Patrick L. Rendon, Esq. (SBN 126227)
LAMB & KAWAKAMI LLP
333 South Grand Avenue, Suite 4200
Los Angeles, California 90071
Email: prendon@lkfirm.com
Telephone: (213) 630-5500
Facsimile: (213) 630-5555

Attorneys for Respondent
Business Industrial Group

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of The Petition Of BUSINESS INDUSTRIAL GROUP Petitioner	Petition Number: **PETITION FOR REVIEW OF THE JUNE 24, 2010 ORDER OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

INTRODUCTION AND SUMMARY

This Petition for Review is submitted on behalf of Business Industrial Group ("Petitioner" or "BIG") pursuant to California *Water Code* §§13320 & 13321 and California Code of Regulations ("CCR") Title 23, §§2050-2066 and concerns that certain order issued on June 24, 2010 by the California Regional Water Quality Control Board, Los Angeles Region ("RWQCB"), directed at Business Industrial Group and T.A. Davis Company, and which references the properties located at 13255 South Broadway, 360-366 West 132nd Street and 363 West 133rd Street in Los Angeles, California (collectively, the "Property"), Site Cleanup Number 0817, Site Identification Number 2040358 (the "Order").

Petitioner provides the following information in support of this Petition as required by

California *Water Code* §13320 and 23 CCR §2050(a).

CONTACT INFORMATION OF PETITIONER

The contact information for Petitioner is as follows:

Business Industrial Group
c/o Jess Herbst
27675 Chapala
Mission Viejo, CA 92692
Fax (949) 215-2965

Patrick L Rendon, Esq.
Lamb & Kawakami LLP
333 South Grand Avenue, Ste. 4200
Los Angeles, CA 90071
Tel. (213) 630-5570
Fax (213) 630-5555
Email prendon@lkfirm.com

THE ACTION FOR WHICH PETITIONER SEEKS REVIEW

Petitioner respectfully requests that the RWQCB review the Order. A copy of which is attached as Exhibit A. Petitioner further requests that the RWQCB hold the Petition in abeyance pursuant to 23 CCR §2050.5(d) and the practices of the RWQCB. In addition, to the extent that this Petition is made active, then Petitioner requests a hearing pursuant to California *Water Code* §13321 and a stay on any action directed at Petitioner under the Order pending a final adjudication decision.

THE DATE THE RWQCB ACTED

The RWQCB, through its Interim Executive Officer, issued the Order on June 24, 2010.

STATEMENT OF REASONS WHY THE ACTION WAS AND IS INAPPROPRIATE OR IMPROPER

The RWQCB's Order is inappropriate or improper for the following reasons:

1. The RWQCB abused its discretion in naming BIG in the Order pursuant to

California *Water Code* § 13267. BIG is not the proper or appropriate party to be named in the Order. California *Water Code* §13267(b) states, in pertinent part, that the RWQCB authority to issue an order is limited to "... any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region..." BIG has not discharged and is not suspected of having discharged waste at the Property. This is corroborated by the independent factual findings of the RWQCB which are set forth in the Order. These findings are based on the RWQCB records that include environmental reports submitted to the RWQCB by BIG and others and which are incorporated herein by this reference. Based on the foregoing data and studies, the RWQCB acknowledges and confirms in the Order that there is no homogeneity in the distribution of contaminants of concern in the soil and, in any case, any contaminants of concern radiate laterally and vertically from "hot spots" around suspected source areas of operators. (*See, e.g.*, Order, Findings §§ 1.a., 2.a., 2.b., 3, 4, *see also*, RWQCB Order dated July 1, 2010, directed at Standard Metals, 378 West 133rd Street, Los Angeles, California, Site Cleanup No. 0818A, Site ID No. 2044D00 (the "Standard Metals Order"), a copy of which is attached as Exhibit B.) Furthermore, as a matter of practice and policy and due process, BIG is not responsible or obligated to respond simply by virtue of its ownership of the Property. Rather, the Order should be directed at those persons who are responsible for the contaminants of concern.

2. The RWQCB abused its discretion by failing to consider substantial, undisputed evidence that the source of the contamination relating to the Property was from others, including off-site sources. (*See*, Exhibits A & B.)

3. The RWQCB abused its discretion in that the burden, including costs, of BIG providing the reports requested in the Order do not bear a reasonable relationship to BIG based on the above-discussed findings of the RWQCB.

4. The features at issue are not "waters of the State" and, therefore, the actions are beyond the jurisdiction of the RWQCB.

5. The Order violates BIG's constitutional rights to due process and equal protection.

THE MANNER IN WHICH BIG IS AGGRIEVED

Petitioner is aggrieved for the reasons set forth in the immediately preceding section of this Petition. Petitioner is further aggrieved because the Order imposes duplicate and unnecessary requirements on BIG and subjects BIG to penalties.

REMEDY SOUGHT BY PETITIONER

Petitioner requests that the RWQCB remove or dismiss BIG from the Order altogether or, at a minimum, that the RWQCB hold the Order in abeyance (pursuant to 23 CCR §2050.5(d)) with respect to BIG, pending the further actions of the RWQCB and information provided by the other persons identified in the Order and in the Standard Metals Order. In the event this Petition is made active, BIG will submit, as an amendment to this Petition, a full and complete statement of points and authorities in support of the legal and factual issues raised by this Petition. In connection therewith, BIG respectfully requests that the RWQCB provide an evidentiary hearing and oral argument on the Order pursuant to the United States Constitution, the California Constitution, California *Water Code* §13321, California *Government Code* §11400, *et seq.*, 23 CCR §648, *et seq.*, and 23 CCR §2050.6(a), (b). In addition, in the event this Petition is made active, BIG respectfully requests a stay of any action directed at BIG under the Order until a final adjudicated decision of the matters raised herein pursuant to 23 CCR §2053, and at such time BIG will submit an amendment to this Petition that will set forth the additional facts and proof that show the necessity for a stay.

STATEMENT OF POINTS AND AUTHORITIES

Petitioner will provide a detailed statement of points and authorities in the event the RWQCB takes further action which necessitates that this Petition take active status.

STATEMENT OF DELIVERY OF PETITION TO INTERESTED PERSONS

As indicated in the attached proof of service, this Petition has been sent to the RWQCB and to other persons who Petitioner understands are interested persons.

STATEMENT ON RAISING OF SUBSTANTIVE ISSUES

Petitioners had no prior formal opportunity to raise the issues or objections raised to the June 24, 2010 because it was issued unilaterally by the RWQCB without a hearing or the taking of evidence. Petitioner is interested in discussing these issues with RWQCB staff on an informal basis but is required to formally submit this Petition pursuant to the relevant statutes and regulations.

REQUEST FOR PREPARATION OF ADMINISTRATIVE RECORD

By copy of this Petition to the RWQCB, Petitioner requests the preparation of the Administrative Record.

Dated: July 26, 2010

LAMB & KAWAKAMI LLP

By: _____

Patrick L. Rendon
Attorneys for Petitioner
BUSINESS INDUSTRIAL GROUP

EXHIBIT A

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

June 24, 2010

Mr. James Herbst
Business Industrial Group (BIG)
27675 Chapala
Mission Viejo, CA 92692

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 9282

Mr. Larry Berna
T.A Davis Company (TADCO)
19500 South Alameda Street
East Rancho Dominguez, CA 90221

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 9299

REQUIREMENT FOR A TECHNICAL REPORT PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER - BIG PROPERTY AND FORMER TADCO FACILITY, 13255 SOUTH BROADWAY, 360-366 WEST 132ND STREET AND 363 WEST 133RD STREET, LOS ANGELES, CALIFORNIA (SITE CLEANUP NO. 0817, SITE ID NO. 2040358)

Dear Messrs Herbst and Berna:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles County and Ventura County, including the above-referenced sites.

The Regional Board has been investigating soil and groundwater contamination at sites adjacent to and on a portion of the Business Industrial Group (BIG) property since approximately 1998. The former TADCO facility that had occupied a parcel at 363 West 133rd Street on the BIG property has been the focus of these site investigations.

Based on our review of site assessment data collected from the former TADCO facility and adjacent sites, we believe that the former TADCO facility could be a source of the volatile organic compounds (VOCs) such as acetone, benzene, ethylbenzene, toluene, and xylenes (BTEX) and polychlorinated biphenyls (PCBs) detected in the soil and groundwater beneath the property. We also believe additional site assessments must be conducted on adjacent parcels to the former TADCO facility on BIG property to fully define the extent of contamination in the soil and groundwater and to identify any contributing offsite sources.

As part of our ongoing investigation of soil and groundwater contamination in the general vicinity of the TADCO facility, you are hereby directed to provide the required technical report requested in the enclosed Order pursuant to California Water Code section 13267. You are required to comply with the Order to ensure that progress is made in our continuing investigation in the area.

If you have any questions regarding this letter, please contact Mr. Bizuayehu Ayele at (213) 576-6747.

Sincerely,

Jeffrey Hu, Unit Chief
Site Cleanup Program, Unit II

Enclosure: *Requirement to Provide a Technical Report*

cc: Mr. Patrick Rendon, Lamb & Kawakami LLP
Mrs. Barbara Vidmar, General Welding
Ms. Julie Marshall, Rincon Consultants, Inc.
Mr. Walt Hamann, Rincon Consultants, Inc.
Ms. Emily Yukich, Folger Levin & Kahn LLP
Mr. Greg Levine, Standard Metals
Mr. Michael Baum, Resch Polster & Berger LLP
Mr. John Payne, Frey Environmental, Inc.
Mr. Brett Bowyer, Bowyer Environmental Consulting, Inc.
Mr. Kenneth Ehrlich, Jeffer, Mangels, Butler & Marmaro LLP

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

REQUIREMENT TO PROVIDE A TECHNICAL REPORT
(CALIFORNIA WATER CODE SECTION 13267[1] ORDER)

DIRECTED TO BUSINESS INDUSTRIAL GROUP (BIG)
AND T.A DAVIS COMPANY (TADCO)

BIG PROPERTY AND FORMER TADCO FACILITY
13255 SOUTH BROADWAY, 360-366 WEST 132ND STREET AND 363 WEST 133RD STREET,
LOS ANGELES, CALIFORNIA
(SITE CLEANUP NO. 0817, SITE ID NO. 2040358)

You are legally obligated to respond to this Order. Please read this carefully.

The Regional Board has been investigating soil and groundwater contamination at sites adjacent to and on a portion of the Business Industrial Group (BIG) property since approximately 1998. The BIG property is a rectangular lot approximately 3.7 acres, divided into three distinct parcels with addresses at 13255 South Broadway, 360-366 West 132nd Street and 363 West 133rd Street in Los Angeles. The 0.7-acre parcel at 363 West 133rd Street was leased by TADCO from BIG from approximately 1979 to 1996 for polyurethane resin manufacturing facility. The other two parcels were historically occupied by garment and display manufacturers.

Adjacent to the BIG property are Standard Metals site, located at 378 West 133rd Street, and General Welding site, located at 352 West 133rd Street, which are scarp metal recycling and acetylene gas manufacturing facilities, respectively.

Site investigations conducted at TADCO, Standard Metals and General Welding sites indicate that the soil and groundwater are contaminated with volatile organic compounds (VOCs) such as trichloroethene (TCE) and acetone, aromatic hydrocarbons such as benzene, ethylbenzene, toluene, and xylenes (BTEX), polychlorinated biphenyls (PCBs) and petroleum hydrocarbons. The site investigations also show that the soil and groundwater contamination encountered in the general vicinity might have been resulted from multiple sources. Groundwater monitoring results obtained from Standard Metals and General Welding sites indicate that the former TADCO facility and the BIG property are located upgradient relative to the locations of these adjacent sites.

In response to the Regional Board's section 13267 Order, dated March 19, 2009, TADCO submitted a technical report, dated June 8, 2009, compiling historical site assessment data collected from its former facility and adjacent sites and presenting its interpretation of the data.

The Regional Board also issued a section 13267 Order, dated November 19, 2009, to BIG, requiring submittal of any technical report they might have for their property. BIG submitted copies of some

[1] California Water Code section 13267 states, in part: (b)(1) In conducting an investigation. . ., the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

technical reports on the BIG property on February 16, 2010. However, some of the data contained in the reports appear to have been compiled in other technical reports submitted by adjacent property owners.

FINDINGS

Based on our review of the technical reports submitted by TADCO, Standard Metals and General Welding, we made the following findings:

1. a. TADCO, in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 1 to 3 (see attached), indicated that their former facility was excavated, re-graded and filled with an older, homogenized, contaminated fill material in 1973 and argued that this contaminated soil is the possible source of acetone and other contaminants detected in the soil and groundwater. However, based on our review of the site assessment data collected to date from the TADCO site and adjacent properties, we do not find technical information supporting your assertion.

   The fill thickness map included in TADCO's report shows that the entire TADCO site and a large portion of the adjacent BIG property were excavated up to approximately 20 feet below ground surface (bgs) and filled with fill material. Soil analytical data for many of the soil borings advanced on the TADCO site and adjacent BIG property do not indicate homogeneity in the distribution of acetone in the soil laterally and vertically. Rather, the data show the existence of hot spots close suspected sources such as the former underground storage tanks (USTs) and drum storage areas.

   Acetone was detected in the soil from near-surface to the maximum depth drilled in B14 which is close to the former UST and drum storage areas, indicating an onsite release(s) [see the attached site map]. The highest concentration of acetone in the soil was detected in B2 which is located close to B14. The extent of contamination map for acetone in the soil also shows that a hot spot for acetone is centered near B2 and B14, both of which are located close to suspected sources. As one goes away from this hot spot, the concentration of acetone in the soil decreases laterally and vertically. Soil borings B19, B20, B22, and B24 which are all located within the area excavated up to approximately 11 feet bgs and filled with the "homogenized and contaminated soil" did not detect acetone in the soil samples. Analytical data from other soil borings also did not show uniform vertical and lateral distribution of acetone in the soil that one expects in soil borings advanced into a "homogenized and contaminated fill".

   b. TADCO's statement in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 1 to 3 (see attached), that surface water runoff from the Standard Metals site brought acetone detected in the fill surrounding the USTs is not supported with data. Data collected from numerous soil borings advanced at Standard Metals site indicate that the site is not a significant source of acetone in the soil and groundwater and that some localized spills may have been responsible for acetone detected in some of the soil borings.

   The concentrations of acetone detected in the soil beneath the Standard Metals site are much lower than those reported for soil beneath the former TADCO facility. Moreover, the lateral and vertical distribution of acetone in the soil beneath the former TADCO facility is more extensive than the one observed beneath the Standard Metals site.

c. TADCO's hypothesis in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 1 to 3 (see attached) that the acetone release(s) on the General Welding property may have migrated to TADCO's property is not supported with data collected from both onsite and offsite. Many site assessments conducted on General Welding property showed that the extent of acetone contamination in the soil beneath the General Welding property is confined to the limits of the property. Moreover, the General Welding property is located downgradient of the TADCO site.

2. a. TADCO's statement in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 4 (see attached), that the former oil field pit and/or the adjacent Standard Metals site are the sources for BTEX in the soil is not supported by data. The former drum storage area is located outside the footprint of the former oil field pit.

   It appears that the highest concentrations of aromatic hydrocarbons such as BTEX were detected in the soil at or adjacent to areas of concerns (AOCs) on the former TADCO facility such as the former drum storage area and the former office and shop building (see the attached site map). At these two AOCs, BTEX were detected up to 17,353 micrograms per kilogram (µg/Kg) and 178,290 µg/Kg in soil borings B28 and B23, respectively from near- surface to the water table.

   No significant BTEX were detected in the soil beneath Standard Metals site. The reported BTEX in the soil beneath Standard Metals site was dominantly detected near or below the water table. Hence, Standard Metals could not be the source for BTEX in the soil.

   b. TADCO's statement in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 4 (see attached), regarding BTEX also appears to be in conflict with their argument provided for acetone. If the source of contaminants was the "homogenized and contaminated fill" spread over the site, BTEX would be detected in the soil at other portions of the site, instead of just the two AOCs.

3. Although total petroleum hydrocarbons (TPH) has not yet been adequately assessed in the soil, limited data collected from some of the soil borings suggest that some AOCs on the former TADCO facility could be sources of the TPH detected in the soil and groundwater. TPH was detected in some of the soil borings such as B14 and B2 in the former UST area from near-surface to the water table. The former UST area is located outside the footprint of the former oil field pit (see the attached site map).

4. Data in our files suggest that the former briquetting press pit on Standard Metals site could be the source of TCE in the soil and groundwater beneath the site. However, the source of TCE on the former TADCO facility has not also been adequately assessed. The soil data collected from the borings at the TADCO site appears to indicate that the former septic tank area could be the source of TCE in the soil. Soil samples collected below the presumed depth of the bottom of the tank have the highest TCE concentrations as data from B28 shows while samples collected from shallow depths (or the presumed fill in the tank area) did not detect any TCE in the same boring.

   In other areas of the site, TCE was mostly detected in soil samples collected near the water table where the fluctuating water table causes migration of contaminants from the groundwater to the soil.

If the source of contaminants was the "homogenized and contaminated fill" spread over the site, TCE would uniformly be detected in the soil at various depths at other portions of the site. Rather, TCE was detected in certain AOCs such as the former septic tank area where release(s) had occurred.

5. Vinyl chloride and cis-1,2 dichloroethene (cis-1,2-DCE) are the breakdown products of TCE. The soil data collected from the soil borings on the former TADCO facility show that the distribution of vinyl chloride in the soil appears, in most cases, to correlate with the distribution of TCE. Although limited data were collected on cis-1,2-DCE, it appears to have a similar distribution with that of TCE in the soil. The source of TCE is therefore responsible for the existence of these contaminants in the soil.

   Existing data suggest that the former septic tank area and the former drum storage area could be the sources for TCE in the soil beneath the former TADCO facility. However, additional assessment is needed to identify other possible source areas on the adjacent BIG property.

6. PCB was detected in soil samples collected from one of the soil borings (B14). However, the lateral extent of the PCB in the soil is not defined.

7. The eastern and northern extent of the acetone, BTEX, TCE, vinyl chloride, and cis-1,2-DCE contaminations in the soil have not yet been fully defined beneath adjacent parcels to the former TADCO facility on the BIG property.

REQUIREMENTS

Based on the findings enumerated above and pursuant to section 13267 of the California Water Code (CWC), both BIG, because of its ownership of the property including the parcel that had been occupied by the former TADCO facility, and TADCO, because of its past operation of a polyurethane manufacturing facility on a parcel of the BIG property, are hereby required to submit a work plan for further assessment of the soil and groundwater contamination identified beneath the parcel occupied by the former TADCO facility and adjacent parcels on the BIG property. The work plan shall address the following:

1. The eastern and northern extent of the acetone, BTEX, TCE, vinyl chloride, and cis-1,2-DCE contaminations in the soil identified beneath the former TADCO facility must be delineated.

2. The extent and distribution of TPH in the soil must be adequately defined in all directions.

3. Step-out borings shall be advanced in the area around B-14 to delineate the lateral and vertical extent of PCB in the soil in all directions.

4. The source of TCE on the former TADCO facility must be identified with further assessment. Additional soil borings shall be advanced in the former septic tank area and the former drum storage area.

5. Groundwater monitoring wells shall be installed at upgradient locations to the former TADCO facility to assess the existence of contributing offsite sources for the VOCs and other contaminants identified in the groundwater and to define the full extent of the VOC plume.

6. After the installation of the groundwater monitoring wells, a quarterly groundwater monitoring shall be initiated and groundwater monitoring reports shall be submitted according to the following schedule:

Monitoring Period	Report Due Date
April-June	July 15th
July-September	October 15th
October - December	January 15th
January -March	April 15th

6.1 A site-wide groundwater elevation contour map showing the groundwater flow direction and gradient must be included in the groundwater monitoring reports.

6.2 Groundwater samples shall be analyzed for VOCs, BTEX, TPH, and PCBs.

7. The work plan is due to the Regional Board by **August 24, 2010**.

As presented in State Water Resources Control Board Resolution 92-49, professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. Moreover, the final report submitted to this Regional Board must be reviewed, signed and stamped by a California registered geologist, or a California registered civil engineer with at least five years hydrogeologic experience. Furthermore, the California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. Therefore, all future work must be performed by or under the direction of a registered geologist or registered civil engineer. A statement is required in the final report that the registered professional in responsible charge actually supervised or personally conducted all the work associated with the work plan and final report.

Pursuant to section 13267(b) of the CWC, you are hereby directed to submit the required work plan to this Regional Board by **August 24, 2010**. Furthermore, pursuant to section 13268 (b)(1) of the CWC, failure to submit the work plan may result in the imposition of civil liability penalties by the Regional Board of up to $1,000 per day for each day the work plan is not received after **August 24, 2010**, due date and without further warning.

We believe that the burdens, including costs, of this report bear a reasonable relationship to the need for the report and the benefits to be obtained from the report. If you disagree and have information about the burden, including costs, of complying with these requirements, provide such information in writing to Mr. Bizuayehu Ayele within ten days of the date of this letter so that we may reconsider the requirements.

The above technical report is required to be submitted under the CWC section 13267 Order. Please note that effective immediately, the Regional Board requires you to include a perjury statement in all work plans and reports submitted under the 13267 Orders. The perjury statement shall be signed by a senior authorized representative at your company (and not by a consultant). The statement shall be in the following format:

> *"I [NAME], do hereby declare, under penalty of perjury under the laws of the State of California, that I am [JOB TITLE] for [NAME OF RESPONSIBLE PARTY\DISCHARGER], that I am authorized to attest to the veracity of the information contained in the report(s) described herein, and that the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE]."*

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

SO ORDERED.

June 24, 2010

Samuel Unger
Interim Executive Officer

Enclosures:
a) *Technical Report*, Appendix A, Response to RWQCB, Bowyer Environmental Consulting, June 8, 2009
b) Site Map

Appendix A

Response to RWQCB Order

March 19, 2009

Bowyer Environmental Consulting

May 30, 2009

VIA ELECTRONIC MAIL

Mr. Timothy Martin
JMBM | Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067

Subject: Response to RWQCB Section 13267 Order
Former TADCO Facility
363 West 133rd Street
Los Angeles, California

Dear Mr. Martin:

As per your request, Bowyer Environmental Consulting, Inc. (BEC) has prepared this preliminary response to the Section 13267 Order issued by the Los Angeles Region – Regional Water Quality Control Board (RWQCB) on March 19, 2009 (Order). The Order was issued to the T.A. Davies Company (TA Davies). The following comments are in response to the specific Findings and Recommendations presented in the Order. The responses have been organized based on the order of the Findings and Requirements presented in the March 19, 2009 RWQCB letter.

FINDINGS

1. **Acetone was detected in the soil from near-surface to the maximum depth drilled in B-14 advanced southwest of the UST area, indicating an onsite release(s). In addition, acetone was detected in samples collected from both shallow and deep sample intervals in other portions of the site. Samples collected from beneath the tanks after the UST removal had also elevated concentrations of acetone.**

   Comment: *As presented in the Technical Report (BEC, May 31, 2009), the property that TADCO operated on (363 W. 133rd Street) was part of a larger property that is, and has been owned by B.I.G. for some time. TADCO operated on this property between*

1981 and 1996. As specifically documented in the Technical Report, all of the B.I.G. properties were utilized extensively for industrial activities since before 1928 to the present data. These activities have included long-term (over 40 years) oil field operations, long-term pest control facilities (over approximately 30 years) and an electrical company (1964 at a minimum). During these operations, large pit structures were present on the B.I.G. properties, one on 363 W. 133rd Street, and another further to the east. As TADCO did not store or utilize acetone in their operations (only very small quantities were used in the laboratory), the most likely scenario to explain the acetone presence on this facility is that prior to the grading operation in 1973, spent and/or off-spec acetone was disposed of within the former oil field pit. Subsequently, the upper 5 to 10 feet of soil in this area were excavated during grading operations, homogenized and redistributed across a broader area of the overall B.I.G. properties. This scenario is consistent with the relatively widespread low level acetone concentrations observed across a large section of the properties at relatively shallow depths, and the much higher concentrations observed within the deeper soil (which was not graded). The presence of acetone in soil samples collected from 4 and 13 feet in soil beneath and near the former USTs is consistent with this scenario, as the highest concentration of acetone within the UST area at 4 feet area was 70 ug/kg, and the highest concentration at 13 feet was 14,000 ug/kg. Outside of the UST area (B-14), but still within the probable overall footprint of the former oilfield pit structure, the highest acetone concentrations in soil were 640 ug/kg at 5 feet, and 75,000 ug/kg at 15 feet. In addition, information pertaining the septic system which was formerly present at the former TADCO facility further supports the conclusion that acetone was not significantly utilized by TADCO. This system was permitted in 1982, apparently installed in 1983, and removed on September 27, 1996. Liquid/sludge samples collected from within the former septic system prior to removal did not contain detectable concentrations of acetone. Acetone was present at a relatively low concentration (61 ug/kg) in only one of the four soil samples collected from beneath the septic tank and leach line associated with the former septic systems. Again, the low observed concentration in soil is consistent with the concentrations observed over a relatively wide area of shallow soil on and off the former TADCO facility, and this information is consistent with what would be expected due to the homogenization and spreading of an older problems during grading activities in 1973. Two other potential explanations for the presence of acetone on the 363 W. 1333rd Street property are presented as follows:

- *Acetone and other chemicals ran off of the Standard Metals facility and entered the permeable fill surrounding the EDA and PO USTs. Runoff from Standard Metals to the former TADCO facility occurred on numerous occasions based on observations made by TADCO employees.*

- *An as yet unidentified preferential pathway may exist between the primary user of acetone in the area (General Welding) and the permeable fill surrounding the EDA and PO USTs, and /or historic oil-field pits.*

2. **Your position that the acetone release(s) on the General Welding property migrated to TADCO's is not supported with data collected from the Site and offsite. Acetone was not detected in any of the soil samples collected from borings B-21 and B-22, as well as MW-1, which were close to the General Welding property, indicating that the release(s) on General Welding property is confined to the limits of the property. MW-1 was installed by Frey as part of the groundwater investigation for Standard Metals.**

   Comment: *Noted. However, given the history of large scale acetone use by General Welding, and the lack of any significant use by TADCO, the potential that the General Welding facility served as the ultimate source for acetone in the area should be fully evaluated.*

3. **It is also unlikely that dissolved acetone migrated with groundwater from the General Welding property to the Site because the groundwater flow direction in the vicinity of the Site is towards the southwest, i.e. towards the General Welding property.**

   Comment: *We agree that based on the groundwater flow information presented by Frey Environmental and Rincon Consultants that groundwater appears to flow towards the southwest. However, as documented in the Technical Report, the General Welding property and the 363 W. 133rd Street property appear to be cross gradient from one another. The available data suggests that there are at least two separate sources of acetone to groundwater in the area. It should also be noted that large portions of the B.I.G., General Welding, and Standard Metals properties remain under investigated at this point. Additional sources of acetone to groundwater may be identified once these sites have been fully characterized.*

4. **You have not supported your position with evidence; showing the chemicals detected in the soil and groundwater were used during historical oil exploration and production at the Site. Moreover, the oil wells produce from much deeper depths than the depth intervals investigated at the Site. No evidence was presented that crude oil was detected in the soil, indicating contamination as result of historical oil operations. The hydrocarbons detected in the soil and groundwater were constituents of refined petroleum products like gasoline and diesel fuel.**

   Comment: *As presented in the Technical Report aerial photographs and*

historical property use records have been reviewed that document the long-term presence of oil field and other non-TADCO related operations on this B.I.G. owned property. The presence of aromatic compounds (including benzene, toluene, ethyl benzene and xylenes) within crude oil is well documented, and various sources for this information can be sited if necessary. As a matter of fact fractional distillation is a primary refining process, during which various hydrocarbon classes are separated. This and other refining processes are used to generate petroleum products like gasoline, which are relatively enriched in aromatics when compared to other petroleum classes. However, it should be noted that the aromatic sources for gasoline and other products is the crude oil itself, and they are not additives. As discussed in detail in the Technical Report, the presence of the large pit structure for an extended period of time (during which standard industrial practices typically involved some level of on-site disposal as the most economic means of dealing with off-spec and/or spent material) represent probable source areas for crude oil, refined products, and other chemicals from the various industrial operations conducted at this and surrounding sites between the 1920s and the 1970s. Starting in late 1970s and early 1980s waste management practices changed as a result of environmental regulations.

5. **Constituents found in refined petroleum products such as toluene, ethyl benzene, and xylenes were detected in the soil from near-surface to the maximum depth drilled in boring B-23 that was advanced in the drum storage area, indicating onsite release(s). BTEX was also detected in soil samples collected from both shallow and deep sampled intervals in this area. Toluene was also detected in all soil samples collected in boring B-29 in the septic tank area.**

   Comment: *As presented in the technical report, it appears that a source of aromatic compounds (BTEX) is present on the 363 W. 133rd Street parcel. Similar to the distribution pattern for acetone, the areas of soil containing relatively high aromatic concentrations on the site are in the vicinity of the former oil-field sump structure. Historic disposal of aromatic compounds to the oil pit are the likely cause of the on-site aromatic impacts to soil. Other possible explanations include the noted runoff from the Standard Metals site which was observed by former TADCO employees. In any event, as documented in the Technical Report, aromatic compounds appear to be having very minor impacts to groundwater in the area. More significant issues associated with the observations of very high levels of chlorinated hydrocarbons, including trichloroethene (TCE), cis-1,2-dichloroethene (cis-1,2-DCE), and vinyl chloride) in groundwater need to be addressed as a priority within the general area of the 363 W. 133rd Street site*

6. **Diesel fuel range TPH was detected in the AST farm area with a maximum concentration of 2,000 mg/Kg. Diesel fuel was stored in one of the ASTs in this**

area.

Comment: *Based on all of the available data, diesel range TPH (TPH-d) impacts are extremely limited within the above ground tank farm (AST) area. As a reference, Table 4-1 of the RWQCB May 1996 Interim Site Assessment and Cleanup Guidebook provides soil cleanup screening criteria for TPH based on depth to water. Given that groundwater at this site is present at depths of approximately 40 feet, the TPH-d screening level form Table 4-1 is 1,000 mg/kg. Ten samples were initially collected from a depth of 1 foot in the AST area. Only one (HA-6) of these ten shallow soil samples contained concentrations in excess of the TPH-d screening criteria. Based on this result, an additional boring (B-27) was installed in close proximity to HA-6, and samples were collected at 5, 10, 20, 25 and 30 feet. All of the TPH-d results from B-27 were nondetect. Based on these results, additional investigation in association with the release of TPH-d in the AST area appears to be unwarranted.*

7. **Although use and storage of acetone at the facility was not reported, this chemical is known to be used in the Polyurethane industry as an auxiliary blowing agent to supplement water for modifying the physical properties of the polyurethane resin. In addition, it was indicated by one of TADCO's managers that TADCO traded chemicals with one of its neighbors. Acetone and TCE are also known to be used for cleaning chemical mixing equipment and containers at such facilities.**

   Comment: *Noted. T. A. Davies did not utilize acetone or TCE within their primary process as a blowing agent or any other purpose. Small quantities of acetone were used in the laboratory on site. A probable scenario to explain the relatively wide spread presence and elevated concentrations of acetone and TCE observed on the site has been presented in the Technical Report and summarized in the comment to No. 1.*

8. **Copies of Material Safety Data Sheets (MSDS) for chemicals used at your former facility indicate that some of the contaminants found in the soil and groundwater beneath the Site are actually ingredients of the chemicals used onsite. These chemicals include; xylenes, trimethylbenzene, naphthalene, toluene, ethylbenzene and others.**

   Comment: *Noted. However, other probable explanations as to the source of these compounds in the subsurface at the site have been presented. In addition, based on the available data, these compounds are not the most significant or widespread compounds that have been detected within the area. In addition, there is no information of any release of these compounds by TADCO at the site.*

9. **The Regional Board directed you in a letter dated August 31, 2001 to initiate a**

quarterly groundwater monitoring program. However, you have never implemented this requirement. Moreover, the background concentration VOCs in the groundwater are not known upgradient of the Site. Two active drinking water production wells are also located at an approximate maximum distance of 0.85 miles downgradient of your Site.

Comment: *TA Davis issued a response to the August 31, 2001 Order on September 24, 2001. TA Davies has been under the reasonable impression that the RWQCB was satisfied with TADCOs response and was seeking action from other parties responsible for the significant releases at and near the site. As described in the Technical Report a significant source of chlorinated hydrocarbons appears to be present up gradient in the B.I.G. owned property east of the former TADCO facility. Other parties should conduct investigations on these properties to evaluate the nature and extent of this source. These investigations should include the installation of groundwater wells, which would fulfill the RWQCB requirement for up gradient wells.*

REQIREMENTS

1. **Delineate the lateral extent of VOC and TPH contamination in the soil. Stepout soil borings shall be advanced to delineate the VOC and TPH contamination to their full extent.**

   Response: *The Technical Report provides a series of iso-concentration maps which summarize available data. As shown on these maps, the definition of the extent of VOC and TPH impacts on the 363 W. 133rd Street is complete. However, as shown in the Technical Report, additional investigations need to be performed at the Standard Metals, General Welding and B.I.G. owned property east of the former TADCO facility.*

2. **Delineate the vertical extent of the VOC and TPH contamination in the soil. Deeper borings shall be advanced in those areas where VOC and TPH contamination was encountered at shallow depths.**

   Response: *See Technical Report and response to No. 1.*

3. **Additional assessment needs to be conducted to investigate the source of PCBs detected in soil samples from boring B-14. Stepout borings shall be advanced in the area around B-14 to delineate the lateral and vertical extent of the PCB soil contamination.**

   Response: *The five foot sample collected from B-14 contained 3,050 ug/kg of*

aroclor 1242 and 108 ug/kg of aroclor 1260. The 35 foot sample collected from B-14 did not contain a detectable concentration of PCBs. As the California Human Health Screening Level (CHHSL) for commercial/industrial sites is 300 ug/kg, additional stepout testing should be performed in this area to define the nature and extent of this issue. TADCO did not utilize or deposit PCBs on this site between 1981 and 1996. Former industrial uses of the facility included an electrical company in 1964 (Starlight Electrical). As the source for PCBs at the site is other than TA Davies, the property owner (B.I.G.) should be responsible for conducting this additional work.

4. **Contaminant specific iso-concentration maps showing the lateral extent of major contaminants in the soil shall be prepared and submitted.**

   Response: *This task has been completed and these maps have been provided as part of the Technical Report.*

5. **Contaminant-specific cross-sections with color gradational iso-concentration contours maps showing the vertical extent of major contaminants in the soil shall be prepared and submitted.**

   Response: *The Technical Report provides a series of color gradational maps showing the vertical extent of major contaminants in lieu of cross sections.*

6. **Soil Screening Levels (SSLs) that are protective of human health and groundwater quality shall be developed for the Site in accordance with Interim Site Assessment and Cleanup Guidebook published by the Regional Board in May 1996. The guidebook is available online on the Regional Board's website. Alternatively, you may propose site-specific SSLs using various models available, based on data collected from the Site. A summary of historical and current soil analytical results shall be summarized in tables to compare site-specific values against the SSLs and show exceedences.**

   Response: *As presented in the Technical Report, historical industrial operations other than TADCO's former operations and off-site impacts appear to have resulted in the observed chemical presence at the 363 W. 133rd Street facility. As a result, it would appear that B.I.G. and/or other responsible parties should proceed with further evaluations regarding the need and extent of necessary clean-up actions.*

7. **The United States Environmental Protection Agency's (USEPA's) or California Department of Public Health's Maximum Contaminant Levels**

(MCLs) for drinking water, whichever is more stringent, shall be used to screen groundwater analytical results. Contaminant levels above the MCLs shall be shown in tables in bold face.

Response: *As presented in the Technical Report, there are significant groundwater impacts in the vicinity of the former TADCO facility. However, based on the available data, these impacts appear to be associated with historical industrial operations at the site other than TADCO's, and/or offsite sources that should be investigated by others. As a result, it would appear that B.I.G. and/or other responsible parties should proceed with further evaluations regarding the need and extent of necessary clean-up actions.*

8. Soil borings shall be advanced in the approximate location of former pond where drilling mud and other wastes were reportedly dumped during historical oil production operations. Soil samples shall be submitted to a certified laboratory for fingerprinting analyses to identify the occurrence and source of crude oil.

Response: As documented in the Technical Report, the former oil-field pit was present long before TADCO operated on the site. TADCO has never owned this site. As such, it would appear appropriate that B.I.G. (which owns the site now and has owned the site since prior to TADCO use of the facility) should be responsible for implementing any work associated with the former oil-field pit.

9. At least one groundwater monitoring well upgradient of MW4 near the northern property boundary and two cross gradient monitoring wells on the eastern and western property boundaries shall be installed to determine the groundwater flow direction beneath the Site. You shall use data from these wells to develop a conceptual site model (CSM) and to assess the background concentrations of the groundwater entering the Site and the aerial extent of the VOC plume.

Response: *A CSM was presented within the Technical Report. This CSM consists of the documented historic long-term industrial use of this and surrounding properties (in particular the long-term oil pits located on this and the up gradient property to the east), the grading and redistribution of impacts within the upper 5 to 20 feet on the property in 1973, and migration pattern of elevated compounds from up-gradient sources. As such, it would appear appropriate the B.I.G. to be responsible for the installation of these groundwater wells. Following the implementation of this and investigations at Standard Metals and General Welding, B.I.G. and/or other responsible parties should re-evaluate and update the CSM, as*

necessary.

10. In order to address Item Numbers 1 through 9, you shall prepare and submit a work plan to the Regional Board by April 27, 2009. The work plan shall be prepared in accordance with the Regional Board's General Requirements for Subsurface Soil Investigations and General Requirements for Groundwater Investigations (see attached).

Response: *In lieu of a workplan, a Technical Report has been prepared and submitted (BEC, May 31, 2009).*

11. **After the installation of the groundwater monitoring wells a quarterly groundwater monitoring shall be initiated and groundwater monitoring reports shall be submitted according to the following schedule:**

Monitoring Period	Report Due Date
April-June	July 15th
July-September	October 15th
October-December	January 15th
January-March	April 15th

Response: *See response to No. 9. This work should be conducted by the property owner (B.I.G.) and/or other responsible parties.*

12. A site-wide groundwater elevation contour map showing the groundwater flow direction and gradient must be included in the groundwater monitoring reports. Groundwater samples shall be analyzed for VOCs, BTEX, TPH, PCBs and dissolved heavy metals.

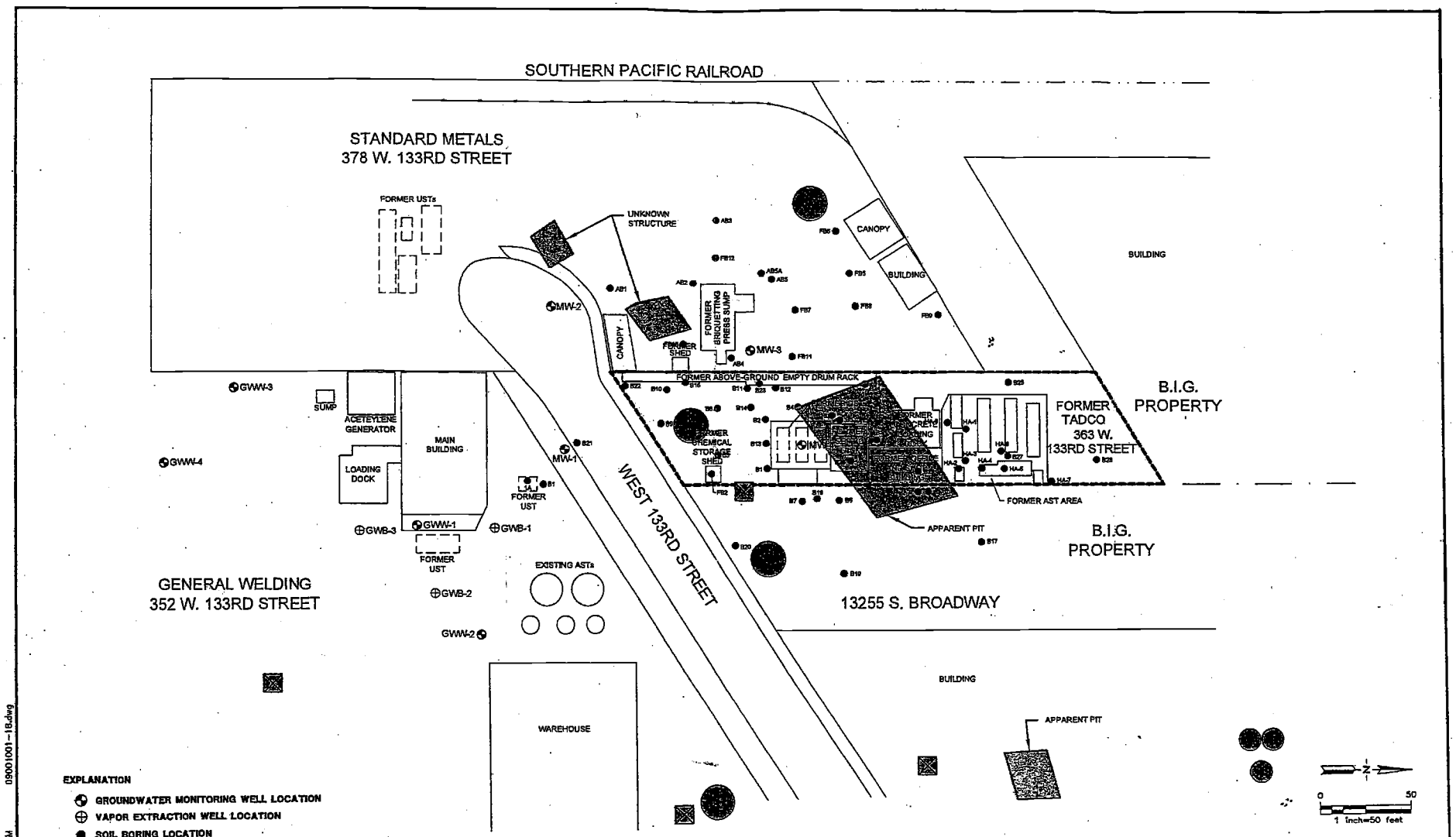
Response: *See response to No. 11. This work should also be conducted by the property owner (B.I.G.) and/or other responsible parties.*

CLOSING

BEC has prepared this document at the request of Jeffer, Mangels, Butler & Marmaro LLP and their client TA Davies. If you have any questions regarding this document, please do not hesitate to call.

Sincerely,

Brett H. Bowyer, P.G.
Principal
Bowyer Environmental Consulting, Inc.



SOURCE: FREY ENVIRONMENTAL, SITE SKETCH MAP, SEPTEMBER 1998, AND RINCON CONSULTANTS, FIGURE 2, JANUARY 2009
ALL LOCATIONS AND DIMENSIONS ARE APPROXIMATE

BEC
16458 Bolsa Chica Street, #422
Huntington Beach, CA 92649
Tel. (877) 232-4620
Fax (714) 840-4963

Oil Field Related Features - 1928

FORMER TADCO FACILITY
Los Angeles, CA

Project No. 09001001

Figure 3

5/20/2009 8:13PM 09001001-18.dwg

EXHIBIT B

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

July 1, 2010

Mr. Greg Levin
c/o Mr. Michael Baum
Resch Polster & Berger LLP
9200 Sunset Boulevard, Ninth Floor
Los Angeles, CA 90069

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 9176

REQUIREMENT FOR A TECHNICAL REPORT PURSUANT TO CALIFORNIA WATER CODE (CWC) SECTION 13267 ORDER - STANDARD METALS, 378 WEST 133RD STREET, LOS ANGELES, CA (SITE CLEANUP NO. 0818A AND SITE ID NO. 2044D00)

Dear Mr. Levin:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles County and Ventura County, including the above-referenced site.

In response to our previous Order, dated March 19, 2009, you conducted additional site assessment and submitted a site assessment report, dated January 19, 2010. Based on our review of this site assessment report and other historical site assessment reports for the adjacent sites, we outlined our findings and requirements in the enclosed Order. You are required to comply with this new Order to ensure that progress is made in our continued investigation at the site and in the general vicinity.

The State Water Resources Control Board (State Water Board) adopted regulations requiring the electronic submittals of information over the Internet using the State Water Board GeoTracker database. You are required not only to submit hard copy reports required in this Order but also to comply by uploading all reports and correspondence prepared to date and additional required data formats to the GeoTracker system. Information about GeoTracker submittals, including links to text of the governing regulations, can be found on the Internet at the following link:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

If you have any questions regarding this letter, please contact Mr. Bizuayehu Ayele at (213) 576-6747 or by email at bayele@waterboards.ca.gov.

Sincerely,

Jeffrey Hu, Unit Chief
Site Cleanup Program, Unit II

Enclosure: *Requirement to Provide a Technical Report*

cc: Mr. Michael Baum, Resch Polster & Berger LLP
Mr. John Payne, Frey Environmental, Inc.
Mr. James Herbst, Business Industrial Group (BIG)
Mr. Patrick Rendon, Lamb & Kawakami LLP
Mr. Larry Berna, TADCO
Mr. Brett Bowyer, Bowyer Environmental Consulting, Inc.
Mr. Kenneth Ehrlich, Jeffer, Mangels, Butler & Marmaro LLP
Mrs. Barbara Vidmar, General Welding
Ms. Julie Marshall, Rincon Consultants, Inc.
Mr. Walt Hamann, Rincon Consultants, Inc.
Ms. Emily Yukich, Folger Levin & Kahn LLP

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

REQUIREMENT TO PROVIDE A TECHNICAL REPORT
(CALIFORNIA WATER CODE SECTION 13267[1] ORDER)

DIRECTED TO STANDARD METALS

STANDARD METALS
378 WEST 133RD STREET, LOS ANGELES, CALIFORNIA
(SITE CLEANUP NO. 0818A, SITE ID NO. 2044D00)

You are legally obligated to respond to this Order. Please read this carefully.

You are the responsible party identified for soil, soil vapor and groundwater investigation at the property at 378 West 133rd Street in Los Angeles, California. The Regional Board has been investigating soil and groundwater contamination at Standard Metals site and at adjacent sites since approximately 1998. These sites are the T.A Davis Company (TADCO) site, located at 363 West 133rd Street and General Welding site, located at 352 West 133rd Street. The TADCO site is located on the Business Industrial Group (BIG) property with a site address 363 West 133rd Street. Various industrial operations were or are still being conducted at these sites.

Site investigations conducted at these sites indicate that the soil and groundwater are contaminated with volatile organic compounds (VOCs) such as trichloroethene (TCE) and acetone, aromatic hydrocarbons such as benzene, ethylbenzene, toluene, and xylenes (BTEX), polychlorinated biphenyls (PCBs) and petroleum hydrocarbons. The site investigations also show that the soil and groundwater contamination encountered in the general vicinity might have been resulted from multiple sources.

The most recent site assessment at the Standard Metals site was conducted in November 2009, in response to a Regional Board Order, dated March 19, 2009. Regional Board staff reviewed a site assessment report, titled *Additional Site Assessment* and dated January 19, 2010. The report, submitted by Frey Environmental, Inc., documents the site assessment activities, results, and conclusions and recommendations.

In a letter, dated March 4, 2010, Standard Metals also requested the Regional Board to reduce the groundwater monitoring frequency from quarterly to semi-annually, citing absence of groundwater monitoring data from adjacent TADCO site, which can provide important information on contaminant plumes in the groundwater beneath the site vicinity.

[1] California Water Code section 13267 states, in part: (b)(1) In conducting an investigation. . ., the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

FINDINGS AND COMMENTS

Based on our review of your *Additional Site Assessment* report and other historical site assessment reports submitted by you and by the adjacent property owners, we have summarized the following findings and comments:

1. The Regional Board required you, in its previous Order, dated March 19, 2009, to provide detailed information on the source of scrap metal, the type of solid waste being recycled, suppliers of the scrap metal and the entire metal recycling process at your facility. In your July 23, 2009 work plan submitted for the additional site assessment, you provided only limited information which was not supported with documented evidence.

   The site data suggest that the former baler pit, where the hydraulic baling press was installed, is the source of TCE in the soil and groundwater beneath the site. Even though there might be contributing offsite sources, such as the TADCO site, the site assessment data collected to date indicate that the bulk of the TCE was sourced in this area that caused soil and groundwater contamination beneath the site.

2. The soil data collected from the soil borings at the site show that the distribution of vinyl chloride and cis-1,2 dichloroethene (cis-1,2-DCE) in the soil appears, in most cases, to correlate with the distribution of TCE. Vinyl chloride and cis-1,2-DCE are the breakdown products of TCE. Therefore, the TCE release at the former baler pit is responsible for existence of these breakdown products in the soil and groundwater beneath the site.

3. In the Regional Board's previous Order, dated March 19, 2009, you were directed to install an additional groundwater monitoring well downgradient of the existing groundwater monitoring wells to assess the current extent of the VOCs plume and to periodically monitor for the detected contaminants in the groundwater. You proposed in your July 23, 2009 work plan to postpone the installation of the required groundwater monitoring well until two additional quarters of groundwater monitoring are completed to establish a current general groundwater flow direction beneath the site.

   You have conducted two additional quarters of groundwater monitoring since the request was made. Besides, many years of groundwater monitoring data from the adjacent General Welding site as well as data from the groundwater monitoring activities conducted from 1997 to 1999 and in 2009 at Standard Metals site show that the groundwater flow direction beneath the site and adjacent sites is dominantly to the south and southwest. The groundwater flow direction occasionally swings to the southeast.

   The full extent of the VOCs and TPH plumes is not yet fully defined downgradient of the existing groundwater monitoring wells. In the most recent groundwater monitoring event conducted in November 2009, the offsite downgradient groundwater monitoring well, MW-2, detected TPH as gasoline, cis-1,2-DCE, TCE and vinyl chloride at concentrations of 1,400 micrograms per litre (µg/L), 180 µg/L, 510 µg/L and 430 µg/L, respectively.

The western edge of the VOC and TPH plumes is also not defined. Grab groundwater sample collected with a Hydropunch® at FB13A during the additional site assessment contained cis-1,2-DCE at a concentration of 19 µg/L. No additional VOCs were detected in the sample.

Installation of additional groundwater monitoring wells is necessary at the southern and western portions of the site to monitor the expansion of the VOCs and TPH plumes southward and westward beneath the site.

4. In a letter, dated March 4, 2010, Standard Metals also requested the Regional Board to reduce the groundwater monitoring frequency from quarterly to semi-annually, citing absence of groundwater monitoring data from adjacent TADCO site, which can provide important information on contaminant plumes in the groundwater beneath the site vicinity.

   The Regional Board has directed the adjacent TADCO and BIG property owners to conduct additional site assessments and install additional groundwater monitoring wells. The Regional Board expects full compliance with its Orders from these site owners and additional site assessment data and groundwater monitoring data will be forthcoming.

REQUIREMENTS

Based on our review of the submitted information and pursuant to section 13267 of the California Water Code (CWC), you are hereby directed to implement the following:

1. You shall submit a work plan for Regional Board's review and approval to conduct further groundwater assessment at the Standard Metals site. At least two additional groundwater monitoring wells shall be installed downgradient of the existing groundwater monitoring wells in the southern portion of the site and in the western part of the site to define the southern and western edges of the VOCs and TPH plumes in the groundwater.

   In the southern portion of the site, attempts to collect grab groundwater samples with a Hydropunch® at two locations (FB16 and FB17) failed in the most recent site assessment due to encountered refusal. Alternate locations shall be selected for the installation of one groundwater monitoring well in that part of the site.

   The work plan is due to the Regional Board by **August 30, 2010**.

2. You shall continue quarterly groundwater monitoring for the following reasons:

   a. The Regional Board is making efforts to bring the property owners for TADCO and BIG sites into compliance and additional site assessment data are expected from these sites.

   b. Groundwater monitoring data collected at the Standard Metals site is important to make regulatory decisions about the site and adjacent sites and to monitor the VOCs and TPH plumes in the groundwater. Two active production wells are located at an approximate maximum distance of 0.85 miles downgradient of the site.

c. The adjacent General Welding site has been conducting quarterly groundwater monitoring since approximately 2003. Groundwater monitoring data from all three sites (Standard Metals, General Welding and TADCO/BIG sites) are important for future regulatory decisions and to monitor the VOCs and TPH plumes.

You shall submit the quarterly groundwater monitoring reports in accordance with the schedule provided in our previous Order, dated March 19, 2009.

3. The site data suggest that the Standard Metals site is the main source of TCE and its breakdown products such as cis-1,2-DCE and vinyl chloride despite the fact that there might be offsite contributing sources. The Regional Board will require you in the future to submit a Remedial Action Plan (RAP) to clean up the contaminated soil and groundwater either jointly with the adjacent property owners or alone once site assessment is completed in the general vicinity and depending on the results of further site assessments at the site and adjacent sites. The due date for submission of the RAP will be determined by the Regional Board at a future date.

Pursuant to section 13267(b) of the CWC, you are hereby directed to submit the required work plan to this Regional Board by **August 30, 2010**. Furthermore, pursuant to section 13268 (b)(1) of the CWC, failure to submit the work plan may result in the imposition of civil liability penalties by the Regional Board of up to $1,000 per day for each day the work plan is not received after **August 30, 2010**, due date and without further warning.

We believe that the burdens, including costs, of this report bear a reasonable relationship to the need for the report and the benefits to be obtained from the report. If you disagree and have information about the burden, including costs, of complying with these requirements, provide such information in writing to Mr. Bizuayehu Ayele within ten days of the date of this letter so that we may reconsider the requirements.

The above technical report is required to be submitted under the CWC section 13267 Order. Please note that effective immediately, the Regional Board requires you to include a perjury statement in all work plans and reports submitted under the 13267 Orders. The perjury statement shall be signed by a senior authorized representative at your company (and not by a consultant). The statement shall be in the following format:

> *"I [NAME], do hereby declare, under penalty of perjury under the laws of the State of California, that I am [JOB TITLE] for [NAME OF RESPONSIBLE PARTY\DISCHARGER], that I am authorized to attest to the veracity of the information contained in the report(s) described herein, and that the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE]."*

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m.

on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

SO ORDERED.

July 1, 2010

Samuel Unger
Interim Executive Officer

PROOF OF SERVICE
In the Matter of the Petition of BUSINESS INDUSTRIAL GROUP

I am employed in the County of Los Angeles, State of California, I am over the age of 18 and not a party to the within action; my business address is 333 South Grand Avenue, Suite 4200, Los Angeles, California 90071.

On July 26, 2010, I served the foregoing document(s) described as: PETITION FOR REVIEW OF THE JUNE 24, 2010 ORDER OF THE CALIFORNIA REGIONAL WAQTER QUALITY CONTROL BOARD, LOS ANGELES REGION on the interested parties in this action, at the addresses listed below, as follows:

Jeannette L. Bashaw, Legal Analyst
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95712-0100
Fax: (916) 341-5199
Email: jbashaw@waterboards.ca.gov

Bizuayehu Ayele
Cal/EPA
Los Angeles Regional Water Quality Control Board
Site Cleanup Unit II
320 W. 4th Street, Ste. 200
Los Angeles, CA 90013
Tel: (213) 576-6747
Fax: (213) 576-6717
Email: bayele@waterboards.ca.gov

(X) For Collection. By placing a true copy (copies) thereof enclosed in a sealed envelope(s), addressed as above, and by placing said sealed envelope(s) for collection and mailing on that date following ordinary business practices. I am "readily familiar" with the business' practice for collection and processing of correspondence for mailing the U.S. Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business.

( ) Overnight Delivery. By placing a true copy(ies) thereof enclosed in a sealed envelope(s) or package(s) as designated by Federal Express, addressed as above, and depositing said envelope(s) or package(s), with delivery fees provided for, in a box regularly maintained by Federal Express at 330 South Hope Street, Wells Fargo Center, Los Angeles, California 90071.

(X) Via Facsimile. By transmitting a true copy(ies) thereof to each of the designated counsel on the service list to their facsimile numbers as listed below.

(X) Via E-mail. I caused to be served by e-mail the foregoing documents to the above persons at the e-mail addresses listed above.

( ) Personal Delivery. I caused to be served by messenger for personal delivery that same day the foregoing documents in a sealed envelope to the above persons at the address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 26, 2010, at Los Angeles, California.

Tina Schubert

PROOF OF SERVICE
In the Matter of the Petition of BUSINESS INDUSTRIAL GROUP

I am employed in the County of Los Angeles, State of California, I am over the age of 18 and not a party to the within action; my business address is 333 South Grand Avenue, Suite 4200, Los Angeles, California 90071.

On July 26, 2010, I served the foregoing document(s) described as: PETITION FOR REVIEW OF THE JUNE 24, 2010 ORDER OF THE CALIFORNIA REGIONAL WAQTER QUALITY CONTROL BOARD, LOS ANGELES REGION on the interested parties in this action, at the addresses listed below, as follows:

Michael C. Baum
Resch Polster, et al.
9200 W. Sunset Blvd., 9th Floor
Los Angeles, CA 90069
Tel: (310) 788-7520
Fax: (310) 552-3209
E-mail: mbaum@rpblaw.com

Kenneth A. Ehrlich
Jeffer Mangels et al. LLP
1900 Ave. of the Stars, 7th Floor
Los Angeles, CA 90067
Tel: (310) 203-8080
Fax: (310) 203-0567
Email: KAE@jmbm.com

Emily J. Yukich
Holme Roberts & Owen LLP
800 W. Olympic Blvd., 4th Fl.
Los Angel3es, CA 90015
Tel: (213) 572-4300
Fax: (213) 572-4400
E-mail: Emily.yukich@hor.com

(X) For Collection. By placing a true copy (copies) thereof enclosed in a sealed envelope(s), addressed as above, and by placing said sealed envelope(s) for collection and mailing on that date following ordinary business practices. I am "readily familiar" with the business' practice for collection and processing of correspondence for mailing the U.S. Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business.

( ) Overnight Delivery. By placing a true copy(ies) thereof enclosed in a sealed envelope(s) or package(s) as designated by Federal Express, addressed as above, and depositing said envelope(s) or package(s), with delivery fees provided for, in a box regularly maintained by Federal Express at 330 South Hope Street, Wells Fargo Center, Los Angeles, California 90071.

( ) Via Facsimile. By transmitting a true copy(ies) thereof to each of the designated counsel on the service list to their facsimile numbers as listed below.

(X) Via E-mail. I caused to be served by e-mail the foregoing documents to the above persons at the e-mail addresses listed above.

( ) Personal Delivery. I caused to be served by messenger for personal delivery that same day the foregoing documents in a sealed envelope to the above persons at the address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 26, 2010, at Los Angeles, California.

Tina Schubert

Patrick L. Rendon, Esq. (SBN 126227)
LAMB & KAWAKAMI LLP
333 South Grand Avenue, Suite 4200
Los Angeles, California 90071
Email: prendon@lkfirm.com
Telephone: (213) 630-5500
Facsimile: (213) 630-5555

Attorneys for Respondent
Business Industrial Group

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In the Matter of The Petition Of	Petition Number:
BUSINESS INDUSTRIAL GROUP Petitioner	**PETITION FOR REVIEW OF THE JUNE 24, 2010 ORDER OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION**

INTRODUCTION AND SUMMARY

This Petition for Review is submitted on behalf of Business Industrial Group ("Petitioner" or "BIG") pursuant to California *Water Code* §§13320 & 13321 and California Code of Regulations ("CCR") Title 23, §§2050-2066 and concerns that certain order issued on June 24, 2010 by the California Regional Water Quality Control Board, Los Angeles Region ("RWQCB"), directed at Business Industrial Group and T.A. Davis Company, and which references the properties located at 13255 South Broadway, 360-366 West 132nd Street and 363 West 133rd Street in Los Angeles, California (collectively, the "Property"), Site Cleanup Number 0817, Site Identification Number 2040358 (the "Order").

Petitioner provides the following information in support of this Petition as required by

California *Water Code* §13320 and 23 CCR §2050(a).

CONTACT INFORMATION OF PETITIONER

The contact information for Petitioner is as follows:

Business Industrial Group
c/o Jess Herbst
27675 Chapala
Mission Viejo, CA 92692
Fax (949) 215-2965

Patrick L Rendon, Esq.
Lamb & Kawakami LLP
333 South Grand Avenue, Ste. 4200
Los Angeles, CA 90071
Tel. (213) 630-5570
Fax (213) 630-5555
Email prendon@lkfirm.com

THE ACTION FOR WHICH PETITIONER SEEKS REVIEW

Petitioner respectfully requests that the RWQCB review the Order. A copy of which is attached as Exhibit A. Petitioner further requests that the RWQCB hold the Petition in abeyance pursuant to 23 CCR §2050.5(d) and the practices of the RWQCB. In addition, to the extent that this Petition is made active, then Petitioner requests a hearing pursuant to California *Water Code* §13321 and a stay on any action directed at Petitioner under the Order pending a final adjudication decision.

THE DATE THE RWQCB ACTED

The RWQCB, through its Interim Executive Officer, issued the Order on June 24, 2010.

STATEMENT OF REASONS WHY THE ACTION WAS AND IS INAPPROPRIATE OR IMPROPER

The RWQCB's Order is inappropriate or improper for the following reasons:

1. The RWQCB abused its discretion in naming BIG in the Order pursuant to

California *Water Code* § 13267. BIG is not the proper or appropriate party to be named in the Order. California *Water Code* §13267(b) states, in pertinent part, that the RWQCB authority to issue an order is limited to "... any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region..." BIG has not discharged and is not suspected of having discharged waste at the Property. This is corroborated by the independent factual findings of the RWQCB which are set forth in the Order. These findings are based on the RWQCB records that include environmental reports submitted to the RWQCB by BIG and others and which are incorporated herein by this reference. Based on the foregoing data and studies, the RWQCB acknowledges and confirms in the Order that there is no homogeneity in the distribution of contaminants of concern in the soil and, in any case, any contaminants of concern radiate laterally and vertically from "hot spots" around suspected source areas of operators. (*See, e.g.*, Order, Findings §§ 1.a., 2.a., 2.b., 3, 4, *see also*, RWQCB Order dated July 1, 2010, directed at Standard Metals, 378 West 133rd Street, Los Angeles, California, Site Cleanup No. 0818A, Site ID No. 2044D00 (the "Standard Metals Order"), a copy of which is attached as Exhibit B.) Furthermore, as a matter of practice and policy and due process, BIG is not responsible or obligated to respond simply by virtue of its ownership of the Property. Rather, the Order should be directed at those persons who are responsible for the contaminants of concern.

2. The RWQCB abused its discretion by failing to consider substantial, undisputed evidence that the source of the contamination relating to the Property was from others, including off-site sources. (*See*, Exhibits A & B.)

3. The RWQCB abused its discretion in that the burden, including costs, of BIG providing the reports requested in the Order do not bear a reasonable relationship to BIG based on the above-discussed findings of the RWQCB.

4. The features at issue are not "waters of the State" and, therefore, the actions are beyond the jurisdiction of the RWQCB.

5. The Order violates BIG's constitutional rights to due process and equal protection.

THE MANNER IN WHICH BIG IS AGGRIEVED

Petitioner is aggrieved for the reasons set forth in the immediately preceding section of this Petition. Petitioner is further aggrieved because the Order imposes duplicate and unnecessary requirements on BIG and subjects BIG to penalties.

REMEDY SOUGHT BY PETITIONER

Petitioner requests that the RWQCB remove or dismiss BIG from the Order altogether or, at a minimum, that the RWQCB hold the Order in abeyance (pursuant to 23 CCR §2050.5(d)) with respect to BIG, pending the further actions of the RWQCB and information provided by the other persons identified in the Order and in the Standard Metals Order. In the event this Petition is made active, BIG will submit, as an amendment to this Petition, a full and complete statement of points and authorities in support of the legal and factual issues raised by this Petition. In connection therewith, BIG respectfully requests that the RWQCB provide an evidentiary hearing and oral argument on the Order pursuant to the United States Constitution, the California Constitution, California *Water Code* §13321, California *Government Code* §11400, *et seq.*, 23 CCR §648, *et seq.*, and 23 CCR §2050.6(a), (b). In addition, in the event this Petition is made active, BIG respectfully requests a stay of any action directed at BIG under the Order until a final adjudicated decision of the matters raised herein pursuant to 23 CCR §2053, and at such time BIG will submit an amendment to this Petition that will set forth the additional facts and proof that show the necessity for a stay.

STATEMENT OF POINTS AND AUTHORITIES

Petitioner will provide a detailed statement of points and authorities in the event the RWQCB takes further action which necessitates that this Petition take active status.

STATEMENT OF DELIVERY OF PETITION TO INTERESTED PERSONS

As indicated in the attached proof of service, this Petition has been sent to the RWQCB and to other persons who Petitioner understands are interested persons.

STATEMENT ON RAISING OF SUBSTANTIVE ISSUES

Petitioners had no prior formal opportunity to raise the issues or objections raised to the June 24, 2010 because it was issued unilaterally by the RWQCB without a hearing or the taking of evidence. Petitioner is interested in discussing these issues with RWQCB staff on an informal basis but is required to formally submit this Petition pursuant to the relevant statutes and regulations.

REQUEST FOR PREPARATION OF ADMINISTRATIVE RECORD

By copy of this Petition to the RWQCB, Petitioner requests the preparation of the Administrative Record.

Dated: July 26, 2010

LAMB & KAWAKAMI LLP

By: _____

Patrick L. Rendon
Attorneys for Petitioner
BUSINESS INDUSTRIAL GROUP

EXHIBIT A

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

June 24, 2010

Mr. James Herbst
Business Industrial Group (BIG)
27675 Chapala
Mission Viejo, CA 92692

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 9282

Mr. Larry Berna
T.A Davis Company (TADCO)
19500 South Alameda Street
East Rancho Dominguez, CA 90221

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 9299

REQUIREMENT FOR A TECHNICAL REPORT PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER - BIG PROPERTY AND FORMER TADCO FACILITY, 13255 SOUTH BROADWAY, 360-366 WEST 132ND STREET AND 363 WEST 133RD STREET, LOS ANGELES, CALIFORNIA (SITE CLEANUP NO. 0817, SITE ID NO. 2040358)

Dear Messrs Herbst and Berna:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles County and Ventura County, including the above-referenced sites.

The Regional Board has been investigating soil and groundwater contamination at sites adjacent to and on a portion of the Business Industrial Group (BIG) property since approximately 1998. The former TADCO facility that had occupied a parcel at 363 West 133rd Street on the BIG property has been the focus of these site investigations.

Based on our review of site assessment data collected from the former TADCO facility and adjacent sites, we believe that the former TADCO facility could be a source of the volatile organic compounds (VOCs) such as acetone, benzene, ethylbenzene, toluene, and xylenes (BTEX) and polychlorinated biphenyls (PCBs) detected in the soil and groundwater beneath the property. We also believe additional site assessments must be conducted on adjacent parcels to the former TADCO facility on BIG property to fully define the extent of contamination in the soil and groundwater and to identify any contributing offsite sources.

As part of our ongoing investigation of soil and groundwater contamination in the general vicinity of the TADCO facility, you are hereby directed to provide the required technical report requested in the enclosed Order pursuant to California Water Code section 13267. You are required to comply with the Order to ensure that progress is made in our continuing investigation in the area.

If you have any questions regarding this letter, please contact Mr. Bizuayehu Ayele at (213) 576-6747.

Sincerely,

Jeffrey Hu, Unit Chief
Site Cleanup Program, Unit II

Enclosure: *Requirement to Provide a Technical Report*

cc: Mr. Patrick Rendon, Lamb & Kawakami LLP
Mrs. Barbara Vidmar, General Welding
Ms. Julie Marshall, Rincon Consultants, Inc.
Mr. Walt Hamann, Rincon Consultants, Inc.
Ms. Emily Yukich, Folger Levin & Kahn LLP
Mr. Greg Levine, Standard Metals
Mr. Michael Baum, Resch Polster & Berger LLP
Mr. John Payne, Frey Environmental, Inc.
Mr. Brett Bowyer, Bowyer Environmental Consulting, Inc.
Mr. Kenneth Ehrlich, Jeffer, Mangels, Butler & Marmaro LLP

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

REQUIREMENT TO PROVIDE A TECHNICAL REPORT
(CALIFORNIA WATER CODE SECTION 13267[1] ORDER)

DIRECTED TO BUSINESS INDUSTRIAL GROUP (BIG)
AND T.A DAVIS COMPANY (TADCO)

BIG PROPERTY AND FORMER TADCO FACILITY
13255 SOUTH BROADWAY, 360-366 WEST 132ND STREET AND 363 WEST 133RD STREET,
LOS ANGELES, CALIFORNIA
(SITE CLEANUP NO. 0817, SITE ID NO. 2040358)

You are legally obligated to respond to this Order. Please read this carefully.

The Regional Board has been investigating soil and groundwater contamination at sites adjacent to and on a portion of the Business Industrial Group (BIG) property since approximately 1998. The BIG property is a rectangular lot approximately 3.7 acres, divided into three distinct parcels with addresses at 13255 South Broadway, 360-366 West 132nd Street and 363 West 133rd Street in Los Angeles. The 0.7-acre parcel at 363 West 133rd Street was leased by TADCO from BIG from approximately 1979 to 1996 for polyurethane resin manufacturing facility. The other two parcels were historically occupied by garment and display manufacturers.

Adjacent to the BIG property are Standard Metals site, located at 378 West 133rd Street, and General Welding site, located at 352 West 133rd Street, which are scarp metal recycling and acetylene gas manufacturing facilities, respectively.

Site investigations conducted at TADCO, Standard Metals and General Welding sites indicate that the soil and groundwater are contaminated with volatile organic compounds (VOCs) such as trichloroethene (TCE) and acetone, aromatic hydrocarbons such as benzene, ethylbenzene, toluene, and xylenes (BTEX), polychlorinated biphenyls (PCBs) and petroleum hydrocarbons. The site investigations also show that the soil and groundwater contamination encountered in the general vicinity might have been resulted from multiple sources. Groundwater monitoring results obtained from Standard Metals and General Welding sites indicate that the former TADCO facility and the BIG property are located upgradient relative to the locations of these adjacent sites.

In response to the Regional Board's section 13267 Order, dated March 19, 2009, TADCO submitted a technical report, dated June 8, 2009, compiling historical site assessment data collected from its former facility and adjacent sites and presenting its interpretation of the data.

The Regional Board also issued a section 13267 Order, dated November 19, 2009, to BIG, requiring submittal of any technical report they might have for their property. BIG submitted copies of some

[1] California Water Code section 13267 states, in part: (b)(1) In conducting an investigation. . ., the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

technical reports on the BIG property on February 16, 2010. However, some of the data contained in the reports appear to have been compiled in other technical reports submitted by adjacent property owners.

FINDINGS

Based on our review of the technical reports submitted by TADCO, Standard Metals and General Welding, we made the following findings:

1. a. TADCO, in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 1 to 3 (see attached), indicated that their former facility was excavated, re-graded and filled with an older, homogenized, contaminated fill material in 1973 and argued that this contaminated soil is the possible source of acetone and other contaminants detected in the soil and groundwater. However, based on our review of the site assessment data collected to date from the TADCO site and adjacent properties, we do not find technical information supporting your assertion.

   The fill thickness map included in TADCO's report shows that the entire TADCO site and a large portion of the adjacent BIG property were excavated up to approximately 20 feet below ground surface (bgs) and filled with fill material. Soil analytical data for many of the soil borings advanced on the TADCO site and adjacent BIG property do not indicate homogeneity in the distribution of acetone in the soil laterally and vertically. Rather, the data show the existence of hot spots close suspected sources such as the former underground storage tanks (USTs) and drum storage areas.

   Acetone was detected in the soil from near-surface to the maximum depth drilled in B14 which is close to the former UST and drum storage areas, indicating an onsite release(s) [see the attached site map]. The highest concentration of acetone in the soil was detected in B2 which is located close to B14. The extent of contamination map for acetone in the soil also shows that a hot spot for acetone is centered near B2 and B14, both of which are located close to suspected sources. As one goes away from this hot spot, the concentration of acetone in the soil decreases laterally and vertically. Soil borings B19, B20, B22, and B24 which are all located within the area excavated up to approximately 11 feet bgs and filled with the "homogenized and contaminated soil" did not detect acetone in the soil samples. Analytical data from other soil borings also did not show uniform vertical and lateral distribution of acetone in the soil that one expects in soil borings advanced into a "homogenized and contaminated fill".

   b. TADCO's statement in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 1 to 3 (see attached), that surface water runoff from the Standard Metals site brought acetone detected in the fill surrounding the USTs is not supported with data. Data collected from numerous soil borings advanced at Standard Metals site indicate that the site is not a significant source of acetone in the soil and groundwater and that some localized spills may have been responsible for acetone detected in some of the soil borings.

   The concentrations of acetone detected in the soil beneath the Standard Metals site are much lower than those reported for soil beneath the former TADCO facility. Moreover, the lateral and vertical distribution of acetone in the soil beneath the former TADCO facility is more extensive than the one observed beneath the Standard Metals site.

c. TADCO's hypothesis in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 1 to 3 (see attached) that the acetone release(s) on the General Welding property may have migrated to TADCO's property is not supported with data collected from both onsite and offsite. Many site assessments conducted on General Welding property showed that the extent of acetone contamination in the soil beneath the General Welding property is confined to the limits of the property. Moreover, the General Welding property is located downgradient of the TADCO site.

2. a. TADCO's statement in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 4 (see attached), that the former oil field pit and/or the adjacent Standard Metals site are the sources for BTEX in the soil is not supported by data. The former drum storage area is located outside the footprint of the former oil field pit.

It appears that the highest concentrations of aromatic hydrocarbons such as BTEX were detected in the soil at or adjacent to areas of concerns (AOCs) on the former TADCO facility such as the former drum storage area and the former office and shop building (see the attached site map). At these two AOCs, BTEX were detected up to 17,353 micrograms per kilogram (µg/Kg) and 178,290 µg/Kg in soil borings B28 and B23, respectively from near- surface to the water table.

No significant BTEX were detected in the soil beneath Standard Metals site. The reported BTEX in the soil beneath Standard Metals site was dominantly detected near or below the water table. Hence, Standard Metals could not be the source for BTEX in the soil.

b. TADCO's statement in their technical report, dated June 8, 2009, Appendix A, *Response to RWQCB*, page 4 (see attached), regarding BTEX also appears to be in conflict with their argument provided for acetone. If the source of contaminants was the "homogenized and contaminated fill" spread over the site, BTEX would be detected in the soil at other portions of the site, instead of just the two AOCs.

3. Although total petroleum hydrocarbons (TPH) has not yet been adequately assessed in the soil, limited data collected from some of the soil borings suggest that some AOCs on the former TADCO facility could be sources of the TPH detected in the soil and groundwater. TPH was detected in some of the soil borings such as B14 and B2 in the former UST area from near-surface to the water table. The former UST area is located outside the footprint of the former oil field pit (see the attached site map).

4. Data in our files suggest that the former briquetting press pit on Standard Metals site could be the source of TCE in the soil and groundwater beneath the site. However, the source of TCE on the former TADCO facility has not also been adequately assessed. The soil data collected from the borings at the TADCO site appears to indicate that the former septic tank area could be the source of TCE in the soil. Soil samples collected below the presumed depth of the bottom of the tank have the highest TCE concentrations as data from B28 shows while samples collected from shallow depths (or the presumed fill in the tank area) did not detect any TCE in the same boring.

In other areas of the site, TCE was mostly detected in soil samples collected near the water table where the fluctuating water table causes migration of contaminants from the groundwater to the soil.

If the source of contaminants was the "homogenized and contaminated fill" spread over the site, TCE would uniformly be detected in the soil at various depths at other portions of the site. Rather, TCE was detected in certain AOCs such as the former septic tank area where release(s) had occurred.

5. Vinyl chloride and cis-1,2 dichloroethene (cis-1,2-DCE) are the breakdown products of TCE. The soil data collected from the soil borings on the former TADCO facility show that the distribution of vinyl chloride in the soil appears, in most cases, to correlate with the distribution of TCE. Although limited data were collected on cis-1,2-DCE, it appears to have a similar distribution with that of TCE in the soil. The source of TCE is therefore responsible for the existence of these contaminants in the soil.

   Existing data suggest that the former septic tank area and the former drum storage area could be the sources for TCE in the soil beneath the former TADCO facility. However, additional assessment is needed to identify other possible source areas on the adjacent BIG property.

6. PCB was detected in soil samples collected from one of the soil borings (B14). However, the lateral extent of the PCB in the soil is not defined.

7. The eastern and northern extent of the acetone, BTEX, TCE, vinyl chloride, and cis-1,2-DCE contaminations in the soil have not yet been fully defined beneath adjacent parcels to the former TADCO facility on the BIG property.

REQUIREMENTS

Based on the findings enumerated above and pursuant to section 13267 of the California Water Code (CWC), both BIG, because of its ownership of the property including the parcel that had been occupied by the former TADCO facility, and TADCO, because of its past operation of a polyurethane manufacturing facility on a parcel of the BIG property, are hereby required to submit a work plan for further assessment of the soil and groundwater contamination identified beneath the parcel occupied by the former TADCO facility and adjacent parcels on the BIG property. The work plan shall address the following:

1. The eastern and northern extent of the acetone, BTEX, TCE, vinyl chloride, and cis-1,2-DCE contaminations in the soil identified beneath the former TADCO facility must be delineated.

2. The extent and distribution of TPH in the soil must be adequately defined in all directions.

3. Step-out borings shall be advanced in the area around B-14 to delineate the lateral and vertical extent of PCB in the soil in all directions.

4. The source of TCE on the former TADCO facility must be identified with further assessment. Additional soil borings shall be advanced in the former septic tank area and the former drum storage area.

5. Groundwater monitoring wells shall be installed at upgradient locations to the former TADCO facility to assess the existence of contributing offsite sources for the VOCs and other contaminants identified in the groundwater and to define the full extent of the VOC plume.

6. After the installation of the groundwater monitoring wells, a quarterly groundwater monitoring shall be initiated and groundwater monitoring reports shall be submitted according to the following schedule:

Monitoring Period	Report Due Date
April-June	July 15th
July-September	October 15th
October - December	January 15th
January -March	April 15th

6.1 A site-wide groundwater elevation contour map showing the groundwater flow direction and gradient must be included in the groundwater monitoring reports.

6.2 Groundwater samples shall be analyzed for VOCs, BTEX, TPH, and PCBs.

7. The work plan is due to the Regional Board by **August 24, 2010.**

As presented in State Water Resources Control Board Resolution 92-49, professionals should be qualified, licensed where applicable, and competent and proficient in the fields pertinent to the required activities. Moreover, the final report submitted to this Regional Board must be reviewed, signed and stamped by a California registered geologist, or a California registered civil engineer with at least five years hydrogeologic experience. Furthermore, the California Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. Therefore, all future work must be performed by or under the direction of a registered geologist or registered civil engineer. A statement is required in the final report that the registered professional in responsible charge actually supervised or personally conducted all the work associated with the work plan and final report.

Pursuant to section 13267(b) of the CWC, you are hereby directed to submit the required work plan to this Regional Board by **August 24, 2010**. Furthermore, pursuant to section 13268 (b)(1) of the CWC, failure to submit the work plan may result in the imposition of civil liability penalties by the Regional Board of up to $1,000 per day for each day the work plan is not received after **August 24, 2010**, due date and without further warning.

We believe that the burdens, including costs, of this report bear a reasonable relationship to the need for the report and the benefits to be obtained from the report. If you disagree and have information about the burden, including costs, of complying with these requirements, provide such information in writing to Mr. Bizuayehu Ayele within ten days of the date of this letter so that we may reconsider the requirements.

The above technical report is required to be submitted under the CWC section 13267 Order. Please note that effective immediately, the Regional Board requires you to include a perjury statement in all work plans and reports submitted under the 13267 Orders. The perjury statement shall be signed by a senior authorized representative at your company (and not by a consultant). The statement shall be in the following format:

> *"I [NAME], do hereby declare, under penalty of perjury under the laws of the State of California, that I am [JOB TITLE] for [NAME OF RESPONSIBLE PARTY\DISCHARGER], that I am authorized to attest to the veracity of the information contained in the report(s) described herein, and that the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE]."*

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

SO ORDERED.

June 24, 2010

Samuel Unger
Interim Executive Officer

Enclosures:
a) *Technical Report*, Appendix A, Response to RWQCB, Bowyer Environmental Consulting, June 8, 2009
b) Site Map

Appendix A

Response to RWQCB Order

March 19, 2009

Bowyer Environmental Consulting

BEC

May 30, 2009

VIA ELECTRONIC MAIL

Mr. Timothy Martin
JMBM | Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067

Subject: Response to RWQCB Section 13267 Order
Former TADCO Facility
363 West 133rd Street
Los Angeles, California

Dear Mr. Martin:

As per your request, Bowyer Environmental Consulting, Inc. (BEC) has prepared this preliminary response to the Section 13267 Order issued by the Los Angeles Region – Regional Water Quality Control Board (RWQCB) on March 19, 2009 (Order). The Order was issued to the T.A. Davies Company (TA Davies). The following comments are in response to the specific Findings and Recommendations presented in the Order. The responses have been organized based on the order of the Findings and Requirements presented in the March 19, 2009 RWQCB letter.

FINDINGS

1. **Acetone was detected in the soil from near-surface to the maximum depth drilled in B-14 advanced southwest of the UST area, indicating an onsite release(s). In addition, acetone was detected in samples collected from both shallow and deep sample intervals in other portions of the site. Samples collected from beneath the tanks after the UST removal had also elevated concentrations of acetone.**

   Comment: *As presented in the Technical Report (BEC, May 31, 2009), the property that TADCO operated on (363 W. 133rd Street) was part of a larger property that is, and has been owned by B.I.G. for some time. TADCO operated on this property between*

1981 and 1996. As specifically documented in the Technical Report, all of the B.I.G. properties were utilized extensively for industrial activities since before 1928 to the present data. These activities have included long-term (over 40 years) oil field operations, long-term pest control facilities (over approximately 30 years) and an electrical company (1964 at a minimum). During these operations, large pit structures were present on the B.I.G. properties, one on 363 W. 133rd Street, and another further to the east. As TADCO did not store or utilize acetone in their operations (only very small quantities were used in the laboratory), the most likely scenario to explain the acetone presence on this facility is that prior to the grading operation in 1973, spent and/or off-spec acetone was disposed of within the former oil field pit. Subsequently, the upper 5 to 10 feet of soil in this area were excavated during grading operations, homogenized and redistributed across a broader area of the overall B.I.G. properties. This scenario is consistent with the relatively widespread low level acetone concentrations observed across a large section of the properties at relatively shallow depths, and the much higher concentrations observed within the deeper soil (which was not graded). The presence of acetone in soil samples collected from 4 and 13 feet in soil beneath and near the former USTs is consistent with this scenario, as the highest concentration of acetone within the UST area at 4 feet area was 70 ug/kg, and the highest concentration at 13 feet was 14,000 ug/kg. Outside of the UST area (B-14), but still within the probable overall footprint of the former oilfield pit structure, the highest acetone concentrations in soil were 640 ug/kg at 5 feet, and 75,000 ug/kg at 15 feet. In addition, information pertaining the septic system which was formerly present at the former TADCO facility further supports the conclusion that acetone was not significantly utilized by TADCO. This system was permitted in 1982, apparently installed in 1983, and removed on September 27, 1996. Liquid/sludge samples collected from within the former septic system prior to removal did not contain detectable concentrations of acetone. Acetone was present at a relatively low concentration (61 ug/kg) in only one of the four soil samples collected from beneath the septic tank and leach line associated with the former septic systems. Again, the low observed concentration in soil is consistent with the concentrations observed over a relatively wide area of shallow soil on and off the former TADCO facility, and this information is consistent with what would be expected due to the homogenization and spreading of an older problems during grading activities in 1973. Two other potential explanations for the presence of acetone on the 363 W. 1333rd Street property are presented as follows:

- *Acetone and other chemicals ran off of the Standard Metals facility and entered the permeable fill surrounding the EDA and PO USTs. Runoff from Standard Metals to the former TADCO facility occurred on numerous occasions based on observations made by TADCO employees.*

- *An as yet unidentified preferential pathway may exist between the primary user of acetone in the area (General Welding) and the permeable fill surrounding the EDA and PO USTs, and /or historic oil-field pits.*

2. **Your position that the acetone release(s) on the General Welding property migrated to TADCO's is not supported with data collected from the Site and offsite. Acetone was not detected in any of the soil samples collected from borings B-21 and B-22, as well as MW-1, which were close to the General Welding property, indicating that the release(s) on General Welding property is confined to the limits of the property. MW-1 was installed by Frey as part of the groundwater investigation for Standard Metals.**

   Comment: *Noted. However, given the history of large scale acetone use by General Welding, and the lack of any significant use by TADCO, the potential that the General Welding facility served as the ultimate source for acetone in the area should be fully evaluated.*

3. **It is also unlikely that dissolved acetone migrated with groundwater from the General Welding property to the Site because the groundwater flow direction in the vicinity of the Site is towards the southwest, i.e. towards the General Welding property.**

   Comment: *We agree that based on the groundwater flow information presented by Frey Environmental and Rincon Consultants that groundwater appears to flow towards the southwest. However, as documented in the Technical Report, the General Welding property and the 363 W. 133rd Street property appear to be cross gradient from one another. The available data suggests that there are at least two separate sources of acetone to groundwater in the area. It should also be noted that large portions of the B.I.G., General Welding, and Standard Metals properties remain under investigated at this point. Additional sources of acetone to groundwater may be identified once these sites have been fully characterized.*

4. **You have not supported your position with evidence; showing the chemicals detected in the soil and groundwater were used during historical oil exploration and production at the Site. Moreover, the oil wells produce from much deeper depths than the depth intervals investigated at the Site. No evidence was presented that crude oil was detected in the soil, indicating contamination as result of historical oil operations. The hydrocarbons detected in the soil and groundwater were constituents of refined petroleum products like gasoline and diesel fuel.**

   Comment: *As presented in the Technical Report aerial photographs and*

historical property use records have been reviewed that document the long-term presence of oil field and other non-TADCO related operations on this B.I.G. owned property. The presence of aromatic compounds (including benzene, toluene, ethyl benzene and xylenes) within crude oil is well documented, and various sources for this information can be sited if necessary. As a matter of fact fractional distillation is a primary refining process, during which various hydrocarbon classes are separated. This and other refining processes are used to generate petroleum products like gasoline, which are relatively enriched in aromatics when compared to other petroleum classes. However, it should be noted that the aromatic sources for gasoline and other products is the crude oil itself, and they are not additives. As discussed in detail in the Technical Report, the presence of the large pit structure for an extended period of time (during which standard industrial practices typically involved some level of on-site disposal as the most economic means of dealing with off-spec and/or spent material) represent probable source areas for crude oil, refined products, and other chemicals from the various industrial operations conducted at this and surrounding sites between the 1920s and the 1970s. Starting in late 1970s and early 1980s waste management practices changed as a result of environmental regulations.

5. **Constituents found in refined petroleum products such as toluene, ethyl benzene, and xylenes were detected in the soil from near-surface to the maximum depth drilled in boring B-23 that was advanced in the drum storage area, indicating onsite release(s). BTEX was also detected in soil samples collected from both shallow and deep sampled intervals in this area. Toluene was also detected in all soil samples collected in boring B-29 in the septic tank area.**

Comment: *As presented in the technical report, it appears that a source of aromatic compounds (BTEX) is present on the 363 W. 133rd Street parcel. Similar to the distribution pattern for acetone, the areas of soil containing relatively high aromatic concentrations on the site are in the vicinity of the former oil-field sump structure. Historic disposal of aromatic compounds to the oil pit are the likely cause of the on-site aromatic impacts to soil. Other possible explanations include the noted runoff from the Standard Metals site which was observed by former TADCO employees. In any event, as documented in the Technical Report, aromatic compounds appear to be having very minor impacts to groundwater in the area. More significant issues associated with the observations of very high levels of chlorinated hydrocarbons, including trichloroethene (TCE), cis-1,2-dichloroethene (cis-1,2-DCE), and vinyl chloride) in groundwater need to be addressed as a priority within the general area of the 363 W. 133rd Street site*

6. **Diesel fuel range TPH was detected in the AST farm area with a maximum concentration of 2,000 mg/Kg. Diesel fuel was stored in one of the ASTs in this**

area.

Comment: *Based on all of the available data, diesel range TPH (TPH-d) impacts are extremely limited within the above ground tank farm (AST) area. As a reference, Table 4-1 of the RWQCB May 1996 Interim Site Assessment and Cleanup Guidebook provides soil cleanup screening criteria for TPH based on depth to water. Given that groundwater at this site is present at depths of approximately 40 feet, the TPH-d screening level form Table 4-1 is 1,000 mg/kg. Ten samples were initially collected from a depth of 1 foot in the AST area. Only one (HA-6) of these ten shallow soil samples contained concentrations in excess of the TPH-d screening criteria. Based on this result, an additional boring (B-27) was installed in close proximity to HA-6, and samples were collected at 5, 10, 20, 25 and 30 feet. All of the TPH-d results from B-27 were nondetect. Based on these results, additional investigation in association with the release of TPH-d in the AST area appears to be unwarranted.*

7. **Although use and storage of acetone at the facility was not reported, this chemical is known to be used in the Polyurethane industry as an auxiliary blowing agent to supplement water for modifying the physical properties of the polyurethane resin. In addition, it was indicated by one of TADCO's managers that TADCO traded chemicals with one of its neighbors. Acetone and TCE are also known to be used for cleaning chemical mixing equipment and containers at such facilities.**

Comment: *Noted. T. A. Davies did not utilize acetone or TCE within their primary process as a blowing agent or any other purpose. Small quantities of acetone were used in the laboratory on site. A probable scenario to explain the relatively wide spread presence and elevated concentrations of acetone and TCE observed on the site has been presented in the Technical Report and summarized in the comment to No. 1.*

8. **Copies of Material Safety Data Sheets (MSDS) for chemicals used at your former facility indicate that some of the contaminants found in the soil and groundwater beneath the Site are actually ingredients of the chemicals used onsite. These chemicals include; xylenes, trimethylbenzene, naphthalene, toluene, ethylbenzene and others.**

Comment: *Noted. However, other probable explanations as to the source of these compounds in the subsurface at the site have been presented. In addition, based on the available data, these compounds are not the most significant or widespread compounds that have been detected within the area. In addition, there is no information of any release of these compounds by TADCO at the site.*

9. **The Regional Board directed you in a letter dated August 31, 2001 to initiate a**

quarterly groundwater monitoring program. However, you have never implemented this requirement. Moreover, the background concentration VOCs in the groundwater are not known upgradient of the Site. Two active drinking water production wells are also located at an approximate maximum distance of 0.85 miles downgradient of your Site.

Comment: *TA Davis issued a response to the August 31, 2001 Order on September 24, 2001. TA Davies has been under the reasonable impression that the RWQCB was satisfied with TADCOs response and was seeking action from other parties responsible for the significant releases at and near the site. As described in the Technical Report a significant source of chlorinated hydrocarbons appears to be present up gradient in the B.I.G. owned property east of the former TADCO facility. Other parties should conduct investigations on these properties to evaluate the nature and extent of this source. These investigations should include the installation of groundwater wells, which would fulfill the RWQCB requirement for up gradient wells.*

REQIREMENTS

1. **Delineate the lateral extent of VOC and TPH contamination in the soil. Stepout soil borings shall be advanced to delineate the VOC and TPH contamination to their full extent.**

   Response: *The Technical Report provides a series of iso-concentration maps which summarize available data. As shown on these maps, the definition of the extent of VOC and TPH impacts on the 363 W. 133rd Street is complete. However, as shown in the Technical Report, additional investigations need to be performed at the Standard Metals, General Welding and B.I.G. owned property east of the former TADCO facility.*

2. **Delineate the vertical extent of the VOC and TPH contamination in the soil. Deeper borings shall be advanced in those areas where VOC and TPH contamination was encountered at shallow depths.**

   Response: *See Technical Report and response to No. 1.*

3. **Additional assessment needs to be conducted to investigate the source of PCBs detected in soil samples from boring B-14. Stepout borings shall be advanced in the area around B-14 to delineate the lateral and vertical extent of the PCB soil contamination.**

   Response: *The five foot sample collected from B-14 contained 3,050 ug/kg of*

aroclor 1242 and 108 ug/kg of aroclor 1260. The 35 foot sample collected from B-14 did not contain a detectable concentration of PCBs. As the California Human Health Screening Level (CHHSL) for commercial/industrial sites is 300 ug/kg, additional stepout testing should be performed in this area to define the nature and extent of this issue. TADCO did not utilize or deposit PCBs on this site between 1981 and 1996. Former industrial uses of the facility included an electrical company in 1964 (Starlight Electrical). As the source for PCBs at the site is other than TA Davies, the property owner (B.I.G.) should be responsible for conducting this additional work.

4. **Contaminant specific iso-concentration maps showing the lateral extent of major contaminants in the soil shall be prepared and submitted.**

   Response: *This task has been completed and these maps have been provided as part of the Technical Report.*

5. **Contaminant-specific cross-sections with color gradational iso-concentration contours maps showing the vertical extent of major contaminants in the soil shall be prepared and submitted.**

   Response: *The Technical Report provides a series of color gradational maps showing the vertical extent of major contaminants in lieu of cross sections.*

6. **Soil Screening Levels (SSLs) that are protective of human health and groundwater quality shall be developed for the Site in accordance with Interim Site Assessment and Cleanup Guidebook published by the Regional Board in May 1996. The guidebook is available online on the Regional Board's website. Alternatively, you may propose site-specific SSLs using various models available, based on data collected from the Site. A summary of historical and current soil analytical results shall be summarized in tables to compare site-specific values against the SSLs and show exceedences.**

   Response: *As presented in the Technical Report, historical industrial operations other than TADCO's former operations and off-site impacts appear to have resulted in the observed chemical presence at the 363 W. 133rd Street facility. As a result, it would appear that B.I.G. and/or other responsible parties should proceed with further evaluations regarding the need and extent of necessary clean-up actions.*

7. **The United States Environmental Protection Agency's (USEPA's) or California Department of Public Health's Maximum Contaminant Levels**

(MCLs) for drinking water, whichever is more stringent, shall be used to screen groundwater analytical results. Contaminant levels above the MCLs shall be shown in tables in bold face.

Response: *As presented in the Technical Report, there are significant groundwater impacts in the vicinity of the former TADCO facility. However, based on the available data, these impacts appear to be associated with historical industrial operations at the site other than TADCO's, and/or offsite sources that should be investigated by others. As a result, it would appear that B.I.G. and/or other responsible parties should proceed with further evaluations regarding the need and extent of necessary clean-up actions.*

8. Soil borings shall be advanced in the approximate location of former pond where drilling mud and other wastes were reportedly dumped during historical oil production operations. Soil samples shall be submitted to a certified laboratory for fingerprinting analyses to identify the occurrence and source of crude oil.

Response: As documented in the Technical Report, the former oil-field pit was present long before TADCO operated on the site. TADCO has never owned this site. As such, it would appear appropriate that B.I.G. (which owns the site now and has owned the site since prior to TADCO use of the facility) should be responsible for implementing any work associated with the former oil-field pit.

9. At least one groundwater monitoring well upgradient of MW4 near the northern property boundary and two cross gradient monitoring wells on the eastern and western property boundaries shall be installed to determine the groundwater flow direction beneath the Site. You shall use data from these wells to develop a conceptual site model (CSM) and to assess the background concentrations of the groundwater entering the Site and the aerial extent of the VOC plume.

Response: *A CSM was presented within the Technical Report. This CSM consists of the documented historic long-term industrial use of this and surrounding properties (in particular the long-term oil pits located on this and the up gradient property to the east), the grading and redistribution of impacts within the upper 5 to 20 feet on the property in 1973, and migration pattern of elevated compounds from up-gradient sources. As such, it would appear appropriate the B.I.G. to be responsible for the installation of these groundwater wells. Following the implementation of this and investigations at Standard Metals and General Welding, B.I.G. and/or other responsible parties should re-evaluate and update the CSM, as*

necessary.

10. In order to address Item Numbers 1 through 9, you shall prepare and submit a work plan to the Regional Board by April 27, 2009. The work plan shall be prepared in accordance with the Regional Board's General Requirements for Subsurface Soil Investigations and General Requirements for Groundwater Investigations (see attached).

    Response: *In lieu of a workplan, a Technical Report has been prepared and submitted (BEC, May 31, 2009).*

11. **After the installation of the groundwater monitoring wells a quarterly groundwater monitoring shall be initiated and groundwater monitoring reports shall be submitted according to the following schedule:**

Monitoring Period	Report Due Date
April-June	July 15th
July-September	October 15th
October-December	January 15th
January-March	April 15th

    Response: *See response to No. 9. This work should be conducted by the property owner (B.I.G.) and/or other responsible parties.*

12. A site-wide groundwater elevation contour map showing the groundwater flow direction and gradient must be included in the groundwater monitoring reports. Groundwater samples shall be analyzed for VOCs, BTEX, TPH, PCBs and dissolved heavy metals.

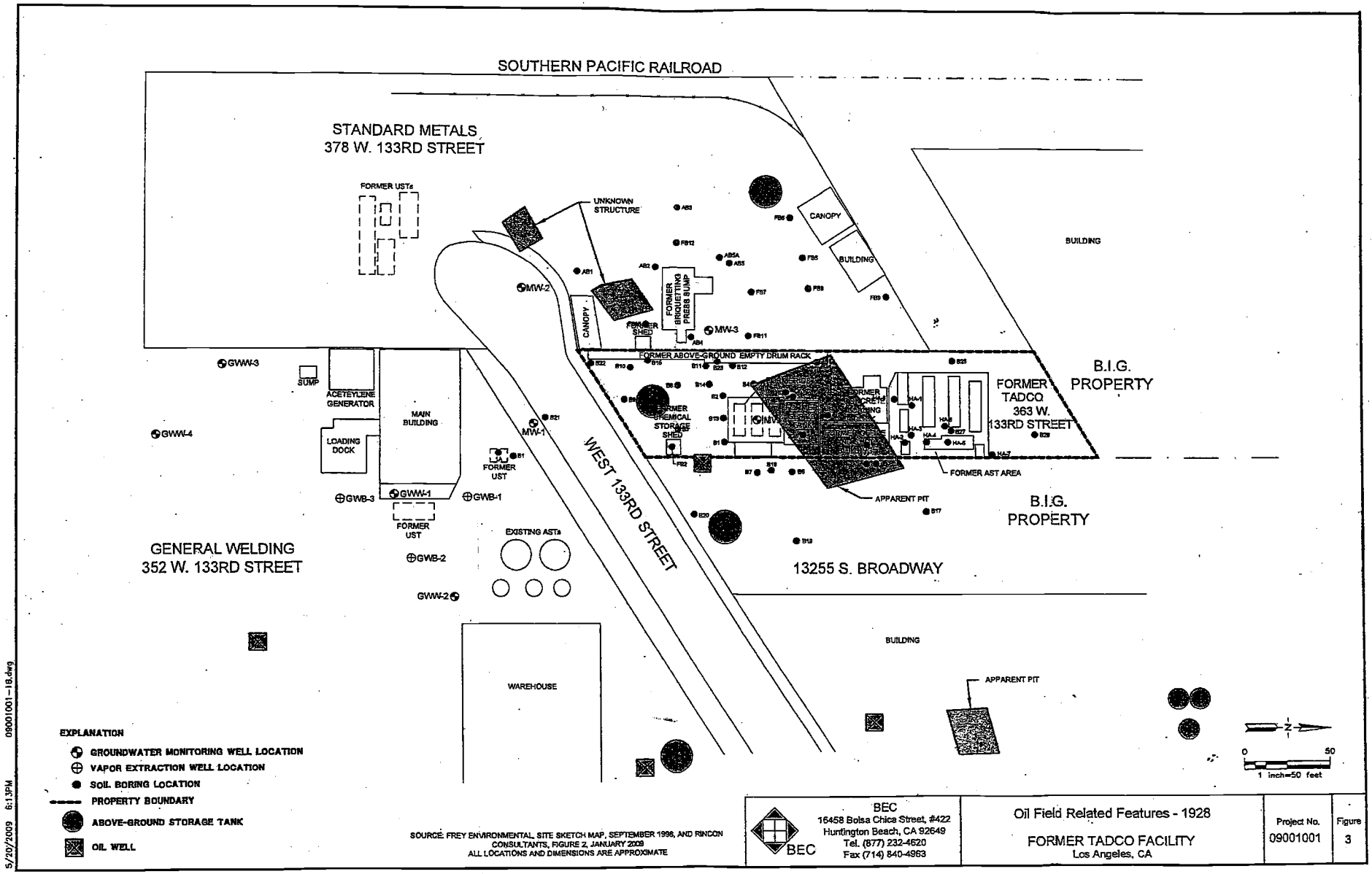
    Response: *See response to No. 11. This work should also be conducted by the property owner (B.I.G.) and/or other responsible parties.*

CLOSING

BEC has prepared this document at the request of Jeffer, Mangels, Butler & Marmaro LLP and their client TA Davies. If you have any questions regarding this document, please do not hesitate to call.

Sincerely,

Brett H. Bowyer, P.G.
Principal
Bowyer Environmental Consulting, Inc.



SOURCE: FREY ENVIRONMENTAL, SITE SKETCH MAP, SEPTEMBER 1998, AND RINCON CONSULTANTS, FIGURE 2, JANUARY 2009
ALL LOCATIONS AND DIMENSIONS ARE APPROXIMATE

BEC
16458 Bolsa Chica Street, #422
Huntington Beach, CA 92649
Tel. (877) 232-4620
Fax (714) 840-4963

Oil Field Related Features - 1928

FORMER TADCO FACILITY
Los Angeles, CA

Project No. 09001001

Figure 3

5/20/2009 6:13PM 09001001-18.dwg

EXHIBIT B

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

July 1, 2010

Mr. Greg Levin
c/o Mr. Michael Baum
Resch Polster & Berger LLP
9200 Sunset Boulevard, Ninth Floor
Los Angeles, CA 90069

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 9176

REQUIREMENT FOR A TECHNICAL REPORT PURSUANT TO CALIFORNIA WATER CODE (CWC) SECTION 13267 ORDER - STANDARD METALS, 378 WEST 133RD STREET, LOS ANGELES, CA (SITE CLEANUP NO. 0818A AND SITE ID NO. 2044D00)

Dear Mr. Levin:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles County and Ventura County, including the above-referenced site.

In response to our previous Order, dated March 19, 2009, you conducted additional site assessment and submitted a site assessment report, dated January 19, 2010. Based on our review of this site assessment report and other historical site assessment reports for the adjacent sites, we outlined our findings and requirements in the enclosed Order. You are required to comply with this new Order to ensure that progress is made in our continued investigation at the site and in the general vicinity.

The State Water Resources Control Board (State Water Board) adopted regulations requiring the electronic submittals of information over the Internet using the State Water Board GeoTracker database. You are required not only to submit hard copy reports required in this Order but also to comply by uploading all reports and correspondence prepared to date and additional required data formats to the GeoTracker system. Information about GeoTracker submittals, including links to text of the governing regulations, can be found on the Internet at the following link:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

If you have any questions regarding this letter, please contact Mr. Bizuayehu Ayele at (213) 576-6747 or by email at bayele@waterboards.ca.gov.

Sincerely,

Jeffrey Hu, Unit Chief
Site Cleanup Program, Unit II

Enclosure: *Requirement to Provide a Technical Report*

cc: Mr. Michael Baum, Resch Polster & Berger LLP
Mr. John Payne, Frey Environmental, Inc.
Mr. James Herbst, Business Industrial Group (BIG)
Mr. Patrick Rendon, Lamb & Kawakami LLP
Mr. Larry Berna, TADCO
Mr. Brett Bowyer, Bowyer Environmental Consulting, Inc.
Mr. Kenneth Ehrlich, Jeffer, Mangels, Butler & Marmaro LLP
Mrs. Barbara Vidmar, General Welding
Ms. Julie Marshall, Rincon Consultants, Inc.
Mr. Walt Hamann, Rincon Consultants, Inc.
Ms. Emily Yukich, Folger Levin & Kahn LLP

California Regional Water Quality Control Board
Los Angeles Region

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: http://www.waterboards.ca.gov/losangeles

Linda S. Adams
Cal/EPA Secretary

Arnold Schwarzenegger
Governor

REQUIREMENT TO PROVIDE A TECHNICAL REPORT
(CALIFORNIA WATER CODE SECTION 13267[1] ORDER)

DIRECTED TO STANDARD METALS

STANDARD METALS
378 WEST 133RD STREET, LOS ANGELES, CALIFORNIA
(SITE CLEANUP NO. 0818A, SITE ID NO. 2044D00)

You are legally obligated to respond to this Order. Please read this carefully.

You are the responsible party identified for soil, soil vapor and groundwater investigation at the property at 378 West 133rd Street in Los Angeles, California. The Regional Board has been investigating soil and groundwater contamination at Standard Metals site and at adjacent sites since approximately 1998. These sites are the T.A Davis Company (TADCO) site, located at 363 West 133rd Street and General Welding site, located at 352 West 133rd Street. The TADCO site is located on the Business Industrial Group (BIG) property with a site address 363 West 133rd Street. Various industrial operations were or are still being conducted at these sites.

Site investigations conducted at these sites indicate that the soil and groundwater are contaminated with volatile organic compounds (VOCs) such as trichloroethene (TCE) and acetone, aromatic hydrocarbons such as benzene, ethylbenzene, toluene, and xylenes (BTEX), polychlorinated biphenyls (PCBs) and petroleum hydrocarbons. The site investigations also show that the soil and groundwater contamination encountered in the general vicinity might have been resulted from multiple sources.

The most recent site assessment at the Standard Metals site was conducted in November 2009, in response to a Regional Board Order, dated March 19, 2009. Regional Board staff reviewed a site assessment report, titled *Additional Site Assessment* and dated January 19, 2010. The report, submitted by Frey Environmental, Inc., documents the site assessment activities, results, and conclusions and recommendations.

In a letter, dated March 4, 2010, Standard Metals also requested the Regional Board to reduce the groundwater monitoring frequency from quarterly to semi-annually, citing absence of groundwater monitoring data from adjacent TADCO site, which can provide important information on contaminant plumes in the groundwater beneath the site vicinity.

---

[1] California Water Code section 13267 states, in part: (b)(1) In conducting an investigation. . ., the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

FINDINGS AND COMMENTS

Based on our review of your *Additional Site Assessment* report and other historical site assessment reports submitted by you and by the adjacent property owners, we have summarized the following findings and comments:

1. The Regional Board required you, in its previous Order, dated March 19, 2009, to provide detailed information on the source of scrap metal, the type of solid waste being recycled, suppliers of the scrap metal and the entire metal recycling process at your facility. In your July 23, 2009 work plan submitted for the additional site assessment, you provided only limited information which was not supported with documented evidence.

   The site data suggest that the former baler pit, where the hydraulic baling press was installed, is the source of TCE in the soil and groundwater beneath the site. Even though there might be contributing offsite sources, such as the TADCO site, the site assessment data collected to date indicate that the bulk of the TCE was sourced in this area that caused soil and groundwater contamination beneath the site.

2. The soil data collected from the soil borings at the site show that the distribution of vinyl chloride and cis-1,2 dichloroethene (cis-1,2-DCE) in the soil appears, in most cases, to correlate with the distribution of TCE. Vinyl chloride and cis-1,2-DCE are the breakdown products of TCE. Therefore, the TCE release at the former baler pit is responsible for existence of these breakdown products in the soil and groundwater beneath the site.

3. In the Regional Board's previous Order, dated March 19, 2009, you were directed to install an additional groundwater monitoring well downgradient of the existing groundwater monitoring wells to assess the current extent of the VOCs plume and to periodically monitor for the detected contaminants in the groundwater. You proposed in your July 23, 2009 work plan to postpone the installation of the required groundwater monitoring well until two additional quarters of groundwater monitoring are completed to establish a current general groundwater flow direction beneath the site.

   You have conducted two additional quarters of groundwater monitoring since the request was made. Besides, many years of groundwater monitoring data from the adjacent General Welding site as well as data from the groundwater monitoring activities conducted from 1997 to 1999 and in 2009 at Standard Metals site show that the groundwater flow direction beneath the site and adjacent sites is dominantly to the south and southwest. The groundwater flow direction occasionally swings to the southeast.

   The full extent of the VOCs and TPH plumes is not yet fully defined downgradient of the existing groundwater monitoring wells. In the most recent groundwater monitoring event conducted in November 2009, the offsite downgradient groundwater monitoring well, MW-2, detected TPH as gasoline, cis-1,2-DCE, TCE and vinyl chloride at concentrations of 1,400 micrograms per litre (µg/L), 180 µg/L, 510 µg/L and 430 µg/L, respectively.

The western edge of the VOC and TPH plumes is also not defined. Grab groundwater sample collected with a Hydropunch® at FB13A during the additional site assessment contained cis-1,2-DCE at a concentration of 19 µg/L. No additional VOCs were detected in the sample.

Installation of additional groundwater monitoring wells is necessary at the southern and western portions of the site to monitor the expansion of the VOCs and TPH plumes southward and westward beneath the site.

4. In a letter, dated March 4, 2010, Standard Metals also requested the Regional Board to reduce the groundwater monitoring frequency from quarterly to semi-annually, citing absence of groundwater monitoring data from adjacent TADCO site, which can provide important information on contaminant plumes in the groundwater beneath the site vicinity.

   The Regional Board has directed the adjacent TADCO and BIG property owners to conduct additional site assessments and install additional groundwater monitoring wells. The Regional Board expects full compliance with its Orders from these site owners and additional site assessment data and groundwater monitoring data will be forthcoming.

REQUIREMENTS

Based on our review of the submitted information and pursuant to section 13267 of the California Water Code (CWC), you are hereby directed to implement the following:

1. You shall submit a work plan for Regional Board's review and approval to conduct further groundwater assessment at the Standard Metals site. At least two additional groundwater monitoring wells shall be installed downgradient of the existing groundwater monitoring wells in the southern portion of the site and in the western part of the site to define the southern and western edges of the VOCs and TPH plumes in the groundwater.

   In the southern portion of the site, attempts to collect grab groundwater samples with a Hydropunch® at two locations (FB16 and FB17) failed in the most recent site assessment due to encountered refusal. Alternate locations shall be selected for the installation of one groundwater monitoring well in that part of the site.

   The work plan is due to the Regional Board by **August 30, 2010**.

2. You shall continue quarterly groundwater monitoring for the following reasons:

   a. The Regional Board is making efforts to bring the property owners for TADCO and BIG sites into compliance and additional site assessment data are expected from these sites.

   b. Groundwater monitoring data collected at the Standard Metals site is important to make regulatory decisions about the site and adjacent sites and to monitor the VOCs and TPH plumes in the groundwater. Two active production wells are located at an approximate maximum distance of 0.85 miles downgradient of the site.

c. The adjacent General Welding site has been conducting quarterly groundwater monitoring since approximately 2003. Groundwater monitoring data from all three sites (Standard Metals, General Welding and TADCO/BIG sites) are important for future regulatory decisions and to monitor the VOCs and TPH plumes.

You shall submit the quarterly groundwater monitoring reports in accordance with the schedule provided in our previous Order, dated March 19, 2009.

3. The site data suggest that the Standard Metals site is the main source of TCE and its breakdown products such as cis-1,2-DCE and vinyl chloride despite the fact that there might be offsite contributing sources. The Regional Board will require you in the future to submit a Remedial Action Plan (RAP) to clean up the contaminated soil and groundwater either jointly with the adjacent property owners or alone once site assessment is completed in the general vicinity and depending on the results of further site assessments at the site and adjacent sites. The due date for submission of the RAP will be determined by the Regional Board at a future date.

Pursuant to section 13267(b) of the CWC, you are hereby directed to submit the required work plan to this Regional Board by **August 30, 2010**. Furthermore, pursuant to section 13268 (b)(1) of the CWC, failure to submit the work plan may result in the imposition of civil liability penalties by the Regional Board of up to $1,000 per day for each day the work plan is not received after **August 30, 2010**, due date and without further warning.

We believe that the burdens, including costs, of this report bear a reasonable relationship to the need for the report and the benefits to be obtained from the report. If you disagree and have information about the burden, including costs, of complying with these requirements, provide such information in writing to Mr. Bizuayehu Ayele within ten days of the date of this letter so that we may reconsider the requirements.

The above technical report is required to be submitted under the CWC section 13267 Order. Please note that effective immediately, the Regional Board requires you to include a perjury statement in all work plans and reports submitted under the 13267 Orders. The perjury statement shall be signed by a senior authorized representative at your company (and not by a consultant). The statement shall be in the following format:

> *"I [NAME], do hereby declare, under penalty of perjury under the laws of the State of California, that I am [JOB TITLE] for . [NAME OF RESPONSIBLE PARTY\DISCHARGER], that I am authorized to attest to the veracity of the information contained in the report(s) described herein, and that the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE]."*

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m.

on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

SO ORDERED.

July 1, 2010

Samuel Unger
Interim Executive Officer

PROOF OF SERVICE
In the Matter of the Petition of BUSINESS INDUSTRIAL GROUP

I am employed in the County of Los Angeles, State of California, I am over the age of 18 and not a party to the within action; my business address is 333 South Grand Avenue, Suite 4200, Los Angeles, California 90071.

On July 26, 2010, I served the foregoing document(s) described as: PETITION FOR REVIEW OF THE JUNE 24, 2010 ORDER OF THE CALIFORNIA REGIONAL WAQTER QUALITY CONTROL BOARD, LOS ANGELES REGION on the interested parties in this action, at the addresses listed below, as follows:

Jeannette L. Bashaw, Legal Analyst
Office of Chief Counsel
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95712-0100
Fax: (916) 341-5199
Email: jbashaw@waterboards.ca.gov

Bizuayehu Ayele
Cal/EPA
Los Angeles Regional Water Quality Control Board
Site Cleanup Unit II
320 W. 4th Street, Ste. 200
Los Angeles, CA 90013
Tel: (213) 576-6747
Fax: (213) 576-6717
Email: bayele@waterboards.ca.gov

(X) For Collection. By placing a true copy (copies) thereof enclosed in a sealed envelope(s), addressed as above, and by placing said sealed envelope(s) for collection and mailing on that date following ordinary business practices. I am "readily familiar" with the business' practice for collection and processing of correspondence for mailing the U.S. Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business.

( ) Overnight Delivery. By placing a true copy(ies) thereof enclosed in a sealed envelope(s) or package(s) as designated by Federal Express, addressed as above, and depositing said envelope(s) or package(s), with delivery fees provided for, in a box regularly maintained by Federal Express at 330 South Hope Street, Wells Fargo Center, Los Angeles, California 90071.

(X) Via Facsimile. By transmitting a true copy(ies) thereof to each of the designated counsel on the service list to their facsimile numbers as listed below.

(X) Via E-mail. I caused to be served by e-mail the foregoing documents to the above persons at the e-mail addresses listed above.

( ) Personal Delivery. I caused to be served by messenger for personal delivery that same day the foregoing documents in a sealed envelope to the above persons at the address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 26, 2010, at Los Angeles, California.

Tina Schubert

PROOF OF SERVICE
In the Matter of the Petition of BUSINESS INDUSTRIAL GROUP

I am employed in the County of Los Angeles, State of California, I am over the age of 18 and not a party to the within action; my business address is 333 South Grand Avenue, Suite 4200, Los Angeles, California 90071.

On July 26, 2010, I served the foregoing document(s) described as: PETITION FOR REVIEW OF THE JUNE 24, 2010 ORDER OF THE CALIFORNIA REGIONAL WAQTER QUALITY CONTROL BOARD, LOS ANGELES REGION on the interested parties in this action, at the addresses listed below, as follows:

Michael C. Baum
Resch Polster, et al.
9200 W. Sunset Blvd., 9th Floor
Los Angeles, CA 90069
Tel: (310) 788-7520
Fax: (310) 552-3209
E-mail: mbaum@rpblaw.com

Kenneth A. Ehrlich
Jeffer Mangels et al. LLP
1900 Ave. of the Stars, 7th Floor
Los Angeles, CA 90067
Tel: (310) 203-8080
Fax: (310) 203-0567
Email: KAE@jmbm.com

Emily J. Yukich
Holme Roberts & Owen LLP
800 W. Olympic Blvd., 4th Fl.
Los Angel3es, CA 90015
Tel: (213) 572-4300
Fax: (213) 572-4400
E-mail: Emily.yukich@hor.com

(X) For Collection. By placing a true copy (copies) thereof enclosed in a sealed envelope(s), addressed as above, and by placing said sealed envelope(s) for collection and mailing on that date following ordinary business practices. I am "readily familiar" with the business' practice for collection and processing of correspondence for mailing the U.S. Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business.

( ) Overnight Delivery. By placing a true copy(ies) thereof enclosed in a sealed envelope(s) or package(s) as designated by Federal Express, addressed as above, and depositing said envelope(s) or package(s), with delivery fees provided for, in a box regularly maintained by Federal Express at 330 South Hope Street, Wells Fargo Center, Los Angeles, California 90071.

( ) Via Facsimile. By transmitting a true copy(ies) thereof to each of the designated counsel on the service list to their facsimile numbers as listed below.

(X) Via E-mail. I caused to be served by e-mail the foregoing documents to the above persons at the e-mail addresses listed above.

( ) Personal Delivery. I caused to be served by messenger for personal delivery that same day the foregoing documents in a sealed envelope to the above persons at the address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 26, 2010, at Los Angeles, California.

Tina Schubert