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Arnold Schwarzenegger
Governor

**RESPONSE TO PUBLIC COMMENTS ON THE
NOTICE OF INTENT TO DENY
A STANDARDIZED PERMIT FOR
LEACH OIL COMPANY, INCORPORATED
625 East Compton Boulevard
Compton, California 90220
EPA ID No. CAD 050 099 696
November 18, 2008**

Part 1 - Introduction

On December 24, 1997, the California Environmental Protection Agency, Department of Toxic Substances Control (DTSC) issued a Notice of Intent to Deny a Standardized Permit concerning Leach Oil Company, Incorporated (Leach Oil). A copy of the Statement of Basis and the Administrative Record was sent to public agencies for review and comment. The Statement of Basis and the Administrative Record were also available for review at the City of Compton's Public Library located at 240 West Compton Boulevard and at DTSC's Glendale regional office located at 1011 North Grandview Avenue.

The 45-day public comment period regarding the proposed Standardized Permit Denial decision was held from December 31, 1997 through February 17, 1998. A legal notice was published in a local newspaper and an announcement was broadcast over a local radio station.

A public hearing was held on February 5, 1998 at the Compton City Hall, Council Chambers. Upon request from Leach Oil, dated February 4, 1998, DTSC extended the public comment period regarding the proposed Standardized Permit Denial through March 3, 1998.

The Leach Oil facility is located at 625 East Compton Boulevard, Compton, Los Angeles County, California. Leach Oil operated a hazardous waste transfer and storage facility under a Standardized Permit Grant of Interim Status starting October 1, 1993. The Standardized Permit Grant of Interim Status for Leach Oil terminated upon the statutory deadline of January 1, 1998 pursuant to Health and Safety Code section 25201.6(f)(3). Therefore, Leach Oil has not been authorized to operate its hazardous waste facility since January 1, 1998.

Pursuant to Health and Safety Code section 25186(a), DTSC's decision to deny the Standardized Permit is based on Leach Oil's long history of repeated and recurring violations of the State hazardous waste control laws and regulations. As a result of an enforcement action brought by DTSC against Leach Oil, the Superior Court of California,

County of Los Angeles, rendered a Judgment on December 16, 1997 in People of the State of California v. Leach Oil Co., Inc., Case No. BC138376, prohibiting Leach Oil from treating used oil and storing used oil in any tank that was not in compliance with the State hazardous waste management requirements.

Part 2 – Verbal Comments on Proposed Notice of Intent to Deny Permit

On February 5, 1998, DTSC held a public meeting at the Compton City Hall, Council Chambers, 205 South Willowbrook Avenue, Compton, California, in order to take verbal comments from the public concerning the Notice of Intent to Deny a Standardized Permit to Leach Oil.

The DTSC Hearing Officer was Ms. Peggy Harris, P.E., Chief of Standardized Permitting Section, DTSC, whose mailing address was P.O. Box 806, Sacramento, California 95812-0806, and telephone number was (916) 324-7663. The Meeting Facilitator was Ms. Heidi Hansen, Public Participation Specialist, DTSC, whose address was 8800 Cal Center Drive, Sacramento, California 95826-3200 and telephone number was (916) 255-3575.

Two interested members of the public attended the Public Hearing. Verbal comments from only one member of the public on the Notice of Intent to Deny a Standardized Permit to Leach Oil Company was received at the Public Hearing, which are listed below. DTSC's response to the comments follows after each comment and is bolded:

(A) Ms. Patricia Leach, Vice President
Leach Oil Company, Incorporated
625 East Compton Boulevard
Compton, California 90220

A-1. Okay, I'm Patricia Leach with Leach Oil Company, and I'm here to make some comments regarding the denial of the Leach Oil Company, Inc. permit.

Leach Oil Company is an existing facility that has been operational since the 1960s, long before any hazardous waste laws were ever developed.

We have problems that have unabled [sic] us to comply with existing -- or with some of the regulations. And I feel like a lot of these violations that have been issued in Attachment A were issued as a result of the inspection that was conducted on August 31st and September 8th of 1989. A lot of those issues have been resolved and they were resolved immediately. A lot of the violations that have occurred in subsequent inspection have been unfounded and were not -- I don't know how you would say it -- they weren't founded.

I will review on each and every violation that's noted in Attachment A and I will submit those written comments. I won't go through those right now because I think it's kind of redundant to state them plus, you know, put them in writing.

I would like to comment on some of the violations that were mentioned tonight.

RESPONSE: DTSC disagrees. A few of the violations found during DTSC inspection, dated August 31, 1989 and September 8, 1989, were resolved immediately. But many more serious violations continued to occur at Leach Oil, such as: failure to obtain liability coverage for sudden accidental occurrences; failure to provide financial assurance for closure costs; failure to provide a secondary containment system for tanks to contain any releases; failure to provide an updated emergency response plan; and failure to keep adequate inspection/operating logs.

A-2. Disposal of hazardous waste to the ground. This was not an intentional disposal to the ground. This facility was in existence long before there were any time [sic] of strict controls and that type thing concerning hazardous waste. As soon as this inspection was complete, we made those changes. And there hasn't been any violations issued against Leach Oil since that time regarding disposal of hazardous waste to the ground.

RESPONSE: DTSC disagrees. Even though Leach Oil began operation before strict controls on hazardous wastes were established in the early 1980s, Leach Oil, as well as other hazardous waste businesses, was required to comply with applicable State laws and regulations upon their enactment and promulgation. DTSC staff found soil contamination and leakage/spillage of oil/products onto the ground, which is defined as disposal, during an inspection in 1985 and again in 1989. Also, an inspection conducted by the Los Angeles County, Department of Health Services, dated September 8, 1989, noted soil contamination and disposal to the ground.

A-3. Failure to maintain liability coverage. Leach Oil Company, after the initial inspection in 1989, Leach Oil Company did try very hard to obtain liability coverage. It was very expensive. There were only two companies that were available, as our broker informed us. One of them chose not -- he would not even quote us insurance. It was denied to us completely.

The other company quoted a premium of a minimum of \$70,000. And before they would even consider writing out policy, they wanted us to do extensive site assessment and characterization which would, at that time, because the expenses for that type of work were so high, it would have cost over \$100,000.

And this was ongoing at the same time that the State Board of Equalization was trying to collect past facility fees that they has [sic] not billed to a lot of the small facilities down in Southern California. Those fees were over \$200,000. So to try

and get insurance, you had the State Board of Equalization demanding about \$200,000. At that time, the Board had proposed a penalty to Leach Oil of \$413,000. It was just real hard to decide what you're going to do when you've got these type of financial burdens being placed upon you and you're a small company with only eight to ten employees and our sales at that time were probably less than a million dollars a year.

RESPONSE: DTSC disagrees. Other small hazardous waste transfer and storage facilities operating during this same time period throughout California were able to operate in compliance with all applicable California hazardous waste laws and regulations, including being able to obtain the appropriate liability coverage for sudden accidental occurrences.

A-4. Since 1989, because of the Standardized Permitting, the facility fees were granted amnesty which resolved that issue. Leach has slowly attempted to come into compliance on most of these issues. We had a tank assessment completed in 1995. It was past the due date of July 1st, 1993. But due to fact we were in a Chapter 11 proceeding until 1995, the money just wasn't available.

The assessment was complete. The Department rejected, or did not accept, the assessment on tanks one through six. And subsequently they were -- they appealed to the Court to have us remove those tanks from service, which we have. Those tanks, we would like to take out of -- they are taken out of service. We would like to remove them. We don't plan to replace them. And if Leach should subsequently be granted its permit, it will not use those tanks. It would like to close that particular portion of its tank system.

RESPONSE: DTSC disagrees. The actual, correct regulatory due date for integrity assessment of hazardous waste tanks was July 1, 1991, which was before Leach Oil filed for bankruptcy on October 7, 1991. The requirements in California Code of Regulations, title 22, section 66265.191 for assessing the structural integrity of tanks holding hazardous wastes to prevent sudden, catastrophic releases were not preempted or discharged by filing for bankruptcy under the Bankruptcy Code, Chapter 11. Leach Oil continued using hazardous waste tanks that had not been properly assessed for structural integrity until 1996.

A-5. The only remaining issue that Leach has is that the closure fund and the closure -- the plan -- if Leach is shut down, there is not enough money in the current plan to pay for closure. This would probably create a burden on taxpayers. Currently in the fund is approximately \$164,000. The Department has estimated the closure fund is close to -- should be more around \$500,000. Leach believes it should be \$228,000. Regardless, if Leach closes down there will never be the money there to fund the closure.

This is our facility; we've been there since 1960. It's a family-owned business. We want to take responsibility and close the site correctly, properly within the law. But if we're not allowed to operate and continue to fund the closure plan, the taxpayers would more than likely have to assume that. And we really do not want that to happen.

RESPONSE: DTSC disagrees. Leach Oil had more than ample opportunity to adequately fund its closure cost trust fund since August 18, 1989, when Conservtech, an environmental firm hired to assess the extent of contamination at the Leach Oil property, provided an estimated closure cost amount of \$446,000 to Leach Oil. Again, other small hazardous waste transfer and storage facilities operating during this same time period throughout California were able to operate in compliance with all applicable California hazardous waste laws and regulations, including being able to provide adequate financial assurance for closure costs.

A-6. I don't know if the Department is aware, there are only two recycling facilities left now here in Southern California with Demenno-Kerdoon purchasing Advanced Environmental. Years ago there were probably 10 to 12. They've all been eliminated. There are only two remaining.

These facilities are now not paying for waste oil. This is going to result in a higher cost to the generators. It's something we're concerned about. We're not a recycling facility, so I don't -- that's not going to have any bearing on it, but I think it is something that the Department should be concerned about.

In the last 30 days the price to generators for waste oil service has probably gone up 300 to 500 percent, and it's not stopping.

I'd like to close by saying, you know, this is my company, this is my job, this is my life. I don't take noncompliance issues lightly. It is my desire to comply. I know it's been a problem. And I will follow the full permit denial process and I will not give up. So I hope we can somehow come to terms, work out some solution where Leach Oil could continue operating and come within compliance as quickly as possible and close their facility when the time is -- when it's time to do that. Thank you.

RESPONSE: DTSC disagrees. Since 1984, Leach Oil had numerous, ample opportunities to come into compliance with applicable California hazardous waste laws and regulations, but repeatedly and continually failed to do so.

Part 3 - Written Comments on Notice of Intent to Deny a Standardized Permit

Upon request from Leach Oil Company, DTSC extended the 45-Day Public Comment Period regarding the Notice Standardized Permit Denial from February 17, 1998 through March 3, 1998. At 5:00 p.m., COB, on Tuesday, March 3, 1998, DTSC formally closed the Public Comment Period to take written comments from the public concerning the Notice of Intent to Deny a Standardized Permit to Leach Oil Company, Inc., located at 625 East Compton Boulevard, Compton, California.

Listed below are the written public comments received by DTSC by the end of the public comment period, which questioned different aspects of the Notice of Intent to Deny a Standardized Permit to Leach Oil Company, Inc. The written comments were answered in the order that they were received. DTSC's response to the comment(s) follows after each comment and is in bold type:

(B) Mr. Harry W. Stone, Director
Department of Public Works
County of Los Angeles
900 S. Fremont Avenue
Alhambra, California 91803

B-1. This office has reviewed the Notice of Intent to Deny a Standardized Permit for the subject site dated December 24, 1997, and offer the following comments:

Since March 7, 1961, Leach Oil Company has operated under Los Angeles County Industrial Waste Disposal Permit (IWDP) No. 1955. The IWDP was issued for the disposal of industrial wastes generated from a waste oil re-refining operation at the subject site.

Pursuant to Los Angeles County Code, Title 20, Section 20.36.220, the Permittee is required to file an Application for Closure with this office to terminate the IWDP and comply with all conditions of the Closure Authorization. However, should the proposed denial of a Standardized Permit be made final and the Department of Toxic Substances Control (DTSC) begins administrative procedures for closure of the Leach Oil Facility, this office does not propose at this time to impose any additional closure conditions other than requiring the Permittee to file the Application for Closure, removal and legal disposal of existing industrial waste control facilities and to show evidence of compliance with DTSC requirements.

If you have any questions regarding this mater, please contact Mr. Joe Baiocco of this office at (626) 458-3559, Monday through Thursday, 7:00 a.m. to 5:30 p.m.

RESPONSE: DTSC notes your comment. During closure, Leach Oil must comply with all applicable state and local laws, regulations and rules. DTSC will begin

administrative procedures for closure of the Leach Oil facility when the permit denial decision is finalized, and will include the County of Los Angeles's requirement to file for an Application for Closure as part of the revised Closure Plan. DTSC will add the County of Los Angeles's Department of Public Works to the Leach Oil mailing list.

(C) Mr. Jerry N. Gadt, Planning Director
City of Compton Department of Building and Planning
Compton City Hall
205 South Willowbrook Avenue
Compton, California 90220

C-1. This letter is in response to the Department of Toxic Substances Control's (DTSC's) request for public comment on your agency's tentative decision to deny a Standardized Permit for the continued operation of Leach Oil Company, Incorporated's hazardous waste transfer and storage facility at 625 E. Compton Boulevard, in the unincorporated portion of Los Angeles County.

Although the facility is not located within the City of Compton, it is located within close proximity, and we, therefore, request to be kept informed of the [Leach Oil] facility's permit status. We would also appreciate receiving a copy of the DTSC's Response to Comments concerning the facility.

RESPONSE: DTSC notes your comment. DTSC will add the City of Compton, Department of Building and Planning to the Leach Oil mailing list.

(D) Ms. Patricia Leach
Leach Oil Company
625 East Compton Boulevard
Compton, California 90220

D-1. ALLEGED VIOLATION of Health and Safety Code section 25189.5: Disposal of hazardous waste to the ground.
DATE: 9/8/89 and 10/13/89

"This violation was issue [sic] pursuant to the inspection that took place August 31, 1989 and September 8, 1989 during which the LA County Health Department and the Department of Heath Services were here. There was spillage on the ground from point sources in the facility that were loading and off-loading areas. This was a one-time violation as the areas were cleaned and procedures were put into place that would prevent spillage. Leach Oil contends there was never any deliberate

disposal to the ground. Also, this was the only time Leach Oil was issued a violation for this. It was not a repeated and recurring violation.”

RESPONSE: DTSC disagrees. On September 8, 1989, County of Los Angeles and the Department of Health Services, predecessor to DTSC, issued a Notice of Violation and Order to Comply to Leach Oil, requesting Leach Oil to stop the leakage and spillage of products and oil onto the ground surface before September 9, 1989. On October 13, 1988, DTSC issued a Report of Violations and Schedule for Compliance to Leach Oil, pointing out that there were both hazardous waste spillage and hazardous waste contamination of soil. Both documents were based on the results of compliance inspections conducted on August 31, 1989 and September 8, 1989. These two documents noted that contaminated soil was observed at several areas inside the Leach Oil facility during the inspection, which might be related to one or more disposal events. The fact remains that Leach Oil failed to comply with Health and Safety Code section 25189.5 and illegally disposed of hazardous waste to the ground surface on repeated occasions.

**D-2. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.193, subsection (a) and section 66265.193, subsection (b): Failure to maintain tank secondary containment.
DATE: 4/12/84 (U. S. EPA), 10/13/89, 3/31/94, 3/8/95**

"The violation issued by the U.S. EPA [United States Environmental Protection Agency] was because Leach Oil did not have a Spill Prevention and Control Plan (SPCC); not for failure to maintain tank secondary containment. The SPCC was completed and accepted by the U.S. EPA (re: the Consent Agreement).

Title 22, Cal. Code Regs., § 66265.193 (a) & § 66265.193 (b) were not filed until 5-24-91. Title 22, Cal. Code Regs., § 66265.193 (a)(5) (A) extends the date for compliance until July 1, 1993; due to Leach Oil being an existing facility and its existing tank system contained only Non-RCRA hazardous wastes. All the tanks within the facility with the exception of tanks 1-6 are provided with secondary containment. Tanks 1-6 have been a problem area due to the fact they are encased in concrete and their bottoms sit directly on soil. Also the cost for lifting the tanks and providing the secondary containment and then replacing the tanks is very costly. Due to the age of the tanks it was unknown if this was feasible. The tanks are now out of service and have been cleaned and are ready for demolition. At this time, Leach Oil does not have plans to replace those tanks even if its permit should be granted.

Leach Oil was in a Chapter 11 proceeding from October 7, 1991 until September 1995. Leach Oil simply could not afford to bring into compliance these tanks along with the other issues that were necessary to be in full compliance.”

RESPONSE: DTSC disagrees. The Consent Agreement and Final Order issued by U.S. EPA, dated April 12, 1984, clearly indicated in Sections I, 1, A & B: *“(A) As of August 30, 1982, Respondent failed to prepare and fully implement a Spill Prevention Control and Countermeasure Plan (SPCC Plan) in accordance with section 112.7 of Title 40 of the Code of Federal Regulations [40 C.F.R. § 112.3 (a)] for its facility known as Leach Oil Co., Inc., which is located at 625 Compton Blvd., Compton, CA 90220. (B) Respondent failed to provide secondary containment for some of the facility’s storage tanks, as required by Section 112.7(e)(2)(ii) of Title 40 of the Code of Federal Regulations.”* On March 23, 1984, Leach Oil submitted photographs to verify that necessary secondary containment had been constructed.

In 1989, inspectors of the Department of Health Services, predecessor to DTSC, found that Leach Oil did not maintain minimum secondary containment structure. The violation was noted in the Report of Violation and Schedule for Compliance, dated October 13, 1989, pursuant to the former California Code of Regulations, title 26, section 22-67120, subsection (a), which was entitled Design and Operation of Facility and which stated *“Permitted facilities shall be designed and constructed, and all facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any unplanned, sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment”*. The California hazardous waste regulations were retitled on July 1, 1991 to correspond to the federal regulatory enumeration.

Violations pursuant to California Code of Regulations, title 22, section 66265.193, subsections (a) and (b) were not issued until May 24, 1991, which allowed Leach Oil to extend the date for compliance until July 1, 1993. However, Leach Oil was not in compliance with the requirements of California Code of Regulations, title 22, section 66265.193, subsections (a) and (b) before or after 1993. The same violations were repeatedly noted in the Supplemental Report of Violation and Schedule for Compliance dated March 31, 1994 and in the Inspection Report dated March 6, 1995. Both reports were issued by DTSC.

The requirements in California Code of Regulations, title 22, section 66265.193, subsections (a) and (b) were not preempted or discharged by filing under Chapter 11 of the Bankruptcy Code. Furthermore, Leach Oil did not cease its entire hazardous waste transfer and storage operation until 1998. Secondary containment for tanks was required to prevent the release of hazardous wastes or hazardous constituents to the environment.

D-3. ALLEGED VIOLATION of Title 22, California Code of Regulations, section 66265.191, subsection (a): Failure to assess structural integrity of hazardous waste storage tanks.
DATE: 12/8/93 & 3/8/95

"[This] regulation covers existing tank systems covered by Title 22, Cal. Code Regs., § 66265.193(a)(5)(A) which states the tanks must be assessed by July 1, 1993. Leach Oil was in a Chapter 11 proceeding from October 7, 1991 until September 1995.

Leach Oil could not afford to hire the engineer to perform this task until 1995. In February 1995 Leach Oil retained Don C. Beattie, P.E. to complete the necessary assessment. During the inspection of March, 1995, the inspector was informed this assessment was in progress; but Leach Oil was cited for violation anyway. The assessment was completed in May 1995. Don Beattie certified the tanks were in serviceable condition but the Department did not accept his report; specifically pertaining to tanks 1-6.

Leach Oil was attempting to move into compliance but could not complete the compliance requirement within the time limits. Due to the Chapter 11 proceeding and the fact it is a small business, Leach Oil could not afford to bring into compliance all issues at once."

RESPONSE: DTSC disagrees. California Code of Regulations, title 22, section 66265.191, subsection (a)(2)(A) required the owner or operator to determine that the tank system was not leaking or was unfit for use by July 1, 1991, which was three months before Leach Oil declared bankruptcy. The Report of Violation and Schedule for Compliance issued by DTSC, dated October 8, 1993, noted that Leach Oil was not in compliance with the requirements of California Code of Regulations, title 22, section 66265.191, subsection (a). The correction of this situation by Leach Oil should have been completed by January 1, 1994, pursuant to the Schedule of Compliance dated October 8, 1993. However, the Inspection Report issued by DTSC, dated March 6, 1995, noted that the Leach Oil was still not in compliance with this regulation.

The requirements in California Code of Regulations, title 22, section 66265.191, subsection (a) requiring the owner or operator to determine that the tank system was not leaking or unfit for use were not preempted or discharged by filing under Chapter 11 of the Bankruptcy Code. Furthermore, Leach Oil did not cease its entire hazardous waste transfer and storage operation until January 1, 1998. Integrity assessment for tanks was required to prevent the release of hazardous wastes or hazardous constituents to the environment.

**D-4. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.147: Failure to maintain liability coverage.
DATE: 9/12/89, 6/2/93 & 12/8/93**

"This insurance was not available to us. Applications were submitted to the only two carriers that would write this type of insurance. One flatly denied our application. The other quoted a premium at a minimum of \$70,000.00 only after Leach Oil completed extensive site characterization that was estimated could cost up to \$100,000.00. Then the insurance carrier would consider issuing the policy. Leach Oil could not afford it.

The Report of Violation of 12/8/93 was a result of the inspection of the Department on September 30, 1993. During October of 1993, coverage became available, even though the company was considered an "off-shore" company, Leach Oil obtained the coverage, and the Department was notified on forms prescribed by the Department.

Since the mid 1990's this type of insurance coverage has become more available and affordable. Leach Oil has maintained the insurance since first obtaining available coverage in October 1993."

RESPONSE: DTSC disagrees. In accordance with California Code of Regulations, title 22, section 66265.147, subsection (a), financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility must be demonstrated to DTSC. As an alternative, an owner or operator can demonstrate to the satisfaction of DTSC that the levels of financial responsibility are not consistent with the degree and duration of risk associated with transfer, treatment, storage, or disposal at the facility, a request for a variance can be submitted in writing to the DTSC.

DTSC may grant or reject a request of a variance based on technical and engineering information, public involvement, and other considerations under section 66265.147(c). DTSC's decision is also based on any impact to human health and the environment, but it is not based on the facility's financial situation. However, Leach Oil never submitted a request for a variance to DTSC. Leach Oil operated its facility from 1984 to 1993 for over nine years without demonstrating the sudden occurrence liability insurance as required in California Code of Regulations, title 22, section 66265.147, subsection (c).

**D-5. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.143, subsection (a)(3): Failure to provide and maintain financial assurance for [facility] closure.
DATE: 9/12/89, 12/8/93, 6/6/96 & 12/16/97**

"Trust plan payments. Leach Oil was in the Chapter 11 proceeding until September 1995. Payments were resumed in November 1994. Current balance is \$180,625.15"

RESPONSE: DTSC disagrees. The requirements in California Code of Regulations, title 22, section 66265.143, subsection (a)(3) regarding maintenance of financial assurance for closure were not preempted or discharged by filing under Chapter 11 of the Bankruptcy Code. A Judgment rendered by the Superior Court of California, County of Los Angeles, on December 16, 1997, in People of the State of California v. Leach Oil Co., Inc., Case No. BC138376, ordered Leach Oil to fund its Closure Trust Fund to the full amount of \$ 541,277.50. Leach Oil's Closure Trust Fund is still underfunded by the amount of \$ 360,652.35.

D-6. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.52, subsection (c): Failure to update and maintain facility contingency plan. DATE: 9/8/89, 10/13/89 & 6/2/93

"After the 9/8/89 inspection, facility contingency plans were submitted to the proper agencies.

The 6/2/93 violation was issued because one of the agencies listed had a new address and we were not notified of the change. The correction was completed immediately."

RESPONSE: DTSC disagrees. California Code of Regulations, title 22, section 66265.52, subsection (d) requires the facility owner or operator to keep the names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinators in the contingency plan up to date. The Inspection Report issued by DTSC dated February 11, 1993 noted that Leach Oil's contingency plan was outdated. The Violation was issued on June 2, 1993. The plan did not incorporate the present status of the Leach Oil facility regarding arrangements with the local authorities. The addresses and phone numbers were not the present addresses and phone numbers of the emergency response parties.

The statement that one of the agencies listed had a new address could not be considered as a valid, legitimate reason for Leach Oil to not update the contingency plan. The following records indicated that Leach Oil did not correct the violation until DTSC issued an Enforcement Order in October 1993:

02/11/93	DTSC staff inspected Leach Oil and observed that the contingency plan was not updated.
06/02/93	DTSC issued a Report of Violation
09/30/93	DTSC staff inspected Leach Oil. The contingency plan was still not updated.

10/06/93 DTSC issued an enforcement Order, 93/94-001, which requested Leach Oil to provide a current contingency plan to DTSC no later than October 7, 1993.

10/07/93 Leach Oil submitted an updated contingency plan.

D-7. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.112, subsections (b)(1) & (b)(2) and (b)(4) and section 66265.142, subsection (b):

- (1) Failure to update and maintain complete plan for facility closure, and
- (2) Failure to prepare a complete and accurate closure cost estimate.

DATE: 6/2/93, 12/8/93 & 12/16/97

"Disputed. Leach Oil has filed for motion for new trial if cannot reach resolution with Department. See Synopsis."

RESPONSE: DTSC disagrees. Leach Oil started preparing its closure plan in 1989. However, the closure plan that was previously submitted by Leach Oil was not in compliance with all of the specifications listed in California Code of Regulations, title 22, section 66265.112 and section 66265.142.

According to the DTSC's Technical Review of Leach Oil's Closure/Post Closure Plan in the Standardized Permit Application, dated May 13, 1997, the closure plan did not properly address the purpose for a closure plan and a closure plan cost estimate. The closure plan was inadequate in several sections, including:

- 1. Date of Closure;**
- 2. Maximum Extent Open During Life of Facility;**
- 3. Estimated Maximum Waste Inventory;**
- 4. Decontamination/Removal of Hazardous Waste Residual and Containment System Components;**
- 5. Process Area;**
- 6. Soil Investigation/Remediation;**
- 7. Post-Closure Care Requirements;**
- 8. Certification of Closure;**
- 9. Closure Cost Estimate; and**
- 10. Requirements for Figures.**

In order to assist Leach Oil in preparing the closure plan and closure cost estimate, DTSC continuously provided, since 1989, numerous detailed advice, comments, and guidelines to Leach Oil. Please refer to the documents #19 dated 9/12/89, #49 dated 5/27/93, #50 dated 6/2/93, #58 dated 12/1/93, #60 dated 12/8/93, #63 dated 1/5/94, #67 dated 3/29/94, #84 dated 3/6/95 and #145 dated 5/13/97 in the Administrative Record

for this case. DTSC also met with Leach Oil to discuss this issue on October 1, 1993. However, Leach Oil still failed to adequately complete the facility closure plan.

D-8. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.13, subsections (a)(1) and (b)(1): Failure to provide and use an adequate plan for waste analysis.

DATE: 12/8/93 & 3/8/95

"March 31, 1994, Leach Oil submitted its waste analysis plan to the Department in its Standardized Permit Application. The Department never advised Leach Oil its submitted plan was inadequate. Leach Oil accepts only used oils and waste anti-freeze for transfer to another facility. The methods used are typical industry wide practices."

RESPONSE: DTSC disagrees. In the Report of Violation and Schedule for Compliance, dated December 8, 1993, DTSC noted that Leach Oil did not obtain a detailed chemical and physical analysis of a representative sample of the waste and therefore violated California Code of Regulations, title 22, section 66265.13. DTSC also required Leach Oil to submit a certification, containing the language in California Code of Regulations, title 22, section 66270.11, subsection (d), to DTSC by January 1, 1994, that the violations had been corrected. Leach Oil did not submit its waste analyses plan to DTSC until March 31, 1994.

During the inspection on December 5, 1994, DTSC's inspector found that Leach Oil was in violation of the requirements of California Code of Regulations, title 22, section 66265.13, subsection (b)(1) in that Leach Oil failed to specify the parameters for which each hazardous waste must be analyzed and the rationale for the selection of these parameters.

In the Inspection Report, dated March 6, 1995, DTSC noted that the Waste Analysis Plan submitted by Leach Oil with the Standardized Permit Application was inadequate. DTSC also requested Leach Oil to amend its Waste Analysis Plan within 60 days from the effective date of the Inspection Report. The requested amendment of the Waste Analysis Plan in the Standardized Permit Application was never submitted to DTSC.

D-9. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.73, subsection (b)(2): Failure to maintain complete operating records.

DATE: 3/8/95

"This violation was cited because Leach Oil's operating log did not record the tank location of each incoming waste or the location of an out-shipment. Leach Oil believes its operating record in conjunction with its inventory records would qualify

for compliance as we could track a shipment with those records. To satisfy the Department, the operating log was immediately amended to record the exact tank location of each incoming and/or outgoing waste."

RESPONSE: DTSC disagrees. California Code of Regulations, title 22, section 66265.73, subsection (b)(2) states: "(b) The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:...(2) the location of each hazardous waste within the facility and the quantity at each location..... For all facilities, this information shall include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;"

During DTSC's inspection on December 5, 1994, the inspector found that Leach Oil only recorded the waste oil received each day and that there were no records to show the location and quantity of each hazardous waste within the Leach Oil facility. This violation was issued on March 8, 1995.

**D-10. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.14, subsection (a): Failure to prevent unauthorized entry to the facility.
DATE: 6/2/93**

"Leach Oil's facility is off-set from the street. It is difficult for someone to enter the facility without being detected or intercepted. This facility is located in a city that is notorious for its high crime rate; especially theft and robbery. Due to this commonly known fact, all personnel are always on the watch for any un-authorized persons coming within the facility.

There are also signs all around the facilities parameter [sic] as required by California Code of Regulations, title 22, section 66265.14, subsection (c)."

RESPONSE: DTSC disagrees. Leach Oil did not make the demonstration described in California Code of Regulations, title 22, section 66265.14, subsections (a)(1) and (a)(2). Consequently, California Code of Regulations, title 22, section 66265.14, subsection (b) required Leach Oil to "prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the facility by having: (1) a 24-hour surveillance system or (2) an artificial or natural barrier, and a means to control entry through the gates or other entrances to the active portion of the facility". Leach Oil failed to demonstrate its compliance with any of these security requirements. An Inspection Report, dated May 27, 1993, indicated that the gates of the Leach Oil facility were left wide open. DTSC's inspector observed people accidentally entering the facility through both front and the rear entrances of the Leach Oil facility, respectively.

**D-11. ALLEGED VIOLATION of California Code of Regulations, title 22, section 25201, subsection (a): Unauthorized treatment of hazardous waste.
DATE: 3/8/95**

"Leach Oil's application to the Department for its Standardized Permit disclosed its activities and was subsequently issued ISD. The storage of the water and oil results in the oil and water separating. Since the oil is to be transferred to an oil recycling facility, it is only practical that the oil should be transferred there and the water to the facility where it is managed accordingly."

RESPONSE: DTSC disagrees. Leach Oil had been handling Used Oil since the 1960's. At various times the facility's operations included the re-refining of used oil, thermal treatment of used oil, chemical treatment of used oil, blending of used oil and storage of used oil. On November 15, 1993, DTSC sent a written response to Leach Oil's Part A Notification to Obtain a Standardized Permit, dated September 29, 1993, stating the following:

"The description of hazardous waste activities provided in Leach Oil's notification includes activities which may be considered treatment by the Department. Please be advised that any blending and phase separation of used oils are treatment activities. Pursuant to Health and Safety Code section 25201.6, subdivision (g), any facility treating used oil is not eligible for Standardized Permit."

On December 31, 1993, Leach Oil was granted Interim Status for Standardized Permit, which limited Leach Oil's activities to only transfer and storage of hazardous waste Used Oil. The Standardized Permit Grant of Interim Status specified that, pursuant to Health and Safety Code section 25201.6, treatment of used oil was not authorized thereafter.

On May 27, 1994, as part of an industry-wide clarification, DTSC reissued Leach Oil's Grant of Interim Status to clarify that the Leach Oil facility's permissible activities were limited to those activities described in its Standardized Permit Notification, which only included transfer and storage. However, DTSC's Inspection Report, dated March 6, 1995, noted that the Leach Oil had violated California Code of Regulations, title 22, section 25201, subsection (a) by doing the following hazardous waste treatments: (1) phase separating oily wastewater and waste used oil; and (2) blending different loads/grades of waste used oil.

**D-12. ALLEGED VIOLATION of Health and Safety Code section 25189, subdivision (a) and section 25250.1, subdivision (c): Unauthorized and false certification of recycled oil.
DATE: 10/13/89 & 12/8/93**

"1989 Leach Oil was a [sic] authorized Used Oil Recycling Facility as quoted in the Statement of Basis of Intent to Deny a Standardized Permit. The date of violation above of 12/8/93 was for an inspection that took place on September 30, 1993. Leach Oil's authorization of interim status under Standardized Permit went into effect on October 1, 1993.

Approx [sic] 30 certifications, of approximately 600, completed in 1989, were in fact not within compliance. It was not intentional and thereafter efforts were made to ensure that all future certifications were within compliance.

At this time (1989), it was a problem for the entire industry. The law had recently changed to drop the lead from 100 parts per million (ppm) to 50 ppm and the changeover in the market to total use of unleaded gasoline was just not coordinating quickly enough with the drop in the lead count in the used oils.

During the inspection on September 30, 1993, the Department discovered there were some lab reports where the flash point were [sic] not on the report. Leach Oil was not aware of this and immediately made the necessary changes to correctly record the flash point on its reports."

RESPONSE: DTSC disagrees. Health and Safety Code section 25250.1, subdivision (a)(3)(B) [previously known as section 25250.1, subdivision (c)] requires that recycled used oil must meet standards of purity of flashpoint, lead, arsenic, chromium, cadmium, halogens, and PCB. Health and Safety Code section 25250.19 requires a used oil recycling facility to test all recycled used oil prior to transportation from the recycling facility and ensure and certify that the recycled used oil is in compliance with the standards specified in Health and Safety Code section 25250.1, subdivision (a)(3).

DTSC's Report of Violation and Schedule for Compliance, dated October 13, 1989, indicated that Leach Oil's analytical results showed that lead levels were in excess of the allowable limit for recycled used oil. Furthermore, during the inspection on September 30, 1993, DTSC's inspector found that Leach Oil had certified certain used oil as recycled used oil but failed to measure the flashpoint of the used oil. Leach Oil, either intentionally or negligently, made false statement(s) or representation(s), and, in doing so, violated Health and Safety Code section 25189, subdivision (a).

**D-13. ALLEGED VIOLATION of California Code of Regulations, title 13/17, section 41700 and section 42400: Discharge of air contaminants & offensive odors to environment
DATE: 6/3/87, 12/1/87 & 4/25/89**

"During periods of 1987 and 1988 Leach Oil was processing oil into an asphalt flux. This was not a product that Leach Oil had processed before this time (and

discontinued in 1988) and this production did produce odors; which is the reason for the NOV and subsequent misdemeanor complaints. The 4/25/89 complaint had been continued from 1988. In the interest of saving time and costs Leach Oil pleaded Nolo Contendere [No Contest] to settle the case. There have been no complaints or violations since that time; which is a period of 10 years.”

RESPONSE: DTSC disagrees. Leach Oil agreed that its operation unlawfully discharged air contaminants, which caused offensive odors in the environment during the period from 1987 through 1988. Leach Oil did not correct the violation even after receiving the Notice of Violation on June 3, 1987 (Z-29493) and October 20, 1988 (Z-38257) from South Coast Air Quality Management District (SCAQMD). Consequently, SCAQMD pursued this issue as a criminal case in the City of Compton Municipal Court in December 1987 and again in April 1989.

**D-14. ALLEGED VIOLATION of Health and Safety Code section 25250.18 and section 25250.19: Failure to cross-reference waste oil certifications.
DATE: 6/2/93**

“Leach Oil contends that the records were maintained that could cross-reference the waste oil certifications with certified lab reports. After this inspection, our system was modified to manage the records as requested by the inspector.”

RESPONSE: DTSC disagrees. Leach Oil previously agreed that the violation for the requirement of cross-reference waste oil certifications issued by DTSC in the Report of Violation and Schedule for Compliance, dated June 2, 1993, was correct.

**D-15. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.16, subsection (c): Failure to maintain training records.
DATE: 10/3/89 & 6/2/93**

"During 1989 inspection Leach Oil's training records were not documented. Since that time the records have been maintained.

Leach Oil disagrees with the inspection report of 2/11/93 (6/2/93); the annual training review was completed as required.”

RESPONSE: DTSC disagrees. California Code of Regulations, title 22, section 66265.16, subsection (c) requires that Leach Oil facility personnel take part in an annual review of the initial training required in subsection (a) of this section. On or about February 11, 1993, DTSC's inspector reviewed Leach Oil's personnel training records and found that not all employees had the refresher course for 1992. The names of six employees who failed to take the refresher training course were listed in the inspection report. Therefore, Leach Oil did not complete its annual training

review from 1992 to 1993 and violated Title 22, California Code of Regulations, title 22, section 66265.16, subsection (c).

D-16. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66482, subsection (a)(2): Failure to complete hazardous waste manifests.
DATE: 9/8/89 & 8/31/92

"Reason for violations was due to minor omissions on the manifests forms; such as a missing signature or date; wrong code; etc. With the high volume of forms processed each year by this type of facility; some errors are likely to occur. There have been no violations since 1992."

RESPONSE: DTSC disagrees. Leach Oil previously agreed about its violations for failure to complete hazardous waste manifests before 1992. However, Leach Oil's practices after 1992 proved that it was feasible to correct errors in manifests, if Leach Oil had made the efforts to correct those manifests.

D-17. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66508, subsection (a)(3): Failure to properly label hazardous waste tanks.
DATE: 10/13/89

"After the inspection on August 31, 1989 and September 8, 1989 Leach Oil immediately labeled all its tanks to recommendations of the Department. There have not been any violations since."

RESPONSE: DTSC disagrees. Leach Oil agreed that it violated California Code of Regulations, title 22, section 66508, subsection (a)(3) on or about August 31, 1989.

D-18. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66265.15, subsection (d): Failure to maintain inspection logs.
DATE: 10/13/89 & 3/8/95

After the inspection on August 31, 1989 and September 8, 1989; Leach Oil immediately modified its inspection logs to comply with the Departments requirements.

The inspection report of March 8, 1995, reported Leach Oil was not in compliance due to the fact that the time of day was not noted in our inspection (operating) logs. Leach Oil informed DTSC's inspector that the inspections were done at the beginning of every day at 8:00 a.m. This was not acceptable to the Department; so Leach Oil immediately changed the operating log format to satisfy the Department."

RESPONSE: DTSC disagrees. California Code of Regulations, title 22, section 66265.15, subsection (d) requires: "The owner or operator shall record inspections

in an inspection log or summary. The owner or operator shall keep these records for at least three years from the date of inspection. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions. Leach Oil's information on the inspection log did not meet these regulatory requirements.

D-19. ALLEGED VIOLATION of California Code of Regulations, title 26, section 22-66493:
Failure to have biennial report available for review.
DATE: 10/13/89

"At the time of the inspection of August 31, 1989 and September 8, 1989, I was on vacation and was not here. The reports were in the office but Roy Leach did not know where they were located. Copies of the reports were sent to the Department as they requested. This violation should not be a violation."

RESPONSE: DTSC disagrees. Former, now repealed, California Code of Regulations, title 26, section 22-66493* required the following: "A generator who ships his hazardous waste offsite shall prepare and submit a single copy of a Biennial Report to the Department by March 1 of each even numbered year. Health and Safety Code section 25244.21, subdivision (a) requires: Every generator shall retain the original of the current review and plan and report at each site,...at a central location, and upon request, shall make it available to any authorized representative of the department of the unified program agency conducting an inspection pursuant to Health and Safety Code section 25185. If a generator fails, within five days, to make available to the inspector the review and plan or report, the department.....shall, if appropriate, impose a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Health and Safety Code section 25189.2."

Leach Oil's biennial reports were not available for review during the inspection on August 31, 1989 and September 8, 1989. Leach Oil was advised to send a copy to the DTSC during the inspection, but Leach Oil did not send the copy until after DTSC issued a Report of Violation and Schedule for Compliance dated October 13, 1989.

*** Note: The former title 26 was a consolidation of several environmental regulations in California Code of Regulations. The section number 22-66493 indicates that this section was originally from California Code of Regulations, title 22 section 66493. Title 26 was since repealed.**

D-20. ALLEGED VIOLATION of California Code of Regulations, title 22, section 66270.13, subsection (j): Failure to supply data in Part A of Standardized Permit Application.
DATE: 12/8/93

"This violation was issued pursuant to an inspection conducted at the facility on September 30, 1993. The Part A referenced in the violation was submitted to the Department on November 24, 1987, six years prior to the issuance of the violation. On September 20, 1993, Leach Oil submitted a Standardized Permit Notification for Existing Hazardous Waste Facilities and was subsequently granted Interim Status effective October 1, 1993."

RESPONSE: DTSC disagrees. All applicants for either the RCRA-Equivalent Hazardous Waste Facility Permits or Standardized Hazardous Waste Facility Permits shall provide the information listed in California Code of Regulations, title 22, section 66270.13 to DTSC. However, during the inspection on or about September 30, 1993, DTSC's inspector found that the Part A application form, which was currently in effect at the Leach Oil facility at the time, did not include antifreeze among the hazardous waste streams to be managed by the Leach Oil facility. Leach Oil had violated California Code of Regulations, title 22, section 66270.13, subsection (j) in that the Leach Oil did not include antifreeze as one of the hazardous wastes that were treated at the facility, did not have an estimate of quantity of such hazardous wastes to be treated and stored at the facility, and did not have a general description of the processes to be used for such hazardous wastes.

**D-21. ALLEGED VIOLATION of California Code of Regulations, title, section 25244.21, subsection (a): Failure to submit Hazardous Waste Source Reduction Plan.
DATE: 12/8/93**

"Leach Oil was not required by law to submit this plan. Exempt from SB-14."

RESPONSE: DTSC agrees with this comment. Leach Oil's activities consisted solely of receiving offsite hazardous wastes and generating residuals from the processing of those hazardous wastes. According to Health and Safety Code section 25244.15, subdivision (d)(3), the Hazardous Waste Source Reduction and Management Review Act of 1989 did not apply for Leach Oil.

The following comments are from the Leach Oil Company regarding the "LEACH OIL COMPANY, INCORPORATED ADMINISTRATIVE RECORD". Comments were related to the documents listed in numerical order as shown in the Administrative Record for this case.

D-22. Comment for # 1: "This statement is not accurate as the Consent Agreement and Final Order issued by U.S. EPA to Leach Oil Company Inc. for lack of Spill Prevention Control and Countermeasure Plan or for failure to provide adequate secondary containment (April 12, 1984.)"

RESPONSE: DTSC disagrees. This Consent Agreement and Final Order, SPCC-IX-540C, issued by the U.S. EPA, Region 9 was signed by Ms. Patricia Leach, Vice-President, of Leach Oil on April 7, 1984, which was evidence that Leach Oil agreed to the statement in this document.

D-23. Comment for #11: "This statement is untrue as Leach Oil Company Inc. is a "potentially responsible party" (PRP) and the Settlement Payment Schedule is for its' portion of settlement on a partial consent decree for materials taken to the Operating Industries, Inc. site that is a Superfund site. This is not for penalties for violations of federal hazardous waste regulations."

RESPONSE: DTSC agrees. The document is *Settlement Payment Schedule* for Operating Industries, Inc. prepared by U.S. EPA dated July 13, 1988 showing that Leach Oil owed \$437,000. As a party responsible for the investigation and remediation of a superfund site, Leach Oil settled for a portion of its liability by paying the investigation and remediation costs incurred at the superfund site. This payment was for reimbursement of U.S. EPA.'s response costs under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and was not a penalty for violation of federal hazardous waste laws and regulations.

D-24. Comment for #13: "This vengeance letter was from a disgruntled employee of Waymire Drum Company that worked at the same company as my husband at that time. This was an attempt to damage my company to get back at other people."

RESPONSE: DTSC will not respond to comments that are outside of the subject matter.

D-25 Comment for #15/16: "This action had been continued from 1988."

RESPONSE: DTSC disagrees. These two documents were issued on April 17, 1989. One is an Amended Complaint filed in the Municipal Court of City of Compton by South Coast Air Quality District against Leach Oil regarding discharge of air contamination. The other is a Record of Plea of Nolo Contendere [No Contest] filed in the Municipal Court of City of Compton for Roy Leach of Leach Oil. Both documents referred to Leach Oil's activities in 1988.

D-26. Comment for #2, 3, 4, 48, 63, 67, 78, 81, 82, 83, 86, 89, 105, 106, and 116: "Leach Oil never received these documents."

RESPONSE: DTSC disagrees. Documents # 3, 4, 67, 78, 82 of the Administrative Record are letters that were mailed through the U.S. Postal Service to Leach Oil without registration or certification. Document # 89 is a letter that was sent to Leach Oil through the U.S. Postal Service by certified mail with a return receipt. Document

2 is a Statement of Fact prepared by the Department of Health Services, predecessor to DTSC, as an inspection report (8/15/85), which was mailed through the U.S. Postal Service to Leach Oil. Document # 48 is a Fact Sheet prepared by DTSC regarding the general State requirements for handling, storage, and transport of used oil for recycling (1/93), which was made available for the general public.

The other documents were not sent directly to Leach Oil before being placed into the public record, because they were internal DTSC documents used as a basis for its decision making. Document # 63 is an annual inspection report that was sent to the California Integrated Waste Management Board from DTSC regarding Leach Oil's violations (1/5/94). Documents # 81, 86, 106, and 116 are DTSC's own FR-2 form entitled "Financial Responsibility Review Findings". Document # 83 is a document prepared by the Los Angeles County Fire Department. Document # 105 is a letter from the California Department of Insurance to DTSC.

D-27. Comment for #98: "The Department wants Leach Oil Company, Inc., out of business."

RESPONSE: DTSC disagrees. As discussed earlier in this Response document, DTSC, on numerous occasions, provided assistance, advice and guidance to Leach Oil Company in its operations because DTSC wanted Leach Oil to manage its hazardous wastes in a responsible manner and in compliance with applicable State hazardous waste laws and regulations.

D-28. Comment for #107: "This letter went out to the Used Oil Program Participants before Leach Oil was notified."

RESPONSE: DTSC disagrees. On December 1, 1995, the California Integrated Waste Management Board (CIWMB) issued a letter to all used oil program participants informing them that Leach Oil was no longer certified as a used oil recycling facility. This notice was based on the Standardized Permit Grant of Interim Status issued by DTSC, which was in effect from December 31, 1993. Pursuant to Health and Safety Code section 25201.6, subdivision (g)(1), DTSC only authorized the Leach Oil facility under the Standardized Permit Grant of Interim Status as a hazardous waste facility to transfer and store certain specified hazardous wastes.

Any treatment and recycling of hazardous waste used oil was specifically prohibited for Leach Oil under its Standardized Permit Grant of Interim Status. CIWMB's collected incentive claims were honored for used oil that was hauled to certified used oil recycling facilities. Since CIWMB's records showed that used oil recycling program participants had been transported to Leach Oil with the incentive claims, it was reasonable for CIWMB to stop the incentive collection. The Leach Oil facility

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should have immediately notified the CIWMB, used oil suppliers and other related businesses about its change in used oil recycling certification status upon the effective date of its Standardized Permit Grant of Interim Status.