

1 STATE OF CALIFORNIA  
2 CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
3 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

4 In the Matter of:

5 Gibson Environmental, Inc.  
6 2401 Gibson Street  
7 Bakersfield, California 93301

8 Respondents:

9 Evergreen Environmental Services  
6880 Smith Avenue  
Newark, CA 94560;

10 Chevron USA  
11 6001 Bollinger Canyon Road  
12 Building K2040  
13 San Ramon, CA 94583

14 Cole Services  
15 P.O. Box 10764  
16 Bakersfield, CA 93389;

17 Atlantic Richfield Company  
18 515 South Flower Street  
19 Los Angeles, CA 90071-2256;

20 Ramos Environmental Services  
21 1515 South River Road  
22 West Sacramento, CA 95691;

23 United States Navy  
24 Naval Facilities Engineering  
25 Command  
26 900 Commodore Drive  
27 San Bruno, CA 94066-2402;

28 United States Air Force  
333 Market Street, Room 625  
San Francisco, CA 94105;

United States Army  
901 North Stuart Street  
Arlington, VA 22203-1837;

Pacific Gas & Electric Co.  
77 Beale Street  
B24A, Room 2439-A  
San Francisco, CA 94105;

Docket No. I&SE 99/00-002

IMMINENT AND/OR SUBSTANTIAL  
ENDANGERMENT  
DETERMINATION AND ORDER  
AND REMEDIAL ACTION ORDER

Health and Safety Code  
Sections 25355.5(a)(1)(B),  
25358.3(a), 58009 and 58010

**DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL  
"OFFICIAL FILE COPY"**

- 1 Texaco, Inc.  
5201 Truxtun Avenue
- 2 Bakersfield, CA 93309;
- 3 Delta Tech Service, Inc.  
397 West Channel Road
- 4 Benicia, CA 94510;
- 5 Clairol, Inc.  
1 Blachely Road
- 6 Stamford, CT 06922;
- 7 Dowell, Division of  
Schlumberger Tech
- 8 6120 Snow Road  
Bakersfield, CA 93308;
- 9 Robertshaw Controls Company
- 10 100 West Victoria Street  
Long Beach, CA 90805;
- 11 San Francisco Paper Agency
- 12 925 Mission Street  
San Francisco, CA 94103;
- 13 National Railroad Passenger Corp.
- 14 60 Massachusetts Avenue NE  
Washington, DC 20002;
- 15 Betz Dearborn, Inc.
- 16 4636 Somerton Road  
Trevose, PA 19053;
- 17 Southern California Gas Co.
- 18 555 West 5th Street, Suite 2900  
Los Angeles, CA 90013;
- 19 Ecology Controls Industries
- 20 19500 Normandie Avenue  
Torrance, CA 90502;
- 21 Exxon
- 22 5959 Las Colinas Boulevard  
Irving, TX 75039-2298;
- 23 Statewide Environmental Services
- 24 200 Pine Avenue, Suite 514  
Long Beach, CA 90802-3040;
- 25 Kaiser Aluminum & Chemical Corp.
- 26 6177 Sunol Boulevard  
Pleasanton, CA 94566-7769;
- 27
- 28

- 1 Duke Energy  
5400 Westheimer Court  
Houston, TX 77056-5310;
- 2
- 3 Southwest Photo Chemical, Inc.  
350 Electra Street  
4 Pomona, CA 91766-2236;
- 5 Lucas Aviation, Inc.  
495 South Fairview Avenue  
6 Goleta, CA 93117;
- 7 GATX Tank Storage  
Terminals Corp.  
8 500 West Monroe Street  
Chicago, IL 60661-3676;
- 9
- 10 State of California  
Department of Transportation  
1120 N Street  
11 Sacramento, CA 95814;
- 12 Sunquest Properties, Inc.  
150 Executive Park Boulevard  
13 San Francisco, CA 94134-3303;
- 14 City of South San Francisco  
P.O. Box 711  
15 South San Francisco, CA 94083;
- 16 Ultramar, Inc.  
6000 N Loop 1604 W  
17 San Antonio, TX 78249-1112;
- 18 Penske Truck Leasing Co.  
P.O. Box 563 Route 10  
19 Reading, PA 19603-7635;
- 20 University of California,  
Santa Barbara  
21 Building 565, EH&S Building  
Santa Barbara, CA 93106;
- 22
- 23 Chemical & Pigment  
600 Nichols Road  
Pittsburg, CA 94565;
- 24
- 25 Dignity Housing West II Assoc.  
690 15th Street, Suite 400  
Oakland, CA 94612;
- 26
- 27 Port of Oakland  
530 Water Street  
Oakland, CA 94607;
- 28

1 Bank of Santa Maria  
P.O. Box 580  
2 Arroyo Grande, CA 93421;  
3 Baker Hughes Oilfield  
Operations, Inc.  
4 3900 Essex Lane, Suite 1200  
Houston, TX 77027;  
5  
6 Inyo County  
P.O. Box M  
Independence, CA 93526;  
7  
8 Mehdi Rezaian  
438 S. Oakhurst Drive, #1  
Beverly Hills, CA 90212;  
9  
10 Gibson Environmental, Inc.  
837 25th Avenue  
San Francisco, CA 84121  
11

12 I. INTRODUCTION

13 1.1 Parties. The California Environmental Protection Agency, Department of Toxic  
14 Substances Control (DTSC) issues this Imminent and/or Substantial Endangerment  
15 Determination and Order and Remedial Action Order (Order) to: Evergreen Environmental  
16 Services; Chevron USA; Cole Services; Atlantic Richfield Company; Ramos Environmental  
17 Services; United States Navy; United States Air Force; United States Army; Pacific Gas &  
18 Electric Co.; Texaco Inc.; Delta Tech Service, Inc.; Clairol, Inc.; Dowell, Division of  
19 Schlumberger Tech; Robertshaw Controls Company; San Francisco Paper Agency; National  
20 Railroad Passenger Corp.; Betz Dearborn, Inc.; Southern California Gas Co.; Ecology Controls  
21 Industries; Exxon; Statewide Environmental Services; Kaiser Aluminum & Chemical Corp.; Duke  
22 Energy; Southwest Photo Chemical, Inc.; Lucas Aviation, Inc.; GATX Tank Storage Terminals  
23 Corp.; State of California, Department of Transportation; Sunquest Properties, Inc.; City of  
24 South San Francisco; Ultramar, Inc.; Penske Truck Leasing Co.; University of California, Santa  
25 Barbara; Chemical & Pigment; Dignity Housing West II Assoc.; Port of Oakland; Bank of Santa  
26 Maria; Baker Hughes Oilfield Operations, Inc.; Inyo County; Mehdi Rezaian and Gibson  
27 Environmental, Inc. (Respondent(s)).  
28

1           1.2    Property/Site. This Order applies to the property located at 2401 Gibson Street,  
2 Bakersfield, California, 93301. The main streets that border the property are Rosedale Highway  
3 to the north, Gibson Street to the east, End of Marriott Drive to the South and Frederick Avenue  
4 to the west. The property consists of over six (6) acres and is identified by Assessor's Parcel  
5 number(s) 332-230-58-00. A map showing the Property is attached as Exhibit A. An assessor's  
6 parcel map and legal description of the property are attached as Exhibits A-1 and A-2. This  
7 Order applies to the property and the areal extent of contamination that resulted from activities on  
8 the property (hereinafter, the "Site").

9           1.3    Permitting Status. Gibson Environmental Inc. owned and operated a hazardous  
10 waste facility at the Site. (Facility). The Facility engaged in the management of hazardous waste  
11 pursuant to a permit issued by DTSC on June 28, 1988 and interim status authorization obtained  
12 for newly regulated wastes on September 18, 1990. The permit and interim status authorization  
13 terminated on February 4, 1998 when DTSC denied the facility's permit renewal and permit  
14 application.

15           1.4    Jurisdiction. This Order is issued by DTSC to Respondents pursuant to its  
16 authority under Health and Safety Code sections 25358.3(a), 25355.5(a)(1)(B), 58009 and  
17 58010.

18           Health and Safety Code section 25358.3(a) authorizes DTSC to take various actions,  
19 including issuance of an Imminent or Substantial Endangerment Determination and Order, when  
20 DTSC determines that there may be an imminent or substantial endangerment to the public health  
21 or welfare or to the environment, because of a release or a threatened release of a hazardous  
22 substance.

23           Health and Safety Code section 25355.5(a)(1)(B) authorizes DTSC to issue an order  
24 establishing a schedule for removing or remedying a release of a hazardous substance at a site, or  
25 for correcting the conditions that threaten the release of a hazardous substance. The order may  
26 include, but is not limited to requiring specific dates by which the nature and extent of a release  
27 shall be determined and the site adequately characterized, a remedial action plan prepared and  
28 submitted to DTSC for approval, and a removal or remedial action completed.

1 Health and Safety Code section 58009 authorizes DTSC to commence and maintain all  
2 proper and necessary actions and proceedings to enforce its rules and regulations; to enjoin and  
3 abate nuisances related to matters within its jurisdiction which are dangerous to health; to compel  
4 the performance of any act specifically enjoined upon any person, officer, or board, by any law of  
5 this state relating to matters within its jurisdiction; and/or on matters within its jurisdiction, to  
6 protect and preserve the public health.

7 Health and Safety Code section 58010 authorizes DTSC to abate public nuisances related  
8 to matters within its jurisdiction.

9 **II. FINDINGS OF FACT**

10 DTSC hereby finds:

11 2.1 Liability of Respondent(s). Respondent(s) is a responsible party or liable person as  
12 defined in Health and Safety Code section 25323.5.

13 2.1.1 Liquids Respondent(s). The following Respondent(s), also collectively referred to  
14 as Liquids Respondent(s), arranged by contract, agreement or otherwise for the disposal or  
15 treatment of hazardous substances in liquid form at the site: Evergreen Environmental Services;  
16 Chevron USA; Cole Services; Atlantic Richfield Company; Ramos Environmental Services;  
17 Unites States Navy; Unites States Air Force; United States Army; Pacific Gas & Electric Co.;  
18 Texaco, Inc.; Delta Tech Service, Inc.; Clairol, Inc.; Dowell, Division of Schlumberger Tech;  
19 Robertshaw Controls Company; San Francisco Paper Agency; National Railroad Passenger Corp.;  
20 Betz Dearborn, Inc.; Southern California Gas Co.; Ecology Controls Industries; Exxon;  
21 Statewide Environmental Services; Kaiser Aluminum & Chemical Corp.; Duke Energy;  
22 Southwest Photo Chemical, Inc.; Lucas Aviation, Inc.; GATX Tank Storage Terminals Corp.;  
23 State of California, Department of Transportation.

24 2.1.2 Solids Respondent(s). The following Respondent(s), also collectively referred to  
25 as Solids Respondent(s), arranged by contract, agreement or otherwise for the disposal or  
26 treatment of hazardous substances in solid form at the site: State of California, Department of  
27 Transportation; Sunquest Properties, Inc.; City of South San Francisco; Ultramar, Inc.; Penske  
28 Truck Leasing Co.; Statewide Environmental Services; University of California, Santa Barbara;

1 Chemical & Pigment; Dignity Housing West II Assoc.; Port of Oakland; Bank of Santa Maria;  
2 Baker Hughes Oilfield Operations, Inc.; Inyo County; Mehdi Rezaian and the United States Air  
3 Force.

4 2.1.3 Owner/Operator Respondent(s). Gibson Environmental, Inc. owned and operated  
5 the Site during the period discussed herein.

6 2.2 Site History. Gibson Environmental Inc. ceased conducting hazardous waste  
7 operations at the Site on or about October 18, 1995. Liquid hazardous wastes stored in tanks  
8 remain at the site. Soil piles containing hazardous wastes also remain at the site. The storage tanks  
9 at the site have been deteriorating over time. Some tanks show leakage of contents from their  
10 valves. Other tanks show evidence of past leakage from their valves.

11 2.3 Hazardous Substances Found at the Site.

12 2.3.1 Soil Piles: The East and West soil piles at the site were sampled on January 18  
13 and 19, 1995. Sample results for soluble lead using the waste extraction test (WET) were  
14 respectively: 24 mg/l, 57 mg/l, 42 mg/l and 11 mg/l. Total lead concentrations were measured up  
15 to 590 mg/kg. A soil pile identified as having been mixed with sludges contaminated with  
16 polychlorinated biphenyls (PCBs) was sampled on November 3, 1995 and was found to contain  
17 PCBs at 2.3 mg/kg, 2.8 mg/kg and total lead at 190 mg/kg and 270 mg/kg. Soluble lead was  
18 measured at 6.1 mg/l and 8.7 mg/l. Sampling of soil piles on August 16, 1995 showed total lead  
19 concentrations ranging from less than 50 mg/kg to 180 mg/kg.

20 2.3.2 Liquid Wastes in Tanks: Sixteen of the twenty tanks at the site were sampled in  
21 April 1996. Based on those sample analysis results the following hazardous substances were  
22 identified: a) flammable liquids (flashpoint < 140°F); corrosive liquid (pH ≤ 2); solvent  
23 contaminated liquids (trichlorethane, tetrachloroethene, methylene chloride, acetone, methyl  
24 isobutyl ketone); benzene contaminated liquids (benzene > 0.5 mg/L); and heavy metal  
25 contaminated liquids (lead, zinc, molybdenum, chromium and/or copper). Sample data is  
26 summarized below.

27 2.3.2.1 Tank 701 - 17,768 gallons of sludge and liquid. The liquid is flammable  
28 (flashpoint 95°F) and contaminated with chlorinated solvents (trichlorethane 410 mg/kg and

1 tetrachloroethene 410 mg/kg) and benzene (310 mg/kg) in liquid layer. Sludge is also flammable  
2 (flashpoint 137°F) and is contaminated with acetone (1,300 mg/kg), methylene chloride (250  
3 mg/kg), benzene (170 mg/kg), tetrachloroethene (200 mg/kg) and heavy metals (lead 210 mg/kg,  
4 zinc 790 mg/kg, copper 520 mg/kg).

5 2.3.2.2 Fire water tank - 14,006 gallons of liquid. The liquid is flammable  
6 (flashpoint 135°F) and is contaminated with acetone (100 mg/L), molybdenum (330 mg/kg), and  
7 low levels of trichloroethane (15 ug/L), and methyl isobutyl ketone (4-methyl-2-pentanone 4  
8 mg/L).

9 2.3.2.3 Slop oil tank - 14,006 gallons of liquid. The liquid is not flammable, but is  
10 contaminated with methylene chloride (86 mg/kg), trichloroethane (170 mg/kg), and  
11 tetrachloroethene (93 mg/kg).

12 2.3.2.4 Tank 3002 - 108,295 gallons of liquid. The liquid is flammable (flashpoint 71°F).  
13 The liquid is contaminated with benzene (1,300 mg/kg), tetrachloroethene (140 mg/kg), acetone  
14 (29 mg/L), methyl isobutyl ketone (4-methyl-2-pentanone 15 mg/L), and heavy metals (copper  
15 370 mg/kg and lead 430 mg/kg).

16 2.3.2.5 East fuel tank (#503) - 3,525 gallons of liquid. The liquid is flammable (flashpoint  
17 133°F) and is contaminated with acetone (89,000 mg/kg), benzene (1,500 mg/kg), and methyl  
18 isobutyl ketone (4-methyl-2-pentanone 13,000 mg/kg).

19 2.3.2.6 West fuel tank (#504) - 846 gallons of liquid. The liquid is flammable (flashpoint  
20 131°F) and is contaminated with benzene (730 mg/kg) and tetrachloroethene (24 mg/kg).

21 2.3.2.7 Tank 1501 - 106,492 gallons of liquid. The liquid is flammable (flashpoint 118°F)  
22 and corrosive (pH = 1.9). The liquid is also contaminated with chloroform (80 mg/kg), benzene  
23 (620 mg/kg), trichloroethane (82 mg/kg), tetrachloroethene (100 mg/kg), and heavy metals  
24 (chromium 100 mg/kg, copper 330 mg/kg, lead 580 mg/kg, and zinc 1,300 mg/kg).

25 2.3.2.8 Tank 1502 - 10,860 gallons of liquid. The liquid is flammable (flashpoint 123°F)  
26 and is contaminated with acetone (110 mg/L), benzene (450 mg/kg total and 4.3 mg/L soluble),  
27 tetrachloroethene (130 mg/kg), methyl isobutyl ketone (4-methyl-2-pentanone 6.6 mg/L), and  
28 heavy metals (barium 1,000 mg/kg, copper 470 mg/kg, lead 590 mg/kg, and zinc 1,500 mg/kg).

1           2.3.2.9 Tank 702 - 12,945 gallons of liquid. The liquid is flammable (flashpoint 114°F)  
2 and is contaminated with benzene (730 mg/kg total and 2.6 mg/L soluble), acetone (180 mg/L),  
3 tetrachloroethene (100 mg/kg), and trichloroethane (21 mg/kg).

4           2.3.2.10 Tank 3003 - 124,154 gallons of liquid. The liquid is flammable (flashpoint  
5 107°F) and is contaminated with benzene (410 mg/kg), tetrachloroethene (220 mg/kg), and heavy  
6 metals (copper 520 mg/kg, lead 590 mg/kg, and zinc 1,800 mg/kg).

7           2.3.2.11 Tank 3004 - 93,998 gallons of liquid. The liquid is flammable (flashpoint 126°F)  
8 and is contaminated with acetone (310 mg/L), benzene (250 mg/kg total and 2.8 mg/L soluble),  
9 tetrachloroethene (42 mg/kg), and heavy metals (copper 280 mg/kg, lead 420 mg/kg, and zinc  
10 1,400 mg/kg).

11           2.3.2.12 Tank 703 - 25,914 gallons of liquid. The liquid is flammable (flashpoint 104°F)  
12 and is contaminated with acetone (37 mg/L), benzene (700 mg/kg total and 2.7 mg/L soluble),  
13 tetrachloroethene (140 mg/kg), and heavy metals (lead 830 mg/kg and zinc 800 mg/kg).

14           2.3.2.13 Tank 704 - 19,002 gallons of liquid. The liquid is flammable (flashpoint 124°F)  
15 and is contaminated with benzene 490 mg/kg), tetrachloroethene (110 mg/kg), and heavy metals  
16 (lead 370 mg/kg and zinc 1,100 mg/kg).

17           2.3.2.14 Tank 705 - 13,241 gallons of liquid. The liquid is flammable (flashpoint 118°F)  
18 and is contaminated with benzene (590 mg/kg), tetrachloroethene (110 mg/kg), and heavy metals  
19 (copper 410 mg/kg, lead 470 mg/kg, and zinc 21,000 mg/kg).

20           2.3.2.15 Tank 706 - 21,306 gallons of liquid. The liquid is flammable (flashpoint 132°F)  
21 and is contaminated with benzene (170 mg/kg) and tetrachloroethene (41 mg/kg).

22           2.3.2.16 Tank 707 - 28,211 gallons of liquid. The liquid is flammable (flashpoint 126°F)  
23 and is contaminated with benzene (58 mg/kg total and 3.2 mg/L soluble), acetone (170 mg/L),  
24 and methyl isobutyl ketone (4-methyl-2-pentanone 12 mg/L).

25           2.4 Health Effects. The chemicals described in Paragraph 2.3 could cause serious  
26 adverse health effects if persons were exposed to them over a sufficient period of time. Such  
27 effects could include:  
28

1           2.4.1 Polychlorinated Biphenyls (PCBs). PCBs are suspected carcinogens and  
2 teratogens. Some epidemiologic studies have also indicated an elevated number of first-born  
3 infants with cleft pallet when pregnant mothers were exposed to PCBs. PCBs have been found to  
4 induce tumors in experimental animals after repeated oral ingestion, additionally some studies  
5 indicate that they cause an increased rate of liver cancer in humans. It has often been  
6 demonstrated that PCBs contain trace amounts of dioxin or dibenzofurans. Dioxin and  
7 dibenzofurans have been demonstrated to be extremely toxic to lab animals. Other health effects  
8 linked to exposure to PCBs include eye irritations and Chloracne, a painful and disfiguring  
9 condition.

10           2.4.2 Lead. Short term exposure to lead can cause reversible kidney damage. Longer  
11 exposure at high concentration may result in progressive irreversible kidney damage and possible  
12 kidney failure. Anemia is an early manifestation of lead poisoning (U.S. EPA 1985). Lead is a  
13 cumulative poison with increasing amounts building up in the body until symptoms and disability  
14 occur. Systemic effects include anemia, headache, tremors, paralysis without anesthesia,  
15 hallucinations, and liver changes. The most serious effects associated with markedly elevated  
16 blood levels are severe neurotoxic effects that include irreversible brain damage, as indexed by the  
17 occurrence of acute or chronic encephalopathic symptoms (U.S. EPA), 1985).

18           2.4.3 Acetone. Moderately toxic by various routes. A skin and severe eye irritant.  
19 Systemic effects by inhalation or ingestion include nausea, vomiting, muscle weakness, coma,  
20 kidney damage, and changes in electroencephalogram (EEG) readings (central nervous system  
21 changes). Dangerous disaster hazard due to fire and explosion hazard.

22           2.4.4 Benzene. Confirmed human carcinogen producing myeloid leukemia, Hodgkin's  
23 disease, and lymphomas by inhalation. Human poison by inhalation and experimental poison by  
24 skin contact (poisoning effects observed at 1mg/kg). Moderately toxic by ingestion. Systemic  
25 effects include blood changes, and increased body temperature. Dangerous fire hazard.

26           2.4.5 Chromium. Chromium compounds and salts are suspected human carcinogens  
27 producing tumors of the lungs, nasal cavity, and paranasal sinus. Some forms are confirmed  
28 human carcinogens. The toxicity varies depending on the type of compound or salt, but is

1 generally considered moderately to highly toxic. Corrosive action on skin and mucous  
2 membranes.

3 2.4.6 Copper. Toxicity varies depending on the salt or compound. Generally, moderate  
4 to low toxicity to humans with higher toxicity towards plants. Inhalation of dust has caused  
5 hemolysis of the red blood cells and injury to the lung cells. Systemic effects from ingestion  
6 include vomiting, gastric pain, anemia, convulsion, shock, coma, and death (deaths from copper  
7 ingestion have been recorded by as little as 27 grams of salt).

8 2.4.7 Methyl Isobutyl Ketone (4-methyl-2-pentanone or hexone). Moderately toxic by  
9 ingestion and mildly toxic by inhalation. Very irritating to skin and mucous membranes. An  
10 experimental teratogen and human systemic irritant by inhalation. Moderately explosive in vapor  
11 when exposed to heat. May form explosive peroxides upon exposure to air.

12 2.4.8 Methylene Chloride. Confirmed carcinogen with experimental carcinogenic and  
13 tumorigenic data. Moderately toxic by ingestion and mildly toxic by inhalation. Systemic effects  
14 include convulsions, euphoria, and change in cardiac rate.

15 2.4.9 Molybdenum. An experimental teratogen. Molybdenum and its compounds are  
16 highly toxic based upon animal experiments. Systemic effects include severe gastrointestinal  
17 irritation with diarrhea, coma, and death from heart failure.

18 2.4.10 Tetrachloroethene (perchloroethylene). Confirmed carcinogen with experimental  
19 carcinogenic, neoplastigenic, and teratogenic data. Moderately toxic by inhalation with local  
20 anesthetic, hallucinations, coma, and pulmonary changes.

21 2.4.11 Trichloroethane (methyl chloroform). Moderately toxic by ingestion, inhalation, or  
22 skin contact. Systemic effects include hallucinations, motor activity changes, hypermotility,  
23 nausea, or vomiting. An experimental teratogen and questionable carcinogen.

24 2.4.12 Zinc. Toxicity varies with the salt/compound but is generally low for humans.  
25 Systemic effects include pulmonary changes, weakness, generalized aching, and fever.

26 2.5 Routes of Exposure  
27  
28

1           2.5.1 Exposure can take place via direct contact (skin absorption) with substances in  
2 tanks or soil piles, potential ingestion of water (from groundwater or Kern River) contaminated  
3 by water runoff from soil piles, and inhalation of vapors from substances in the tanks or soil  
4 particles from the soil piles dispersed by wind. Wind exposure may result in inhalation, ingestion  
5 and dermal contact with the substances.

6           2.5.2 There are active and inactive wells within half a mile radius of the Site. The Kern  
7 river runs approximately 2000 feet southeast from the site.

8           2.6     Public Health and/or Environmental Risk.

9           2.6.1 Waste piles at the Site contain approximately 85,000 cubic yards of contaminated  
10 soil. These piles have been found to contain hazardous substances, including contaminants with  
11 concentrations exceeding hazardous waste threshold levels. An interim polymer coating which  
12 was applied several years ago to contain these wastes has degraded to the point of being  
13 completely non-functional. The tanks at the Site currently hold approximately 675,000 gallons of  
14 hazardous substances, including ignitable and toxic liquid hazardous waste. Inspection of the  
15 tanks over the past few months has revealed that leakage is occurring at an increasing rate from  
16 tank valves and at least one of the tanks. The corrosion and signs of leakage that have been  
17 observed indicate that the structural integrity of the piping and tanks pose a threat of release.

18           The land surrounding the site is currently used for light industrial and/or residential uses.  
19 There are two residences within 200 meters of site and three hotels within a quarter mile. There  
20 is also a restaurant, auto maintenance facility, fertilizer manufacturer, and auction yard within 100  
21 meters of the site. New water lines have been laid in preparation for development of land in the  
22 vicinity of the site.

23           A major tank failure could result in releasing hazardous substances contained in a tank or  
24 tanks into the environment and thereby exposing persons in the vicinity of the site to direct  
25 contact with the substances or to contact through inhalation of vapors from the substances.  
26 Because of the ignitability characteristic of the substances in the tanks, fire or explosion could also  
27 result from a tank rupture. Catastrophic failure of a tank through sudden loss of a valve or a  
28 structural failure could result in a series of tanks failing at the same time due to the close

1 proximity of the tanks to each other. This situation could generate a sudden release of hundreds  
2 of thousands of gallons of ignitable and toxic hazardous substances. A release of this magnitude  
3 would pose a very severe fire and explosion hazard in addition to a severe exposure hazard. The  
4 environmental impact of this type of failure on soil, groundwater, and potential surface water  
5 systems in the area would also be very high.

6 Persons in the vicinity of the site are also at risk from the substances contained in the soil  
7 piles at the site. The soil piles are exposed to the natural elements with no effective form of wind,  
8 runoff or natural soil /groundwater containment to prevent migration of contaminants. Soil in this  
9 area is sandy and permeable, groundwater exists at a depth of approximately 35 feet, and the Kern  
10 river runs approximately 2000 feet southeast from the site. The principal population at risk to the  
11 potential exposures described above includes workers implementing sampling and removal  
12 actions, workers at adjacent properties, guests and workers at various hotels and motels within a  
13 mile distance of the area, workers and customers at businesses within half a mile of the area which  
14 include restaurants, gyms and other commercial service providers.

### 15 III. CONCLUSIONS OF LAW

16 3.1 Respondent(s), is a responsible party as defined by Health and Safety Code  
17 section 25323.5.

18 3.2 Each of the substances listed in Section 2.3 is a "hazardous substance" as defined  
19 in Health and Safety Code section 25316.

20 3.3 There has been a "release" and/or there is a "threatened release" of a hazardous  
21 substances listed in Section 2.3 at the Site, as defined in Health and Safety Code section 25320.

22 3.4 The actual and threatened release of hazardous substances at the Site may present  
23 an imminent and substantial endangerment to the public health or welfare or to the environment.

24 3.5 Response action is necessary to abate a public nuisance and/or to protect and  
25 preserve the public health.

1 IV. DETERMINATION

2 4.1 Based on the foregoing findings of fact and conclusions of law, DTSC hereby  
3 determines that response action is necessary at the Site because there has been a release and/or  
4 there is a threatened release of a hazardous substance.

5 4.2 Based on the foregoing findings of fact and conclusions of law, DTSC hereby  
6 determines that there may be an imminent and/or substantial endangerment to the public health or  
7 welfare or to the environment because of the release and/or the threatened release of the  
8 hazardous substances at the Site.

9 V. ORDER

10 Based on the foregoing FINDINGS, CONCLUSIONS, AND DETERMINATION, IT IS  
11 HEREBY ORDERED THAT Respondent(s) conduct the following response actions in the  
12 manner specified herein, and in accordance with a schedule specified by DTSC as follows:

13 5.1 All response actions taken pursuant to this order shall be consistent with the  
14 requirements of Chapters 6.8 (commencing with section 25300) and 6.5 (commencing with  
15 section 25100), Division 20 of the Health and Safety Code and any other applicable state or  
16 federal statutes and regulations.

17 5.1.1 Site Remediation Strategy. The purpose of this Order is to require for the Site:  
18 implementation of all appropriate removal actions, including removal of all substances in tanks at  
19 the Site, completion of a Remedial Investigation/Feasibility Study (RI/FS), preparation of a  
20 Remedial Action Plan (RAP), preparation of California Environmental Quality Act (CEQA)  
21 documents, and Design and Implementation of the remedial actions approved in the RAP. An  
22 overall Site investigation and remediation strategy shall be developed by Respondent(s) in  
23 conjunction with DTSC which reflects program goals, objectives, and requirements. Current  
24 knowledge of the Site contamination sources, exposure pathways, and receptors shall be used in  
25 developing this strategy.

26 An objective of the Site investigations shall be to identify immediate or potential risks to  
27 public health and the environment and prioritize and implement response actions using removal  
28 actions based on the relative risks at the Site. Respondent(s) and DTSC shall develop and

1 possibly modify Site priorities throughout the course of the investigations. If necessary for the  
2 protection of public health and the environment, DTSC will require additional response actions  
3 not specified in the Order to be performed as removal actions. Removal actions shall be  
4 implemented in accordance with a work plan and implementation schedule submitted by  
5 Respondent(s) and approved by DTSC.

6 5.1.2 Removal Actions. Respondent(s) shall undertake removal actions if, during the  
7 course of the RI or FS, DTSC determines that they are necessary to mitigate the release of  
8 hazardous substances at or emanating from the Site. DTSC may require Respondent(s) to submit  
9 a removal action work plan that includes a schedule for implementing the work plan for DTSC's  
10 approval. Either DTSC or Respondent(s) may identify the need for removal actions.  
11 Respondent(s) shall implement the following removal actions. Work plans for implementing the  
12 following removal actions shall be submitted by the specified dates:

13 (a) Fence and Post.

14 1) Within 30 days of the effective date of this Order, Respondent(s) shall  
15 install a fence in accordance with the specifications attached as Exhibit B. The fence shall  
16 secure, at a minimum, the areas specified on the Site map (Exhibits A, A-1, A-2).

17 2) Within 30 days of the effective date of this Order, Respondent(s) shall  
18 install signs which are visible from the area surrounding the contaminated Site and posted  
19 at each route of entry into the Site, including those routes likely to be used by  
20 unauthorized persons. Such routes of entry include: access roads leading to the Site, and  
21 facing rivers, creeks, lakes or other waterways which may provide a route of access to the  
22 Site. The signs shall be in accordance with the specifications attached as Exhibit B.

23 3) The fence and signs shall be constructed of materials able to withstand the  
24 elements and shall be continuously maintained for as long as DTSC determines it to be  
25 necessary in order to protect public health and safety and the environment.

26 (b) Drainage Control. Within 30 days Respondent(s) shall submit a work plan  
27 including a schedule of implementation to DTSC for review and approval for evaluating  
28 site drainage, and in particular, precipitation. The work plan should examine drainage  
within secondary containment and sanitary and storm drain systems at the Site. The work

1 plan shall provide for recommendations on eliminating and/or mitigating any drainage  
2 where hazardous substances may be transported off the Site. Respondent(s) shall  
3 implement any drainage control measures approved by DTSC in accordance with the  
4 DTSC approved schedule.

5 (c) Demolition/Removal of Structures. Within 60 days Respondent(s) shall submit a  
6 work plan for demolishing all surface structures at the Site including disposal of materials  
7 at authorized facilities. Respondent(s) shall implement the work plan approved by DTSC  
8 in accordance with the DTSC approved schedule.

9 (d) Interim Capping. All soil piles shall be capped with impermeable materials to limit  
10 direct human contact with contaminated soil, limit infiltration of rainwater and limit wind  
11 dispersion of contaminated soil. Within 60 days Respondent(s) shall submit a work plan  
12 to DTSC evaluating materials that may be used to contain the soil piles at the Site,  
13 including chemical stabilization, and presenting recommendations. Respondent(s) shall  
14 implement the work plan approved by DTSC in accordance with the DTSC approved  
15 schedule.

16 (e) Liquids Waste Removal. Within 30 days of the effective date of this Order,  
17 Liquids and Owner/Operator Respondents shall submit to DTSC for review and approval  
18 a work plan for removing all liquid hazardous substances from the Site, including, but not  
19 limited to, tanks, sumps, drums, poly containers, and facility piping. The work plan shall  
20 include a site safety plan, disposal plan and transport plan as appendices. The disposal  
21 plan shall include identification of all disposal and/or treatment facilities to be used,  
22 description of federal and state permits, licenses and other authorizations, and written  
23 authorization from the disposal and/or treatment facility to receive the waste. Liquids  
24 and Owner/Operator Respondent(s) shall implement the work plan within 10 days after  
25 receiving the approval of DTSC.

26 5.1.3 Site Remediation Strategy Meeting. Respondent(s), including the Project  
27 Coordinator (Section 6.1) and Project Engineer/Geologist (Section 6.2), shall meet with DTSC  
28 within 90 days from the effective date (and concurrent with the development of the RI/FS work

1 plan) of this Order to discuss the Site remediation strategy. These discussions will include Site  
2 risks and priorities; project planning, phasing and scheduling, remedial action objectives, remedial  
3 technologies, data quality objectives, and the RI/FS work plan. Results of the discussions will be  
4 included in the Scoping Document, Section 5.2.2(b) of this Order.

5 5.2 Remedial Investigation/Feasibility Study (RI/FS). A RI/FS shall be conducted for  
6 the Site. The RI/FS may be performed as a series of focused RI/FSs, if appropriate, based on Site  
7 priorities. The RI/FS shall be prepared consistent with the U.S. Environmental Protection  
8 Agency's "Guidance for Conducting Remedial Investigations and Feasibility Studies under  
9 CERCLA," October 1988. The purpose of the RI/FS is to assess Site conditions and to evaluate  
10 alternatives to the extent necessary to select a remedy appropriate for the Site. RI and FS  
11 activities shall be conducted concurrently and iteratively so that the investigations can be  
12 completed expeditiously. Because of the unknown nature of the Site and iterative nature of the  
13 RI/FS, additional data requirements and analyses may be identified throughout the process.  
14 Respondent(s) shall fulfill additional data and analysis needs identified by DTSC; these additional  
15 data and analysis requests will be consistent with the general scope and objectives of the Order.

16 The following elements of the RI/FS process and those defined by DTSC in Section 5.1.3  
17 of this Order shall be preliminarily defined in the initial Site scoping and refined and modified as  
18 additional information is gathered throughout the RI/FS process .

- 19 (a) Conceptual Site Model identifying contamination sources, exposure pathways, and  
20 receptors;
- 21 (b) Federal, State and local remedial action objectives including applicable or relevant  
22 and appropriate requirements (ARARs);
- 23 (c) Project phasing including the identification of removal actions and operable units;
- 24 (d) General response actions and associated remedial technology types; and
- 25 (e) The need for treatability studies.

26 5.2.1 RI/FS Objectives. The objectives of the RI/FS are to:

- 27 (a) Determine the nature and full extent of hazardous substance contamination of air,  
28 soil, surface water and groundwater at the Site.
- (b) Identify all actual and potential exposure pathways and routes through

1 environmental media;

2 (c) Determine the magnitude and probability of actual or potential harm to public  
3 health, safety or welfare or to the environment posed by the threatened or actual release of  
4 hazardous substances at or from the Site;

5 (d) Identify and evaluate appropriate response actions to prevent or minimize future  
6 releases and mitigate any releases which have already occurred; and

7 (e) Collect and evaluate the information necessary to prepare a RAP.

8 5.2.2 RI/FS Work plan. Within 150 days from the effective date of the Order ,  
9 Respondent(s) shall prepare and submit to DTSC for review and approval a detailed RI/FS Work  
10 plan and implementation schedule which covers all the activities necessary to conduct a complete  
11 RI/FS of the Site .

12 The RI/FS Work plan shall include a detailed description of the tasks to be performed,  
13 information or data needed for each task, and the deliverables which will be submitted to DTSC.  
14 Either Respondent(s) or DTSC may identify the need for additional work.

15 These RI/FS Work plan deliverables are discussed in the remainder of this Section, with a  
16 schedule for implementation, and monthly reports. The RI/FS Work plan shall include all the  
17 sections and address each component listed below.

18 (a) Project Management Plan. The Project Management Plan shall define relationships  
19 and responsibilities for major tasks and project management items by Respondent(s), its  
20 contractors, subcontractors, and consultants. The plan shall include an organization chart  
21 with the names and titles of key personnel and a description of their individual  
22 responsibilities.

23 (b) Scoping Document. The Scoping Document shall incorporate program goals,  
24 program management principles, and expectations contained in the National Contingency  
25 Plan (NCP) (40 Code of Federal Regulations (CFR) Part 300), as amended. It shall  
26 include:

27 (1) An analysis and summary of the Site background and the physical setting.  
28 At a minimum, the following information is required:

(A) A map of the Site, and if they exist, aerial photographs and

1 blueprints showing buildings and structures;

2 (B) A description of past disposal practices;

3 (C) A list of all hazardous substances which were disposed, discharged,  
4 spilled, treated, stored, transferred, transported, handled or used at the Site, and a  
5 description of their estimated volumes, concentrations, and characteristics; and

6 (D) A description of the characteristics of the hazardous substances at  
7 the Site; and

8 (E) If applicable, a description of all current and past manufacturing  
9 processes which are or were related to each hazardous substance.

10 (2) An analysis and summary of previous response actions including a  
11 summary of all existing data including air, soil, surface water, and groundwater data and  
12 the Quality Assurance/Quality Control (QA/QC) procedures which were followed;

13 (3) Presentation of the Conceptual Site Model;

14 (4) The scope and objectives of RI/FS activities; and

15 (5) Preliminary identification of possible response actions and the data needed  
16 for the evaluation of alternatives. Removal actions shall be proposed if needed based on  
17 the initial evaluation of threats to public health and the environment. If remedial actions  
18 involving treatment can be identified, treatability studies shall be conducted during the  
19 characterization phase, unless Respondent(s) and DTSC agree that such studies are  
20 unnecessary as set forth in Section 5.4;

21 (6) If applicable, initial presentation of the Site Remediation Strategy.

22 (c) Field Sampling Plan. The Field Sampling Plan shall include:

23 (1) Sampling objectives, including a brief description of data gaps and how the  
24 field sampling plan will address these gaps;

25 (2) Sample locations, including a map showing these locations, and proposed  
26 frequency;

27 (3) Sample designation or numbering system;

28 (4) Detailed specification of sampling equipment and procedures;

(5) Sample handling and analysis including preservation methods, shipping

1 requirements and holding times; and

2 (6) Management plan for wastes generated.

3 (d) Quality Assurance Project Plan. The plan shall include:

4 (1) Project organization and responsibilities with respect to sampling and  
5 analysis;

6 (2) Quality assurance objectives for measurement including accuracy,  
7 precision, and method detection limits. In selecting analytical methods, Respondent(s)  
8 shall consider obtaining detection limits at or below potential ARARs, such as Maximum  
9 Contaminant Levels (MCLs) or Maximum Contaminant Level Goals (MCLGs);

10 (3) Sampling procedures;

11 (4) Sample custody procedures and documentation;

12 (5) Field and laboratory calibration procedures;

13 (6) Analytical procedures;

14 (7) Laboratory to be used certified pursuant to Health and Safety Code  
15 section 25198;

16 (8) Specific routine procedures used to assess data (precision, accuracy and  
17 completeness) and response actions;

18 (9) Reporting procedure for measurement of system performance and data  
19 quality;

20 (10) Data management, data reduction, validation and reporting. Information  
21 shall be accessible to downloading into DTSC's system; and

22 (11) Internal quality control.

23 (e) Health and Safety Plan. A site-specific Health and Safety Plan shall be prepared  
24 in accordance with federal (29 CFR 1910.120) and state (Title 8 CCR Section 5192)  
25 regulations and shall describe the following:

26 (1) Field activities including work tasks, objectives, and personnel  
27 requirements and a description of hazardous substances on the Site;

28 (2) Respondent(s) key personnel and responsibilities;

(3) Potential hazards to workers including chemical hazards, physical hazards,

1 confined spaces and climatic conditions;

2 (4) Potential risks arising from the work being performed including the impact  
3 to workers, the community and the environment;

4 (5) Exposure monitoring plan;

5 (6) Personal protective equipment and engineering controls;

6 (7) Site controls including work zones and security measures;

7 (8) Decontamination procedures;

8 (9) General safe work practices;

9 (10) Sanitation facilities;

10 (11) Standard operating procedures;

11 (12) Emergency response plan covering workers addressing potential hazardous  
12 material releases;

13 (13) Training requirements;

14 (14) Medical surveillance program; and

15 (15) Record keeping.

16 (f) Other Activities. A description of any other significant activities which are  
17 appropriate to complete the RI/FS shall be included.

18 (g) Schedule. A schedule which provides specific time frames and dates for  
19 completion of each activity and report conducted or submitted under the RI/FS Work plan  
20 including the schedules for removal actions and operable unit activities.

21 5.2.3 RI/FS Work plan Implementation. Respondent(s) shall implement the approved  
22 RI/FS Work plan.

23 5.2.4 RI/FS Work plan Revisions. If Respondent(s) proposes to modify any methods  
24 or initiates new activities for which no Field Sampling Plan, Health and Safety Plan, Quality  
25 Assurance Project Plan or other necessary procedures/plans have been established, Respondent(s)  
26 shall prepare an addendum to the approved plan(s) for DTSC review and approval prior to  
27 modifying the method or initiating new activities.

28 5.3 Interim Screening and Evaluation of Remedial Technologies. At the request of  
DTSC, Respondent(s) shall submit an interim document which identifies and evaluates potentially

1 suitable remedial technologies and recommendations for treatability studies.

2       5.4     Treatability Studies. Treatability testing will be performed by Respondent(s) to  
3 develop data for the detailed remedial alternatives. Treatability testing is required to demonstrate  
4 the implementability and effectiveness of technologies, unless Respondent(s) can show DTSC  
5 that similar data or documentation or information exists. The required deliverables are: a work  
6 plan, a sampling and analysis plan, and a treatability evaluation report. To the extent practicable,  
7 treatability studies will be proposed and implemented during the latter part of Site  
8 characterization.

9       5.5     Remedial Investigation (RI) Report. The RI Report shall be prepared and  
10 submitted by Respondent(s) to DTSC for review and approval in accordance with the approved  
11 RI/FS work plan schedule. The purpose of the RI is to collect data necessary to adequately  
12 characterize the Site for the purposes of defining risks to public health and the environment and  
13 developing and evaluating effective remedial alternatives. Site characterization may be conducted  
14 in one or more phases to focus sampling efforts and increase the efficiency of the investigation.  
15 Respondent(s) shall identify the sources of contamination and define the nature, extent, and  
16 volume of the contamination. Using this information, the contaminant fate and transport shall be  
17 evaluated. The RI Report shall contain:

18       (a)     Site Physical Characteristics. Data on the physical characteristics of the Site and  
19 surrounding area shall be collected to the extent necessary to define potential transport  
20 pathways and receptor populations and to provide sufficient engineering data for  
21 development and screening of remedial action alternatives.

22       (b)     Sources of Contamination. Contamination sources (including heavily  
23 contaminated media) shall be defined. The data shall include the source locations, type of  
24 contaminant, waste characteristics, and Site features related to contaminant migration and  
25 human exposure.

26       (c)     Nature and Extent of Contamination. Contaminants shall be identified and the  
27 horizontal and vertical extent of contamination shall be defined in soil, groundwater,  
28 surface water, sediment, air, and biota. Spatial and temporal trends and the fate and  
transport of contamination shall be evaluated.

1           5.6     Baseline Health and Ecological Risk Assessment. Respondent(s) shall perform  
2 health and ecological risk assessments for the Site that meet the requirements of Health and Safety  
3 Code §25356.1.5(b). Respondent(s) shall submit a Baseline Health and Ecological Risk  
4 Assessment Report as per the approved RI/FS Workplan schedule. The report shall be prepared  
5 consistent with U.S. EPA and California Environmental Protection Agency guidance and  
6 regulations, including as a minimum: Risk Assessment Guidance for Superfund, Volume 1;  
7 Human Health Evaluation Manual, December 1989; Superfund Exposure Assessment Manual,  
8 April 1988; Risk Assessment Guidance for Superfund, Volume 2, Environmental Evaluation  
9 Manual, March 1989; and all other related or relevant policies, practices and guidelines of the  
10 California Environmental Protection Agency and policies, practices and guidelines developed by  
11 U.S.EPA pursuant to 40 CFR 300.400 et seq. The Baseline Health and Ecological Risk  
12 Assessment Report shall include the following components:

13           (a)     Contaminant Identification. Characterization data shall identify contaminants of  
14 concern for the risk assessment process.

15           (b)     Environmental Evaluation. An ecological assessment consisting of:

16                   (1) Identification of sensitive environments and rare, threatened, or endangered  
17 species and their habitats; and

18                   (2) As appropriate, ecological investigations to assess the actual or potential  
19 effects on the environment and/or develop remediation criteria.

20           (c)     Exposure Assessment. The objectives of an exposure assessment are to identify  
21 actual or potential exposure pathways, to characterize the potentially exposed populations,  
22 and to determine the extent of the exposure. Exposed populations may include industrial  
23 workers, residents, and subgroups that comprise a meaningful portion of the general  
24 population, including, but not limited to, infants, children, pregnant women, the elderly,  
25 individuals with a history of serious illness, or other subpopulations, that are identifiable as  
26 being at greater risk of adverse health effects due to exposure to hazardous substances  
27 than the general population.

28           (d)     Toxicity Assessment. Respondent(s) shall evaluate the types of adverse health or  
environmental effects associated with individual and multiple chemical exposures; the

1 relationship between magnitude of exposures and adverse effects; and related uncertainties  
2 such as the weight of evidence for a chemical's potential carcinogenicity in humans.

3 (e) Risk Characterization. Risk characterization shall include the potential risks of  
4 adverse health or environmental effects for each of the exposure scenarios derived in the  
5 exposure assessment.

6 5.7 Feasibility Study (FS) Report. The FS Report shall be prepared and submitted by  
7 Respondent(s) to DTSC for review and approval, no later than 60 days from submittal of the RI  
8 Report. The FS Report shall summarize the results of the FS including the following:

9 (a) Documentation of all treatability studies conducted.

10 (b) Development of medium specific or operable unit specific remedial action  
11 objectives, including legal requirements and other promulgated standards that are relevant.

12 (c) Identification and screening of general response actions, remedial technologies,  
13 and process options on a medium and/or operable unit specific basis.

14 (d) Evaluation of alternatives based on the criteria contained in the NCP including:

15 Threshold Criteria:

16 (1) Overall protection of human health and the environment.

17 (2) Compliance with legal requirements and other promulgated standards that are  
18 relevant.

19 Primary Balancing Criteria:

20 (1) Long-term effectiveness and permanence.

21 (2) Reduction of toxicity, mobility, or volume through treatment.

22 (3) Short-term effectiveness.

23 (4) Implementability based on technical and administrative feasibility.

24 (5) Cost.

25 Modifying Criteria:

26 (1) State and local agency acceptance.

27 (2) Community acceptance.

28 5.8 Public Participation Plan (Community Relations). Respondent(s) shall work  
cooperatively with DTSC in providing an opportunity for meaningful public participation in

1 response actions. Any such public participation activities shall be conducted in accordance with  
2 H&SC §§ 25356.1 and 25358.7, DTSC's most current Public Participation Policy and Guidance  
3 Manual, and shall be subject to DTSC's review and approval.

4 Respondent(s), in coordination with DTSC, shall conduct a baseline community survey  
5 and develop a Public Participation Plan (PPP) which describes how, under the Order, the public  
6 and adjoining community will be kept informed of activities conducted at the Site and how  
7 Respondent(s) will be responding to inquiries from concerned citizens. Major steps in developing  
8 a PPP are as follows:

- 9 (a) Develop proposed list of interviewees;
- 10 (b) Schedule and conduct community interviews; and
- 11 (c) Analyze interview notes, and develop objectives.

12 Respondent(s) shall conduct the baseline community survey and submit the PPP for  
13 DTSC's review within 40 days of the effective date of this Order.

14 Respondent(s) shall implement any of the public participation support activities identified  
15 in the PPP, at the request of DTSC. DTSC retains the right to implement any of these activities  
16 independently. These activities include, but are not limited to, development and distribution of  
17 fact sheets; public meeting preparations; and development and placement of public notices.

18 5.9 California Environmental Quality Act (CEQA). DTSC will comply with CEQA  
19 for all activities required by this Order that are projects subject to CEQA. Upon DTSC request,  
20 Respondent(s) shall provide DTSC with any information that DTSC deems necessary to facilitate  
21 compliance with CEQA. The costs incurred by DTSC in complying with CEQA are response  
22 costs and Respondent(s) shall reimburse DTSC for such costs pursuant to Section 6.19.

23 5.10 Remedial Action Plan. No later than 30 days after DTSC approval of the FS  
24 Report, Respondent(s) shall prepare and submit to DTSC a draft RAP. The draft RAP shall be  
25 consistent with the NCP and Health and Safety Code section 25356.1. The draft RAP public  
26 review process may be combined with that of any other documents required by CEQA. The draft  
27 RAP shall be based on and summarize the approved RI/FS Reports, and shall clearly set forth:

- 28 (a) Health and safety risks posed by the conditions at the Site.
- (b) The effect of contamination or pollution levels upon present, future, and probable

1 beneficial uses of contaminated, polluted, or threatened resources.

2 (c) The effect of alternative remedial action measures on the reasonable availability  
3 of groundwater resources for present, future, and probable beneficial uses.

4 (d) Site specific characteristics, including the potential for offsite migration of  
5 hazardous substances, the surface or subsurface soil, and the hydro geologic conditions, as  
6 well as preexisting background contamination levels.

7 (e) Cost-effectiveness of alternative remedial action measures. Land disposal shall  
8 not be deemed the most cost-effective measure merely on the basis of lower short-term  
9 cost.

10 (f) The potential environmental impacts of alternative remedial action measures,  
11 including, but not limited to, land disposal of the untreated hazardous substances as  
12 opposed to treatment of the hazardous substances to remove or reduce its volume,  
13 toxicity, or mobility prior to disposal.

14 (g) A statement of reasons setting forth the basis for the removal and remedial  
15 actions selected. The statement shall include an evaluation of each proposed alternative  
16 submitted and evaluate the consistency of the removal and remedial actions proposed by  
17 the plan with the NCP.

18 (h) A schedule for implementation of all proposed removal and remedial actions.

19 In conjunction with DTSC, Respondent(s) shall implement the public review process  
20 specified in DTSC's Public Participation Policy and Guidance Manual. Within 10 days of closure  
21 of the public comment period, Respondent(s) shall submit a written Responsiveness Summary of  
22 all written and oral comments presented and received during the public comment period.

23 Following DTSC's review and finalization of the Responsiveness Summary, DTSC will  
24 specify any changes to be made in the RAP. Respondent(s) shall modify the document in  
25 accordance with DTSC's specifications and submit a final RAP within 15 days of receipt of  
26 DTSC's comments.

27 5.11 Remedial Design [RD]. Within 60 days after DTSC approval of the final RAP,  
28 Respondent(s) shall submit to DTSC for review and approval a RD describing in detail the  
technical and operational plans for implementation of the final RAP which includes the following

1 elements, as applicable:

- 2 (a) Design criteria, process unit and pipe sizing calculations, process diagrams, and  
3 final plans and specifications for facilities to be constructed.
- 4 (b) Description of equipment used to excavate, handle, and transport contaminated  
5 material.
- 6 (c) A field sampling and laboratory analysis plan addressing sampling during  
7 implementation and to confirm achievement of the performance objectives of the RAP.
- 8 (d) A transportation plan identifying routes of travel and final destination of wastes  
9 generated and disposed.
- 10 (e) For groundwater extraction systems: aquifer test results, capture zone  
11 calculations, specifications for extraction and performance monitoring wells, and a plan to  
12 demonstrate that capture is achieved.
- 13 (f) An updated health and safety plan addressing the implementation activities.
- 14 (g) Identification of any necessary permits and agreements.
- 15 (h) An operation and maintenance plan including any required monitoring.
- 16 (i) A detailed schedule for implementation of the remedial action consistent with the  
17 schedule contained in the approved RAP including procurement, mobilization,  
18 construction phasing, sampling, facility startup, and testing.

19 5.12 Deed Restrictions. If the approved remedy in the Final RAP includes deed  
20 restrictions, the current owner(s) of the Site shall sign and record deed restrictions approved by  
21 DTSC within 90 days of DTSC's approval of the final RAP.

22 5.13 Implementation of Final RAP. Upon DTSC approval of the RD, Respondent(s)  
23 shall implement the final RAP in accordance with the approved schedule in the RD. Within 30  
24 days of completion of field activities, Respondent(s) shall submit an Implementation Report  
25 documenting the implementation of the Final RAP and RD.

26 5.14 Operation and Maintenance (O&M). Respondent(s) shall comply with all O&M  
27 requirements in accordance with the final RAP and approved RD. Within 30 days of the date of  
28 DTSC's request, Respondent(s) shall prepare and submit to DTSC for approval an O&M plan  
that includes an implementation schedule. Respondent(s) shall implement the plan in accordance

1 with the approved schedule.

2       5.15     Five-Year Review. Respondent shall review and reevaluate the remedial action  
3 after a period of 5 years from the completion of construction and startup, and every 5 year(s)  
4 thereafter. The review and reevaluation shall be conducted to determine if human health and the  
5 environment are being protected by the remedial action. Within thirty (30) calendar days before  
6 the end of the time period approved by DTSC to review and reevaluate the remedial action,  
7 Respondent(s) shall submit a remedial action review work plan to DTSC for review and approval.  
8 Within sixty (60) days of DTSC's approval of the work plan, Respondent(s) shall implement the  
9 work plan and shall submit a comprehensive report of the results of the remedial action review.  
10 The report shall describe the results of all sample analyses, tests and other data generated or  
11 received by Respondent(s) and evaluate the adequacy of the implemented remedy in protecting  
12 public health, safety and the environment. As a result of any review performed under this section,  
13 Respondent(s) may be required to perform additional Work or to modify Work previously  
14 performed.

15       5.16     Changes During Implementation of the Final RAP. During the implementation of  
16 the final RAP and RD, DTSC may specify such additions, modifications, and revisions to the RD  
17 as deemed necessary to protect public health and safety or the environment or to implement the  
18 RAP.

19       5.17     Stop Work Order. In the event that DTSC determines that any activity (whether  
20 or not pursued in compliance with this Order) may pose an imminent or substantial endangerment  
21 to the health or safety of people on the Site or in the surrounding area or to the environment,  
22 DTSC may order Respondent(s) to stop further implementation of this Order for such period of  
23 time needed to abate the endangerment. In the event that DTSC determines that any site  
24 activities (whether or not pursued in compliance with this Order) are proceeding without DTSC  
25 authorization, DTSC may order Respondent(s) to stop further implementation of this Order or  
26 activity for such period of time needed to obtain DTSC authorization, if such authorization is  
27 appropriate. Any deadline in this Order directly affected by a Stop Work Order, under this  
28 section, shall be extended for the term of the Stop Work Order.

      5.18     Emergency Response Action/Notification. In the event of any action or

1 occurrence (such as a fire, earthquake, explosion, or human exposure to hazardous substances  
2 caused by the release or threatened release of a hazardous substance) during the course of this  
3 Order, Respondent(s) shall immediately take all appropriate action to prevent, abate, or minimize  
4 such emergency, release, or immediate threat of release and shall immediately notify the Project  
5 Manager. Respondent(s) shall take such action in consultation with the Project Manager and in  
6 accordance with all applicable provisions of this Order. Within seven days of the onset of such an  
7 event, Respondent(s) shall furnish a report to DTSC, signed by Respondent(s)' Project  
8 Coordinator, setting forth the events which occurred and the measures taken in the response  
9 thereto. In the event that Respondent(s) fail to take appropriate response and DTSC takes the  
10 action instead, Respondent(s) shall be liable to DTSC for all costs of the response action.  
11 Nothing in this section shall be deemed to limit any other notification requirement to which  
12 Respondent(s) may be subject.

13 5.19 Discontinuation of Remedial Technology. Any remedial technology employed in  
14 implementation of the final RAP shall be left in place and operated by Respondent(s) until and  
15 except to the extent that DTSC authorizes Respondent(s) in writing to discontinue, move or  
16 modify some or all of the remedial technology because Respondent(s) has met the criteria  
17 specified in the final RAP for its discontinuance, or because the modifications would better  
18 achieve the goals of the final RAP.

19 5.20 Financial Assurance. Respondent(s) shall demonstrate to DTSC and maintain  
20 financial assurance for operation and maintenance and monitoring. Respondent(s) shall  
21 demonstrate financial assurance prior to the time that operation and maintenance activities are  
22 initiated and shall maintain it throughout the period of time necessary to complete all required  
23 operation and maintenance activities. The financial assurance mechanisms shall meet the  
24 requirements of H&SC Section 25355.2. All financial assurance mechanisms are subject to the  
25 review and approval of DTSC.

## 26 VI. GENERAL PROVISIONS

27 6.1 Project Coordinator. Within 10 days from the date the Order is signed by  
28 DTSC, Respondent(s) shall submit to DTSC in writing the name, address, and telephone number  
of a Project Coordinator whose responsibilities will be to receive all notices, comments,

1 approvals, and other communications from DTSC. Respondent(s) shall promptly notify DTSC  
2 of any change in the identity of the Project Coordinator. Respondent(s) shall obtain approval  
3 from DTSC before the new project coordinator performs any work under this Order.

4 6.1.1 Communication and Coordination Plan (CCP). Within thirty (30) days from the  
5 date the Order is signed by DTSC, Respondent(s) shall submit a CCP which specifies the  
6 requirements and procedures by which Respondent(s) will communicate and coordinate with one  
7 another in carrying out the requirements of this Order, to DTSC for its approval.

8 6.2 Project Engineer/Geologist. The work performed pursuant to this Order shall be  
9 under the direction and supervision of a qualified professional engineer or a registered geologist in  
10 the State of California, with expertise in hazardous substance site cleanups. Within 30 calendar  
11 days from the date the Order is signed by DTSC, Respondent(s) must submit: a) The name and  
12 address of the project engineer or geologist chosen by Respondent(s); and b) in order to  
13 demonstrate expertise in or hazardous substance cleanup, the resumé of the engineer or  
14 geologist, and the statement of qualifications of the consulting firm responsible for the work.  
15 Respondent(s) shall promptly notify DTSC of any change in the identity of the Project  
16 Engineer/Geologist. Respondent(s) shall obtain approval from DTSC before the new Project  
17 Engineer/Geologist performs any work under this Order.

18 6.3 Monthly Summary Reports. Within 30 days from the date the Order is signed by  
19 DTSC, and on a monthly basis thereafter, Respondent(s) shall submit a Monthly Summary Report  
20 of its activities under the provisions of this Order. The report shall be received by DTSC by the  
21 15th day of each month and shall describe:

- 22 (a) Specific actions taken by or on behalf of Respondent(s) during the previous  
23 calendar month;
- 24 (b) Actions expected to be undertaken during the current calendar month;
- 25 (c) All planned activities for the next month;
- 26 (d) Any requirements under this Order that were not completed;
- 27 (e) Any problems or anticipated problems in complying with this Order; and
- 28 (f) All results of sample analyses, tests, and other data generated under the Order  
during the previous calendar month, and any significant findings from these data.

1           6.4     Quality Control/Quality Assurance (QC/OA). All sampling and analysis  
2 conducted by Respondent(s) under this Order shall be performed in accordance with QC/QA  
3 procedures submitted by Respondent(s) and approved by DTSC pursuant to this Order.

4           6.5     Submittals. All submittals and notifications from Respondent(s) required by this  
5 Order shall be sent simultaneously to:

6           Mohinder Sandhu  
7           Branch Chief  
8           Attention: Tony Natera, Project Manager [two copies]  
9           Hazardous Waste Management Branch  
          Department of Toxic Substances Control  
          700 Heinz Avenue, Suite 200  
          Berkeley, CA 94710-2721

10          6.6     Communications. All approvals and decisions of DTSC made regarding  
11 submittals and notifications will be communicated to Respondent(s) in writing by the Hazardous  
12 Waste Management Branch Chief, DTSC, or his/her designee. No informal advice, guidance,  
13 suggestions or comments by DTSC regarding reports, plans, specifications, schedules or any  
14 other writings by Respondent(s) shall be construed to relieve Respondent(s) of the obligation to  
15 obtain such formal approvals as may be required.

16          6.7     DTSC Review and Approval. All response actions taken pursuant to this Order  
17 shall be subject to the approval of DTSC. Respondent(s) shall submit all deliverables required by  
18 this Order to DTSC. Once the deliverables are approved by DTSC, they shall be deemed  
19 incorporated into, and where applicable, enforceable under this Order.

20          (a)     If DTSC determines that any report, plan, schedule or other document submitted  
21 for approval pursuant to this Order fails to comply with this Order or fails to protect public health  
22 or safety or the environment, DTSC may:

23               (1)    Modify the document as deemed necessary and approve the document as  
24               modified; or

25               (2)    Return comments to Respondent(s) with recommended changes and a date  
26               by which Respondent(s) must submit to DTSC a revised document incorporating the  
27               recommended changes.

28          (b)     Any modifications, comments or other directive issued pursuant to (a) above, are  
incorporated into this Order. Any noncompliance with these modifications or directives

1 shall be deemed a failure or refusal to comply with this Order.

2 6.8 Compliance with Applicable Laws. Nothing in this Order shall relieve  
3 Respondent(s) from complying with all other applicable laws and regulations, including but not  
4 limited to compliance with all applicable waste discharge requirements issued by the State Water  
5 Resources Control Board or a California Regional Water Quality Control Board. Respondent(s)  
6 shall conform all actions required by this Order with all applicable federal, state and local laws and  
7 regulations.

8 6.9 Respondent Liabilities. Nothing in this Order shall constitute or be construed as  
9 a satisfaction or release from liability for any conditions or claims arising as a result of past,  
10 current or future operations of Respondent(s). Nothing in this Order is intended or shall be  
11 construed to limit the rights of any of the parties with respect to claims arising out of or relating  
12 to the deposit or disposal at any other location of substances removed from the Site. Nothing in  
13 this Order is intended or shall be construed to limit or preclude DTSC from taking any action  
14 authorized by law to protect public health or safety or the environment and recovering the cost  
15 thereof. Notwithstanding compliance with the terms of this Order, Respondent(s) may be  
16 required to take further actions as are necessary to protect public health and the environment.

17 6.10 Site Access. Access to the Site and laboratories used for analyses of samples  
18 under this Order shall be provided at all reasonable times to employees, contractors, and  
19 consultants of DTSC. Nothing in this section is intended or shall be construed to limit in any way  
20 the right of entry or inspection that DTSC or any other agency may otherwise have by operation  
21 of any law. DTSC and its authorized representatives shall have the authority to enter and move  
22 freely about all property at the Site at all reasonable times for purposes including, but not limited  
23 to: inspecting records, operating logs, sampling and analytic data, and contracts relating to this  
24 Site; reviewing the progress of Respondent(s) in carrying out the terms of this Order; conducting  
25 such tests as DTSC may deem necessary; and verifying the data submitted to DTSC by  
26 Respondent(s).

27 To the extent the Site or any other property to which access is required for the  
28 implementation of this Order is owned or controlled by persons other than Respondent(s),  
Respondent(s) shall use best efforts to secure from such persons access for Respondent(s), as

1 well as DTSC, its representatives, and contractors, as necessary to effectuate this Order. To the  
2 extent that any portion of the Site is controlled by tenants of Respondent(s), Respondent(s) shall  
3 use best efforts to secure from such tenants, access for Respondent(s), as well as for DTSC, its  
4 representatives, and contractors, as necessary to effectuate this Order. For purposes of this  
5 Section, "best efforts" includes the payment of reasonable sums of money in consideration of  
6 access. If any access required to complete the Work is not obtained within forty-five (45) days of  
7 the effective date of this Order, or within forty-five (45) days of the date DTSC notifies  
8 Respondent(s) in writing that additional access beyond that previously secured is necessary,  
9 Respondent(s) shall promptly notify DTSC, and shall include in that notification a summary of the  
10 steps Respondent(s) has taken to attempt to obtain access. DTSC may, as it deems appropriate,  
11 assist Respondent(s) in obtaining access. Respondent(s) shall reimburse DTSC in obtaining  
12 access, including, but not limited to, attorneys fees and the amount of just compensation.

13         6.11     Site Access for Respondents. . The Site owner Respondent(s) shall grant access  
14 to Respondent(s) who are in compliance with this Order for the purpose of conducting activities  
15 pursuant to this Order or for activities deemed necessary by the DTSC to meet the objectives of  
16 this Order.

17         6.12     Sampling, Data and Document Availability. Respondent(s) shall permit DTSC  
18 and its authorized representatives to inspect and copy all sampling, testing, monitoring or other  
19 data generated by Respondent(s) or on Respondent(s) behalf in any way pertaining to work  
20 undertaken pursuant to this Order. Respondent(s) shall submit all such data upon the request of  
21 DTSC. Copies shall be provided within 7 days of receipt of DTSC's written request.  
22 Respondent(s) shall inform DTSC at least 7 days in advance of all field sampling under this  
23 Order, and shall allow DTSC and its authorized representatives to take duplicates of any samples  
24 collected by Respondent(s) pursuant to this Order. Respondent(s) shall maintain a central  
25 depository of the data, reports, and other documents prepared pursuant to this Order.

26         6.13     Record Retention. All such data, reports and other documents shall be preserved  
27 by Respondent(s) for a minimum of ten years after the conclusion of all activities under this  
28 Order. If DTSC requests that some or all of these documents be preserved for a longer period of  
time, Respondent(s) shall either comply with that request or deliver the documents to DTSC, or

1	Section 5.1.2(b)	
2	3. Implement Drainage Control	In accordance with approved schedule.
3	Workplan; Section 5.1.2(b)	
4	4. Submit Liquids Waste	Within 30 days from the date the Order
5	Removal Workplan; Section 5.1.2(e)	is signed by DTSC.
6	5. Implement Liquids Waste	Within 10 days of receiving DTSC
7	Removal; Section 5.1.2(e)	Approval of Liquids Waste Removal
8	6. Submit Demolition/Removal	Workplan.
9	Workplan; Section 5.1.2(c)	Within 60 days from the date the Order
10	7. Implement Demolition/Removal	is signed by DTSC.
11	Workplan Section 5.1.2(c)	In accordance with approved schedule.
12	8. Submit Interim Capping	Within 60 days from the date the Order
13	Workplan; Section 5.1.2(d)	is signed by DTSC.
14	9. Implement Interim	In accordance with approved schedule.
15	Capping Workplan; Section 5.1.2(d)	
16	Other Order Submittals:	
17	1. Submit Notice of Intent to Comply;	Within 15 days from the effective date
18	Section 7	of the Order.
19	2. Identify Project Coordinator;	Within 10 days from the date the Order is
20	Section 6.1	signed by DTSC.
21	3. Identify Project Engineer/Geologist;	Within 30 days from the date the Order is
22	Section 6.2	signed by DTSC.
23	4. Communication and Coordination Plan;	Within 30 days from the date the Order is
24	Plan; Section 6.1.1	signed by DTSC.
25	5. Submit Monthly Summary Reports;	Within 30 days from the date the Order is
26	Section 6.3	signed by DTSC.
27	6. Attend Site Remediation Strategy	Within 90 days from the date the Order is
28	Meeting; Section 5.1.3	signed by DTSC.

1 permit DTSC to copy the documents prior to destruction. Respondent(s) shall notify the DTSC  
2 in writing, at least six months prior to destroying any documents prepared pursuant to this Order.

3       6.14    Government Liabilities. The State of California shall not be liable for any injuries  
4 or damages to persons or property resulting from acts or omissions by Respondent(s), or related  
5 parties specified in Section 6.25, Parties Bound, in carrying out activities pursuant to this Order,  
6 nor shall the State of California be held as party to any contract entered into by Respondent(s) or  
7 its agents in carrying out activities pursuant to this Order.

8       6.15    Additional Actions. By issuance of this Order, DTSC does not waive the right  
9 to take any further actions authorized by law.

10       6.16   Extension Requests. If Respondent(s) is unable to perform any activity or submit  
11 any document within the time required under this Order, Respondent(s) may, prior to expiration  
12 of the time, request an extension of the time in writing. The extension request shall include a  
13 justification for the delay. All such requests shall be in advance of the date on which the activity  
14 or document is due.

15       6.17   Extension Approvals. If DTSC determines that good cause exists for an  
16 extension, it will grant the request and specify a new schedule in writing. Respondent(s) shall  
17 comply with the new schedule incorporated in this Order.

18       6.18   Liability for Costs. Respondent(s) is liable for all of DTSC's costs that have  
19 been incurred in taking response actions at the Site (including costs of overseeing response  
20 actions performed by Respondent(s)) and costs to be incurred in the future.

21       6.19   Payment of Costs. DTSC may bill Respondent(s) for costs incurred in taking  
22 response actions at the Site prior to the effective date of this Order. DTSC will bill  
23 Respondent(s) quarterly for its response costs incurred after the effective date of this Order.  
24 Respondent(s) shall pay DTSC within sixty (60) days of receipt of any DTSC billing. Any billing  
25 not paid within sixty (60) days is subject to interest calculated from the date of the billing pursuant  
26 to Health and Safety Code section 25360.1. All payments made by Respondent(s) pursuant to  
27 this Order shall be by cashier's or certified check made payable to the "DTSC," and shall bear on  
28 the face the project code of the Site (Site 100204-00) and the Docket number of the Order.

Payments shall be sent to:

1 Department of Toxic Substances Control  
2 Accounting/Cashier  
3 400 P Street, 4th Floor  
4 P.O. Box 806  
5 Sacramento, California 95812-0806

6 A photocopy of all payment checks shall also be sent to the person designated by DTSC to  
7 receive submittals under this Order.

8 6.20 Severability. The requirements of this Order are severable, and Respondent(s)  
9 shall comply with each and every provision hereof, notwithstanding the effectiveness of any other  
10 provision.

11 6.21 Incorporation of Plans, Schedules and Reports. All plans, schedules, reports,  
12 specifications and other documents that are submitted by Respondent(s) pursuant to this Order  
13 are incorporated in this Order upon DTSC's approval or as modified pursuant to Section 6.7,  
14 DTSC Review and Approval, and shall be implemented by Respondent(s). Any noncompliance  
15 with the documents incorporated in this Order, shall be deemed a failure or refusal to comply with  
16 this Order.

17 6.22 Modifications. DTSC reserves the right to unilaterally modify this Order. Any  
18 modification to this Order shall be effective upon the date the modification is signed by DTSC  
19 and shall be deemed incorporated in this Order.

20 6.23 Time Periods. Unless otherwise specified, time periods begin from the effective  
21 date of this Order and "days" means calendar days.

22 6.24 Calendar of Tasks and Schedules. This Section is merely for the convenience of  
23 listing in one location the submittals required by this Order. If there is a conflict between the  
24 date for a scheduled submittal within this section and the date within the section describing the  
25 specific requirement, the latter shall govern.

#### Calendar of Tasks and Schedules

##### TASK

##### SCHEDULE

26 Liquids Waste Removal:

- |   |  |
|---|--|
| 27 1. Fence and Post;<br>28 Section 5.1.2(a); | Within 30 days from the date the Order<br>is signed by DTSC. |
| 2. Submit Drainage Control<br>Workplan;       | Within 30 days from the date the Order<br>is signed by DTSC. |

- |    |     |  |   |
|----|-----|--|---|
| 1  | 7.  | Submit RI/FS Work plan;<br>Section 5.2.2                         | Within 150 days of the effective date of the Order.   |
| 2  |     |  |   |
| 3  | 8.  | Submit interim screening and evaluation document;<br>Section 5.3 | As requested by DTSC.   |
| 4  |     |  |   |
| 5  | 9.  | Submit Treatability Studies;<br>Section 5.4                      | As required during Site characterization or as requested by DTSC.   |
| 6  | 10. | Submit RI Report;<br>Section 5.5                                 | Per approved RI/FS Work plan Schedule.  |
| 7  |     |  |   |
| 8  | 11. | Submit Baseline Risk Assessment;<br>Section 5.6                  | Per approved RI/FS Work plan Schedule   |
| 9  | 12. | Submit FS Report;<br>Section 5.7                                 | Within 60 days from submittal of RI Report.   |
| 10 | 13. | Submit Public Participation Plan;<br>Section 5.8                 | Within 40 days from the date the Order is signed by DTSC.   |
| 11 |     |  |   |
| 12 |     | Submit and distribute Fact Sheets;                               | For projected or completed key milestones, as specified in Public Participation Plan or when requested by DTSC. |
| 13 |     |  |   |
| 14 | 14. | Submit Initial Study and Checklist;<br>Section 5.9               | Within 30 days after approval of FS Report.   |
| 15 |     |  |   |
| 16 | 15. | Submit Draft RAP;<br>Section 5.10                                | Within 30 days after approval of FS Report.   |
| 17 |     | Submit Responsiveness Summary;                                   | Within 10 days of closure of public comment period.   |
| 18 |     | Submit Final RAP;  | Within 15 days of receipt of DTSC's comments.   |
| 19 |     |  |   |
| 20 | 16. | Submit Remedial Design;<br>Section 5.11                          | Within 60 days after DTSC's approval of the Final RAP.  |
| 21 |     |  |   |
| 22 | 17. | Deed Restrictions;<br>Section 5.12                               | Within 90 days of approval of Final RAP.  |
| 23 | 18. | Submit Implementation Report;<br>Section 5.13                    | Within 30 days of completion of field activities.   |
| 24 |     |  |   |
| 25 | 19. | Submit O&M Work plan;<br>Section 5.14                            | Within 30 days of DTSC's request.   |
| 26 | 20. | Submit Remedial Action Review Work plan;<br>Section 5.15         | Within 30 days before end of five-year period.  |
| 27 |     |  |   |
| 28 |     |  |   |

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|----|---|--|
| 1  | 21. Submit Emergency Response Action Report;<br>Section 5.18  | Within 7 days of an emergency response action.   |
| 2  |   |  |
| 3  | 22. Provide copies of sampling, data, and documentation;<br>Section 6.12  | Within 7 days of receipt of DTSC's request.  |
| 4  |   |  |
| 5  | Provide prior notice before conducting field sampling;  | Inform DTSC 7 days in advance of sampling.   |
| 6  |   |  |
| 7  | 23. Maintain central depository of data, reports, documentation; and  | Maintain central depository for a minimum of ten years after conclusion of all activities conducted pursuant to the Order. |
| 8  |   |  |
| 9  | Provide prior written notice to the DTSC before destroying any documentation prepared pursuant to the Order;<br>Section 6.13. | At least six months prior to destroying any records.   |
| 10 |   |  |
| 11 |   |  |

12       6.25    Parties Bound. This Order applies to and is binding upon Respondent(s), and its  
13 officers, directors, agents, employees, contractors, consultants, receivers, trustees,  
14 successors and assignees, including but not limited to, individuals, partners, and subsidiary and  
15 parent corporations. Respondent(s) shall provide a copy of this Order to all contractors,  
16 subcontractors, laboratories, and consultants which are retained to conduct any work performed  
17 under this Order, within 15 days after the effective date of this Order or the date of retaining their  
18 services, whichever is later. Respondent(s) shall condition any such contracts upon satisfactory  
19 compliance with this Order. Notwithstanding the terms of any contract, Respondent(s) is  
20 responsible for compliance with this Order and for ensuring that its subsidiaries, employees,  
21 contractors, consultants, subcontractors, agents and attorneys comply with this Order.

22       6.26    Change in Ownership. No change in ownership or corporate or partnership status  
23 relating to the Site shall in any way alter Respondent's responsibility under this Order. No  
24 conveyance of title, easement, or other interest in the Site, or a portion of the Site, shall affect  
25 Respondent's obligations under this Order. Unless DTSC agrees that such obligations may be  
26 transferred to a third party, Respondent(s) shall be responsible for and liable for any failure to  
27 carry out all activities required of Respondent(s) by the terms and conditions of this Order,  
28 regardless of Respondent's use of employees, agents, contractors, or consultants to perform any

1 such tasks. Respondent(s) shall provide a copy of this Order to any subsequent owners or  
2 successors before ownership rights or stock or assets in an corporate acquisition are transferred.

3 VII. NOTICE OF INTENT TO COMPLY

4 7. Not later than fifteen (15) days after the effective date of this Order, Respondent(s)  
5 shall provide written notice, in accordance with paragraph 6.5 Submittals of this Order, stating  
6 whether or not Respondent(s) will comply with the terms of this Order. If Respondent(s), or any  
7 one of them, do not unequivocally commit to perform all of the requirements of this Order, they,  
8 or each so refusing, shall be deemed to have violated this Order and to have failed or refused to  
9 comply with this Order. Respondent's (s') written notice shall describe, using facts that exist on  
10 or prior to the effective date of this Order, any "sufficient cause" defenses asserted by  
11 Respondent(s) under Health and Safety Code sections 25358.3(a) and 25355.5(a)(1)(B) or  
12 CERCLA section 107(c)(3), 42 U.S.C. section 9607(c)(3).

13 VIII. EFFECTIVE DATE

14 8. This Order is final and effective five days from the date of mailing, which is the date  
15 of the cover letter transmitting the Order to you.

16 IX. PENALTIES FOR NONCOMPLIANCE

17 9. Each Respondent may be liable for penalties of up to \$25,000 for each day out of  
18 compliance with any term or condition set forth in this Order and for punitive damages up to three  
19 times the amount of any costs incurred by DTSC as a result of Respondent's(s') failure to comply,  
20 pursuant to Health and Safety Code sections 25359, 25359.2, 25359.4, and 25367(c). Health and  
21 Safety Code section 25359.3 provides that a responsible party who complies with this order, or  
22 with another order or agreement concerning the same response actions required by this order,  
23 may seek treble damages from Respondent(s) who fail or refuse to comply with this order without  
24 sufficient cause.

25  
26  
27 DATE OF ISSUANCE: 11-8-99

Dorothy Rice  
Dorothy Rice  
Deputy Director  
Department of Toxic Substances Control

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cc: Site Mitigation Program  
Headquarters, Planning & Policy  
Hazardous Waste Management Program  
Office of Legal Counsel