In the Matter of

SENior AEROSPACE SSP,

Petitioner


Pursuant to California Water Code section 13320 and Title 23 of the California Code Regulations §§ 2050 et seq., Petitioner Senior Aerospace SSP ("Petitioner") hereby petitions the State Water Resources Control Board ("State Board") for review of Revised Order to Provide a Technical Report for Subsurface Soil Investigation California Water Code Section 13267 Order No. R4-2012-0069-A01 ("Revised Order") adopted by the California Regional Water Quality Control Board, Los Angeles Region ("Regional Board") on June 20, 2013. The Revised Order purports to require Breeze-Eastern Corporation, Mr. William Zimmerman, Mr. James Galbraith, and Petitioner to prepare and submit a Subsurface Soil Investigation Workplan ("Workplan") to evaluate the conditions at the property located at 2980 North San Fernando Boulevard, Burbank, California ("the Site"). Among other things, the Revised Order contains serious factual errors that render it legally defective, including but
not limited to improperly naming Petitioner as an entity “responsible for the suspected discharges of waste” at the Site. Petitioner requests a hearing in this matter.

I. PETITIONER

The name and address of Petitioner is:

Senior Aerospace SSP
2980 North San Fernando Boulevard
Burbank, CA 91504-2566
Attn: Mr. Steven Loyer

Petitioner should be contacted through its legal counsel:

ROGERS JOSEPH O’DONNELL
ROBERT C. GOODMAN
311 California Street, 10th Floor
San Francisco, CA 94104
Telephone: (415) 956-2828
Facsimile: (415) 956-6457
E-mail: rgoodman@rjo.com

II. ACTION OF THE REGIONAL BOARD TO BE REVIEWED

The Petitioner requests that the State Board review the Revised Order to Provide a Technical Report for Subsurface Soil Investigation California Water Code Section 13267 Order No. R4-2012-0069-A01, which improperly names Petitioner and requires Petitioner and Breeze-Eastern Corporation, Mr. William Zimmerman, and Mr. James Galbraith to prepare and submit a Subsurface Soil Investigation Workplan for the Site. A copy of the Revised Order is attached as Exhibit A. This Petition is a protective filing, and pursuant to 23 Cal. Code Regs. § 2050.5(d), Petitioner requests that this Petition be held in abeyance by the State Board until further notice.

III. DATE OF THE REGIONAL BOARD ACTION


IV. STATEMENT OF REASONS WHY THE REGIONAL BOARD’S ACTION WAS INAPPROPRIATE OR IMPROPRIER

As set forth more fully below, the action of the Regional Board was not supported by the record, and was arbitrary, capricious, and in violation of law and policy.
A. Background

The Site is located in Burbank, California, and is occupied by a manufacturing operation. The Revised Order alleges that Stainless Steel Products/Industries has operated on the Site since approximately 1952, and that the Site currently is owned by First Industrial Real Estate, Inc. of Chicago, Illinois.

On September 21, 2012, the Regional Board adopted an Order to Provide a Technical Report for Subsurface Soil Investigation California Water Code Section 13267 Order No. R4-2012-0069 ("Original Order") in connection with the Site. A copy of the Original Order is attached as Exhibit B. The Original Order states that "[o]perations at the Stainless Steel Products/Industries facility included the use of hexavalent chromium, sodium dichromate, and chromic acid and that [m]etal coating and finishing processes were part of the on-site operations." (Original Order, Paragraph 2). The Original Order also notes that the "Regional Board file information indicates that past operations consisted of Metal coating and finishing processes" and that the "file information indicates that [Stainless Steel Products/Industries] used 450 pounds of chromic acid (Alodine 120) to coat parts and 600 pounds of sodium dichromate to clean parts." (Original Order, Paragraphs 4-5, cited in part).

The Original Order identified Stainless Steel Products and Breeze Eastern Corporation as "the responsible parties for the discharges and potential discharges of wastes identified in paragraphs (1) and two (2), because they were/are owners and operators of the facility directly responsible for the industrial processes involved in the use and storage of wastes at the property." (Original Order, Paragraph 6).

The Revised Order was adopted by the Regional Board on June 20, 2013. Like the Original Order, the Revised Order points to Stainless Steel Products/Industries as a suspected discharger. Specifically, the Revised Order states that "Stainless Steel Products/Industries is among the suspected sources of waste discharge in the USEPA Superfund Site because of the chemicals used and the operations conducted at the Site." (Revised Order, Paragraph 4). Additionally, the Revised Order states that "Stainless Steel Products/Industries' operations at the site included the use of hexavalent chromium, sodium dichromate, and chromic acid. Metal coating and metal finishing processes were part of
the on-site operations conducted by Stainless Steel Products/Industries.” (Revised Order, Paragraph 2).

In contrast to the Original Order, the Revised Order identifies Breeze-Eastern Corporation, Mr. William Zimmerman, Mr. James Galbraith and Petitioner as “the entities responsible for the suspected discharges of waste identified in paragraph (2) and (4) because Mr. William Zimmerman and Mr. James Galbraith were the owners/operators of the facility [Stainless Steel Products/Industries] where the activities occurred that resulted in the suspected discharges of waste were performed and [Petitioner] is a subsidiary of Breeze-Eastern Corporation and successor to Stainless Steel Products/Industries.” (Revised Order, Paragraph 5).  

The Revised Order’s allegations concerning Petitioner are incorrect. Petitioner has no corporate relationship whatsoever to Breeze-Eastern Corporation. (See Declaration of Steven Loye in Support of Petition for Review (“Loye Decl.”), Paragraph 3). Petitioner is also not a “successor to Stainless Steel Products/Industries.” Rather, in 1995, Senior Flexonics, Inc. purchased the assets of Stainless Steel Products, Inc., and Petitioner subsequently operated those assets. (Loye Decl., Paragraph 4)

B. The Regional Board’s Action Was Inappropriate and Improper

The factual basis for naming Petitioner in the revised order is defective because Petitioner is not a subsidiary of Breeze-Eastern Corporation or a successor to the liabilities of Stainless Steel Products/Industries.

The Revised Order finds that Petitioner is an entity “responsible for the suspected discharges of waste” because “Senior Aerospace SSP is a subsidiary of Breeze-Eastern Corporation and successor to Stainless Steel Products/Industries.” (Revised Order, Paragraph 5). As discussed above, both of these justifications for naming Petitioner on the

1 The Revised Order states that the current owner, First Industrial Real Estate, Inc. of Chicago, Illinois reported that Zimmerman and Galbraith were the first owners/operators of Stainless Steel products/Industries at the Site. (Revised Order, Paragraph 2)

2 The Loye Declaration is being submitted concurrently with the Petition for Review. See also Section X, below.
Revised Order are factually incorrect.

Petitioner is not a subsidiary of Breeze-Eastern Corporation, and has no legal relationship to that entity. (Loye Decl., Paragraph 3) Additionally, Petitioner is not a “successor” to “Stainless Steel Products/Industries.” Petitioner was formed following purchase of the assets of Stainless Steel Products/Industries. (Id., Paragraph 4). And because the transaction was an asset purchase, Petitioner has no liability, as successor, for any of the actions of Stainless Steel Products/Industries. (See Franklin v. USX Corporation, 87 Cal. App. 4th 615, 621-622). These factual errors in the Revised Order undermine the conclusion set forth in Paragraph 5 of the Revised Order that Petitioner is “responsible” for “suspected discharges of waste” at the Site.

The Revised Order’s findings all implicate Stainless Steel Products/Industries as a potential waste discharger at the Site. The Revised Order links Petitioner to the Site only by way of the erroneous factual statement that Petitioner is a subsidiary of Breeze-Eastern Corporation and a “successor” to Stainless Steel Products/Industries. As these assertions are factually incorrect, the Revised Order should be rescinded as it applies to Petitioner, and Petitioner should not be named as an entity “responsible for the suspected discharges of waste” at the Site.

V. THE MANNER IN WHICH PETITIONER HAS BEEN AGGRIEVED

The Petitioner has been aggrieved by the Regional Board’s actions because it will be subjected to provisions of an arbitrary and capricious Revised Order unsupported by evidence in the record. As a result of being named as an entity “responsible for the suspected discharge of waste” at the Site, the Petitioner will be forced to shoulder significantly increased costs of compliance, to bear a heavier burden of regulatory oversight and to suffer other serious economic consequences to its business operations.

VI. STATE BOARD ACTION REQUESTED BY PETITIONER

As discussed above, Petitioner requests that this Petition be held in abeyance. If it becomes necessary for Petitioner to pursue this appeal, it will request that the State Board determine that the Regional Board’s adoption of the Order was arbitrary and capricious or
otherwise inappropriate and improper, and will request that the State Board amend the Revised Order to delete Petitioner as an entity “responsible for the suspected discharge of waste.”

VII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION

For purposes of this protective filing, the Statement of Points and Authorities is subsumed in section IV of the Petition. If the Petitioner elects to pursue this appeal, it reserves the right to file a Supplemental Statement of Points and Authorities, including references to the complete administrative record, which is not yet available. Petitioner also reserves its right to supplement its request for a hearing to consider testimony, other evidence and argument.

VIII. STATEMENT REGARDING SERVICE OF THE PETITION ON THE REGIONAL BOARD

A copy of this Petition is being sent to the Regional Board, to the attention of Samuel Unger, P.E., Executive Officer and Luz Rabelo, Water Resources Control Engineer. By copy of this Petition, the Petitioner is also notifying the Regional Board of the Petitioner’s request that the State Board hold the Petition in abeyance. Copies of this Petition are also being sent to the entities/individuals “responsible for the suspected discharges of waste” as indicated in the Revised Order.

IX. STATEMENT REGARDING ISSUES PRESENTED TO THE REGIONAL BOARD

Petitioner was not presented an opportunity to comment on or object to the Revised Order prior to its issuance by the Regional Board. Petitioner wrote to the Regional Board on July 15, 2013 (see Exhibit C attached hereto), to point out the factual inaccuracies in the Revised Order and to request that the Revised Order be rescinded as to Petitioner. The Regional Board never responded to the letter.

X. REQUEST THAT SUPPLEMENTAL EVIDENCE BE CONSIDERED

Pursuant to 23 Cal. Code of Regs. §2050.6, Petitioner requests that the information contained in the Declaration of Steven Loye, submitted concurrently with this Petition, be considered by the Water Board. As discussed above, Petitioner was not
afforded an opportunity to comment on or object to the Revised Order and therefore was unable to submit this evidence to the Regional Board. The evidence set out in the Loye Declaration addresses and directly contradicts the erroneous factual statements in the Revised Order, specifically that Petitioner is a subsidiary of Breeze-Eastern Corporation and a “successor” to Stainless Steel Products/Industries. Accordingly, the evidence in the Loye Declaration is highly relevant and should be considered by the Water Board.

For all of the foregoing reasons, if the Petitioner pursues its appeal, it respectfully request that the State Board review the Revised Order and grant the relief as set forth above.

Dated: July 22, 2013

ROGERS JOSEPH O’DONNELL

By: ROBERT C. GOODMAN

Attorneys for Petitioner
Senior Aerospace SSP
PROOF OF SERVICE

I, Clara Chun, state:

My business address is 311 California Street, 10th Floor, San Francisco, CA 94104. I am employed in the City and County of San Francisco where this service occurs or mailing occurred. The envelope or package was placed in the mail at San Francisco, California. I am over the age of eighteen years and not a party to this action. On July 22, 2013, I served the following documents described as:

PETITION FOR REVIEW

on the following person(s) in this action by placing a true copy thereof enclosed in a sealed envelope, with the postage prepaid, addressed as follows:

State Water Resources Control Board
Office of the Chief Counsel
Jeannette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento, CA 95812-0100
jbashaw@waterboards.ca.gov

Mr. Samuel Unger, P.E.
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
sunger@waterboards.ca.gov

Ms. Luz Rabelo
Water Resources Control Engineer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
luz.rabelo@waterboards.ca.gov

Craig S. Bloomgarden, Esq.
Manatt, Phelps & Phillips, LLP
11355 West Olympic Boulevard
Los Angeles, CA 90064-1614
cbloomgarden@manatt.com
Ms. Sonja Donaldson  
Acting Director of Environmental Affairs  
Breeze-Eastern Corporation  
35 Melanie Lane  
Whippany, NJ 07981

Mr. William Zimmerman  
Owner/Operator  
Stainless Steel Products  
790 Huntington Circle  
Pasadena, CA 91106-4510

Mr. James Galbraith  
Owner/Operator  
Stainless Steel Products  
2600 Mission Street, Suite 200  
San Marino, CA 91108

X BY FIRST CLASS MAIL: I am readily familiar with my firm’s practice for collection and processing of correspondence for mailing with the United States Postal Service, to-wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope and placed it for collection and mailing on July 22, 2013, following ordinary business practices.

X BY ELECTRONIC SERVICE: 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 22, 2013  
Clara Chun

Clara Chun
EXHIBIT A
Los Angeles Regional Water Quality Control Board

REVISED ORDER TO PROVIDE A TECHNICAL REPORT FOR
SUBSURFACE SOIL INVESTIGATION
CALIFORNIA WATER CODE SECTION 13267 ORDER NO. R4-2012-0069-A01

DIRECTED TO BREEZE-EASTERN CORPORATION, MR. WILLIAM ZIMMERMAN,
MR. JAMES GALBRAITH AND SENIOR AEROSPACE SSP

STAINLESS STEEL PRODUCTS/INDUSTRIES
2980 NORTH SAN FERNANDO BOULEVARD, BURBANK, CALIFORNIA
(FILE NO. 104.1005)

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) makes the following findings and issues this Order pursuant to California Water Code (CWC) section 13267, which authorizes the Regional Board to require the submittal of technical and monitoring reports.

1. The groundwater within the San Fernando Valley Groundwater Basin (Basin) has been impacted by discharges of heavy metals, specifically chromium. The San Fernando Valley Superfund Site (Superfund Site) lies within the Basin. The United States Environmental Protection Agency (USEPA) and the Regional Board are investigating the potential sources of the discharges to the Basin. The agencies are currently focused on identifying individuals and companies responsible for the discharges of chromium in the Basin and holding them responsible for the investigation and remediation of the source sites. The property located at 2980 North San Fernando Boulevard, in the City of Burbank, California (the Site) is a potential source of chromium and overlies the Basin.

2. The Site was developed and occupied by Stainless Steel Products/Industries since approximately 1952. The Site is currently owned by First Industrial Real Estate, Inc. of Chicago, Illinois, who reported that Mr. William Zimmerman and Mr. James Galbraith were the first owners/operators of Stainless Steel Products/Industries at the Site. The Site is currently occupied by Senior Aerospace SSP. Senior Aerospace SSP is a subsidiary of Breeze-Eastern Corporation and a successor to Stainless Steel Products/Industries. Stainless Steel Products/Industries' operations at the Site included the use of hexavalent chromium, sodium dichromate, and chromic acid. Metal coating and metal finishing processes were part of the on-site operations conducted by Stainless Steel Products/Industries. In 1987, the USEPA and the Regional Board initiated an investigation at the Site which focused on volatile organic compounds (VOCs) and not on heavy metals. Therefore, the potential discharge and/or release of chromium based compounds to the soils at the Site, as a result of the past metal finishing operations, has not yet been determined.

3. CWC section 13267(b)(1) states:

"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or,
discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the reports 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.”

4. The Regional Board has obtained evidence indicating that there is a potential for discharge of waste at or from the Site. Regional Board files indicate that operations at the Site consisted of metal coating and metal finishing processes which included the use of hexavalent chromium, sodium dichromate, and chromic acid. Stainless Steel Products/Industries is among the suspected sources of waste discharge in the USEPA Superfund Site because of the chemicals used and the operations conducted at the Site. It is known that groundwater within the Superfund Site, including the vicinity of the Stainless Steel Products/Industries facility, is polluted with VOCs and heavy metals, particularly chromium. To date, a complete subsurface investigation of heavy metals in soil or groundwater has not been performed at the Site.

5. This Order identifies Breeze-Eastern Corporation, Mr. William Zimmerman, Mr. James Galbraith and Senior Aerospace SSP as the entities responsible for the suspected discharges of waste identified in paragraph two (2) and four (4) because Mr. William Zimmerman and Mr. James Galbraith were the owners/operators of the facility where the activities occurred that resulted in the suspected discharges of waste were performed and Senior Aerospace SSP is a subsidiary of Breeze-Eastern Corporation and successor to Stainless Steel Products/Industries.

6. This Order requires the persons/entities named herein to prepare and submit a Subsurface Soil Investigation Workplan (Workplan) in order to evaluate the conditions at the Site and determine if any discharges of heavy metal compounds, specifically chromium, has impacted the soils beneath the Site that could consequently pose a threat to groundwater. You are expected to submit a complete Workplan, as required by this Order, to the Regional Board. The Regional Board may reject the Workplan if it is deemed incomplete and/or require revisions to the Workplan under this Order.

7. The Regional Board needs this information in order to determine whether the Site is a source of discharges of waste, specifically chromium, and to determine whether the subsurface soil conditions at the Site are causing or threatening to cause discharges of waste to the waters of the State within the Basin.

8. The burdens, including costs, of these reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The information is necessary to identify sources of discharges of waste to the Basin and to assure adequate cleanup of the Stainless Steel Products/Industries facility, which as described above potentially poses significant threats to public health and the environment.

9. The issuance of this Order is an enforcement action by a regulatory agency and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to
section 15321(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This Order requires submittal of technical and/or monitoring reports and work plans. The proposed activities under the work plan are not yet known. It is unlikely that implementation of the work associated with this Order could result in anything more than minor physical changes to the environment. If the implementation may result in significant impacts on the environment, the appropriate lead agency will address the CEQA requirements prior to implementing any work plan.

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

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

or will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED that Breeze-Eastern Corporation, Mr. William Zimmerman, Mr. James Galbraith and Senior Aerospace SSP, pursuant to section 13267(b) of the CWC, are required to:

1. Submit a Subsurface Soil Investigation Workplan (Workplan) to the Regional Board by August 2, 2013. Guidance documents to assist you with this task can be found on the Internet at the following links:

"General Work Plan Requirements for a Heavy Metal Soil Investigation"
http://www.waterboards.ca.gov/losangeles/water_issues/programs/remediation/General Workplan Requirements for a Heavy Metals Soil Investigation.pdf

"Interim Site Assessment & Cleanup Guidebook (May1996),"

"Quality Assurance Project Plan"

2. The Workplan shall include detailed information of former and existing chromium storage, hazardous waste management, and associated practices.

3. The Workplan must also include proposed soil sampling boring locations which shall extend to a minimum depth of 25 feet below ground surface in the areas of the previous plating processes and waste treatment (sumps, clarifiers, etc.), hazardous waste storage area, and chemical storage area.

4. The Workplan must contain a health and safety plan (HASP), as per the guidelines.
5. The Workplan shall include a detailed schedule of implementation of the Workplan, including field work and providing a report of the results to the Regional Board.

6. Upon approval, the Workplan shall be implemented and a report summarizing the results according to the approved schedule must be submitted to the Regional Board.

The above item shall be submitted to:

Ms. Luz Rabelo  
Water Resources Control Engineer  
Remediation Section  
Los Angeles Regional Water Quality Control Board  
320 West 4th Street, Suite 200  
Los Angeles, California 90013  
Phone: (213) 576-6783  
Email: luz.rabelo@waterboards.ca.gov

Pursuant to 13267(a) of the CWC, any person who fails to submit reports in accordance with the Order is guilty of a misdemeanor. Pursuant to section 13268(b)(1) of the CWC, failure to submit the required Workplan described above by the specified due date(s) may result in the imposition of administrative civil liability by the Regional Board in an amount up to one thousand dollars ($1,000) per day for each day the Workplan is not received after the above due date. These civil liabilities may be assessed by the Regional Board for failure to comply, beginning with the date that the violations first occurred, and without further warning.

The Regional Board, under the authority given by the CWC section 13267, subdivision (b)(1), requires you to include a perjury statement in all reports submitted under the 13267 Order. The perjury statement shall be signed by Mr. William Zimmerman and Mr. James Galbraith and a senior authorized Breeze-Eastern Corporation and Senior Aerospace SSP representative (not by a consultant). The perjury statement shall be in the following format:

“I, [NAME], certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The State Board adopted regulations (Chapter 30, Division 3 of Title 23 & Division 3 of Title 27, California Code of Regulation) requiring the electronic submittal of information (ESI) for all site cleanup programs, starting January 1, 2005. Currently, all of the information on electronic submittals and GeoTracker contacts can be found on the Internet at the following link:

To comply with the above referenced regulation, you are required to upload all technical reports, documents, and well data to GeoTracker by the due dates specified in the Regional Board letters and orders issued to you or for the Site. However, the Regional Board may request that you submit hard copies of selected documents and data in addition to electronic submittal of information to GeoTracker.

SO ORDERED.

Samuel Unger, P.E.
Executive Officer

6-20-2013
Date
EXHIBIT B
The Los Angeles Regional Water Quality Control Board (Regional Board) makes the following findings and issues this Order pursuant to California Water Code (CWC) section 13267.

1. The groundwater within the San Fernando Valley Groundwater Basin has been impacted by heavy metals, specifically chromium. As a result of the groundwater impacts, we are investigating potential sources of the contamination. The current investigation, led by US Environmental Protection Agency (USEPA) and the Regional Board, is focused on identifying individuals and companies responsible for the chromium contamination in the region and holding them responsible for the investigation and remediation of the affected site. The above Site is located in the investigative area, and therefore, you are required to comply with this order.

2. The site (Site), located at 2980 San Fernando Boulevard, Burbank, California, was developed and occupied by Stainless Steel Products/Industries (SSP) since 1952. The property is currently owned by First Industrial Real Estate, Inc. of Chicago, Illinois. The facility is occupied by Senior Aerospace SSP, a subsidiary of Breeze-Eastern Corporation of New Jersey, and a successor to Stainless Steel Products. In 1987, the United States Environmental Protection Agency (USEPA) and the Regional Board initiated an investigation at the Site to determine whether past operations had resulted in a discharge and/or release of volatile organic compounds (VOCs) to the soils. Operations at the Stainless Steel Products/Industries facility included the use of hexavalent chromium, sodium dichromate, and chromic acid. Metal coating and finishing processes were part of the on-site operations. The soil investigation that was conducted in 1987 focused on VOCs and not heavy metals. The potential discharge and/or release of chromium based compounds to the soils at the Site, as a result of the past metal finishing operations, has not been determined.

3. The CWC section 13267(b)(1) states, in part: In conducting an investigation, the Regional board may require that any person who has discharged, discharges, or is suspected of having discharged or, discharging, or who proposes to discharge waste within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the Regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the Regional Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
4. The Regional Board file information indicates that past operations consisted of Metal coating and finishing processes. Chemical compounds reportedly used at the site include hexavalent chromium, sodium dichromate, and chromic acid. To date, no subsurface heavy metals soil or groundwater investigation has been performed at the Site.

5. The Regional Board file information in support of this requirement is the use of chromium containing compounds in metal finishing and coating processes. The file information indicates that SSP used 450 pounds of chromic acid (Alodine 120) to coat parts and 600 pounds of sodium dichromate to clean parts.

6. This Order identifies Stainless Steel Products and Breeze Eastern Corporation as the responsible parties for the discharges and potential discharges of wastes identified in paragraphs one (1) and two (2), because they were/are owners and operators of the facility directly responsible for the industrial processes involved the use and storage of the wastes at the property.

5. This Order requires the persons/entities named herein to prepare and submit a Work Plan to conduct a subsurface soil investigation to determine if any unauthorized release of heavy metal compounds has impacted the soils beneath the site that could consequently pose a threat to the groundwater.

6. The Regional Board needs this information to determine the subsurface soil conditions at the Site as part of efforts to identify sources of chromium contamination in the San Fernando Valley.

7. The burdens, including costs, of these reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The information is necessary to assure adequate cleanup of the SSP property, which as described above potentially poses significant threats to public health and the environment.

8. The issuance of this Order is an enforcement action by a regulatory agency and is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15332(a)(2), Chapter 3, Title 14 of the California Code of Regulations. This Order requires submittal of technical and/or monitoring reports and work plans. The proposed activities under the work plans are not yet known. It is unlikely that implementation of the work plans associated with this Order could result in anything more than minor physical changes to the environment. If the implementation may result in significant impacts on the environment, the appropriate lead agency will address the CEQA requirements prior to implementing any work plan.

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

**THEREFORE, IT IS HEREBY ORDERED** that Stainless Steel Products/Industries and Breeze Eastern Corporation, pursuant to section 13267(b) of the CWC, are required to submit the following:

1. By October 22, 2012 submit a Work Plan for a subsurface soil investigation. We are providing a guidance document entitled "General Work Plan Requirements for a Heavy Metal Soil Investigation" to assist you with this task. This document is provided as Appendix B. Additional information can be found in our guidance manual entitled "Interim Site Assessment & Cleanup Guidebook (May1996)," which can be found at the Regional Board web-site at: http://www.waterboards.ca.gov/losangeles/water_issues/programs/remediation/may1996_voc guidance.shtml.

   In addition, your Work Plan shall be developed following the applicable components of the Regional Board's "Guidelines for Report Submittals, Section VI. Site Assessment Plans," (March 1991, Revised June 1993). A copy of the guidelines can be found at the following URL website: http://www.waterboards.ca.gov/losangeles/water_issues/programs/ust/guidelines/ln_country_guidelines_92.pdf

2. The Work Plan must contain a health and safety plan (H&SP), as per the guidelines.

3. The Work Plan shall include the detailed information of former and existing chromium storage, hazardous waste management, and associated practices;

4. The proposed soil investigation shall extend to a minimum depth of 25 feet below ground surface (bgs) at each investigative area i.e. at the plating process area and waste treatment areas, chemical and waste storage areas, (sumps, clarifiers, etc.).

The above item shall be submitted to Mr. Larry Moore at (213) 576-6730 or at lmoore@waterboards.ca.gov.

Pursuant to 13267(a) of the CWC, any person who fails to submit reports in accordance with the Order is guilty of a misdemeanor. Pursuant to section 13268(b)(1) of the CWC, failure to submit the required technical report described above by the specified due date(s) may result in the imposition of administrative civil liability by the Regional Board in an amount up to one thousand dollars ($1,000) per day for each day the technical report is not received after the above due date. These civil liabilities may be assessed by the Regional Board for failure to comply, beginning with the date that the violations first occurred, and without further warning.
Ms. Donaldson, Mr. Zimmerman, and Mr. Galbraith
WIP File No. 104.1002

The Regional Board, under the authority given by CWC section 13267, subdivision (b)(1), requires you to include a perjury statement in all reports submitted under the 13267 Order. The perjury statement shall be signed by a senior authorized Stainless Steel Products or Breeze Eastern Corporation representative (not by a consultant). The perjury statement shall be in the following format:

"I, [NAME], certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision, in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The State Water Board adopted regulations requiring the electronic submittals of information over the internet using the State Water Board GeoTracker data management system. You are required not only to submit electronic copy of the reports (in PDF format) required in this Order, but also to comply by uploading all reports and correspondence prepared to date on to the GeoTracker data management system. The text of the regulations can be found at the URL:


SO ORDERED.

[Signature]
Samuel Unger, P. E.
Executive Officer

9-21-12
Date
EXHIBIT C
July 15, 2013

VIA E-MAIL AND U.S. MAIL
luz.rabelo@waterboards.ca.gov

Ms. Luz Rabelo
Water Resources Control Engineer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Site: Stainless Steel Products/Industries, 2980 San Fernando Blvd., Burbank

Dear Ms. Rabelo:

I represent Senior Aerospace SSP ("Senior SSP") in connection with the above referenced matter, and am writing in response to Samuel Unger's letter dated June 20, 2013, to Mr. Jim Sasselli of Senior SSP. Mr. Unger's letter enclosed a "Revised Order to Provide a Technical Subsurface Soil Investigation," dated June 20, 2013 ("Revised Order"), pertaining to property located at 2980 North San Fernando Blvd., Burbank site. Mr. Unger advised that comments concerning the Revised Order should be directed to you.

The Revised Order was issued without any prior discussions between the Regional Water Quality Control Board ("RWQCB") and Senior SSP concerning its subject matter. As is discussed below, the Revised Order contains serious factual errors that render it legally defective as to Senior SSP. Accordingly we request that the RWQCB immediately rescind the Revised Order, as to Senior SSP.

The Revised Order finds that "Stainless Steel Products/Industries" is among the "suspected sources of waste discharge in the USEPA Superfund Site because of the chemicals used and the operations conducted at the Site." (Revised Order, Paragraph 4) The Revised Order finds that Senior SSP is an entity "responsible for the suspected discharges of waste" because "Senior Aerospace SSP is a subsidiary of Breeze-Eastern Corporation and successor to Stainless Steel Products/Industries." (Revised Order, Paragraph 5) (emphasis added) Both of these justifications for naming Senior SSP on the Revised Order are factually incorrect.
Senior SSP is not a subsidiary of Breeze-Eastern Corporation, and has no legal relationship to that entity. In addition, Senior is not a “successor” to “Stainless Steel Products/Industries.” Rather, Senior SSP was formed following the purchase of the assets of Stainless Steel Products, Inc. in 1995. It thus has no liability, as a successor, for any of the actions of Stainless Steel Products, Inc. These errors in the Revised Order undermine the conclusion set forth in Paragraph 5 of the Revised Order that Senior SSP is “responsible” for “suspected discharges of waste” at the subject property.

Accordingly, we request that the RWQCB immediately rescind the Revised Order as to Senior SSP. If the RWQCB will not do so, Senior SSP will have no choice but to file a petition to the State Water Resources Control Board seeking to have the Revised Order rescinded.

Thank you.

Very truly yours,

ROBERT C. GOODMAN

RCG:cc

cc: Senior Aerospace SSP
In the Matter of

SENIOR AEROSPACE SSP,

Petitioner


I, Steven Loye, declare that:

1. I am the Chief Executive Officer of Senior Aerospace SSP, Petitioner in the above-entitled matter. I make this declaration in support of Senior Aerospace SSP’s Petition for Review.

2. I have personal knowledge of the facts set forth herein except where stated on information and belief and, if called as a witness, I could and would testify competently hereto. As to facts set forth on information and belief, I believe them to be true.

3. Senior Aerospace SSP is not a subsidiary of Breeze-Eastern Corporation and has no corporate relationship or affiliation with Breeze-Eastern Corporation.

4. Senior Flexonics, Inc. purchased the assets of Stainless Steel Products Inc. in 1995. At the time of that transaction, Zimmerman Holdings, Inc. was the parent
company of Stainless Steel Products Inc. After purchasing the assets they were operated by Senior Aerospace SSP. Senior Aerospace SSP leases the property located at 2980 North San Fernando Boulevard, Burbank, California ("the Site"). Neither Senior Aerospace SSP nor any related company, has ever owned the Site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. This declaration was executed in ________, California, on July 22, 2013.

[Signature]

STEVEN LOYE
PROOF OF SERVICE

I, Clara Chun, state:

My business address is 311 California Street, 10th Floor, San Francisco, CA 94104. I am employed in the City and County of San Francisco where this service occurs or mailing occurred. The envelope or package was placed in the mail at San Francisco, California. I am over the age of eighteen years and not a party to this action. On July 22, 2013, I served the following documents described as:

DECLARATION OF STEVEN LOYE IN SUPPORT OF PETITION FOR REVIEW

on the following person(s) in this action by placing a true copy thereof enclosed in a sealed envelope, with the postage prepaid, addressed as follows:

State Water Resources Control Board
Office of the Chief Counsel
Jeannette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento, CA 95812-0100
jbashaw@waterboards.ca.gov

Mr. Samuel Unger, P.E.
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
sunger@waterboards.ca.gov

Ms. Luz Rabelo
Water Resources Control Engineer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013
luz.rabelo@waterboards.ca.gov

Craig S. Bloomgarden, Esq.
Manatt, Phelps & Phillips, LLP
11355 West Olympic Boulevard
Los Angeles, CA 90064-1614
cbloomgarden@manatt.com
Ms. Sonja Donaldson  
Acting Director of Environmental Affairs  
Breeze-Eastern Corporation  
35 Melanie Lane  
Whippany, NJ 07981

Mr. William Zimmerman  
Owner/Operator  
Stainless Steel Products  
790 Huntington Circle  
Pasadena, CA 91106-4510

Mr. James Galbraith  
Owner/Operator  
Stainless Steel Products  
2600 Mission Street, Suite 200  
San Marino, CA 91108

X BY FIRST CLASS MAIL: I am readily familiar with my firm’s practice for collection and processing of correspondence for mailing with the United States Postal Service, to-wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I sealed said envelope and placed it for collection and mailing on July 22, 2013, following ordinary business practices.

X BY ELECTRONIC SERVICE: 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 22, 2013

Clara Chun