyance And Assignment" was executed on 3-14-2003, transferring all of PRRE's assets, property and interests to Apex. See attached. Note: I was the attorney that handled the purchase and sale of PRRE to Apex back in 2002-2003.

I think it would be very helpful if you could issue a letter to all parties, including the SWRCB, and to amend any filings with the County and/or GeoTracker, which clarifies this RP issue and confirms that the only RP currently on this cleanup project is "APEX REFRIGATION CORPORATION", the successor corporation of PRRE, and which also does business as "PELCO" and "PELCO SALES AND SERVICE".

Please let me know immediately if you can do the above and, if so, provide me with the requested letter/filings as soon as possible since we need to appeal this claim denial on/before May 18, 2014. If the above is not possible, please call me to discuss.

Sincerely,
Michael O. Lamphere

LAMPHERE LAW OFFICES
900 Larkspur Landing Circle, Suite 179
Larkspur, CA 94939
Phone: 415-461-9727
Fax: 415-461-9725
Email: mlamphere@lampherelaw.com

The information contained in this electronic mail transmission is confidential and intended to be sent only to the stated recipient of the transmission. It may therefore be protected from unauthorized use or dissemination by the attorney-client and/or attorney work-product privileges. If you are not the intended recipient or the intended

recipient's agent, you are hereby notified that any review, use, dissemination, distribution or copying of this communication is strictly prohibited. You are also asked to notify us immediately by telephone at the above stated number and to delete this transmission with any attachments and destroy all copies in any form. Thank you in advance for your cooperation.

Your message is ready to be sent with the following file or link attachments:

2014-4-18.L.Yanez (SWRCB) to Barger re Claim Denial.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

272-6363
272-6789

OFFICE OF THE ALAMEDA COUNTY CLERK
COUNTY COURTHOUSE, 1225 Fallon Street
Oakland, CA 94612-4280 Telephone 272-6797

FILING FEE

- \$22.00 - FOR FIRST BUSINESS NAME ON STATEMENT
- \$ 5.00 - FOR EACH ADDITIONAL BUSINESS NAME FILED ON SAME STATEMENT AND DOING BUSINESS AT THE SAME LOCATION
- \$ 5.00 - FOR EACH ADDITIONAL OWNER IN EXCESS OF ONE OWNER

Submit Original and 3 copies.
Provide self addressed stamped envelope, if mailed.
Remove carbons before mailing.

NOTICE — THIS FICTITIOUS NAME STATEMENT EXPIRES FIVE YEARS FROM THE DATE IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THAT TIME. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14400 ET SEQ., BUSINESS AND PROFESSIONS CODE.)

FILING STAMP ONLY

ENDORSED
FILED
ALAMEDA COUNTY

MAY 10 1993

PATRICK O'CONNELL, County Clerk
By Joyce Davis, Deputy

FILE NUMBER

194206

SEE REVERSE SIDE FOR INSTRUCTIONS

- FIRST FILING
- RENEWAL FILING

FICTITIOUS BUSINESS NAME STATEMENT
THE NAME[S] OF THE BUSINESS[ES]:

* PELCO
(Please Type or Print Fictitious Business Name[s] on Line Above)

* * LOCATED AT: 1550 Park Avenue
(Street Address of Business — If No Street Address Assigned — Give Exact Location of Business Plus P.O. Box or Rural Route)
IN: Emeryville, Calif. 94608
(City and Zip)

IS [ARE] HEREBY REGISTERED BY THE FOLLOWING OWNER(S):

* * * #1 APEX REFRIGERATION CORPORATION #2
(Full Name — Type/Print) Incorporated in California (Full Name — Type/Print)
1550 Park Avenue
(Residence Address or state of incorporation if incorporated) (Residence Address or state of incorporation if incorporated)
Emeryville, Calif.
(City and Zip) (City and Zip)

#3 #4
(Full Name — Type/Print) (Full Name — Type/Print)
.....
(Residence Address or state of incorporation if incorporated) (Residence Address or state of incorporation if incorporated)
.....
(City and Zip) (City and Zip)

(If More Than 4 Registrants — Attach Additional Sheet Showing Owner Information)

* * * * This business is conducted by: an Individual Individuals — Husband and Wife a General Partnership
 a Limited Partnership a Corporation a Business Trust Co-Partners a Joint Venture
 an Unincorporated Association — other than a Partnership Other (Specify)

* * * * The Registrant commenced to transact business under the fictitious business name or names listed above on May 1, 1993

SIGNATURE OF REGISTRANT: Pennie F. Barger
Pennie F. Barger - Secretary
(Print name of person signing and, if a Corporate Officer, also state title)

This statement was filed with the County Clerk of Alameda County on date indicated by file stamp above.

COUNTY CLERK
ALAMEDA COUNTY

05/10/93 #7

194206*#
000071P
FBN-STMT 2200
SUBTTL 2200
TTLAMT 2200
CHECK 2200
CHANGE 0

1752A 10:14

FICTITIOUS BUSINESS NAME RENEWAL CENTER

2740 Fulton Ave, Suite 203, Sacramento, CA 95821 (888) 883-6635

9/17/2012

Customer Number: 205552

PELCO
1550 PARK AVE
EMERYVILLE, CA 94608

Dear APEX REFRIGERATION CROP:

Your Fictitious Business Name Application has been filed with the County Recorder. A filed copy is enclosed. If publication was needed, you will receive proof of publication soon.

Your renewal will be effective for five (5) years from the date noted, unless you change your business location; in which case, you will need to register your new business address at that time. Once you receive your copy, keep it in a safe place.

Sincerely,

Fictitious Business Name Renewal Center



PATRICK O'CONNELL, Alameda County Clerk-Recorder
1106 Madison Street, First Floor
Oakland, CA 94607 Telephone (510) 272-6362

ENDORSED
FILED
ALAMEDA COUNTY

AUG 30 2007

FICTITIOUS BUSINESS NAME STATEMENT
USE BLACK OR DARK BLUE INK ONLY

PATRICK O'CONNELL
BY: *[Signature]*

FILING FEE:

Please call (510) 272-6362 for current filing fees or visit our website at www.acgov.org.

FILE NUMBER: 469159
DO NOT WRITE ABOVE THIS LINE

PLEASE READ INSTRUCTIONS ON BACK OF THIS FORM - TYPE OR PRINT LEGIBLY

A	FICTITIOUS BUSINESS NAME(S) *				
	PELCO				
B	Street Address of Principal Place of Business (P.O. Box <u>not</u> acceptable) **	City	County	State	Zip
	1550 PARK AVE	EMERYVILLE	ALAMEDA	CA	94608
	Mailing Address (Optional)	City	County	State	Zip

C	① Show full name of 1st Registrant. (If Registrant is Corporation, LLC or LLP, show full name of Entity.)*** APEX REFRIGERATION CROP <i>Corp</i> Residence Street Address (P.O. Box not acceptable) 1550 PARK AVE City State Zip EMERYVILLE CA 94608 (If a corporation or LLC, show state where registered.) <i>CA</i>	② Show full name of 2nd Registrant if any. (If Registrant is Corporation, LLC or LLP, show full name of Entity.)*** Residence Street Address (P.O. Box not acceptable) City State Zip If a corporation or LLC, show state where registered.
	③ Show full name of 3rd Registrant if any. (If Registrant is Corporation, LLC or LLP, show full name of Entity.)*** Residence Street Address (P.O. Box not acceptable) City State Zip If a corporation or LLC, show state where registered.	④ Show full name of 4th Registrant if any. (If Registrant is Corporation, LLC or LLP, show full name of Entity.)*** Residence Street Address (P.O. Box not acceptable) City State Zip If a corporation or LLC, show state where registered.

D BUSINESS CONDUCTED BY: ****
 an Individual Husband and wife State or local registered domestic partners Co-partners
 a Joint venture a General partnership a Limited liability partnership a Trust
 a Corporation a Limited partnership a Limited liability company
 an Unincorporated association other than a partnership
(Check only 1 box)

E The registrant began to transact business under the fictitious business name(s) listed above on 12/26/2007 *****
 (Write "N/A" on the line above if you have not yet begun transacting business using the fictitious business name.) (date)

I DECLARE THAT ALL INFORMATION IN THIS STATEMENT IS TRUE AND CORRECT. (A REGISTRANT WHO DECLARES AS TRUE INFORMATION WHICH HE OR SHE KNOWS TO BE FALSE IS GUILTY OF A CRIME.)
NOTICE: IN ACCORDANCE WITH BUSINESS AND PROFESSIONS CODE SECTION 17920(A), THE FICTITIOUS NAME STATEMENT EXPIRES 5 YEARS FROM THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK EXCEPT, AS PROVIDED IN SUBDIVISION (B) OF SECTION 17920, WHEN IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS AS SET FORTH IN THE STATEMENT PURSUANT TO SECTION 17913 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THE EXPIRATION.
 The filing of this statement does not of itself authorize the use in this state of a fictitious business name in violation of the rights of another under federal, state, or common law (see Section 14411 et seq., Business and Professions Code).

SIGNATURE OF REGISTRANT *Pennie Barber*
 APEX REFRIGERATION CROP Pennie Barber, Secy-Treas
 PRINT NAME AND TITLE OF PERSON SIGNING, EXCEPT INDIVIDUAL

THIS STATEMENT WAS FILED WITH THE COUNTY CLERK-RECORDER OF ALAMEDA COUNTY ON THE DATE INDICATED BY THE FILE STAMP ABOVE.