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13 STATE WATER RESOURCES CONTROL BOARD
14 STATE OF CALIFORNIA

15 In the Matter of
16
17 CHEVRON ENVIRONMENTAL
18 MANAGEMENT COMPANY as Attorney-
19 in-Fact for Union Oil Company of
20 California,
21
22 Petitioner

Case No.

**CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY'S
PETITION FOR REVIEW AND
REQUEST FOR A HEARING;
REQUEST FOR STAY**

For Review of San Francisco Bay Regional
Water Quality Control Board's Requirement
for a Data Gap Investigation Workplan and
Completion Report Pursuant to Water Code
Section 13267, dated June 6, 2025 – Former
Unocal Chemical Facility No. 0905 and
Former Foster Chemical Building, 401
and 411 High Street, Oakland, Alameda
County, California

23 **I. PETITION FOR REVIEW**

24 Petitioner Chevron Environmental Management Company, a California
25 corporation, acting as Attorney-in-Fact for Union Oil Company of California, a California
26 corporation ("EMC" or "Petitioner"), hereby petitions the State Water Resources Control
27 Board ("State Board") for review of the San Francisco Bay Regional Water Quality Control
28 Board's ("Regional Board") *Requirement for a Data Gap Investigation Workplan and*

1 *Completion Report Pursuant to Water Code Section 13267*, dated June 6, 2025 (the
2 “Directive”), concerning the former Unocal Chemical Facility No. 0905 and the former
3 Foster Chemical Building, located at 401 and 411 High Street, Oakland, Alameda County,
4 California (the “Site” or “Property”).

5 This Petition is submitted pursuant to California Water Code section 13320;
6 California Health and Safety Code sections 25296.10 and 25296.40; and Title 23 of the
7 California Code of Regulations, section 2050 et seq.

8 The Directive requires EMC, on behalf of Union Oil, to submit a workplan and
9 a completion report to address several supposed “data gaps” at the Site. It also requires PFAS
10 (perfluoroalkyl and polyfluoroalkyl substances) sampling at the Site, pursuant to Water Code
11 section 13267. According to the Regional Board, the information obtained “will assist
12 Regional Water Board staff in identifying the presence of soil and groundwater contamination
13 in the vicinity of the Site, and whether additional remedial measures are warranted by
14 Unocal.” The Directive mandates that EMC submit a data gap investigation workplan by July
15 8, 2025, and a completion report summarizing the findings no later than November 6, 2025.
16 As part of the Directive, the Regional Board is requiring EMC to perform investigations
17 related to the following:

- 18 • Address alleged soil data gaps at the “Foster Chemical and Railroad Spur
19 Area” – Obtaining semi-volatile organic compound (“SVOC”) data in soil
20 deeper than 5 feet below ground surface (“bgs”) and soil sampling to
21 confirm associated screened impacts.
- 22 • Investigate “potential abandoned pipelines” at the Foster Chemical parcel.
- 23 • Sample PFAS in groundwater “from historical site activities.”

24 As discussed below, the Regional Board’s Directive is invalid under Water
25 Code section 13267 because it fails to provide EMC with an adequate written explanation
26 “with regard to the need for the reports” and does not identify evidence “that supports
27 requiring [EMC] to provide the reports.” The Directive is based on unfounded assumptions,
28 disregards extensive historical data, and imposes burdensome obligations without

1 demonstrating a reasonable relationship to environmental protection or public health benefits.
2 Moreover, no new information has been presented that would reasonably justify reopening
3 site characterization or expanding the remedial investigation, which the Directive effectively
4 seeks to do.

5 Additionally, the Directive is contrary to law because it fails to account for
6 current environmental conditions at the Property and ignores the decades of investigation,
7 remediation, and monitoring already conducted by EMC and other parties to address
8 hydrocarbon and chlorinated volatile organic compound (“CVOC”) impacts at the Site. The
9 Directive’s requirements – and the conclusions upon which they are based – are unsupported
10 by the record, arbitrary and capricious, and in violation of applicable law and policy.

11 EMC respectfully requests a hearing on this matter and asks that the State
12 Board issue a stay of the Directive’s requirements while this Petition is pending.

13 **II. THE NAME AND ADDRESS OF PETITIONER**

14 The name and address of Petitioner is:

15 Chevron Environmental Management Company
16 5001 Executive Parkway, Suite 200
17 San Ramon, CA 94583

18 Petitioner should be contacted through its legal counsel:

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28 **III. THE REGULATORY BOARD ACTION TO BE REVIEWED**

29 EMC petitions the State Board to review the Regional Board’s Directive dated
30 June 6, 2025. The Directive is for the Former Unocal Chemical Facility No. 0905 and Former
31 Foster Chemical Area, 401 and 411 High Street, Oakland, California. The Directive requires
32 EMC to submit to the Regional Board a data gap investigation workplan by July 8, 2025, and

1 a completion report summarizing the findings of the data gap investigation no later than
2 November 6, 2025. The Regional Board's Directive dated June 6, 2025, is attached as
3 **Exhibit A.**

4 Decisions and orders of the Regional Board are reviewable by administrative
5 appeal to the State Bard and then by petition for administrative mandamus in the superior
6 court. *Water Code* § 13320; *Monterey Coastkeeper v. Monterey County Water Resources*
7 *Agency* (App. 6 Dist. 2017) 226 Cal.Rptr.3d 592, review denied, on subsequent appeal 2018
8 WL 3435010, unpublished, rehearing denied.

9 **IV. DATE OF THE REGULATORY ACTION**

10 On June 6, 2025, the Regional Board issued the Directive demanding that EMC
11 submit a data gap investigation workplan by July 8, 2025, and a completion report
12 summarizing the findings of the data gap investigation no later than November 6, 2025.

13 **V. STATEMENTS OF REASONS WHY THE REGIONAL BOARD'S ACTION** 14 **WAS INAPPROPRIATE AND IMPROPER**

15 As set forth more fully below, the Regional Board's Directive violates Water
16 Code section 13267, is not supported by the record, is arbitrary, capricious, and in violation
17 of law and policy.

18 **A. Background**

19 The Site consists of two adjacent parcels: the former Union Oil chemical
20 facility located at 401 High Street, Oakland, California, and the former Foster Chemical
21 building located on a portion of the parcel at 411 High Street, Oakland, California. The 401
22 High Street property is currently owned and operated by Las Vegas Storage II as an A-1 Self
23 Storage facility and is situated along the northwestern side of High Street. This property is
24 bounded to the northwest by 3765 Alameda Avenue, currently used as a Brinks Armored Car
25 facility, and to the northeast by 411 High Street, currently occupied by First Transit. The
26 Oakland Estuary is southwest of the Site.

27 Since 1983, more than 25 remedial investigations, risk assessments, and
28 remedial actions have been conducted at the Site. These efforts have included evaluations of

1 site geology and hydrology; assessments of the extent and nature of environmental impacts to
2 soil, soil gas, and groundwater; development of conceptual site models (“CSMs”);
3 evaluations of potential risks to human health and the environment; and the proposal and
4 implementation of remedial actions.¹

5 On October 10, 2024, Regional Board staff met with EMC and its consultant
6 (AECOM), and the owner of the 411 High Street parcel and its consultant (Rosso
7 Environmental, Inc. (“Rosso”). The purpose of the meeting was to discuss a Rosso’s claim
8 that there were “data gaps” at the portion of the site that had been occupied by Foster
9 Chemical. During the meeting, Rosso delivered a presentation to Regional Board staff
10 advocating for further investigation of the alleged data gaps – particularly those concerning
11 impact characterization at the 411 High Street parcel – and asserted that the CSM is
12 incomplete.

13 On October 22, 2024, EMC and its consultant, AECOM, met with Regional
14 Board staff and requested the opportunity to respond in writing to the concerns raised by
15 Rosso during the October 10 meeting.² On October 29, 2024, Regional Board staff requested
16 that EMC add PFAS to the analyte list for groundwater sampling at the 401 High Street
17 parcel. Staff further stated that this testing should be “coupled with an evaluation of potential
18 on-site storage and release areas to gauge sampling efforts,” and justified the request by
19 asserting that PFAS-containing foams were likely stored at the former Union Oil facility.³

20 AECOM initially responded to the Regional Board’s PFAS sampling request
21 on January 9, 2025, stating that EMC disagreed with the assumption that PFAS-containing
22

23 ¹
24 https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/4975359916/T10000011544.PDF

25 ²
26 https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/2760621309/T10000011544.PDF

27 ³
28 https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/4403531730/Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland.pdf

1 foams were likely stored at the facility, due to the wide variability in Union Oil’s historical
2 use of such materials. Nonetheless, EMC agreed to undertake a review of Union Oil’s
3 historical records to determine whether PFAS-containing foams had ever been used or stored
4 at the Site.⁴

5 On February 19, 2025, AECOM submitted a memorandum to the Regional
6 Board responding to Rosso’s claim that there were data gaps. The memorandum concluded
7 that Rosso’s request for additional soil sampling at the 411 High Street parcel was not
8 technically justified. AECOM further stated that “remediation at both 401 and 411 High
9 Street has been extensive, has reduced soil and groundwater impacts, and achieved remedial
10 termination criteria. The remaining impacts in the former Foster Chemical area of 411 High
11 St[reet] are adequately characterized, do not represent a risk to human health in the current
12 land use, and their effect on site groundwater as a resource is being monitored. The site is
13 expected to achieve closure criteria in a reasonable timeframe through natural attenuation
14 processes.”⁵

15 On April 9, 2025, AECOM, on behalf of EMC, submitted an additional
16 response to the Regional Board regarding the PFAS sampling request.⁶ AECOM reported that
17 EMC had completed its review of historical Union Oil records and found no documentation
18 indicating that PFAS-containing foams were used or stored at the Site.⁷ AECOM did identify
19 Sanborn maps from 1950 through 1969 that referenced former steel tanks at 401 High Street

21 ⁴
22 [https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20(411%20High%20Street).pdf)
23 [514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20\(411%20High%20Street\).pdf](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20(411%20High%20Street).pdf); See
Declaration of Shanna Clark, Ph.D., attached as **Exh. B**.

24 ⁵
25 [https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/2760621309/T10000](https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/2760621309/T10000011544.PDF)
011544.PDF

26 ⁶
27 [https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20(411%20High%20Street).pdf)
28 [514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20\(411%20High%20Street\).pdf](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20(411%20High%20Street).pdf)

⁷ *Id.*; See **Exh. B**.

1 as being “protected by Foamite.” However, “Foamite” is a fire suppressant foam that predates
2 the invention of PFAS. AECOM also noted that while a toluene spill occurred at the facility
3 in 1983, and news reports from that time stated that firefighters from Oakland and San
4 Francisco responded using foam, Public Records Act requests submitted to both fire
5 departments produced no responsive documents.⁸ Based on the absence of historical
6 evidence, EMC concluded that there is no technical basis for requiring PFAS sampling at 401
7 High Street.⁹

8 Despite EMC’s detailed, data-supported responses regarding the alleged data
9 gaps and PFAS sampling request, the Regional Board issued the Directive on June 6, 2025.
10 EMC should not be required to submit a Data Gap Investigation Workplan as mandated by
11 the Directive, because the existing data do not support the existence of unresolved data gaps.
12 Furthermore, there is no evidentiary basis for requiring PFAS sampling at the Site.

13 Compelling EMC to comply with the Directive violates Water Code section
14 13267, as the Regional Board has failed to provide evidence justifying the need for a data gap
15 investigation or PFAS sampling. On the contrary, all available data and documentation
16 indicate that such measures are unnecessary. EMC, Union Oil, and other responsible parties
17 have invested significant resources over the past several decades in investigating and
18 remediating the Site, and EMC is currently evaluating recent data to determine the most data-
19 driven approach to managing site closure efforts.

20 **B. There is No Factual or Technical Basis for the Directive’s Requirements**

21 The Directive requires EMC to submit a workplan and completion report to
22 address three main areas:

23 _____
24 ⁸ News reports stated that both the San Francisco and Oakland Fire Departments responded to
25 the 1983 spill. Counsel for EMC submitted Public Records Act requests to both agencies
26 regarding the incident, as well as their use of PFAS-containing foams during the relevant time
period. Both agencies reported that they had no responsive documents. *See* Declaration of
Kristopher R. Jones, attached as **Exh. C**.

27 ⁹
28 [https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20\(411%20High%20Street\).pdf](https://documents.geotracker.waterboards.ca.gov/regulators/deliverable_documents/7926160514/RE_%20Request%20for%20PFAS%20Sampling%20in%20Groundwater,%20401%20and%20411%20High%20Street,%20Oakland%20(411%20High%20Street).pdf)

1. additional soil and groundwater sampling at the Foster Chemical parcel;
2. investigation of three “potential” abandoned pipelines; and
3. sampling for PFAS in groundwater “from historical site activities.”

These requirements are based on speculative concerns rather than new or site-specific evidence, are contrary to the existing data at the Site, and impose significant burdens without demonstrating a reasonable relationship to environmental or public health protection, as required by Water Code section 13267.

1. The Site has Been Extensively Investigated and Remediated at Great Cost.

Since the initial discovery of contamination at the Property, EMC, Union Oil, and other responsible parties have conducted decades of investigation, remediation, and monitoring to address impacts from both hydrocarbons and CVOCs. Remedial actions have included: (a) groundwater extraction and treatment (1989–2005); (b) soil vapor extraction (1992–1998); (c) dual-phase extraction and air sparging (2005–2007); (d) sulfate injection and enhanced natural attenuation (2012–2015); (e) multiple rounds of soil sampling (starting in 1983) and groundwater sampling (quarterly since 1987) across three hydrologic zones; and (f) extensive indoor and sub-slab vapor intrusion evaluation (finalized in July 2024).

In addition to these technical remediation efforts, numerous regulatory milestones have been achieved, including closure eligibility requests, formal regulatory reviews, and periodic updates to the CSM. Multiple lines of evidence confirm that the remaining impacts are stable, declining, and fully characterized under the current land use of the Site.¹⁰ In total, these efforts have resulted in the comprehensive characterization of environmental conditions and documented trends of stable to declining contaminant concentrations over time.¹¹ Over this time period, these efforts have imposed a significant financial burden and time investment for EMC and Union Oil.

¹⁰ See Declaration of Chad Roper, Ph.D., attached as **Exh. D**.

¹¹ *Id.*

1 **2. There is no Technical Justification for Additional Soil and**
2 **Groundwater Sampling at the Foster Chemical Parcel.**

3 The Regional Board asserts that soil data are insufficient in the Foster
4 Chemical area (411 High Street property), citing field indicators such as elevated
5 photoionization detector (“PID”) readings, ultraviolet (“UV”) fluorescence, odors, and soil
6 discoloration observed in multiple borings (e.g., M-11, M-19 through M-26).¹² However,
7 these concerns are not technically justified.¹³

8 Analytical data from these and adjacent borings demonstrate that, even in
9 intervals where such field indicators were noted, laboratory results either reported non-detects
10 or concentrations well below applicable cleanup goals. For example, at boring M-19, where
11 fluorescence and elevated PID responses were observed, soil samples collected at depths of
12 11.5–12 and 13.5–14 feet bgs did not yield concentrations that would warrant further
13 delineation.

14 Furthermore, reliance on field screening results (e.g., PID or laser-induced
15 fluorescence [“LIF”]) as standalone evidence of a data gap is inconsistent with established
16 regulatory practice. Field screening tools provide qualitative indicators and are not substitutes
17 for quantitative laboratory data. When interpreted in context, these indicators do not outweigh
18 the substantial body of analytical evidence confirming both vertical and lateral delineation of
19 soil impacts.

20 The current land use – a transportation facility with limited subsurface
21 disturbance – remains protective of human health. No vapor intrusion, leaching to
22 groundwater, or risk to site occupants has been observed or is reasonably projected.¹⁴

23 **3. There is no Technical Justification for further Investigation of the**
24 **Railroad Spur.**

25

¹² See **Exh. A**.

26 ¹³ SVOC data was not collected from certain deeper soil samples (VOC data was). But such
27 data is not necessary as SVOCs are not part of the soil or groundwater cleanup standards for
28 the Self-Monitoring Program of Site Cleanup Requirements in Order No. R2-2011-0052.

¹⁴
https://documents.geotracker.waterboards.ca.gov/esi/uploads/geo_report/2760621309/T10000011544.PDF.

1 The Directive states that despite the extensive remedial investigation at the
2 Site, there still remains a data gap related to SVOC sampling deeper than 5 feet bgs on the
3 Foster Chemical parcel. The Regional Board references historical aerial photographs showing
4 variations in the alignment of the former railroad spur and suggests that potential impacts
5 along these paths remain uninvestigated.¹⁵ This conclusion, however, disregards the extensive
6 soil and groundwater sampling already conducted throughout the Property, including within
7 and adjacent to the former rail spur footprint.

8 Soil samples collected at multiple depths along the rail corridor, including
9 borings advanced in 2008 and 2015, did not identify concentrations of toluene, CVOCs, or
10 petroleum hydrocarbons indicative of a release from railcars. If releases had occurred along
11 the spur, residual mass would likely be detectable in shallow soil or groundwater. No such
12 impacts have been confirmed. In short, existing data do not support the need to reopen or
13 expand investigation in this area.

14 **4. There is no Technical Justification for Additional Investigation of**
15 **the “Potential” Abandoned Pipelines on the 411 High Street**
16 **Property.**

17 The Directive references “[p]otential” abandoned pipelines at the Foster
18 Chemical parcel and requires further investigation based on the pipelines’ “orientation
19 extending into Foster Chemical is currently unknown.” The requirement is based on the
20 Directive’s assertion that three former pipelines on the 411 High Street parcel may represent a
21 current or potential environmental threat. But there is no evidence supporting this assertion,
22 nor is there any evidence of a release from these pipelines. These pipelines were physically
23 severed, sealed, and abandoned more than 20 years ago.¹⁶ They were drained, capped with
24 welded plates, and anchored with thrust blocks. Documentation from that time explicitly
25 states that there were no visual or chemical indications of leakage.¹⁷

26 ¹⁵ See **Exh. A**.

27 ¹⁶ See June 2, 2003, Pipeline Inspection Report for the 401 High Street, Oakland, California,
28 property, attached as **Exh. 1** to Declaration of E. Jacob Lubarsky, **Exh. E**. to this Petition.

¹⁷ *Id.*

Moreover, borings advanced immediately adjacent to the presumed pipeline corridor (e.g., M-19 through M-22) did not reveal elevated hydrocarbon or VOC concentrations. The presence of clean soil in proximity to the pipelines, along with proper decommissioning measures, strongly indicates that these features are not acting as a contaminant source.

Accordingly, Union Oil objects to the Regional Board's assertion that potholing or daylighting of these pipelines is warranted solely because their precise alignment is "unknown." In the absence of evidence indicating a release or a credible environmental concern, such intrusive work would represent a considerable financial burden on EMC and a potential disturbance to the environment.

5. There is no Technical Justification for Conducting PFAS Sampling "from Historical Site Activities," because there is no Evidence that PFAS was Utilized in Site Activities.

The Directive requires a sampling plan for incorporation of PFAS into the next regularly scheduled groundwater monitoring event at four areas of interest at the Site. The Directive justifies this based on the position that the absence of information documenting PFAS use at the Site "is not evidence that PFAS was not used at the Site..."¹⁸ But there is no *evidence* that PFAS-containing materials were ever handled at the Site. Indeed, the evidence supports a contrary finding – that PFAS materials were not utilized in Site operations.

EMC and Union Oil have conducted a diligent review of historical records to determine whether PFAS were ever used at the Site. The results of that review are as follows:

- No records of AFFF usage were identified in Union Oil's internal files;
- Sanborn maps covering the period from 1950 to 1969 do not depict firefighting infrastructure consistent with AFFF storage or use; and
- Public Records Act requests submitted to the Oakland and San Francisco Fire Departments yielded no documents referencing PFAS usage, storage, or deployment in connection with the 1983 toluene incident.

¹⁸ See **Exh. A**.

1 The fact that there is no evidence of PFAS is not a “data gap” – rather, it is evidence that
2 PFAS-containing materials were not used at the Site. The Directive’s reliance on broad
3 generalizations regarding PFAS usage at fuel terminals, without any site-specific evidence,
4 does not justify requiring groundwater analysis for PFAS at the Site. In the absence of known
5 usage, infrastructure, or supporting data, the proposed sampling is speculative and not
6 reasonably related to site-specific conditions.

7 **C. The Directive Violates Water Code Section 13267**

8 California Water Code section 13267 provides, in relevant part as follows:

9 “In conducting an investigation..., the regional board may
10 require that any person who has discharged, discharges, or is
11 suspected of having discharged or, discharging, or who proposes
12 to discharge waste within its region . . . shall furnish, under
13 penalty of perjury, technical or monitoring program reports
14 which the regional board requires. *The burden, including costs,*
15 *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.” (emphasis added)

16 The “plain language makes clear that in order to require a discharger to provide the
17 [Regional] Board with any technical report, the Board must (1) provide ‘a written explanation
18 with regard to the need for the reports’; and (2) ‘identify the evidence that supports requiring
19 that person to provide the reports.’ *Sweeney v. California Regional Water Quality Control Bd.*
20 (2021) 61 Cal.App.5th 1093, 1114, quoting *Water Code* § 13267.

21 As demonstrated above, EMC and Union Oil have spent more than three
22 decades conducting investigation and remediation activities at the Site in collaboration with
23 multiple stakeholders and under continuous regulatory oversight. The existing data show a
24 long-term trend of declining contaminant concentrations, no evidence of ongoing source
25 migration, and compliance with applicable cleanup standards. Under current land use
26 conditions, there is no unacceptable risk to human health or water quality. The Directive fails
27 to satisfy the legal requirements of Water Code section 13267. Specifically:

- 28 • The Regional Board has not demonstrated that the burden – both financial

1 and operational – of the additional investigation bears a reasonable
2 relationship to the need for the data or the benefits to be obtained;

- 3 • It has not provided an adequate written explanation justifying the need for
4 further technical reporting; and
- 5 • It has ignored groundwater and soil hydrocarbon and VOC technical data in
6 order to justify its requirement for EMC to conduct additional investigation
7 at the Site.¹⁹

8 Accordingly, the requirements imposed by the Directive, and the conclusions on which those
9 requirements are based, are not supported by the record, are arbitrary and capricious, and are
10 inconsistent with applicable law and policy.

11 **VI. THE MANNER IN WHICH THE PETITIONER HAS BEEN AGGRIEVED**

12 Petitioner has been aggrieved by the Regional Board's actions because it is
13 subject to an arbitrary and capricious directive that is unsupported by evidence in the record
14 and in violation of the Water Code. In addition, Petitioner will be compelled to incur
15 substantial and unnecessary costs at the Property.

16 **VII. STATE WATER BOARD ACTION REQUESTED BY PETITIONER**

17 As discussed above, Petitioner respectfully requests that the State Board find
18 that issuance of the Directive by the Regional Board was inappropriate and improper for the
19 reasons set forth herein. Petitioner further requests that the State Board order the Directive
20 rescinded in its entirety.

21 **VIII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL** 22 **ISSUES RAISED IN THE PETITION**

23 For purposes of this filing, the Statement of Points and Authorities is subsumed
24 in section V of the Petition. EMC reserves the right to file a Supplemental Statement of
25 Points and Authorities. EMC also reserves its right to supplement its request for a hearing to
26 _____

27 ¹⁹ Indeed, in its June 25, 2025 letter to the Regional Board responding to the Directive, EMC
28 formally requested that the Board provide the evidence it relied upon to support the
Directive's requirements. To date, the Regional Board has not provided any such evidence or
responded to EMC's request. *See Exh. F.*

1 consider testimony, other evidence and argument.

2 **IX. STATEMENT REGARDING SERVICE OF THE PETITION ON THE**
3 **REGIONAL BOARD, THE REGIONAL WATER BOARD, AND**
4 **INTERESTED PARTIES**

5 A copy of this Petition is being sent to the Regional Board. A copy is also
6 being served on the current property owners. By copy of this Petition, Petitioner is also
7 notifying the Regional Board and identified parties of the Petitioner's request for a hearing.

8 **X. PETITIONER'S REQUEST FOR STAY**

9 Pursuant to California Code of Regulations, title 23, section 2053, EMC
10 respectfully requests that the State Board stay the effect of the Directive pending resolution of
11 this Petition. A stay shall be issued if a petitioner alleges facts and produces proof of all of the
12 following: (1) substantial harm to petitioner or to the public interest if a stay is not granted;
13 (2) a lack of substantial harm to other interested persons and to the public interest if a stay is
14 granted; and (3) substantial questions of fact or law regarding the disputed action. 23 CCR §
15 2053(a). However, the State Board may issue a stay of the Directive upon its own motion. 23
16 CCR § 2053(c).

17 **A. Petitioner Will Suffer Substantial Harm if a Stay is not Granted.**

18 The State Water Board has stated: "...[I]t is not relevant to attempt to prove
19 that dischargers will suffer substantial harm, over the term of the permit, if the permit is
20 upheld. The issue in a stay determination is whether they will suffer substantial harm if a stay
21 is not granted for the period of time pending resolution of the petitions on their merits."²⁰ As
22 discussed above, Petitioner will suffer substantial financial harm if a stay is not granted.
23 Absent a stay, EMC will be required to expend substantial resources to prepare and
24 implement a workplan and conduct intrusive fieldwork, including soil and groundwater
25 sampling and pipeline investigation, based on speculative concerns not supported by the
26 record.²¹ These efforts would result in significant and unnecessary costs to EMC.

27 ²⁰ State Water Resources Control Bd. Order WQ 2006-0007 at p. 7, quoting Order WQ 2002-
28 0007 at p. 3.

²¹ See **Exh. D.**

1 **B. The Public Will not be Substantially Harmed if a Stay is Granted.**

2 As discussed above, the Site poses a low risk to the public. The granting of the
3 stay will not change that fact. Thus, the public will not be substantially harmed if a stay is
4 granted.²² If a stay is not granted, the Site will be further disturbed with investigation and
5 possible excavation for pipeline daylighting, without corresponding public health or
6 environmental benefit.

7 **C. The Petition Raises Substantial Questions of Law and Fact.**

8 As detailed in this Petition, there is a reasonable probability that EMC will
9 prevail on the merits, and issuance of a stay would serve the public interest by preventing
10 unwarranted investigative activities and preserving the integrity of the State Board's review
11 process. Further, there are significant questions being posed in this case as to whether it
12 would be proper and appropriate to impose the work required by the Directive on Petitioner.²³

13 **XI. STATEMENT REGARDING ISSUES PRESENTED TO THE REGIONAL**
14 **BOARD**

15 Petitioner raised the substantive issues and objections set forth in this Petition
16 before the Regional Board prior to filing, and requested that the Directive be withdrawn. The
17 Regional Board never responded to these objections and the request.²⁴

18 For the foregoing reasons, Petitioner respectfully requests that the State Board
19 grant the relief requested herein.

20 Dated: July 3, 2025

ROGERS JOSEPH O'DONNELL

21 By: 

22 ROBERT C. GOODMAN
23 E. JACOB LUBARSKY

24 Attorneys for Petitioner
25 CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY

26 ²² *Id.*

27 ²³ *See* **Exh. E.**

28 ²⁴ *See* **Exh. F.**

PROOF OF SERVICE

I, Nydia C. Avellan-McCoy, state:

My business address is 311 California Street, 10th Floor, San Francisco, CA 94104. The electronic notification address from which I served the document listed below is: navellan-mccoy@rjo.com. I am employed in the City and County of San Francisco. I am over the age of eighteen years and not a party to this action. On July 3, 2025, I served the following document described as:

CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY'S PETITION FOR REVIEW AND REQUEST FOR A HEARING; REQUEST FOR STAY

on the following person(s) in this action, addressed as follows:

State Water Resources Control Board Office of Chief Counsel Adrianna M. Jerome P.O. Box 100 Sacramento, CA 95812-0100 waterqualitypetitions@waterboards.ca.gov	Jessica Watkins, P.E. Chief, Groundwater Protection and Waste Containment Division California Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 9461 jessica.watkins@waterboards.ca.gov
Alex Valentine California Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 9461 alexander.valentine@waterboards.ca.gov	Eileen M. White, P.E. Executive Officer California Regional Water Quality Control Board 1515 Clay Street, Suite 1400 Oakland, CA 9461 Eileen.white@waterboards.ca.gov
Brad Koch, Ridge Reef Properties brad@ridgereef.com	Brian Koch, Terra Ferma Landscapes briankoch@tflandscapes.com
Jim L. Smith, BP Products N.A. Inc. jim.smith2@bp.com	

X **BY ELECTRONIC SERVICE:** On July 3, 2025, I caused the documents to be sent to the person(s) at the electronic notification address(es) listed above. Within a reasonable time, the transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this date at San Francisco, California.

Dated: July 3, 2025



Nydia C. Avellan-McCoy

EXHIBIT A

San Francisco Bay Regional Water Quality Control Board

June 6, 2025

GeoTracker ID: [T10000011544](#)

Union Oil Company
c/o Chevron Environmental Management Company
Attn: John Aweeka
6001 Bollinger Canyon Road, Room C2176
San Ramon, CA 94583
johnaweka@chevron.com

Subject: Requirement for a Data Gap Investigation Workplan and Completion Report Pursuant to Water Code Section 13267, Former Unocal Chemical Facility No. 0905 and Former Foster Chemical Building, 401 and 411 High Street, Oakland, Alameda County

Dear Mr. Aweeka:

This letter requires that Union Oil Company (Unocal) submit a workplan and completion report to address several data gaps present at the former Unocal Chemical Facility No. 0905 (401 High Street) and the former Foster Chemical Building Area (Foster Chemical; located at 411 High Street) in Oakland (Site) pursuant to Water Code section 13267.

This information will assist Regional Water Board staff in identifying the presence of soil and groundwater contamination in the vicinity of the Site, and whether additional remedial measures are warranted by Unocal. The requirements and basis for them are explained below.

Background

On October 10, 2024, Unocal and the property owner of 411 High Street (Property Owner), along with their representatives and Regional Water Board staff, met to discuss several data gaps that were identified by the Property Owner, including issues pertaining to site characterization at Foster Chemical. During the meeting, Rosso Environmental, Inc. (REI; consultant for the Property Owner), presented several data gaps, including in relation to impact characterization at Foster Chemical, and concluded that the conceptual site model (CSM) is incomplete. Later, on February 19, 2025, Unocal, through its consultant AECOM, provided a [Memorandum](#) (Memo) to the Regional Water Board responding to these data gaps raised by the Property Owner, and concluded that Site has been adequately characterized in the area of Foster Chemical.

Based on our review of the information provided, it appears that the CSM is incomplete, and further characterization will need to be performed to fully assess the extent of contamination at the Site. Data gaps of significance that we noted from our review of the case file are provided below with reference to the information included in the Memo and subsequent communications.

Soil Data Gaps at Foster Chemical and Railroad Spur Area

In response to concerns raised by REI regarding potential contamination present at M-19, the Memo states that all available data, including data from the 2008 Remedial Investigation Addendum (RIA), show that impacts at Foster Chemical have been vertically and laterally delineated.

The boring log for M-19 displays three significant issues in screening for impacts at this location:

1. A strong ultraviolet lamp fluorescence is noted from 8 to 14 feet below ground surface (ft bgs), which could indicate the presence of non-aqueous phase liquids.
2. A high photoionization detector (PID) concentration of 3,641 parts per million (ppm) at about 11 ft bgs in the gravelly sandy silt layer (11 to 12 ft bgs), which could indicate the presence of volatile organic compounds.
3. A chemical odor (varying from slight to strong in the gravelly sandy silt layer) is noted from 9 to 14.5 ft bgs.

While the available soil analytical data at M-19 suggests that there is no impact present at this location, all analytical suites were not performed as stated in the RIA and the associated field screening data does not support this interpretation.

This represents a data gap in that no associated semi-volatile organic compound (SVOC) data in soil exists at Foster Chemical deeper than 5 ft bgs. RIA Table 1 states that SVOCs were analyzed in soil from 11.5 to 12 ft bgs and 13.5 to 14 ft bgs at M-19; however, no such data were provided (see RIA Table 5). Further, RIA Table 1 states that SVOCs were analyzed at similar depths at nearby locations around Foster Chemical (i.e., locations M-11, M-20, M-21, M-23, and M-24); as above, no such data were provided at any of these locations.

In addition, data gaps are present within Foster Chemical where soil sampling was not performed to confirm associated screened impacts. Similar screening issues to M-19 were noted below 8 ft bgs at soil borings M-11, M-20, M-21, M-23, M-24, M-25, and M-26, including elevated PID concentrations (some locations >2,000 ppm), chemical or hydrocarbon odors, hydrocarbon sheen, elevated ultraviolet fluorescence, and discoloration (e.g., "very dark greenish gray", Munsell listed as 3/10Y Gley1, at M-20 from 10 to 12 ft bgs). No soil analytical data exist deeper than 5 ft bgs within any of these borings with screened impacts.

Potential Abandoned Pipelines at Foster Chemical

On June 2, 2003, Carlin Environmental Consulting, Inc. (CEC) submitted a report (Memo Attachment B5) to Caster Family Enterprises summarizing the removal and mitigation of three six-inch diameter pipelines discovered along the northern boundary of 401 High Street. CEC noted that two of the abandoned pipelines likely contained fuel, with the other pipeline stated to have formerly contained water. The orientation and depth of the pipelines at Foster Chemical, along with characterization of the contents of the pipelines and adjacent soil, is unknown.

In addressing this data gap, the Memo concludes that the pipelines were properly investigated by borings M-19, M-20, M-21, and M-22, and that these soil borings confirmed that no impacts surrounded the pipelines. Data from these borings are unlikely to be representative of characterization of impacts originating from the pipelines considering that their orientation extending into Foster Chemical is currently unknown. As stated in the previous section, there are also issues that exist with the data collected at Foster Chemical, and use of this data to evaluate potential impacts from the pipelines is precluded by an incomplete CSM.

In addition, the pipelines have been improperly abandoned east of the 401/411 High Street property boundary in that no measures have been put in place at Foster Chemical to control a potential unrestricted release considering that their current condition is also unknown. In describing the installed thrust blocks and welded plates to the cutoffs for the pipelines at 401 High Street, CEC concluded that "It is very unlikely that the remnants of the pipelines east of the [property line] will ever be reactivated, however in this unlikely event, it is CEC's opinion that these thrust blocks and welded metal plates will more than adequately preclude any (sic) liquid from entering the subject site." This shows that there is likelihood that free product remains present within the abandoned pipelines at Foster Chemical (and along the Railroad Spur Area), with potential for associated soil and groundwater contamination.

No additional information has been provided by Unocal to the Regional Water Board regarding the presence of these three pipelines at Foster Chemical, and no associated investigation has been performed to date.

PFAS in Groundwater from Historical Site Activities

In our [October 29, 2024, email](#), staff requested that Unocal and Atlantic Richfield Company (ARCO) incorporate analysis of per- and polyfluoroalkyl substances (PFAS) in Site groundwater into the next groundwater monitoring events, as required under the Self-Monitoring Program (SMP) of Site Cleanup Requirements Order No. R2-2011-0052. Specifically, staff raised concerns regarding the presence of PFAS at the former bulk fuel terminal from historical practices that were prevalent at these types of facilities, including the usage of PFAS-containing aqueous film-forming foam for Class B fire prevention (AFFF; see State Water Resources Control Board, State Water Board, [Order WQ 2021-0006-DWQ](#) for further context). In addition, PFAS in groundwater was also included by REI as a potential data gap during the October 10, 2024, meeting, as AFFF

was potentially used during the fire department response to the July 5, 1983, toluene spill (Toluene Spill). ARCO responded to this request on December 3, 2024, confirming that sampling will be completed during the 2025 First Semiannual Groundwater Monitoring Event, with results currently pending.

Unocal responded to this request on January 9, 2025, disagreeing that AFFF was historically used on-Site, and instead offered to perform a file review. In its [April 9, 2025, email](#), Unocal summarized its actions performed from this file review, which included:

1. An internal review of available Unocal records.
2. Review of Site Sanborn maps ranging from 1950 to 1969.
3. A Public Records Act (PRA) request to the Oakland Fire Department and San Francisco Fire Department, both being responding agencies to the Toluene Spill.

The above actions yielded no evidence of PFAS-containing materials on-Site. As a result, Unocal concluded that no technical justification exists for groundwater sampling of PFAS at the Site.

There are several issues with this conclusion:

1. No records were provided for our review to substantiate the lack of PFAS-containing materials at the Site.
2. The Sanborn maps cover a time period prior to the widespread usage and incorporation of AFFF in firefighting equipment into the 1970s and 1980s, particularly at bulk fuel terminals.
3. No documents were provided regarding the Toluene Spill from the PRA request, meaning that no responsive records of the spill exist in either Fire Departments' files.

The absence of this information is not evidence that PFAS was not used at the Site due to historical practices. Considering that the Site operated as a bulk fuel terminal into the early 1990s, and that usage of AFFF by the above fire departments is well documented at the time of the Toluene Spill, it is reasonable to conclude that PFAS usage at the Site could have extended from (at least) the 1970s into the early 1990s.

It appears that there are four identified areas of interest (AOIs) at the Site with potential PFAS contamination, including from possible AFFF usage. These four AOIs are summarized below:

1. Toluene Spill Response Area (401 High Street and Foster Chemical)
2. 411 High Street Tank Farm Area at Foster Chemical
3. Underground Storage Tanks at Foster Chemical
4. 401 High Street Tank Farm Area

In addition, it appears likely that the non-PFAS Foamite infrastructure at the Site may have later been converted for AFFF use.

Requirement for a Data Gap Investigation Workplan and Completion Report

This letter requires that Unocal submit a data gap investigation workplan by **July 8, 2025**. This workplan should include additional site investigation measures and sampling procedures to address the data gaps that have been identified in this letter. At a minimum, this workplan shall include the following elements:

- Proposed new soil sampling locations with co-located groundwater sampling at Foster Chemical to delineate the extent of potential CVOC impacts in that area, including in the vicinity of the railroad spur; specifically, near locations M-11, M-19, M-20, M-21, M-23, M-24, M-25, and M-26 (see Attachment 1). Sampling will need to include coverage of the A-Zone, AB-Zone, and B-Zone aquifers, and incorporate the full analytical suite included in the RIA, in addition to PFAS (see above).
- A plan describing assessment of the three pipelines referenced earlier in this letter (see Attachment 2). Investigative procedures, including geophysical locating should be proposed in order to properly delineate the horizontal extent and depth of the pipelines. Sampling will also need to be proposed contingent on the orientation of the pipelines and should extend to either daylighting or potholing along the length of the pipelines to collect representative samples. Analytical requirements for sampling should include the full analytical suite described in the previous bullet.
- Sampling plan for incorporation of PFAS into the next regularly scheduled groundwater monitoring event in the SMP, with available wells utilized with respect to coverage of the four AOIs listed above, including former Foamite infrastructure, to the extent practicable. AOI 1 is approximated by Memo Attachment B4 (Attachment 3; toluene in shallow site soils, approximately 6 years after the toluene spill); AOIs 2 and 3 are provided in Attachment 4¹ (i.e., 411 High Street AOIs 4 and 5 at Foster Chemical, 2025 First Semiannual Groundwater Monitoring Event); AOI 4 is the former tank farm present at 401 High Street (see Attachment 5¹, 1969 Sanborn Map).
- Fieldwork schedule to be provided to all Site stakeholders so that attendance can be accommodated in a timely fashion.

Unocal is required to submit a completion report summarizing the findings of the data gap investigation no later than **November 6, 2025**. The completion report shall contain the following elements:

¹ Arcadis U.S., Inc. (consultant for ARCO), email communication, February 4, 2025.

- Soil sampling results and figures showing isoconcentration contours of Site constituents of concern and PFAS (if applicable) at Foster Chemical.
- Location and depth of abandoned pipelines, and plan for pipeline removal and impact mitigation (if applicable).
- PFAS groundwater sampling results (should also be included in the following groundwater monitoring report).
- Proposed additional sampling, should the data gaps identified in this letter not be vertically and horizontally delineated.

Unocal is required to submit all reports and data in electronic format to the State Water Resources Control Board (State Water Board) GeoTracker database, pursuant to California Code of Regulations, Title 23, Division 3, Chapter 30. See [Electronic Submittal of Information](#) for guidance on submitting documents to GeoTracker. This requirement includes all chemical data, monitoring well information (latitudes, longitudes, elevations, depth and length of screened interval, and water depth), site maps, and boring logs. Chemical data must be submitted in Electronic Deliverable Format (EDF); all estimated data must be submitted in accordance with the [State Water Board August 11, 2023, Letter on Reporting of Estimated Results in EDF](#).

Basis for Requirements

This requirement for reports is made pursuant to Water Code section 13267, which allows the Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. As the owner and operator of the Site, Unocal has discharged or is suspected of having discharged waste that could affect the quality of waters of the state and human health. The reports required by this letter are needed to define the extent of soil and groundwater contamination, and determine any immediate threats posed to water quality and human health. The reports are essential to understanding the scope of pollution and what corrective actions, if any, need to be taken to protect waters of the state and human health. These data gaps may potentially call into question Site protectiveness, and therefore additional cleanup actions may need to be performed to mitigate previously unidentified impacts. The burden of preparing these reports, which includes the costs of consultants' work and of the Regional Water Board's review, bears a reasonable relationship to the need for the reports and the benefits they will provide. Estimated costs for these reports can reasonably be expected to range between \$20,000 and \$80,000. Evidence supporting this requirement is in the file for this matter.

Attachment 6 provides additional information about Section 13267 requirements. Any extensions to the above deadlines must be confirmed in writing by the Water Board.

Should you have any questions, please contact Alex Valentine of my staff at (510) 622-2397 or alexander.valentine@waterboards.ca.gov.

Sincerely,

for Eileen M. White, P.E.
Executive Officer

Attachment 1: Locations with Data Gaps at the Former Foster Chemical Building Area and Railroad Spur Area (Remedial Investigation Addendum Figure 2; URS Corporation, 2008)

Attachment 2: Location of Three Abandoned Pipelines along Northern Boundary of 401 High Street (Caster Family Enterprises, 2007)

Attachment 3: Approximate Location of 1983 Toluene Spill within 401 High Street and the Former Foster Chemical Building Area (Summary of Geohydrologic Investigations Related to Toluene Spill Figure 4-2; Brown and Caldwell, 1984)

Attachment 4: PFAS Areas of Interest at Foster Chemical (Arcadis U.S., Inc., 2025)

Attachment 5: 401 High Street Tank Farm, 1969 Sanborn Map (Arcadis U.S., Inc., 2025)

Attachment 6: 13267 Fact Sheet

Copy to email with attachments:

Chad Roper, AECOM, chad.roper@aecom.com

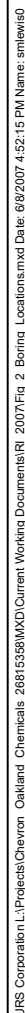
Jon Rosso, Rosso Environmental, Inc., jrosso@rossoenv.com

Brad Koch, Ridge Reef Properties, brad@ridgereef.com

Brian Koch, Terra Ferma Landscapes, briankoch@tflandscapes.com

Greg Fiol, Arcadis U.S., Inc., greg.fiol@arcadis.com

Jim L. Smith, BP Products N.A. Inc., jim.smith2@bp.com



LEGEND

--- PROPERTY LINE

① LOCATION, NUMBER AND VIEW DIRECTION OF PHOTOGRAPH

NOTE: Locations are approximate



100 50 0 100
APPROXIMATE SCALE (feet)

REFERENCE:
MPDS Services, inc., not dated

©2001, by Kleinfelder, Inc.

CAD FILE: L:\2001\01PROJ\44000393\001\SITEPLAN.dwg

June 2003
REMOVED PIPES
(SEE JUNE 2
CRC REPORT)

Pipeline
orientation
unknown

OAKLAND
ESTUARY

FOSTER CHEMICAL

CONTAINER YARD
411 HIGH STREET

BIG 8
LUMBER YARD
301 HIGH STREET

HIGH STREET
BRIDGE

HIGH STREET



KLEINFELDER

SITE PLAN

401 HIGH STREET
OAKLAND, CALIFORNIA

PROJECT NO. 44-000393-001

PLATE

2

DRAFTED BY: J. Sala

DATE: 01-11-01

CHECKED BY: G. Goodemote

DATE: 01-11-01

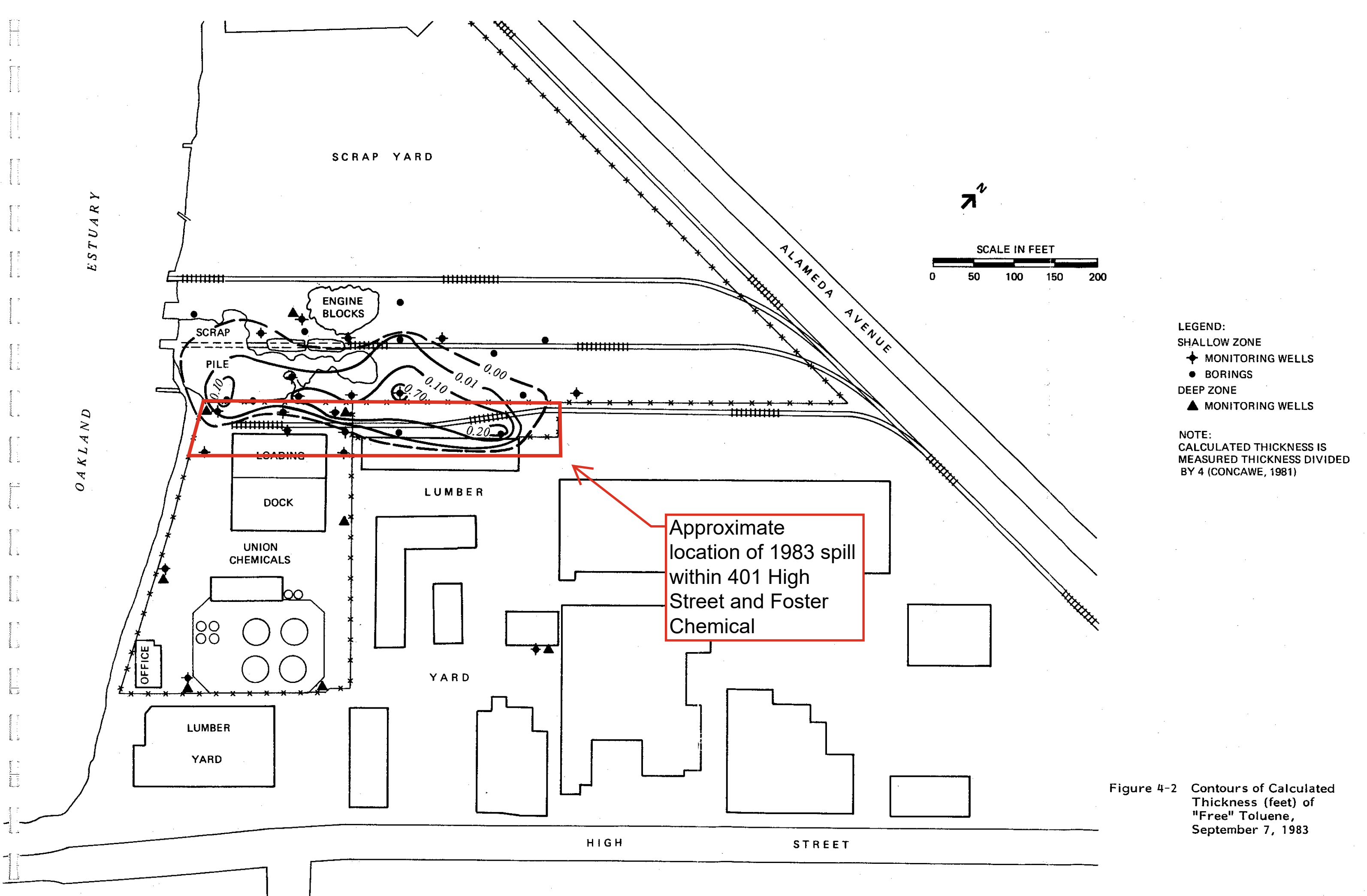
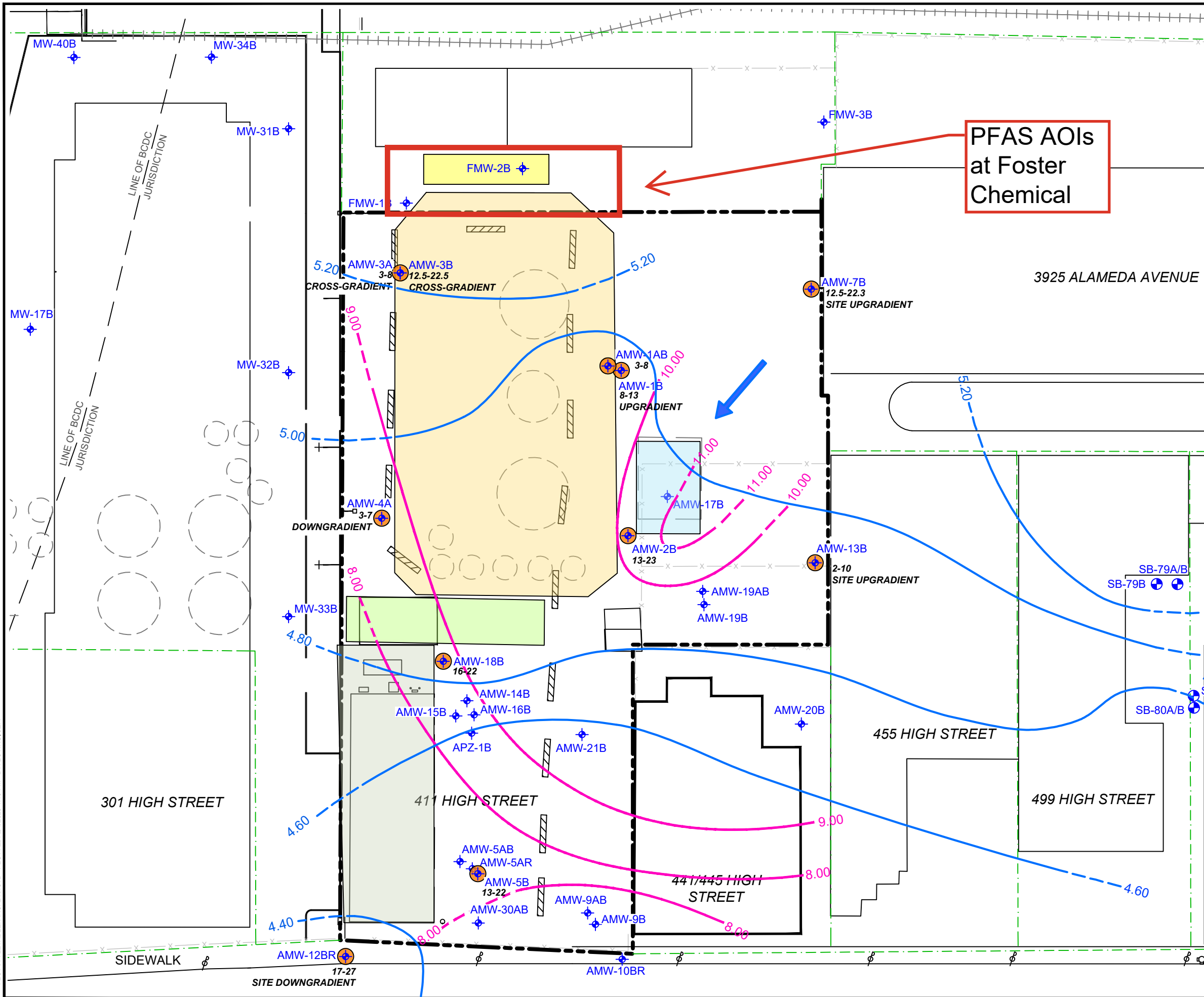


Figure 4-2 Contours of Calculated Thickness (feet) of "Free" Toluene, September 7, 1983

C:\Users\jld\OneDrive\OneDrive\Environmental CAD Team - BIM360 - OneDrive Sync Location\AUS-99999999-BP - FORMER OAKLAND BULK TERM, OAKLAND, CA\10_WIP\107_ARC_ENV\202501-DWG\PFAS-FOX-GW-SAMPLING.dwg LAYOUT: 1 SAVED: 2/4/2025 1:15 PM PAGESETUP: ---
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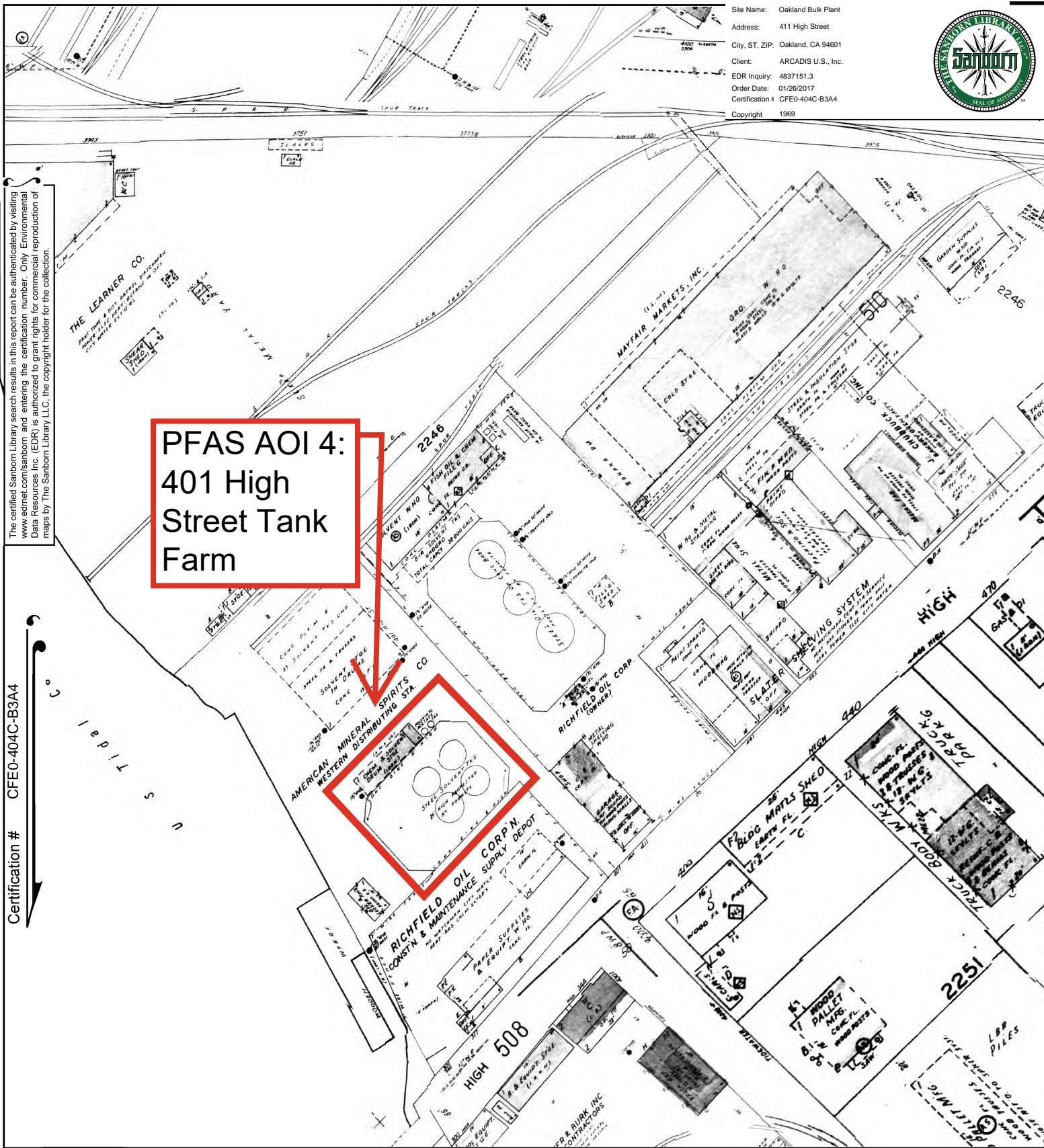
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Address: 411 High Street
City, ST, ZIP: Oakland, CA 94601
Client: ARCADIS U.S., Inc.
EDR Inquiry: 4837151.3
Order Date: 01/26/2017
Certification #: CFE0-404C-B3A4
Copyright: 1969



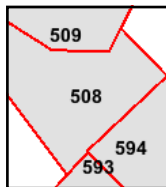
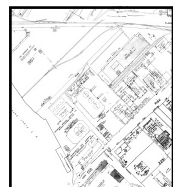
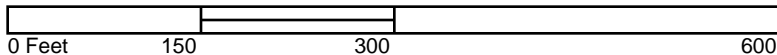
The certified Sanborn Library search results in this report can be authenticated by visiting www.edr.com/sanborn and entering the certification number. Only Environmental Data Resources Inc. (EDR) is authorized to grant rights for commercial reproduction of maps by The Sanborn Library LLC, the copyright holder for the collection.

Certification # CFE0-404C-B3A4

PFAS AOI 4:
401 High
Street Tank
Farm



This Certified Sanborn Map combines the following sheets.
Outlined areas indicate map sheets within the collection.



Volume 5, Sheet 594
Volume 5, Sheet 593
Volume 5, Sheet 509
Volume 5, Sheet 508



San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its requirement.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

¹ Code sections can be found by searching the California Legislative Code Section search at <http://leginfo.ca.gov/faces/codes.xhtml>

rev: March 2014

EXHIBIT B

1 ROGERS JOSEPH O'DONNELL
Robert C. Goodman (State Bar No. 111554)
2 rgoodman@rjo.com
E. Jacob Lubarsky (State Bar No. 251289)
3 jlubarsky@rjo.com
311 California Street, 10th Fl.
4 San Francisco, California 94104
Telephone: 415.956.2828
5 Facsimile: 415.956.6457

6 Attorneys for Petitioner
CHEVRON ENVIRONMENTAL
7 MANAGEMENT COMPANY

8
9 STATE WATER RESOURCES CONTROL BOARD

10 STATE OF CALIFORNIA

11
12 In the Matter of

13 CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY as Attorney-
14 in-Fact for Union Oil Company of
California,

15 Petitioner

16 For Review of San Francisco Bay Regional
17 Water Quality Control Board's Requirement
18 for a Data Gap Investigation Workplan and
Completion Report Pursuant to Water Code
19 Section 13267, dated June 6, 2025 – Former
Unocal Chemical Facility No. 0905 and
20 Former Foster Chemical Building, 401
and 411 High Street, Oakland, Alameda
County, California.
21

Case No.

**DECLARATION OF SHANNA CLARK,
Ph.D. IN SUPPORT OF CHEVRON
ENVIRONMENTAL MANAGEMENT
COMPANY'S PETITION FOR REVIEW**

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CLARK DECLARATION IN SUPPORT OF CHEVRON ENVIRONMENTAL MANAGEMENT COMPANY'S
PETITION FOR REVIEW

1 I, Shanna Clark, Ph.D., declare as follows:

2 1. I am a Program Lead and subject matter expert within a division of
3 Chevron U.S.A. Inc. consulted by Chevron Environmental Management Company ("EMC"),
4 the Petitioner in this matter.

5 2. This declaration is made in support of EMC's Petition for Review.

6 3. I am familiar with the environmental investigations and regulatory
7 correspondence concerning the former Unocal Chemical Facility No. 0905 and the former
8 Foster Chemical Building, located at 401 and 411 High Street, Oakland, California (the
9 "Site"). I am also familiar with the review, management, and interpretation of historical
10 facility records concerning chemical storage, usage, and Site operations. I have personal
11 knowledge of the efforts made to substantiate the facts set forth herein and, if called as a
12 witness, could and would testify competently thereto.

13 4. At the request of the San Francisco Bay Regional Water Quality Control
14 Board ("Regional Board"), EMC conducted an internal review of historical records of Union
15 Oil Company of California ("Union Oil") related to operations conducted at the Site. This
16 review was conducted in response to inquiries and assertions by the Regional Board that
17 perfluoroalkyl and polyfluoroalkyl substances ("PFAS"), specifically aqueous film-forming
18 foam ("AFFF"), may have been stored or used by Union Oil at the Site during Union Oil's
19 period of site operation and/or control.

20 5. As part of this review, members of EMC's project team examined and
21 analyzed historical materials and documents related to the Site. EMC did not identify any
22 documentation indicating that PFAS-containing foams, including AFFF or similar
23 formulations, were ever purchased, stored, or used by Union Oil at the Site.

24 6. Based on this review of the Union Oil historical records, neither EMC nor
25 Union Oil is in possession of any documents that evidence that PFAS-containing foams were
26 stored or utilized at the Site.

1 I declare under penalty of perjury under the laws of the State of California that
2 the foregoing is true and correct. Executed this 2nd day of July, 2025 at Houston, Texas.

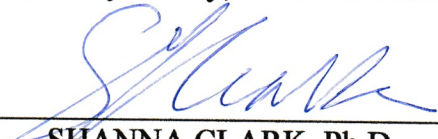
3
4 
5 SHANNA CLARK, Ph.D.

EXHIBIT C

1 ROGERS JOSEPH O'DONNELL
Robert C. Goodman (State Bar No. 111554)
2 rgoodman@rjo.com
E. Jacob Lubarsky (State Bar No. 251289)
3 jlubarsky@rjo.com
311 California Street, 10th Fl.
4 San Francisco, California 94104
Telephone: 415.956.2828
5 Facsimile: 415.956.6457

6 Attorneys for Petitioner
CHEVRON ENVIRONMENTAL
7 MANAGEMENT COMPANY

8
9 STATE WATER RESOURCES CONTROL BOARD

10 STATE OF CALIFORNIA

11
12 In the Matter of
13 CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY as Attorney-
14 in-Fact for Union Oil Company of
California,

15 Petitioner

16 For Review of San Francisco Bay Regional
17 Water Quality Control Board's Requirement
18 for a Data Gap Investigation Workplan and
Completion Report Pursuant to Water Code
19 Section 13267, dated June 6, 2025 – Former
Unocal Chemical Facility No. 0905 and
20 Former Foster Chemical Building, 401
and 411 High Street, Oakland, Alameda
County, California.

Case No.

**DECLARATION OF KRISTOPHER R.
JONES IN SUPPORT OF CHEVRON
ENVIRONMENTAL MANAGEMENT
COMPANY'S PETITION FOR REVIEW**

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I, Kristopher R. Jones, declare as follows:

1. I am a Legal Assistant in the law firm of Rogers Joseph O'Donnell, P.C., counsel of record in the captioned action for Petitioner Chevron Environmental Management Company ("EMC").

2. This declaration is made in support of EMC's Petition for Review.

3. I have personal knowledge of the matters set forth herein and, if called upon to testify, could and would testify competently thereto.

4. As part of EMC's due diligence and efforts to address the Regional Water Quality Control Board's claims regarding potential PFAS impacts at the former Unocal Chemical Facility No. 0905 and the former Foster Chemical Building, located at 401 and 411 High Street, Oakland, California (the "Site"), I coordinated Public Records Act ("PRA") requests to the City of Oakland Fire Department and the San Francisco Fire Department.

5. The PRA requests sought any records, including incident reports, manifests, or correspondence, reflecting the use or deployment of aqueous film-forming foams ("AFFF") or other PFAS-containing materials at or in connection with the Site.

6. Specifically, I submitted a written PRA request to the Oakland Fire Department requesting all available information regarding its involvement with any spill/fire incident response activities in the City of Oakland (i.e., responding to a spill or fire and any associated follow-up from the incident) at the properties located at 401 High Street, Oakland, or 411 High Street, Oakland, from January 1, 1955, through December 31, 1991. The request included documents with any information on the specific fire foams, vapor retardants, or spill response products (if any) used during spill/fire incident response activities at the properties and any other PFAS-containing materials used at the Site during the relevant period of the request.

7. I submitted a similar PRA request to the San Francisco Fire Department.

8. Copies of my PRA request to the Oakland Fire Department and San Francisco Fire Department are attached as **Exhibit 1** to this Declaration.

9. In response to these PRA requests, I received written communications from both the Oakland Fire Department and the San Francisco Fire Department stating that no responsive documents could be located. I have personally reviewed these responses. Neither department produced any record indicating that PFAS-containing foams or materials were used, stored, or discharged at the Site during the relevant time period, January 1, 1955, through December 31, 1991.

10. Copies of the responses I received in response to my PRA requests are attached as **Exhibit 2** to this Declaration.

11. The communication from the Oakland Fire Department suggested that I contact the Alameda County Department of Environmental Health Certified Unified Program Agency to see if it had any documents responsive to my request.

12. A true and correct copy of my PRA request to the Alameda County Department of Environmental Health Certified Unified Program Agency is attached to this Declaration as **Exhibit 3**.

13. I have personally reviewed the responses received from the Alameda County Department of Environmental Health Certified Unified Program Agency. That agency did not produce any record indicating that PFAS-containing foams or materials were used, stored, or discharged at the Site during the relevant time period, January 1, 1955, through December 31, 1991.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 3rd day of July, 2025 at San Francisco, California.

KRISTOPHER R. JONES

Exhibit 1

Oakland, CA

 NextRequest

Request 24-12985 ☒ Closed

Dates

Due

December 6, 2024

Received

November 26, 2024 via web

Staff assigned

Departments

Fire

Point of contact

Grace Santos

Request

In accordance with the California Public Records Act, Cal. Gov't Code § 6250 *et seq.*, we are requesting all available information regarding your involvement with any spill/fire incident response activities in the City of Oakland (i.e., responding to a spill or fire and any associated follow-up from the incident) at the properties located at 401 High Street, Oakland, or 411 High Street, Oakland, (collectively "the Properties") from January 1, 1955, through December 31, 1991 ("Relevant Period").

The scope of this request includes, but is not limited to, the following information:


- Any records indicating the presence or potential presence of per- or polyfluoroalkyl substances (PFAS) present in firefighting products or foam, including vapor retardant or spill response products used by the Oakland Fire Department ("OFD") during spill/incident response activities during the Relevant Period, including brand names and formulations;
- Details of any spill/fire incident response activities at the Properties during the Relevant Period;
- Information on the specific fire foams, vapor retardants, or spill response products (if any) used during spill/fire incident response activities at the Properties during the Relevant Period, including brand names and formulations;
- Any pictures, maps or drawings supporting or documenting spill/fire incident response activities at the Properties during the Relevant Period.
- Any Fire Marshall inspection reports or findings for the Properties during the Relevant Period.

If there are records, reports, or documents pertaining to this request, we request copies of such materials. In the absence of specific records, please provide a written confirmation of the same. In accordance with Gov't Code § 6253, Rogers Joseph O'Donnell agrees to pay reasonable fees incurred by you in responding to this request. In the event that such fees are anticipated to exceed \$500, please contact me in advance at kjones@rjo.com or (415) 365-5329 to discuss cost.

[Show less](#)

Timeline

Documents




Request closed ^

Anyone with access to this request

The City has no records responsive to this request.

December 4, 2024, 1:55pm by Staff




Department assignment

Anyone with access to this request

Fire

November 26, 2024, 10:45am by the requester



Request opened

Anyone with access to this request

Request received via web

November 26, 2024, 10:45am by the requester

City and County of San Francisco



Request Visibility: Unpublished

Request 24-7120 ☒ Closed

Dates

Received

November 26, 2024 via web

Requester



Kris Jones



kjones@rjo.com



311 California St, San Francisco, CA, 94104



4159562828



Rogers Joseph O'Donnell

Staff assigned

Departments

Fire Department

Point of contact

Fire Public Records

Request

In accordance with the California Public Records Act, Cal. Gov't Code § 6250 *et seq.*, we are requesting all available information regarding your involvement with any spill/fire incident response activities in the City of Oakland (i.e., responding to a spill or fire and any associated follow-up from the incident) at the properties located at 401 High Street, Oakland, or 411 High Street, Oakland, (collectively "the Properties") from January 1, 1955, through December 31, 1991 ("Relevant Period").

The scope of this request includes, but is not limited to, the following information:

- Any records indicating the presence or potential presence of per- or polyfluoroalkyl substances (PFAS) present in firefighting products or foam, including vapor retardant or spill response products used by the Oakland Fire Department ("OFD") during spill/incident response activities during the Relevant Period, including brand names and formulations;
- Details of any spill/fire incident response activities at the Properties during the Relevant Period;
- Information on the specific fire foams, vapor retardants, or spill response products (if any) used during spill/fire incident response activities at the Properties during the Relevant Period, including brand names and formulations;
- Any pictures, maps or drawings supporting or documenting spill/fire incident response activities at the Properties during the Relevant Period.
- Any Fire Marshall inspection reports or findings for the Properties during the Relevant Period.

If there are records, reports, or documents pertaining to this request, we request copies of such materials. In the absence of specific records, please provide a written confirmation of the same. In accordance with Gov't Code § 6253, Rogers Joseph O'Donnell agrees to pay reasonable fees incurred by you in responding to this request. In the event that such fees are anticipated to exceed \$500, please contact me in advance at kjones@rjo.com or (415) 365-5329 to discuss cost.

[Show less](#)

Timeline	Documents
<div><div><div><div><div><div></div></div></div><div><div><div>Message from requester</div><div>Requester + Staff</div></div></div></div><div><div><div>Hello,</div><div>I am again following up on this request with the additional information contained in the Oakland Tribune article linked in the 12/16/24 message. The Oakland Tribune article is from 7/6/1983 and references Dr. Richard Wade as well as other units sent to the site from San Francisco Fire Department. Can you please confirm that you have searched for records concerning this incident. Thank you.</div><div>April 8, 2025, 4:36pm by the requester</div></div></div></div></div>	
<div><div><div><div><div><div></div></div></div><div><div><div>Message from requester</div><div>Requester + Staff</div></div></div></div><div><div><div>Hello,</div><div>I am following up on the 12/16/24 message posted regarding the news article linked in the timeline for Request 24-7120.</div><div>Thank you.</div><div>January 22, 2025, 3:59pm by the requester</div></div></div></div></div>	
<div><div><div><div><div><div></div></div></div><div><div><div>Message from requester</div><div>Requester + Staff</div></div></div></div><div><div><div>We have received your response to the request, which directed us to the Oakland Fire Department. Based on the news article at this link, it appears that the San Francisco Fire Department personnel responded to an incident at 401 High Street in 1983. Can you confirm that you have searched for records concerning this incident. Thank you</div><div>December 16, 2024, 8:27am by the requester</div></div></div></div></div>	
<div><div><div><div><div><div></div></div></div><div><div><div>Request closed</div><div>Anyone with access to this request</div></div></div></div><div><div><div>Hi Kris,</div><div>To obtain records for properties located in Oakland, CA, please submit a records request with Alameda Fire Department. San Francisco Fire Department only has records for City and County of San Francisco properties.</div><div>There are no records in relation to your requested information at the SFFD Bureau of Fire Prevention regarding the property.</div><div>This concludes your public records request.</div><div>Thank You.</div><div>December 6, 2024, 2:50pm by Staff</div></div></div></div></div>	
<div><div><div><div><div><div></div></div></div><div><div><div>Department assignment</div><div>Anyone with access to this request</div></div></div></div><div><div><div>Fire Department</div><div>November 26, 2024, 10:47am by the requester</div></div></div></div></div>	
<div><div><div><div><div><div></div></div></div><div><div><div>Request opened</div><div>Anyone with access to this request</div></div></div></div></div></div>	

Request received via web

November 26, 2024, 10:47am by the requester

Exhibit 2

From: [Oakland CA Public Records](#)
To: [Kristopher R. Jones](#)
Subject: [External Message Added] Oakland, CA public records request #24-12985
Date: Wednesday, December 4, 2024 1:55:25 PM

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

Oakland, CA Public Records

A message was sent to you regarding
record request #24-12985:

The Oakland Fire Department does not have responsive records;
the dates provided exceed the retention period.

Please contact Alameda County Dept. of Environmental Health
regarding hazardous materials (CUPA) records at [http://
www.acgov.org/aceh/hazard/cupa-file-review-request.htm](http://www.acgov.org/aceh/hazard/cupa-file-review-request.htm). On
6/30/15, the Oakland Fire Department regulation of hazardous
materials facilities and CUPA records were transferred to
Alameda County.

[View Request 24-12985](#)

<https://oaklandca.nextrequest.com/requests/24-12985>

From: [Oakland CA Public Records](#)
To: [Kristopher R. Jones](#)
Subject: Your Oakland, CA public records request #24-12985 has been closed.
Date: Wednesday, December 4, 2024 1:55:52 PM

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

Oakland, CA Public Records

Record request #24-12985 has been closed. The closure reason supplied was:

The City has no records responsive to this request.

[View Request 24-12985](#)

<https://oaklandca.nextrequest.com/requests/24-12985>



Questions about your request? Reply to this email or sign in to contact staff at Oakland, CA.

Technical support: See our [help page](#)

From: [CCSF Public Records](#)
To: [Kristopher R. Jones](#)
Subject: Your City and County of San Francisco public records request #24-7120 has been closed.
Date: Friday, December 6, 2024 2:50:33 PM

-- Attach a non-image file and/or reply ABOVE THIS LINE with a message, and it will be sent to staff on this request. --

City and County of San Francisco Public Records

Record request #24-7120 has been closed.
The closure reason supplied was:

Hi Kris,

To obtain records for properties located in Oakland, CA, please submit a records request with Alameda Fire Department. San Francisco Fire Department only has records for City and County of San Francisco properties.

There are no records in relation to your requested information at the SFFD Bureau of Fire Prevention regarding the property.
This concludes your public records request.
Thank You.


[View Request 24-7120](#)

<https://sanfrancisco.nextrequest.com/requests/24-7120>

Exhibit 3

From: [dehcupafilereview, Env. Health](#)
To: [Kristopher R. Jones](#)
Subject: RE: 401/ 411 High Street Oakland CA 94601
Date: Friday, December 13, 2024 9:09:34 AM
Attachments: [image001.png](#)

Thank you for contacting Alameda County Department of Environmental Health (ACDEH) Certified Unified Program Agency (CUPA) for your Public Records Act Request.

-
ACDEH CUPA records for the address(es) you requested can be downloaded from the following link,  [Kris Jones 12-9-2024](#) , they will remain available for download for the next 14 days.

-
Please note that ACDEH CUPA only has files for sites within its jurisdiction and some cities within Alameda County are not part of the ACDEH CUPA jurisdiction. In those cases we advise that you contact the Fire or Planning Department of that city for any records. **Please view our Jurisdiction List in this link:**
[CUPA Jurisdictions in Alameda County \(acgov.org\)](#)

-
ACDEH has other divisions which may have records for the requested address(es). I have listed the divisions below and who to contact to acquire records if relevant.

- Solid/Medical Waste
Contact: LaTresca Porter at latresca.porter@acgov.org
- Operations Division (retail food, recreation, and tattoo parlors)
Contact: dehwebmain@acgov.org
- Vector Control Division
Contact: Daniel Wilson at daniel.wilson@acgov.org
- Land and Water Division (Local Oversight Program (LOP) and Onsite Wastewater Treatment Systems)

The links listed below may be helpful to gather information on LOP sites. The search on the geotracker link may be conducted by address or site name. If you cannot find documents you are searching for then please contact LOP directly.

Contact: deh.loptoxic@acgov.org
<https://deh.acgov.org/landwater/index.page>
<http://geotracker.waterboards.ca.gov/>

Due to the COVID-19 pandemic, all requested files are provided electronically. However, once the precautionary measures related to COVID-19 are lifted, our office may make files available by appointment for review on Thursdays and Fridays from 9:00 AM until 12:00 noon. We will keep our requestors aware of this situation as it

progresses.

Please send all future requests to dehcupafilereview@acgov.org.

Please reach out to us if you have any further questions or clarifications.

Thank you.

Sincerely,

From: acgovnoreply <no-reply@acgov.org>

Sent: Monday, December 9, 2024 3:49 PM

To: dehcupafilereview, Env. Health <dehcupafilereview@acgov.org>

Subject: 401/ 411 High Street Oakland CA 94601

E-mail submitted from: CUPA File Review Request

Full Name: Kris Jones 12-9-2024

Email Address: kjones@rjo.com

Comments: Hello, I am requesting the following: ♦ Any records indicating the presence or potential presence of per- or polyfluoroalkyl substances (PFAS) at the properties located at 401 High Street, Oakland, or 411 High Street, Oakland (collectively ♦the Properties♦) from January 1, 1955, through December 31, 1991 (♦Relevant Period♦); ♦ Details of any spill/fire incident response activities at the Properties during the Relevant Period; ♦ Information on the specific fire foams, vapor retardants, or spill response products (if any) used by the Oakland Fire Department during the Relevant Period, including brand names and formulations; ♦ Any pictures, maps or drawings supporting or documenting use or storage of PFAS at the Properties during the Relevant Period. ♦ Any inspection reports or findings for the Properties during the Relevant Period.

EXHIBIT D

1 ROGERS JOSEPH O'DONNELL
Robert C. Goodman (State Bar No. 111554)
2 rgoodman@rjo.com
E. Jacob Lubarsky (State Bar No. 251289)
3 jlubarsky@rjo.com
311 California Street, 10th Fl.
4 San Francisco, California 94104
Telephone: 415.956.2828
5 Facsimile: 415.956.6457

6 Attorneys for Petitioner
CHEVRON ENVIRONMENTAL
7 MANAGEMENT COMPANY

8
9 STATE WATER RESOURCES CONTROL BOARD

10 STATE OF CALIFORNIA

11
12 In the Matter of

13 CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY as Attorney-
14 in-Fact for Union Oil Company of
California,

15
16 Petitioner

17 For Review of San Francisco Bay Regional
Water Quality Control Board's Requirement
18 for a Data Gap Investigation Workplan and
Completion Report Pursuant to Water Code
19 Section 13267, dated June 6, 2025 – Former
Unocal Chemical Facility No. 0905 and
20 Former Foster Chemical Building, 401
and 411 High Street, Oakland, Alameda
21 County, California.

Case No.

**DECLARATION OF CHAD ROPER,
Ph.D. IN SUPPORT OF CHEVRON
ENVIRONMENTAL MANAGEMENT
COMPANY'S PETITION FOR REVIEW**

1 I, Chad Roper, declare as follows:

2 1. I am a Chemist in the Remediation Practices group for AECOM
3 Technical Services, Inc. ("AECOM"). AECOM is the environmental consultant for Chevron
4 Environmental Management Company ("EMC"), the Petitioner in this matter.

5 2. This declaration is made in support of EMC's Petition for Review.

6 3. I have been personally involved in environmental assessment and
7 remedial activities at the former Unocal Chemical Facility No. 0905 and the former Foster
8 Chemical Building, located at 401 and 411 High Street, Oakland, California (the "Site"). I
9 have personal knowledge of the facts stated herein and, if called as a witness, could and
10 would testify competently thereto.

11 4. Since approximately 1983, multiple phases of environmental
12 investigation, monitoring, and remediation have been conducted at the Site by Union Oil
13 Company of California ("Union Oil"), Chevron Environmental Management Company
14 ("EMC"), and their consultants. Based on my direct experience at the Site and my review of
15 AECOM's project records, these efforts have included: Soil and Groundwater Investigations;
16 Active Remediation Systems; and Ongoing Monitoring and Reporting.

17 5. These efforts have resulted in the characterization of environmental
18 conditions and documented trends of stable to declining contaminant concentrations over
19 time.

20 6. Based on my direct experience at the Site, I estimate that there would be
21 significant costs associated with complying with the June 6, 2025, Requirement for a Data
22 Gap Investigation Workplan and Completion Report issued by the San Francisco Bay
23 Regional Water Quality Control Board (the "Directive"), including, at a minimum:
24 preparation of the workplan and coordination; soil and groundwater sampling; abandoned
25 pipeline investigation and associated field activities; laboratory analysis (including PFAS and
26 SVOCs); data evaluation and preparation of the completion report; and regulatory
27 coordination and contingency.
28

1
2 I declare under penalty of perjury under the laws of the State of California that
3 the foregoing is true and correct. Executed this 3rd day of July, 2025 at Westlake Village,
4 California.

5
6 

7 CHAD ROPER, Ph.D.
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EXHIBIT E

1 ROGERS JOSEPH O'DONNELL
2 Robert C. Goodman (State Bar No. 111554)
3 rgoodman@rjo.com
4 E. Jacob Lubarsky (State Bar No. 251289)
5 jlubarsky@rjo.com
6 311 California Street, 10th Fl.
7 San Francisco, California 94104
8 Telephone: 415.956.2828
9 Facsimile: 415.956.6457

6 Attorneys for Petitioner
7 CHEVRON ENVIRONMENTAL
8 MANAGEMENT COMPANY

9 STATE WATER RESOURCES CONTROL BOARD
10 STATE OF CALIFORNIA
11

12 In the Matter of

13 CHEVRON ENVIRONMENTAL
14 MANAGEMENT COMPANY as Attorney-
15 in-Fact for Union Oil Company of
16 California,

16 Petitioner

17 For Review of San Francisco Bay Regional
18 Water Quality Control Board's Requirement
19 for a Data Gap Investigation Workplan and
20 Completion Report Pursuant to Water Code
21 Section 13267, dated June 6, 2025 – Former
Unocal Chemical Facility No. 0905 and
Former Foster Chemical Building, 401
and 411 High Street, Oakland, Alameda
County, California.

Case No.

**DECLARATION OF E. JACOB
LUBARSKY IN SUPPORT OF
CHEVRON ENVIRONMENTAL
MANAGEMENT COMPANY'S
PETITION FOR REVIEW**

1 I, E. Jacob Lubarsky, declare as follows:

2 1. I am an attorney in the law firm of Rogers Joseph O'Donnell, P.C.,
3 counsel of record in the captioned action for Petitioner Chevron Environmental Management
4 Company ("EMC").

5 2. This declaration is made in support of EMC's Petition for Review.

6 3. I have personal knowledge of the matters set forth herein and, if called
7 upon to testify, could and would testify competently thereto.

8 4. Attached as **Exhibit 1** to this Declaration is a true and correct copy of
9 the June 2, 2003, Pipeline Inspection Report for the 401 High Street, Oakland, California,
10 property.

11 5. I have reviewed the State Water Resources Control Board GeoTracker
12 website for the 401 High Street, Oakland, California, property, and **Exhibit 1** does not appear
13 posted on that website.

14 6. Based on my review of the Directive, the administrative record, EMC's
15 historical investigation and remediation documentation, and applicable law, this matter
16 presents substantial questions of law and fact within the meaning of California Code of
17 Regulations, title 23, section 2053(a)(3). Specifically, these substantial questions include, but
18 are not limited to, the following:

- 19 • Compliance with Water Code Section 13267 – Whether the Directive
20 satisfies the requirements of Water Code section 13267, including the
21 requirement that a Regional Board must (i) provide an adequate written
22 explanation regarding the need for the requested reports and (ii) identify
23 evidence supporting the demand for such reports.
- 24 • Technical Justification for Additional Investigation – Whether the
25 Directive's requirements for further soil and groundwater sampling,
26 pipeline investigation, and PFAS sampling are technically justified in
27 light of over three decades of site investigation, remediation, and
28

1 monitoring demonstrating stable or declining contaminant
2 concentrations and absence of evidence of PFAS usage.

- 3 • Reasonable Relationship of Burden to Need – Whether the significant
4 burden imposed by the Directive, requiring EMC to develop and
5 implement additional investigation workplans and conduct intrusive
6 fieldwork, bears a reasonable relationship to any demonstrated
7 environmental or public health need, as required by Water Code section
8 13267(b)(1).
- 9 • Sufficiency of Record Evidence – Whether the record contains
10 substantial evidence to support the Directive's conclusions that "data
11 gaps" exist warranting further investigation, as opposed to speculative
12 or generalized concerns lacking site-specific factual basis.
- 13 • Application of Relevant Law and Policy – Whether the Directive was
14 issued consistent with applicable legal standards, including the
15 California Water Code, administrative law principles prohibiting
16 arbitrary and capricious agency action, and established regulatory
17 policies governing the investigation and remediation of contaminated
18 sites.

19
20 I declare under penalty of perjury under the laws of the State of California that
21 the foregoing is true and correct. Executed this 3rd day of July, 2025 at Shelburne, Vermont.
22

23
24 
E. JACOB LUBARSKY

Exhibit 1

Carlin Environmental Consulting, Inc.

9272 Joronimo Road Suite 104
Irvine, California 92618
949-586-8089 (F) 949-586-8040

2003 JUN -9 PM 2: 01

June 2, 2003

Caster Properties, Inc.
4607 Mission Gorge Place
San Diego, California 92120

Subject: The finding and mitigation of three pipelines through the northern portion of 301/401 High Street, Oakland, California.

Gentlemen:

1.0 INTRODUCTION

Carlin Environmental Consulting, Inc. (CEC) has been the environmental consultant of record for Caster Properties, Inc. (Caster) during the purchase of the subject properties. These addresses, 301 and 401 are now being developed into one site which will be a self storage facility. The site has been purchased by Caster and is in the grading (earth moving) phase of development. In May of 2003 a series of three 6-inch diameter pipelines were uncovered near the northern end of the site. Figure 1 illustrates the location of the pipelines. Note on the figure that the pipes were uncovered from the eastern to the western property lines. On the eastern side, the pipes continue an unknown distance off site. On the western side the pipes terminate into the embankment which is the confining structure for the adjacent estuary. One of these pipes is actually exposed on the estuary side of the embankment. The other two are assumed to terminate in the embankment.

2.0 SITE VISIT AND INVESTIGATION

A representative from CEC visited the site on May 27, 2003 to evaluate the pipes and to make a preliminary determination if the pipes have caused any evidence of contamination. The following observations were made:

- Three pipelines of unknown origin had been uncovered from the eastern property line (PL) to a point within approximately 20 feet from the western PL. These pipes were later exposed all the way to the western PL.

- There was no physical indication that the pipes had leaked any fluid into adjacent soil. Thus no soil sampling or laboratory analyses were conducted. The pipes had been penetrated during the uncovering process and it could be determined that they were no longer in use. Some residue of minimal thickness was noted to still be in the pipes. The residue was not tested but appeared, based on CEC's experience, to be a hydrocarbon, likely a fuel, in two of the pipes. No residue leaked from the pipes and all of the residue remained in the pipes until removal and off site disposal of the pipes. Later information revealed that one of the pipes was a fire line which formerly contained water. Pipe disposal is discussed in the following section.
- All joints were observed and found to be in tact. These pipes were not found to have caused any apparent subsurface contamination. CEC recommended removal of the pipes. No additional investigations are recommended.

3.0 RECOMMENDATIONS AND IMPLEMENTATION

Once the conditions of the pipes had been evaluated, CEC provided a series of verbal recommendations. The implementation of these recommendations was directed by an onsite Caster representative and CEC was kept apprised by way of telephone and electronically transmitted digital photography. The mitigation of these pipes consisted of the following items:

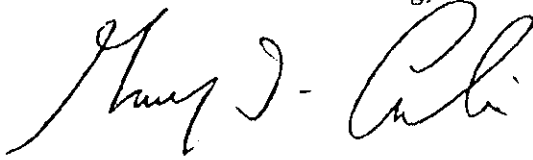
- A local welder experienced in working with hydrocarbon containing vessels was retained to remove the pipes. CEC met with this welder along with the Caster representative to establish his qualifications, availability and a scope of work.
- The welder and his employees cut the pipes at the PL's and into to 20-foot long sections for transportation off site. The pipes which were weighed at 12, 880 pounds were transported to Alco Iron & Metal Co. (ai&m) at 2350 Davis Street in San Leandro, California. This is a metal salvage facility. The metal will be recycled. A series of two documents, which were generated by ai-&m and are attached, have been provided to CEC which authenticates that this facility received the metal. It is CEC opinion that this is an appropriate disposal of this material and we recommend no further documentation.
- In addition to the dismantling, transportation and recycling/disposal of the pipes, the welder was instructed to cut the pipes at the PL's and weld a metal plate to the ends. A continuous weld was applied to the contact between the plates and the pipes. Caster intends to implement a final CEC recommendation and install a rectangularly shaped approximately 2-feet by 2-feet by 1-foot concrete structure around the pipes to act as a thrust block to hold these welded plates in place. It is very unlikely that the remnants of the pipelines east of the PL will ever be reactivated, however, in this unlikely event, it is CEC's opinion that these thrust blocks and welded metal plates will more than adequately preclude and liquid from entering the subject site. This thrust block and welded plates assembly will also preclude any fluid related to the estuary from entering the site from the western PL. These thrust block will be installed along with the footings associated with the future adjacent building A.1 and A.2.

4.0 LIMITATION

This investigation was conducted and this summary report was prepared using a degree of care and skill ordinarily exercised, under similar circumstances, by reputable Soil Engineers, Geologists, and Environmental Scientists practicing in this or similar localities. No other warranty, expressed or implied is made as to the conclusion and professional advice included in this document.

Very truly yours

Carlin Environmental Consulting, Inc.

A handwritten signature in cursive script, reading "Gary T. Carlin". The signature is written in dark ink and is positioned above the printed name and title.

Gary T. Carlin
President - R.E.A. 3403

LEGEND

--- PROPERTY LINE

① LOCATION, NUMBER AND VIEW DIRECTION OF PHOTOGRAPH

NOTE: Locations are approximate



100 50 0 100
APPROXIMATE SCALE (feet)

REFERENCE:
MPDS Services, inc., not doled

June 2003
REMOVED PIPES
(SEE JUNE 2
CRC REPORT)

OAKLAND
ESTUARY

HIGH STREET

FOSTER CHEMICAL

CONTAINER YARD
411 HIGH STREET

2,3,4

⑦

⑧

①

BIG 8
LUMBER YARD
301 HIGH STREET

HIGH STREET
BRIDGE

HIGH STREET



KLEINFELDER

SITE PLAN

PLATE

2

DRAFTED BY: J. Sala

DATE: 01-11-01

401 HIGH STREET
OAKLAND, CALIFORNIA

CHECKED BY: G. Goodemote

DATE: 01-11-01

PROJECT NO. 44-000393-001

©2001, by Kleinfelder, Inc.

CAD FILE: L:\2001\01PROJ\44000393\001\SITEPLAN.dwg

EXHIBIT F

ROGERS JOSEPH O'DONNELL

Robert C. Goodman
415.365.5304 (d)
rgoodman@rjo.com

415.956.2828 (t)
415.956.6457 (f)

Robert Dollar Building
311 California Street, 10th Flr.
San Francisco CA 94104

202.777.8950 (t)
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June 25, 2025

VIA EMAIL

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Jessica Watkins, P.E.
Chief, Groundwater Protection and Waste Containment Division
California Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

RE: June 6, 2025, Directive – Requirement for Workplan and Completion
Report – Former Unocal Chemical Facility No. 0905 and Former
Foster Chemical Area, 401 and 411 High Street, Oakland

Dear Ms. Watkins:

I represent Chevron Environmental Management Company (“CEMC”), which manages environmental liabilities at the above-reference site on behalf of Union Oil Company of California (“Union Oil”). This letter responds to the San Francisco Bay Regional Water Quality Control Board’s (“Regional Board”) June 6, 2025, directive ordering the submission of a data gap investigation workplan (by July 8, 2025) and subsequent completion report (by November 6, 2025) pursuant to Water Code Section 13267.

Union Oil objects to the directive on both factual and legal grounds. The requests outlined in the Regional Board’s directive are premised on unfounded assumptions, disregard extensive historical data, and impose burdensome obligations without demonstrating a reasonable relationship to any environmental or public health benefit. Furthermore, no new information has been presented that would reasonably justify reopening site characterization or expanding remedial investigation. Accordingly, Union Oil requests that the Regional Board withdraw the directive. Should the Regional Board not withdraw the directive, Union Oil will have no choice but to file a petition with the State Water Resources Control Board.

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Background and Summary of Site Work

Since the initial discovery of contamination at the 401 and 411 High Street properties, Union Oil and other parties have conducted decades of investigation, remediation, and monitoring to address both hydrocarbon and chlorinated volatile organic compound (“CVOC”) impacts at the site. Remedial actions have included the following:

- Groundwater extraction and treatment (1989–2005);
- Soil vapor extraction (1992–1998);
- Dual-phase extraction and air sparging (2005–2007);
- Sulfate injection and enhanced natural attenuation (2012–2015);
- Multiple rounds of soil sampling (starting in 1983) and groundwater sampling (quarterly since 1987) across three hydrologic zones (A, AB, and B); and
- Extensive indoor and sub-slab vapor intrusion evaluation (finalized in July 2024).

In addition to the technical remediation efforts, numerous regulatory milestones have been achieved, including closure eligibility requests, formal regulatory reviews, and periodic updates to the conceptual site model (“CSM”). All available lines of evidence confirm that the remaining impacts are stable, declining, and fully characterized under the site’s current land use.

Response to Specific Issues Raised in the Board’s Directive

Soil Data and Screening Indicators at the Foster Chemical Area

The Regional Board asserts that soil data are insufficient in the Foster Chemical area, referencing field indicators such as elevated PID values, UV fluorescence, odors, and soil discoloration in multiple borings (e.g., M-11, M-19 through M-26). These concerns are not technically justified.¹

Analytical data from these and adjacent borings demonstrate that, even in intervals where field indicators were noted, laboratory analysis either yielded non-detect results or concentrations far below cleanup goals. For instance, at M-19, where fluorescence

¹ Union Oil acknowledges that semi-volatile organic compounds (“SVOCs”) data was not collected from certain deeper soil samples (VOC data was). But such data is not necessary as SVOCs are not part of the soil or groundwater cleanup standards for the Self-Monitoring Program of Site Cleanup Requirements in Order No. R2-2011-0052.

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and PID responses were observed, soil samples collected at 11.5-12 and 13.5-14 feet below ground surface (bgs) did not confirm exceedances that would indicate a need for further delineation.

Moreover, the use of field screening results (e.g., PID or LIF) as standalone evidence of a data gap is contrary to established regulatory practice. Field screening tools are qualitative indicators, not substitutes for analytical data. When evaluated in context, these indicators do not override the substantial body of evidence confirming vertical and lateral delineation of soil impacts.

The current land use – a transportation facility with limited subsurface disturbance – remains protective of human health. No vapor intrusion, leaching to groundwater, or risk to site occupants has been observed or projected.

Railroad Spur and Historical Operations

The Regional Board references historic aerial photographs showing variations in the path of the railroad spur and suggests that potential impacts along these paths remain uninvestigated. This conclusion overlooks the extensive sampling already conducted throughout the property, including areas adjacent to and beneath the former rail spur footprint.

Soil samples collected at multiple depths along the rail corridor, including boring attempts in 2008 and 2015, did not identify concentrations of toluene, CVOCs, or petroleum hydrocarbons consistent with a release from railcars. If releases had occurred along this path, residual mass would likely have been detected in shallow soil or groundwater. Yet, no such impacts have been confirmed. In short, the data does not support the need for reopening or expanding this area of investigation.

Abandoned Pipelines on the 411 High Street Property

The assertion that three former pipelines constitute a current or potential environmental threat is not supported by any evidence of release. These pipelines were physically severed, sealed, and abandoned more than 20 years ago. They were drained, capped with welded plates, and anchored with thrust blocks. Reports from that time explicitly state there was no visual or chemical indication of leakage.

Further, borings conducted immediately adjacent to the presumed pipeline corridor (e.g., M-19 through M-22) did not reveal elevated hydrocarbon or VOC concentrations. The presence of clean soil adjacent to these pipelines, coupled with proper

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decommissioning, strongly indicates that these features are not acting as a contaminant source.

Union Oil objects to the Regional Board's assertion that the pipelines require potholing or daylighting based solely on their orientation being "unknown." Absent new data demonstrating a release or an actual environmental concern, such work would constitute unnecessary disturbance, cost, and risk.

Assessment of PFAS

Union Oil has completed a diligent review of historical documentation to determine whether per- and polyfluoroalkyl substances ("PFAS") may have been used at the site. The results of that review are as follows:

- No records of PFAS-containing aqueous film-forming foam ("AFFF") usage were identified in internal Union Oil files;
- Sanborn maps covering site operations from 1950–1969 did not indicate firefighting infrastructure consistent with AFFF; and
- A Public Records Act request submitted to both the Oakland and San Francisco Fire Departments yielded no records of PFAS use, storage, or deployment in response to the 1983 toluene incident.

The absence of evidence is not a data gap; it is evidence that PFAS were not used. The Regional Board's reliance on historical generalities about PFAS use at fuel terminals – with no actual evidence – does not justify targeted groundwater analysis, particularly in the absence of any known usage or infrastructure. Thus, the requested sampling is speculative and not reasonably related to site-specific facts.

Formal Request for Supporting Evidence

In response to the directive letter and the statements made therein, Union Oil hereby requests that the Regional Board immediately provide the following:

- All documents, data, maps, and field notes used to support the conclusions in the June 6, 2025 directive;
- Copies of any reports or memos indicating the pipelines on the 411 property have released contaminants or are pressurized;

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- Any evidence (e.g., correspondence, chemical records, incident reports) showing or suggesting PFAS use at the site; and
- The complete rationale for concluding that the site's CSM is materially incomplete.

This request is made to ensure that any compliance actions are grounded in objective technical criteria and not speculation.

Conclusion

Union Oil has spent over three decades investigating and remediating this site in collaboration with multiple stakeholders and under close regulatory oversight. The data demonstrates a long-term trend of declining concentrations, no active source migration, and compliance with existing cleanup standards. Under current use conditions, there is no unacceptable risk to human health or water quality.

We therefore respectfully request that the Regional Board withdraw or revise the June 6, 2025, directive to reflect the substantial technical evidence demonstrating that site characterization is complete. If the directive is not rescinded or materially revised by July 1, 2025, Union Oil will have no choice but to submit a petition for review with the State Board pursuant to Water Code Section 13320. As part of that petition, Union Oil will also request a stay of all obligations imposed by the directive pending final resolution by the State Board.

Union Oil remains open to constructive dialogue with the Regional Board and encourages a cooperative, data-driven approach to managing site closure efforts.

Very truly yours,



ROBERT C. GOODMAN

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