

Bright and Brown
James S. Bright
Maureen J. Bright
550 North Brand Boulevard, Suite 2100
Glendale, California 91203
Tel: 818.243.2121
Fax: 818.243.3225

Attorneys for Petitioner
Watson Land Company



STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In The Matter Of Order Requiring
Submittal For Technical Reports
(Water Code Section 13267) For
Watson Industrial Center, Carson,
California, File No. 09-197

SWRCB FILE NO. _____

**PETITION FOR REVIEW AND FOR
HEARING ON PETITION;
REQUEST FOR STAY**

[Water Code § 13320(a)]

This Petition for Review is submitted on behalf of Watson Land Company ("Watson") pursuant to California Water Code Section 13320(a) and California Code of Regulations Title 23, Section 2050, for review of an Order Requiring Submittal of Technical Reports, Watson Industrial Center (File No 09-197) which was adopted by the California Regional Water Quality Control Board, Los Angeles Region (the "Regional Board") on December 28, 2009.

1. The Petitioner

Watson Land Company
22010 South Wilmington Avenue, Suite 400
Carson, California 90745
Attn: Bradley D. Frazier

Watson is represented by:

Bright and Brown
James S. Bright
Maureen J. Bright
550 North Brand Boulevard, Suite 2100
Glendale, California 91203
Tel: 818.243.2121
Fax: 818.243.3225

2. The Regional Board Action Subject To This Petition

Watson seeks review of the Regional Board's Order Requiring Submittal of Technical Reports, Watson Industrial Center (File No 09-197) dated December 28, 2009 ("Order"). A copy of the Order and accompanying letter is attached to the accompanying Declaration of Maureen J. Bright ("Bright Decl.") as Exhibit A.¹

The Order relates to certain areas of soil and groundwater contamination underneath property that is owned by Watson (the "Watson Center"), which were the subject of prior litigation among Watson and certain oil companies having operations and pipelines in and around the Watson Center. Watson is involved solely because it is the landowner of the Watson Center. Neither Watson nor its tenants have discharged any waste or contributed in any manner to the contamination that Watson discovered and delineated under the Watson Center. Information that Watson obtained from its own site assessment and through discovery in the referenced litigation was provided to the Regional Board on request in advance of the issuance of the Order, as is explained more fully below. The nomenclature and plume designation in the Order is taken from the various reports and exhibits prepared for trial by Watson's environmental experts. To assist with the explanation of the Order, following is a very general overview of the results of Watson's investigation and the nomenclature adopted in the Order.

Watson identified four areas of groundwater contamination under the Watson Center. Three of those plumes centered laterally below and extended longitudinally along two pipeline corridors that run through the Watson Center (referred to by Watson as "Plume A, Plume B-1 and Plume B-2"). The fourth plume was located adjacent to the Atlantic Richfield/BP LAR refinery and a pipeline corridor that runs along Wilmington Avenue, both of which are immediately east of the Watson Center (referred to by Watson as "Pool II"). As is

¹ All Exhibits to this Petition are attached to the accompanying Declaration of Maureen J. Bright.

also explained in further detail below, GATX (which has since been acquired by Kinder Morgan) had one pipeline within one of the pipeline corridors running through the Watson Center that had a documented release of jet fuel. Shell Oil Company has over two dozen pipelines in the two pipeline corridors running through the Watson Center, the releases from which were the subject of the trial in the referenced litigation. GATX (Kinder Morgan) and Atlantic Richfield/BP settled with Watson and both companies have since undertaken assessment and remediation activities under the auspices of the Regional Board. There are existing groundwater monitoring wells on the Watson Center and the Regional Board has received periodic reports on groundwater sampling from beneath the Watson Center in connection with the assessment and remediation work that has been on-going by Kinder Morgan and Atlantic Richfield/BP. Shell did not settle with Watson and a final judgment was entered against Shell confirming its pipeline releases. To Watson's knowledge Shell has not conducted any assessment or remediation on the Watson Center with respect to the contamination from the Shell pipelines. Significant to this Petition is the fact that the Order is directed to both Shell and Watson jointly, without differentiation or explanation as to why the Order includes Watson or what the Regional Board expects from Watson as a result of the Order. Watson is meeting with the Regional Board to try and clarify the issues raised in this Petition; however, the timing requirements are such that there is insufficient time to resolve these issues without filing a Petition. It is in this context that this Petition is filed.

The Order requires (i) by February 26, 2010, a technical report (workplan) for groundwater sampling and monitoring from all existing groundwater monitoring wells at Watson Center related to so-called "Pool II," "Plume A," "Plume B1," and "Plume B2," as well as submittal of any historical groundwater monitoring data in the report; (ii) by April 15, 2010, a 3-dimensional illustration as a conceptual site model ("CSM") depicting site-specific hydrogeology and hydrostratigraphy with verified field data, the current groundwater monitoring network with screened intervals, the location of all the water supply wells within one mile radius of the site, as well as other receptors that may be affected by the release and migration of the contaminants to the subsurface environment; and (iii) by April 15, 2010, a technical report (workplan) for additional investigation to complete the 3-d illustration in case the CSM cannot adequately convey all the required information.

3. The Date Of The Order

December 28, 2009

4. **A Full And Complete Statement Of The Reasons Why The Order Was Improper**

(i) As more fully set forth in the accompanying Memorandum of Points and Authorities, the Regional Board acted improperly with respect to Watson because Water Code section 13267, pursuant to which the Regional Board issued the Order, does not authorize Site Investigation Orders against companies simply on the basis that they own the real estate where waste allegedly has been released. This is especially the case where, as here, (a) there is no evidence that Watson or its tenants discharged any waste or owns any facilities from which waste was discharged and (b) the only evidence in the record, including a Los Angeles County Superior Court jury verdict (which was upheld on appeal), establishes that another party - here Shell Pipeline Company and Shell Oil Company (collectively "Shell") - discharged the alleged waste.

(ii) As more fully set forth in the accompanying Memorandum of Points and Authorities, the Regional Board acted improperly by failing to cite evidence (and none exists) that justifies requiring Watson to perform the work itemized in the Order. This is required under Water Code section 13267(b)(1).

(iii) The scope of the Order as applied to Watson is unduly broad and unnecessarily burdensome in as much as it requires Watson to do anything more than provide its existing data and information concerning the contamination to the Regional Board. In this connection, representatives of the Regional Board and the California State Water Resources Control Board ("State Board"), subsequent to the issuance of the Order, informed Watson that they issued the Order to Watson only to obtain Watson's existing data and not with any expectation that Watson would be required to prepare workplans, a site conceptual model or other work required by the Order.

(iv) The work required by the Order imposes an unreasonable burden on Watson because many of these items have been completed and the uncompleted portions appear to be associated with Shell's pipelines. For example, Item 1 on page three of the Order requests a workplan for groundwater sampling and monitoring all the wells related to Pool II, Plume A, Plume B1, and Plume B2. These plumes have been sampled within the last two years and Watson believes the additional cost of resampling the same will not provide better data. Any additional cost of further delineating these plumes should be borne by Shell as the party responsible.

(v) Third parties (BP West Coast Products LLC and Kinder Morgan) are taking responsibility for the Pool II and GX-190 plumes, and the Carson Regional Groundwater Group has been conducting sampling on Watson Center as well.

(vi) The Order sets timeframes that are too short to allow Watson to perform the required work and provide meaningful responses (assuming that Watson even is required to perform such work - which is disputed).

5. The Manner In Which The Petitioner Is Aggrieved

Watson is aggrieved because it is required, by an order that was issued contrary to law, to expend substantial funds to conduct activities to investigate subsurface contamination caused by others, a portion of which have already been completed, and for which Watson has no legal responsibility.

Watson is further aggrieved in that the Order is not narrowly tailored to accomplish the key objectives of the State Board and Regional Board and imposes unnecessary costs on Watson. Representatives of both the State Board and the Regional Board have informally assured Watson that they issued the Order to Watson only to obtain existing data that Watson has regarding the alleged contamination on Watson Center. However, as written, the Order requires far more because it is directed to Watson generally without limitation in its applicability. Moreover, prior to the issuance of the Order, in January 2009, Watson performed a diligent search and provided such data to the State Board and Regional Board. Watson would be aggrieved to the extent the Order requires Watson to do more.

6. The Action Sought By This Petition

Watson requests that:

(i) The Order be vacated or amended to remove Watson as among the responsible parties required to comply with its requirements;

(ii) In the alternative, the Order should be modified in the following ways:

(a) Shell should be designated as the primary responsible party who would be responsible in the first instance for complying with the Order at its sole cost;

(b) The Order should be clarified to provide that Watson may fully satisfy its terms by performing a reasonable search and a diligent inquiry for any

data relating to contamination on Watson Center and (if any of the same has not previously been provided) by providing the same to the Regional Board.

(c) The deadlines under the Order should each be extended by at least 60 days with an option for any aggrieved party to request additional time if needed.

(d) Any obligation to sample Pool II, Plume A, Plume B1, and Plume B2 should be eliminated as they have been sampled within the last two years.

(iii) In addition to the foregoing, a stay should be issued maintaining the status quo until such time as the State Board has opportunity to rule upon this Petition.

7. Supporting Points And Authorities

Please see attached memorandum.

8. Statement of Service

A copy of this Petition has been sent via overnight delivery as follows:

California Regional Water Quality Control Board
Los Angeles Region
Attn: Kwang Lee & Paul Cho
320 W. 4th Street, Suite 200
Los Angeles, California 90013

Shell Pipeline Company
Attn: Don Herman
20945 S. Wilmington Avenue
Carson, California 90810

Michael R. Leslie
Caldwell, Leslie & Proctor, PC
1000 Wilshire Boulevard
Suite 600
Los Angeles, California 90017
Attorneys for Shell Oil Company

9. Presentation of These Issues

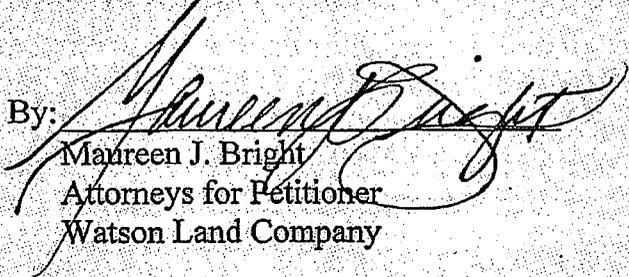
Watson was unable to present each of these arguments to the Regional Board prior to issuance of the Order because the Regional Board did not provide Watson with an opportunity to do so. Watson was diligently working with the Regional Board's pre-Order requests for existing data. During this process there was no indication that the Regional Board would issue the Order, let alone over the holidays which effectively limited Watson's time to respond to the same. Accordingly, prior to the Order, Watson did not present each of its arguments as set forth herein. However, after it received the Order, Watson has informed the Regional Board of the arguments it intended to make in the Petition by letters dated January 6 and January 18, 2010. (Exhs. B & C.)

Respectfully submitted,

Dated: January 27, 2010

BRIGHT AND BROWN

By:


Maureen J. Bright
Attorneys for Petitioner
Watson Land Company

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION AND SUMMARY OF POSITION

This Petition arises out of the Regional Board's December 28, 2009 Order Requiring Submittal For Technical Reports ("Order") at Watson Industrial Center ("Watson Center"). The Order is directed to Watson Land Company ("Watson") and Shell Pipeline Company and addresses plumes of groundwater contamination on Watson Center. (Exh. A (Order).)

As the Regional Board noted in its Order, Watson previously sued Shell Oil Company ("Shell"),² among others, for the same areas of contamination on Watson Center in a lawsuit entitled *Watson Land Company v. Atlantic Richfield et al.* (Los Angeles Superior Court No. BC150161) ("Lawsuit"). Indeed, the jury found that Shell had trespassed on Watson Center by allowing its pipelines to leak and awarded Watson damages. While Shell had litigated the case for years and participated in extensive discovery, Shell was not able to present evidence or argument that Watson or its tenants caused any of the contamination. The verdict was upheld on appeal in 2005. *Watson Land Co. v. Atlantic Richfield et al.* (2005) 130 Cal.App.4th 69.

In January 2009, representatives of the Regional Board and the State Board Office of the Chief Counsel met with Watson and asked Watson to explain the Lawsuit, the evidence of contamination on Watson Center and the evidence concerning Shell's operations and pipelines. Also upon request, Watson provided the Board with documentation regarding these topics and thereafter heard nothing further from the Boards about the need for any further information or work.

Watson heard nothing further until December 28, 2009 when the Regional Board issued the Order. Watson received no advance notice that the Regional Board was considering an order or that the Order would issue. The Order cites detailed evidence from the Lawsuit and other information establishing Shell's role as the discharger and the party responsible for the areas of contamination alleged in the Lawsuit. The Order cites no evidence that Watson discharged any contamination or owns any facilities from which waste was discharged.

² Shell Oil Company and Shell Pipeline Company are affiliates and are referred to collectively as "Shell."

Watson will continue to work with the Boards to provide any additional existing data it has, to the extent that it has not been previously provided. However, the Regional Board exceeded its authority by issuing the Order to Watson. A regional board's authority under section 13267 extends only to known or suspected dischargers and there is no evidence that Watson is a discharger or owns any facilities from which a discharge occurred. Shell, on the other hand, has already been adjudicated as a discharger. The Water Code also precludes jurisdiction to issue an Order to a party unless the regional board cites evidence establishing that such person is a discharger or suspected discharger. *See Water Code Section 13267.*

The scope of the Order is also overly broad and unnecessarily burdensome to the extent that it requires Watson to do anything more than provide Watson's existing data and information concerning the contamination to the Regional Board. When Watson contacted Regional Board and the State Board in January of this year about the Order, neither of them articulated any evidence establishing Watson's responsibility for the contamination or to do anything more than provide existing data.

Likewise, the Order imposes unreasonable burdens because the plumes identified in the Order (Pool II, Plume A, Plume B1, and Plume B2) were delineated horizontally by Watson in connection with the Lawsuit and have been sampled within the last two years. Watson believes the additional cost of resampling the same will not provide better data. Other companies are taking responsibility for the Pool II and GX-190 plumes and have historical experience with them, making it unreasonable, duplicative, and inefficient for Watson to do this work. Furthermore, if the assessment and sampling requirements of the Order were improperly enforced against Watson, the Order is unreasonable as it imposes timeframes that are too short to allow Watson to perform any required work.

For these reasons, which are more fully discussed below, Watson requests that the Order be modified to eliminate Watson as a responsible party. In the alternative, Watson requests that the Order be modified (a) to make Shell the primarily responsible party, (b) to confirm that Watson's obligations may be satisfied by providing to the Regional Board any existing data that has not already been provided, (c) to extend the deadlines under the Order by at least 60 days, and (d) to confirm that re-sampling the plumes is not required under the Order. Watson further requests that the Order be stayed pending the State Board's review of this Petition.

II. BACKGROUND

A. Shell Was Already Adjudicated As The Entity Responsible For Contamination on Watson Center

Shell's responsibility for contamination on the Watson Center previously was adjudicated by a Los Angeles jury in *Watson Land Company v. Atlantic Richfield et al.* (Los Angeles Superior Court No. BC150161) ("Lawsuit"). The Lawsuit was filed in May 1996 naming defendants who either operated manufacturing facilities that caused chemical contamination near Watson Center or operated refineries or petroleum pipelines near or within the Watson Center, including Shell, Atlantic Richfield and GATX Tank Storage Terminals Corporation ("GATX"). (Exh. D, Complaint.)

In the Lawsuit, Watson alleged that the defendants contaminated Watson Center and sought to recover damages for nuisance and trespass. After years of discovery and Watson's expenditure of more than \$750,000 in costs of investigation, Watson confirmed that the defendants did not cause identical contamination and that their contamination could be differentiated even in commingled areas. Each defendant's liability was several, not joint. Atlantic Richfield and GATX settled with Watson for their respective areas of contamination (essentially Pool II for Atlantic Richfield and the GX-190 pipeline release for GATX).³ The Superior Court found that those settlements were made "in good faith."

Shell, however, refused to settle. After a 31-day trial involving 531 admitted exhibits, 26 witnesses and four days of deliberation, the jury found Shell liable for continuing trespass on Watson Center arising out of contamination from Shell's pipelines. (Exh. E, July 23, 2001 General Verdict With Special Findings in Watson Lawsuit ("Jury Verdict").) The Jury also found that Shell did not trespass by "mistake". (*See id.* at p. 1, question 4 (when asked whether the trespass occurred by mistake, the jury said "No").) Having had the opportunity to conduct discovery in the Lawsuit for years, Shell did not put on any evidence at trial that Watson (or any of its tenants or invitees) had caused any of the contamination, and the jury found only Shell responsible. (Bright Decl. ¶ 3; Exh. N, Trial Tr. at 5612:3-5627:16; 5635:10-5823:7.) Instead Shell argued only that Atlantic Richfield caused the contamination on the Watson Center - an argument not

³ Petitioner dismissed Monsanto and Stauffer without prejudice. ~~Dismissed Monsanto and Stauffer~~

relevant here since BP West Coast Products, LLC (the successor to Atlantic Richfield) has been working with the Regional Board for years concerning any contamination associated with its Carson (formerly Los Angeles) Refinery.

Shell appealed the judgment claiming that there was “no evidence” to support the finding of liability, but the Court of Appeal rejected Shell’s argument.⁴ (Exh. F, *Watson Land Co. v. Shell Oil Co.* (2005) 130 Cal.App.4th 69.) Watson discusses below evidence establishing that Shell’s pipelines leaked transportation range fuels into the soil and groundwater in the areas of Plumes B2, B1 and A on the Watson Center.

B. Evidence of Shell’s Releases

1. Shell’s Pipelines

At the relevant time, Shell’s refinery in the Los Angeles region consisted of two parts: the Wilmington Unit to the South of the Watson Center and the Carson Unit to the North of Watson Center. (Exh. G, Map of Area near Watson Center.) These units were about three miles apart and were connected by several “inter-refinery pipelines” contained in two easements that ran north-south through the “Utility Way Pipeline Corridor” and the “DWP Pipeline Corridor” on Watson Center. Each easement contained multiple pipelines. (Exh. H, Watson Center Plot Plan.) Shell transported every type of hydrocarbon produced or used at its refinery through these pipelines, including diesel fuel, refinery intermediates (or slops) and leaded and unleaded gasoline. (Exh. I, Shell’s Responses To Watson’s First Set Of Requests For Admissions (“Shell’s RFA Responses”), Response Nos. 17-20.)

Shell’s Pipelines and the DWP Corridor (and the plumes of contamination) are shown in several exhibits. (*E.g.*, Exhs. K, L, & M.)

Shell’s twelve pipelines in Utility Way were built in 1965. (Exh. N, Excerpts From Trial Transcript (“Trial Tr.”) at 986:8-25; 1001:26-1002:26; 3202:21-3203:3.) In approximately 1973, only eight years later, Shell stopped using seven of those pipelines and built thirteen new pipelines in the DWP Corridor. (Exh. I, Shells Responses To Watson’s Requests For Admission, Response No. 12; Exh. N, Trial Tr. at 1003:1-20.) Removing those pipelines from service after only eight years was highly unusual because pipelines are built to last

⁴ The Court of Appeal reduced the amount of the judgment from approximately \$18 million to just under \$5 million but affirmed the finding that Shell was liable for trespass as a result of the contamination caused by leaks from Shell’s pipelines.

at least 20 to 30 years or longer. (Exh. N, Trial Tr. at 1006:12-1007:16.) There is some evidence that the pipelines were in poor condition as one of Shell's as-built pipeline drawings ("Y Maps") contained a note stating that as of 1983 one of these seven lines was in poor condition. (Exh. N, Trial Tr. at 1007:25-1009:16; 1017:28-1018:12; Exh. J.) Also, Watson's pipeline expert, Mr. Karlozian, testified that several hydrostatic pressure test reports of Shell Pipelines reported data that failed the periodic testing requirements of the California Pipeline Safety Act. (Exh. N, Trial Tr. at 1031:1-1033:4.)

2. The Plumes of Contamination and Correlation with Shell's Pipelines

The investigation during the Lawsuit revealed five areas of contamination on Watson Center. The Regional Board adopted the same nomenclature from the Lawsuit for these plumes in its Order. The plumes are described as follows:

- **Pool II** – Several areas of free product on the groundwater along Wilmington Avenue. This contamination consisted⁵ primarily of mid-range hydrocarbons (slops), with a small gasoline component. (Exh. N, Trial Tr. at 1435:19-27; 2465:9-2466:6; 4002:25-4003:14.) The Regional Board described Pool II in the same manner. (Exh. A, Order at 1.)
- **B2 Plume** – A groundwater plume under the Utility Way Corridor which was approximately 1300 feet long in a north-south direction aligned under Shell's north-south pipelines and is approximately 600-700 feet wide. It consists of dissolved phase hydrocarbon contamination that is primarily old leaded gasoline, with a small amount of free product. (Exh. N, Trial Tr. at 1436:5-18; 1463:24-1464:26; 1472:10-1473:5.) The Regional Board described the B2 Plume in the same manner, including the finding that the B2 plume is "aligned under Shell's pipelines[.]" (Exh. A, Order at 1.)
- **A Plume** – A groundwater plume north of the B2 plume under the Utility Way Corridor. The A plume is about half the length of the B2 plume and also aligns with Shell's pipelines. It consists primarily of old leaded gasoline, without any free product. (Exh. N, Trial Tr. at 1481:7-1483:2; 1489:25-1490:11.) Again, the Regional Board adopts

⁵ The contents of the plumes and dimensions are stated as of the date of the trial in the Lawsuit.

this description, including the conclusion that the A plume “also aligns with Shell’s pipeline.” (Exh. A, Order at 1.)

- A jet fuel plume from GATX’s pipeline. (Exh. N, Trial Tr. at 1435:28-1436:4.)⁶
- **B1 Plume** – An unleaded gasoline plume from Shell’s pipelines in the DWP Corridor. (Exh. N, Trial Tr. at 1436:5-13.) The Order describes the B1 plume as one “that could have only come from Shell’s pipelines.” (Exh. A, Order at 1.)

The B2, B1 and A plumes are located directly under Shell’s inter-refinery pipelines. (Exh. N, Trial Tr. at 1536:6-17.) Shell’s pipelines carried gasoline (including leaded gasoline), diesel, jet fuel, and various refinery intermediates between the two sections of Shell’s refinery for decades. (Exh. O, Shell’s Response To Watson’s First Set Of Special Interrogatories, Response Numbers 18-20; Exh. I, Shell’s Responses To Watson’s First Set Of Requests For Admissions, Response Nos. 17-20.) The plumes are elongated in a north-south direction, under the Shell pipelines. (Exhs. K–M, P, T.)

The iso-concentration lines of benzene and DIPE showed hot spots in essentially the same location for both the B2 and A plumes, right under Shell’s pipelines. (Exhs. K-M, T; Exh. N, Trial Tr. at 1439:16-1455:10; 1464:27-1467:8; 1480:21-1485:1; 2488:28-2491:7). The existence of DIPE in the two plumes links Shell to them. (Exhs. L, M; Exh. N, Trial Tr. at 1443:28-1446:1; 1483:3-28; 1535:4-1538:8.) DIPE was manufactured at the Shell refinery. (Exh. N, Trial Tr. at 4041:17-4042:10; 4098:13-22.) It was used by Shell as an additive to leaded gasoline. (Exh. Q, Fuel Manufacturer Reports, at pp. S001243, S001257 & S001261; Exh. N, Trial Tr. at 4048:26-4051:22.) DIPE was found in the groundwater under both sections of the Shell Refinery and under Shell’s Mormon Island facility. (Exh. N, Trial Tr. at 1537:11-19.) BP did not use DIPE as an additive in leaded gasoline. (Exh. N, Trial Tr. at 4099:26-4100:23.)

The contamination in the B2 and A plumes is also pre-1990 leaded gasoline that has special markers in it tying the plumes to Shell. (Exh. N, Trial Tr. at 1489:25-1490:11; 1472:7-1473:5; 4025:12-4026:26; 4060:5-24.) The B2 plume contains lead that is a special mixture of five lead alkyls that was used in gasoline produced between 1960 and 1982, within the period in which Shell’s inter-refinery

⁶ The Order expressly notes that this jet fuel plume is “being handled by Regional Board staff.” (Exh. A, Order at 1.)

pipelines carried leaded gasoline. (Exh. N, Trial Tr. at 1472:17-1475:12; 4001:27-4008:13; 4014:9-15; Exh. R.) By contrast, samples from pertinent locations on the BP refinery contained a different lead package (tetraethyl lead or TEL) not the lead alkyl mixture. (Exh. N, Trial Tr. at 1782:15-1788:1; 1816:12-25.)

Shell's pipelines are the only confirmed source of gasoline in the vicinity of the two plumes. Watson conducted an extensive examination of the various pipelines through its experts, beyond the analysis of the chemical composition of the contamination found on the Watson Center. That pipeline investigation included the ownership of the pipelines as well as the nature and chemical content of the products that were historically transported through the pipelines. No evidence was found of non-Shell pipelines transporting gasoline in the area or of nearby gasoline stations or tenant uses that were a potential source for the plumes. (Exh. N, Trial Tr. at 2506:1-5; 2511:9-12; 2511:26-2512:19.)

As to plume A, downhole flux data shows a "top down" source of contamination in the vicinity of Shell's pipelines near plume A, consistent with a shallow pipeline source. And gas samples that were obtained and tested show a gasoline range product. (Exh. N, Trial Tr. at 14:1946:23-1951:9; Exh. S.)

Furthermore, the iso-concentration lines in the plume maps establish that the hot spots for plumes B1, B2 and A are under the Shell pipelines and that the contamination levels fall off rapidly as one moves closer to the BP Refinery. In other words, between Pool II (along Wilmington Avenue) and the B2 plume (in the middle of Watson Center) there are many sample results for benzene that are either non-detects or at very low concentrations. By contrast, benzene concentrations are very high, i.e., 40,000 ppb, at the center of the B2 plume. (Exh. N, Trial Tr. at 1439:23-1441:18; Exh. T, Plumes B1 & B2: Map of Benzene Groundwater Concentrations.) The same is true for the other relevant chemicals.

Also, the mix of products across the street at the BP refinery was primarily diesel and refinery slops. There was only a small component of gasoline in the large pool of hydrocarbons across the street. (Exh. N, Trial Tr. at 1518:15-1519:8.) This is entirely inconsistent with the gasoline in plumes B1, B2 and A.

C. Watson's Cooperation and Compliance With Board Requests

In December 2008 the Office of the Chief Counsel for the State Water Resources Control Board, Sacramento (Jeff Ogata) contacted the undersigned counsel to ask about the nature of the Watson Lawsuit, and the evidence

establishing Shell's responsibility for the contamination. Watson agreed to cooperate. (Bright Decl. at ¶ 4.)

On about January 14, 2009, Watson's counsel met with Mr. Ogata and a technical representative of the Regional Board who attended the meeting in place of Paul Cho. Watson provided the State Board and the Regional Board with hard copies of the maps depicting plumes A, B1 and B2. Later in January 2009 Watson's counsel also mailed Mr. Ogata a copy of the 2 CDs of documents that were responsive to the Board's request for information from Watson and contained further data, discovery responses, maps, deposition exhibits and other information that had been compiled from Bright and Brown's records and which evidenced the contamination on Watson Center and Shell's responsibility. (Bright Decl. at ¶ 5.)

Watson did not hear anything further from the State or Regional Board after providing these data until Watson received a copy of the December 28, 2009 Order. (Bright Decl. at ¶ 6.)

On January 6, 2010 Watson wrote a letter to Paul Cho stating Watson's position that the Regional Board had no basis to issue the Order to Watson- an innocent landowner- and seeking confirmation that the Order was issued solely to ensure access to Watson Center. (Exh. B (January 6, 2010 Letter).) The same day Mr. Cho informed Watson that the Regional Board simply wanted Watson to provide the historical data that it had concerning Watson Center. (Bright Decl. at ¶ 7.)

Watson also attempted to obtain clarification from the State Board about Watson's responsibilities under the Order. (Bright Decl. at ¶ 8.) The State Board did not mention any factual or legal basis for naming Watson under the Order and advised Watson to file its Petition as the deadline for doing so could not be extended. (*Id.*)

As requested under the Order, Watson sent a further letter (on January 18, 2010) to Mr. Cho identifying several other concerns and problems created by the Order. (Exh. C, Jan. 18 Letter.) Among other things, and as set forth more fully in this Memorandum, the Order imposes unreasonable burdens on Watson because much of the sampling has been completed already, other companies are addressing certain areas of contamination (Pool II and the GX 190 release) and Shell should be addressing the balance of the contamination.

III. ARGUMENT

A. The Order Should Be Vacated or Amended So That Watson Is No Longer Identified as a Responsible Party Required to Comply With the Order.

The Order was issued under the authority of Water Code Section 13267. (Ex. A, Order at 1.) However, Section 13267 only authorizes orders to be issued against persons who have discharged or who threaten to discharge waste. It provides, in part:

(b)(1) 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.Water Code § 13267(b)(1) (emphasis added).

The requirement that the aggrieved person qualifies as a discharger or a suspected discharger is the first issue the State Board looks at when reviewing petitions under section 13267. *In re Pacific Lumber Company & Scotia Pacific Co. LLC*, SWRCB/OCC File A-1380 at 10 (Order WQ 2001-14) (“In reviewing a water quality monitoring and reporting order entered by a Regional Water Quality Control Board pursuant to section 13267, the SWRCB first must determine if the party to whom the monitoring order is directed has discharged, is discharging, is suspected of discharging, or proposes to discharge waste.”) The SWRCB has vacated section 13267 orders issued to persons where there was not “substantial evidence” in the record meeting the discharger requirement. *E.g., In re Chevron Products Co.*, SWRCB/OCC File A-1343, at 2 (Order WQ 2004-0005).). There is no evidence that Watson or its tenants discharged any contaminants or contributed to any discharge. That fact, standing alone, requires the relief sought by Watson in this Petition.

In addition to the lack of any evidence that Watson discharged any waste or owns or operates facilities from which waste was discharged, there is ample evidence that another party - Shell - is the discharger responsible for this contamination. This is evident even from the text of the Order, where the Regional Board specified the following summary findings,⁷ each of which establishes Shell's, not Petitioner's, responsibility for the contamination:

1. DIPE has been detected within the B2 and A plumes. (Exh. A, Order at 1.)

2. "Shell transported hydrocarbon produced or used at its refinery through a series of 'inter-refinery pipelines (IRPs) contained in two easements that traversed north-south through the center of the Watson Center ...,' some of which Shell admitted were in 'poor condition.'" (Exh. A, Order at 2.)

3. "The contamination is physically located directly under the location of Shell's IRPs." (Exh. A, Order at 2.)

4. "DIPE manufactured by Shell at its refinery and presented in the B2 and A plumes further shows causation. DIPE was used by Shell as an additive to leaded gasoline." (Exh. A, Order at 2.)

5. "BP (Arco) did not use DIPE as an additive in leaded gasoline." (Exh. A, Order at 2.)

6. The distribution of two lead scavengers added to leaded gasoline called ethylene dibromide (EDB) and ethylene dichloride (EDC) also helped to define the B2 plume. Both Watson's and Shell's experts agreed that the contamination was pre-1990 leaded gasoline. But, the B2 plume contains a special mixture of five lead alkyls that was used in gasoline produced between 1960 and 1982, within the period in which Shell's pipelines carried leaded gasoline. (Exh. A, Order at 2.)

7. "Samples from pertinent locations on the BP refinery contained a lead package called 'tetraethyl lead' or TEL, not the lead alkyl mixture, which means that the gasoline in the B2 plume is different from the gasoline component of the contamination under the Arco refinery." (Exh. A, Order at 2.)

⁷ These findings are paraphrased or quoted as noted. These findings are paraphrased or quoted as noted.

8. “Shell’s [pipelines] are the only confirmed source of gasoline in the vicinity of the B2 and A plumes. There was no evidence on non-Shell pipelines transporting gasoline in the area or of nearby gasoline stations or tenant uses that were a potential source for the plumes.” (Exh. A, Order at 2.)

The Order makes clear that the analysis above also applies to the B1 plume. The Order states: “B1 Plume = unleaded gasoline plume *that could only have come from Shell’s pipelines[.]*” (Exh. A, Order at 1.)

As for Pool II, Watson understands that BP West Coast Products LLC already is addressing that contamination. Furthermore, Watson deduces that the Regional Board apparently intends to impose some responsibility on Shell for further investigation and delineation of Pool II- through the Order. In any event, however, Watson should not share in this responsibility.

For all these reasons, Watson is unquestionably not responsible for any of these discharges, nor is it suspected of being a discharger. Watson should be removed from the list of parties responsible to conduct the monitoring required by the Board.

B. The Regional Board Failed To Cite Evidence – And There Is None – That Justifies Requiring Watson To Provide the Requested Report

As this Board has explained, a regional board’s authority under section 13267 “is tempered by the requirement that the regional boards identify the evidence supporting the request[.]” *In re Larry & Pamela Canchola*, SWRCB/OCC File A-1554, at 3 (Order WQO 2003-0020). This is a statutory requirement: “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.” Water Code § 13267(b)(1).

Here, the Board’s own informal communications with Watson before and after the issuance of the Order confirm that it has no evidence implicating Watson. Moreover the Order confirms that “There was no evidence of non-Shell pipelines transporting gasoline in the area or of nearby gasoline stations or tenant uses that were a potential source for the plumes.” (Exh. A, Order at 1-2.) This is consistent with the fact that after years of discovery in the Lawsuit Shell could not point to any evidence that Watson or its tenants were responsible for the contamination. (See Bright Decl. ¶ 3.) By contrast, as noted above, the only evidence cited in the Order is the evidence implicating Shell. (Exh. A, Order at 1-2.)

Accordingly, the Regional Board lacked authority to issue the Order to compel Watson to undertake assessment, delineation and remediation activities.

C. In the Alternative The Order Should Be Modified

Should the State Board be inclined to deny the Petition, Watson requests, as alternative relief, that the scope of the Order be narrowed and/or modified in several respects.

First, the scope of the Order as currently written is unduly broad and unnecessarily burdensome given the stated objectives of the Regional Board and the State Board. Representatives of the Regional Board and the State Board have informed Watson that they issued the Order to Watson only to obtain Watson's existing data. (Bright Decl. at ¶ 7.) Furthermore, Watson understands that other companies and groups (including Kinder Morgan, BP West Coast Products, LLC and the Carson Regional Groundwater Group (of which Shell is a member)) are working under Regional Board oversight to monitor and investigate the extent of contamination in the area of Watson Center. (*Id.* at ¶ 10.) Watson also understands that Shell is obligated to comply with the Order. For Watson's part it has expended more than \$750,000 in investigation expenses on Watson Center. (*Id.* at ¶ 11.) Accordingly there is absolutely no reason to require Watson to do more than it has done.

Second, the work required by the Order imposes an unreasonable burden because many of these items have been completed and the uncompleted portions appear to be associated with Shell's pipelines. For example, Item 1 on page three of the Order requests a workplan for groundwater sampling and monitoring all the wells related to Pool II, Plume A, Plume B1, and Plume B2. These plumes have been sampled within the last two years and Watson believes the additional cost of resampling the same will not provide better data. Any additional cost of delineating these plumes should be borne by Shell.

Third, the Order sets timeframes that are too short to allow Watson to perform the required work and provide meaningful responses (assuming that Watson even is required to perform such work - which is disputed). As part of its alternative relief, Watson requests that the deadlines be extended by at least 60 days.

D. A Stay Should Be Issued To Preserve The Status Quo Until the SWRCB Has Opportunity To Rule On This Petition

Watson requests that the Board stay enforcement of the Order until such time as the merits of this Petition may be reviewed. A stay should be issued where, as here, a petitioner establishes (1) substantial harm to the petitioner or to the public interest if a stay is not granted; (2) a lack of substantial harm to other interested persons and to the public interest if a stay is granted; and (3) substantial questions of law and fact regarding the disputed action. (Cal. Code Regs. tit. 23 § 2053.

Should Watson be subject to the Order's requirement during the pendency of this Petition, Watson would suffer substantial harm because the Order requires substantial environmental investigation before the end of April 2010, the costs of which would be substantial. (Bright Decl. at ¶ 12.) While Watson will suffer substantial harm without issuance of a stay, neither the public interest nor any interested parties will suffer harm in the event the stay is issued because Shell, as the responsible party, would remain subject to the Order's requirements. Moreover, the historical and ongoing investigations at Watson Center ensure that the public interest would not be harmed substantially in the event a stay is issued. (*Id.* at ¶ 13.) Finally, there is substantial doubt about the validity of the Order (both on the facts and the law); the Order fails to cite evidence establishing that Watson has discharged or is suspected of discharging waste and all the evidence cited in the Order points to another party.

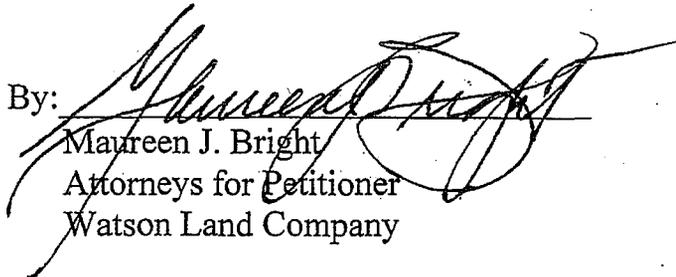
**IV.
CONCLUSION**

For all the foregoing reasons, Watson requests that the State Board grant the relief requested in this Petition.

Dated: January 27, 2010

BRIGHT AND BROWN

By:


Maureen J. Bright
Attorneys for Petitioner
Watson Land Company

Bright and Brown
James S. Bright
Maureen J. Bright
550 North Brand Boulevard, Suite 2100
Glendale, California 91203
Tel: 818.243.2121
Fax: 818.243.3225

Bright and Brown
James S. Bright
Maureen J. Bright



Attorneys for Petitioner
Watson Land Company

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

In The Matter Of Order Requiring
Submittal For Technical Reports
(Water Code Section 13267) For
Watson Industrial Center, Carson,
California, File No. 09-197

SWRCB FILE NO. _____

**DECLARATION OF MAUREEN J.
BRIGHT IN SUPPORT OF
PETITION FOR REVIEW AND FOR
HEARING ON PETITION;
REQUEST FOR STAY**

[Water Code § 13320(a)]

I, Maureen J. Bright, declare as follows:

Watson Land Company v. Atlantic Richfield et al.

1. I am an attorney with the law firm of Bright and Brown. I acted as one of the lead trial counsel representing Watson Land Company ("Watson") in the action entitled *Watson Land Company v. Atlantic Richfield et al.* (Los Angeles Superior Court Case No. BC150161) ("Lawsuit"). As lead trial counsel for Watson, I supervised the retention of experts and consultants performing environmental investigations on Watson Center, among other things, and have reviewed their data and conclusions. I also have continued to represent Watson in

environmental matters pertaining to the Watson Industrial Center (“Watson Center”), among other matters.

2. The Lawsuit was tried before a jury over the course of 31 days and involved 531 admitted exhibits, 26 witnesses and four days of deliberation, after which the jury found Shell Oil Company (“Shell”) liable for continuing trespass on the Watson Center arising out of contamination from Shell’s pipelines.

3. The discovery in the Lawsuit continued from 1996 through part of 2001. All the parties including Shell had the opportunity to conduct discovery during that time. Shell did not, however, put on any evidence at trial or argue to the jury, that Watson (or any of its tenants or invitees) had caused any of the contamination. True and correct copies of excerpts from the Trial Transcript of Proceedings (including the closing arguments at pp. 5612:3 – 5627:16 and 5635:10 – 5823:7) are attached hereto as Exhibit N, and establish that Shell made no such arguments.

Watson’s Compliance with the Regional and State Boards’ Requests

4. In December 2008 the Office of the Chief Counsel for the State Water Resources Control Board, Sacramento (Jeff Ogata) contacted me to ask that Watson provide information about the nature of the Lawsuit, and the evidence establishing Shell’s responsibility for the contamination. Watson agreed to cooperate.

5. On about January 14, 2009, I met with Mr. Ogata and a technical representative of the Regional Board who attended the meeting in place of Paul Cho. Watson provided the State Board and the Regional Board with hard copies of the maps depicting plumes A, B1 and B2. Later in January 2009 I also mailed Mr. Ogata a copy of the 2 CDs of documents that contained further data, discovery responses, maps, deposition exhibits and other information that had been compiled

from Bright and Brown's records and which evidenced the contamination on Watson Center and Shell's responsibility.

6. To my knowledge, Watson did not hear anything further from the State or Regional Board after providing this data until Watson received a copy of the California Regional Water Quality Control Board's December 28, 2009 Order Requiring Submittal For Technical Reports ("Order") at Watson Industrial Center, a true and correct copy of which is attached hereto as Exhibit A.

7. Thereafter Watson sent a January 6, 2010 letter to Paul Cho of the Regional Board stating Watson's position that there was no basis to name Watson in the Order. A true and correct copy of Watson's January 6, 2010 letter is attached hereto as Exhibit B. I am informed that the same day Mr. Cho informed Watson that the Regional Board simply wanted Watson to provide the historical data that it had concerning Watson Center.

8. Thereafter I communicated with Jeff Ogata of the State Board on January 13 and 15 concerning the Order and attempted to obtain some clarification regarding the scope of Watson's obligations under the Order. Mr. Ogata cited no factual or legal basis for naming Watson under the Order. He did explain that the Regional Board wanted to obtain the historical data from Watson in a manner that was formally documented (*i.e.*, through the formal response to an order) and suggested that Watson file its Petition as the deadline for the same could not be extended.

9. Thereafter as requested under the Order, Watson sent a further letter (on January 18, 2010) to Mr. Cho identifying several other concerns and problems created by the Order. A true and correct copy of Watson's January 18, 2010 letter is attached hereto as Exhibit C.

10. Based upon the discovery and inquiry that was undertaken in connection with the Lawsuit and subsequent contacts that have been made with and subsequent

Watson in connection with assessment and remedial work that has been undertaken on the Watson Center, Watson understands that other companies and groups (including Kinder Morgan, BP West Coast Products, LLC and the Carson Regional Groundwater Group (of which Shell is a member)) are working under Regional Board oversight to monitor and investigate the extent of contamination in the area of Watson Center.

11. As part of the Lawsuit, our office retained consultants and experts concerning environmental contamination on Watson Center and approved their bills. Watson expended more than \$750,000 in investigation and related expenses on Watson Center.

Watson's Request For Stay

12. Based upon my work with experts in connection with the Lawsuit, I am familiar with the cost of environmental work in general and with the cost of further investigation and remediation on Watson Center. Based upon this understanding, Watson would suffer substantial harm if required to perform environmental investigation on Watson Center, without issuance of a stay of the Petition. This is particularly true as Watson is in the business of leasing commercial facilities, which is a market that has been hard hit by the recession.

13. On the other hand, if a stay is issued, neither the public interest nor other interested parties would be harmed because the requested stay would only apply to Watson, while Shell – the responsible party – would be required to comply with the requirements of the Order. Moreover, the historical and ongoing investigations at Watson Center ensure that the public interest would not be harmed substantially in the event a stay is issued.

Additional Supporting Documentation

14. A true and correct copy of the Complaint filed by Watson on May 16, 1996 in the Lawsuit is attached hereto as Exhibit D.

15. A true and correct copy of the July 23, 2001 General Verdict With Special Findings in the Lawsuit (“Jury Verdict”) is attached hereto as Exhibit E.

16. A true and correct copy of the Court of Appeal decision entitled *Watson Land Co. v. Shell Oil Co.* (2005) 130 Cal.App.4th 69, is attached hereto as Exhibit F.

17. A true and correct copy of a map entitled “General Area Around The Watson Center,” admitted into evidence as Exhibit 1495 in the Lawsuit, is attached hereto as Exhibit G.

18. A true and correct copy of a map entitled “Watson Center Plot Plan,” admitted into evidence as Exhibit 1496 in the Lawsuit, is attached hereto as Exhibit H.

19. A true and correct copy of Shell’s Responses To Watson’s First Set Of Requests For Admission is attached hereto as Exhibit I.

20. A true and correct copy of a drawing entitled “Inter-Refinery Pipelines; Wilmington and Dominguez Refineries,” admitted into evidence as Exhibit 12 in the Lawsuit, is attached hereto as Exhibit J.

21. A true and correct copy of a map entitled “Benzene Groundwater Concentration Contours on The Watson Center,” admitted into evidence as Exhibit 1498 in the Lawsuit, is attached hereto as Exhibit K.

22. A true and correct copy of a map entitled “MTBE/DIPE Groundwater Concentration Contours on The Watson Center,” admitted into evidence as Exhibit 1499 in the Lawsuit, is attached hereto as Exhibit L.

23. A true and correct copy of a map entitled “Plume A – Gasoline: Map of DIPE Groundwater Concentrations,” admitted into evidence as exhibit 1513 in the lawsuit, is attached hereto as Exhibit M.

24. True and correct copies of Excerpts From Trial Transcript in the Lawsuit are attached hereto as Exhibit N.

25. A true and correct copy of Shell's Responses to Watson's First Set of Special Interrogatories is attached hereto as Exhibit O.

26. A true and correct copy of a map entitled, "Plumes B1 and B2 – Gasoline: Map of EDC/EDB Groundwater Concentrations," admitted into evidence as Exhibit 1502 in the Lawsuit, is attached hereto as Exhibit P.

27. True and correct copies of Fuel Manufacturer Reports are attached hereto as Exhibit Q.

28. A true and correct copy of a chart entitled "Chronology of Gasoline Additives" is attached hereto as Exhibit R.

29. True and correct copies of the vapor flux results are attached hereto as Exhibit S.

30. A true and correct copy of a map entitled, "Plumes B1 and B2 – Gasoline: Map of Benzene Groundwater Concentrations," admitted into evidence as Exhibit 1500 in the Lawsuit, is attached hereto as Exhibit T.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 27th day of January, 2010.

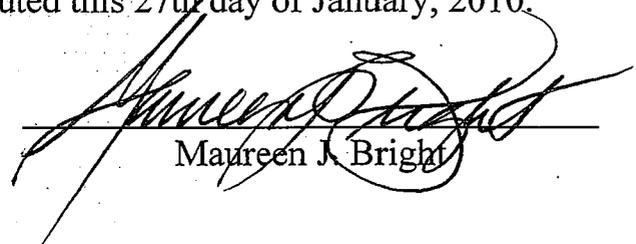

Maureen J. Bright

EXHIBIT A



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

Linda S. Adams
Agency Secretary

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

Arnold Schwarzenegger
Governor

December 28, 2009

Mr. Bradley D. Frazier
Watson Land Company
22010 South Wilmington Avenue, Suite 400
Carson, California 90745

Mr. Don Herman
Shell Pipeline Company
20945 S. Wilmington Avenue
Carson, CA 90810

REQUIREMENT FOR TECHNICAL REPORTS PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER – WATSON INDUSTRIAL CENTER SOUTH, CARSON (FILE NO. 09-197)

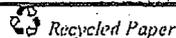
Dear Mr. Frazier & Mr. Herman:

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the State regulatory agency responsible for protecting water quality in Los Angeles and Ventura Counties. To accomplish this, the Regional Board has been overseeing the soil and groundwater investigation and cleanup activities on and in the vicinity of the properties at 2149 Sepulveda Boulevard (BP Carson refinery facility, SCP No. 225) and 900 233rd Street, Carson (GATX, SCP No. 532A).

Recently, we learned that there are several site investigation reports related to the Watson Industrial Center at 22010 South Wilmington Avenue, Carson (Watson Land Company vs. Shell Oil Company, Los Angeles Superior Court No. BC150161). Based on information we reviewed, we understand that there are five identified groundwater contamination plumes at Watson Land Company's Watson Industrial Center South (WICS): generally, the WICS is bordered on the north by 223rd Street, on the south by Sepulveda Boulevard, on the east by Wilmington Avenue, and on the west by Avalon Boulevard. Those identified groundwater contamination plumes are:

1. Pool II – across from BP (Arco) Carson refinery; primarily of mid-range hydrocarbon with a small gasoline component.
2. B2 Plume – under the Utility Way Corridor; 1300 feet long in a north-south direction aligned under Shell's pipelines and approximately 600-700 feet wide; old leaded gasoline with small free product.
3. A Plume – under the Utility Way Corridor; about half the length of the B2 Plume and also aligns with Shell's pipeline; old leaded gasoline and no free product.

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. Bradley Frazier, Watson Land Co.
Mr. Don Herman, Shell Pipeline Co.

- 2 -

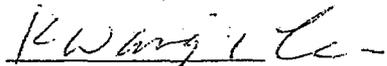
December 28, 2009

4. Jet Fuel Plume – from GATX’s pipeline (GATX notified this Regional Board on October 5, 1995, regarding GX-190 pipeline releases within the Watson property. Currently, this case is being handled by Regional Board staff).
5. B1 Plume – unleaded gasoline plume that could only have come from Shell’s pipelines in the Department of Water and Power Corridor.

These contaminated groundwater plumes underneath the WICS site are significant threats to human health and groundwater quality and must be completely assessed and delineated. Therefore, the Regional Board requires both Watson Land Co. and Shell Pipeline Co. to submit copies of all documents and reports of environmental assessment and investigation previously conducted at the WICS, and to assess the current groundwater quality. You are required to comply with the enclosed Order.

If you have any questions, please contact Mr. Paul Cho at (213) 576-6721 or me at (213) 576-6734.

Sincerely,

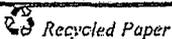


Kwang Lee, Ph.D., P.E.
Unit Chief
Site Cleanup Unit IV

Enclosures: Requirement to Provide Technical Reports (CWC Section 13267 Order)

cc: Nancy Matsumoto, Water Replenishment District
Henry Wind, California Water Service Company

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Recycled Paper



California Regional Water Quality Control Board

Los Angeles Region



Recipient of the 2001 Environmental Leadership Award from Keep California Beautiful

Linda S. Adams
Agency Secretary

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

Arnold Schwarzenegger
Governor

REQUIRING SUBMITTAL OF TECHNICAL REPORTS (CALIFORNIA WATER CODE SECTION 13267 ORDER)

WATSON INDUSTRIAL CENTER
CARSON, CALIFORNIA
(FILE NO. 09-197)

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

Regional Board staff has reviewed various documents from litigation between Watson Land Company vs. Shell Oil Company, Los Angeles Superior Court No. BC150161. Based on information we reviewed, we have identified that there are five groundwater contamination plumes at the Watson Industrial Center South (WICS). Those identified groundwater contamination plumes are:

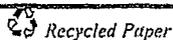
1. Pool II – across from BP (Arco) Carson refinery; primarily of mid-range hydrocarbon with a small gasoline component (*per Evaluation of Subsurface Environmental Concerns at Watson Industrial Center South, May 23, 1996, prepared by Levine Fricke*).
2. B2 Plume – under the Utility Way Corridor; 1300 feet long in a north-south direction aligned under Shell's pipelines and approximately 600-700 feet wide; old leaded gasoline with small free product (*per Expert Witness Jeffrey Dagdigian Deposition Transcript, March 5, 2001*).
3. A Plume – under the Utility Way Corridor; about half the length of the B2 Plume and also aligns with Shell's pipeline; old leaded gasoline and no free product (*per Expert Witness Jeffrey Dagdigian Deposition Transcript, March 5, 2001*).
4. Jet Fuel Plume – from GATX's pipeline (GATX notified this Regional Board on October 5, 1995, regarding GX-190 pipeline releases within the Watson property. Currently, this case is being handled by Regional Board staff).
5. B1 Plume – unleaded gasoline plume that could only have come from Shell's pipelines in the Department of Water and Power Corridor (*per Expert Witness Jeffrey Dagdigian Deposition Transcript, March 5, 2001*).

Our review of Watson Land Company's Combined Respondent's Brief and Cross-Appellant's Opening Brief dated October 11, 2006 summarizes as follow:

1. Various chemicals have been detected at the Watson Industrial Center including petroleum hydrocarbons, fuel oxygenates, 1,2-dichloroethane, ethylene dichloride, etc. Specifically, within B2 plume, diisopropyl ether (DIPE) has been detected at 14 milligrams per liter (mg/L) from water-table monitoring well MW-1. Within A plume, DIPE detected at 4.5 mg/L (*per Expert Witness Jeffrey Dagdigian Deposition Transcript, March 5, 2001*).

California Environmental Protection Agency

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

2. Shell transported hydrocarbon produced or used at its refinery through a series of 'inter-refinery pipelines' (IRPs) contained in two easements that traversed north-south through the center of the Watson Center (the "Utility Way Corridor" and the "DWP Corridor"). In 1973, Shell built 13 new pipelines in the DWP Corridor, and critically, stopped using 7 of the 12 pipelines in the Utility Way Corridor that were built in 1965. A notation found on one of Shell's Y-Maps (as-built pipeline drawings) admitting that as of 1983 one of 7 lines was in poor condition.
3. The contamination is physically located directly under the location of Shell's IRPs.
4. DIPE manufactured by Shell at its refinery and presented in the B2 and A plumes further shows causation. DIPE was used by Shell as an additive to leaded gasoline.
5. BP (Arco) did not use DIPE as an additive in leaded gasoline.
6. Two lead scavengers added to leaded gasoline called ethylene dibromide (EDB) and ethylene dichloride (EDC) distribution pattern also helped to define the B2 plume (*per Expert Witness Jeffrey Dagdigian Deposition Transcript, March 5, 2001*). Both Watson's and Shell's experts agreed that the contamination was pre-1990 leaded gasoline. The B2 plume contains lead that is a special mixture of five lead alkyls that was used in gasoline produced between 1960 and 1982, within the period in which Shell's IRP carried leaded gasoline.
7. Samples from pertinent locations on the BP refinery contained a lead package called 'tetraethyl lead' or TEL, not the lead alkyl mixture, which means that the gasoline in the B2 plume is different from the gasoline component of the contamination under the Arco refinery.
8. Shell's IRP are the only confirmed source of gasoline in the vicinity of the B2 and A plumes. There was no evidence of non-Shell pipelines transporting gasoline in the area or of nearby gasoline stations or tenant uses that were a potential source for the plumes.

Based on the above information, we have determined that there is significant contamination of groundwater under the WICS which must be completely assessed and delineated. Pursuant to section 13267(b) of the California Water Code (CWC), you are hereby directed to submit the following:

1. By **February 26, 2010** a technical report (workplan) for groundwater sampling and monitoring from all the existing groundwater monitoring wells at the Watson Industrial Center related to Pool II, Plume A, Plume B1, and Plume B2. You are also required to submit any historical groundwater monitoring data in the report with your discussion on groundwater quality concern.
2. By **April 15, 2010**, a 3-dimensional illustration as a conceptual site model (CSM) to depict:

- i) the site-specific hydrogeology and hydrostratigraphy with verified field data;
 - ii) the current groundwater monitoring network with screened intervals;
 - iii) the location of all the water supply wells within one mile radius of the site as well as other receptors that may be affected by the release and migration of the contaminants to the subsurface environment; and
 - iv) the lateral and vertical extent of each chemical of concern in groundwater.
3. By **April 15, 2010**, a technical report (workplan) for additional investigation to complete the 3-d illustration in case the CSM cannot adequately convey all the required above information.
4. All technical reports must be signed by a senior authorized [NAME OF RESPONSIBLE PARTY'S or DISCHARGER'S COMPANY] representative (and not by a consultant). It shall be in the following format: "I [NAME], do hereby declare, under penalty of perjury under the laws of the State of California, that I am [JOB TITLE] for [NAME OF RESPONSIBLE PARTY\DISCHARGER], that I am authorized to attest to the veracity of the information contained in the reports described herein, and that the information contained in [NAME AND DATE OF REPORT] is true and correct, and that this declaration was executed at [PLACE], [STATE], on [DATE]."

Pursuant to section 13268(b)(1) of the CWC, failure to submit the required technical reports may result in the imposition of civil liability penalties by the Regional Board, without further warning, of up to \$1,000 per day for each day the report is not received after the *above* due dates.

Due to historical land use at the site, soil and groundwater beneath the site have been impacted with petroleum hydrocarbons and fuel oxygenates. However, you have not yet completed site contamination characterization and have not organized site investigation data into a conceptual site model to assess the full extent of the groundwater contamination. The Regional Board needs the required reports in order to complete the vertical and lateral delineation of the groundwater contamination plume and properly implement remedial measures.

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

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

filing petitions may be found on the Internet at:

Mr. Bradley Frazier, Watson Land Co.
Mr. Don Herman, Shell Pipeline Co.

- 4 -

December 28, 2009

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

SO ORDERED.

Samuel Unger A.E.O. for

Tracy J. Egoscue
Executive Officer

December 28, 2009

California Environmental Protection Agency

 Recycled Paper

Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

EXHIBIT B

EXHIBIT B

COPY



RECEIVED
JAN 11 2010
Bright & Brown

January 6, 2010

By email and U.S. Mail

Mr. Paul Cho
California Regional Water Quality Control Board, Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles California 90013

Re: Watson Industrial Center South, Carson (Your File No. 09-197)

Dear Mr. Cho:

We received Kwang Lee's December 28, 2009 Letter and the attached California Water Code Section 13267 Order ("Order") regarding the above-referenced property ("WICS Property"). Because the Order invites Watson to communicate directly with you regarding the same, we take the opportunity to do so in this letter.

As you know, Water Code Section 13267(b)(1) authorizes the Board to require any person, "who has discharged, discharges, or is suspected of having discharged ..." waste that could affect water quality, to furnish technical or monitoring reports to the Board. In this regard, the Order identifies evidence establishing that Shell Oil Company has discharged various chemicals on and under the WICS Property and that Shell is the only identified source of the particular contamination that is the subject of the Order. Likewise, Watson is aware that several other companies have been investigating soil and groundwater contamination in the vicinity of the WICS Property under the Board's oversight. For example, the Order identifies a "Jet Fuel Plume from GATX's pipeline." Watson understands that Kinder Morgan (the successor in interest regarding the GX-190 pipeline) has been actively remediating all the contamination in the area of that plume under separate oversight by the Board for years, and that further investigation is not required by this particular Order. Likewise, other companies have been doing their share to address the contamination identified in the Order. For example, we understand that BP has been investigating and remediating what we understand to be "Pool II" referred to in the Order, under separate oversight by the Board.

Watson appreciates that the Board's practice is to address orders (such as the Order) to the landowner to ensure that the party responsible for the investigation (here Shell) will have access to perform its work. For example, Watson is providing access so that Kinder Morgan can perform work regarding the GX-190 release and yet, quite

Mr. Paul Cho
January 6, 2010
Page 2

appropriately, Watson has not been required to perform any investigation itself. Likewise, Watson assumes that it was named in the Order for the purpose of ensuring access to the WICS Property, and not because the Board intends that Watson is obligated to perform the work required by the Order. In this connection, we understand that the evidence in the record maintained by the Board establishes that Shell, not Watson, is responsible for the contamination identified. The evidence cited in the Order confirms this understanding.

Watson is pleased to cooperate with the Board and Shell in ensuring reasonable access to the WICS Property in order for Shell to accomplish the purposes of the Order. Watson is aware, however, of the 30 day deadline (January 27, 2010) to file a petition for review with the State Board, if required. As I am sure you can appreciate, Watson desires to obtain the Regional Board's confirmation, well before that deadline, that the Order was issued to Watson solely to ensure access and does not require Watson to perform or pay for the work required in the Order.

Please let us have your response to this letter as soon as possible.



Bradley D. Frazier
General Counsel
Watson Land Company

c. Maureen Bright, Esq.

EXHIBIT C



January 18, 2010

By email and Overnight Mail

Mr. Paul Cho
California Regional Water Quality Control Board, Los Angeles Region
320 W. 4th Street, Suite 200
Los Angeles California 900013

Re: Watson Industrial Center South, Carson (Your File No. 09-197)

Dear Mr. Cho:

This letter follows my January 6, 2009 letter concerning the Regional Board's December 28, 2009 Order regarding the WICS Property.

I appreciate learning from you that the Order was issued in order to obtain existing data from Watson concerning contamination on the WICS Property. We understand that the Board did not issue the Order with the expectation that Watson will have to comply with the other terms of the Order. We further understand that Jeff Ogata of the State Board is attempting to set up a meeting with you and Watson to confirm our understanding.

Unfortunately that meeting, and any clarification about the scope of the Order, likely will not take place before our deadline to file a Petition with the State Board. Accordingly, Watson is preparing a Petition seeking a review of the Order. As you can appreciate, Watson intends to assert that as an innocent landowner, it is not a proper party to the Order. In addition, Watson is concerned that the Order poses unreasonable burdens on the parties. Therefore, as requested in the Order, we are alerting you to those issues in advance of our filing the Petition.

1. The work required in items 1-3 of the Order impose an unreasonable burden on Watson because many of those items have been completed and the uncompleted portions appear to be associated with Shell's pipelines or other parties. Specifically we understand that Pool II plume has been or is being addressed by BP West Coast Products LLC ("BPWCP") and the Jet Fuel Plume has/is being addressed by Kinder Morgan (successor to GATX regarding the GX-190 Pipeline).

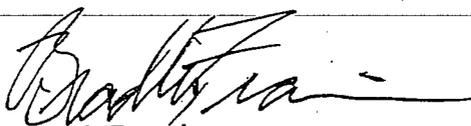
2. The B2 Plume has been partially characterized (at least as to the first encountered groundwater and soil impacts) by Atlantic Richfield Company and Watson in connection with the previous lawsuit involving Shell so additional work in that regard is unnecessary. The delineation of any downgradient and deeper impacts of the B2 plume would be based upon the similarity of the new samples as compared to the chemicals already found in B2 Plume. Accordingly, the further delineation of the B2 Plume will be, by definition, work associated with the source of the B2 Plume. As the Order strongly implies, Shell is the only likely source of the B2 plume and Shell should be responsible for the same. Watson's position with regard to the delineation of the A Plume and the B1 Plume is similar.

3. Watson also requests modification (and/or clarification) of the Order on the following points:

Item 1 on page three of the Order requests a workplan for groundwater sampling and monitoring all the wells related to Pool II, Plume A, Plume B1, and Plume B2. These plumes have been sampled within the last 2 years and Watson believes that the additional cost of resampling the same will not provide better data.

As noted above Watson understands that Pool II has been or is being delineated by BPWCP. To the extent to which the Order is requesting different or additional delineation, then Watson is unsure what work is required and is concerned that the meaning of the term "Pool II" may be ambiguous. Please clarify whether there is an area, or areas, associated with Pool II that are not already being investigated by BPWCP which the Order is seeking to address. Watson assumes that the additional portion of Pool II that would be investigated is any portion associated with Shell's pipelines. Again, Watson should not be obligated to do this work.

The timeframes set forth in the Order are too short for meaningful responses (assuming that Watson is obligated to do this work at all- which is contested). Watson proposes that each of the deadlines each be extended by at least 60 days.



Brad Frazier
General Counsel
Watson Land Company

EXHIBIT D

EXHIBIT D

COPY

1 BRIGHT AND BROWN
2 JAMES S. BRIGHT (State Bar No. 65299)
3 MAUREEN J. BRIGHT (State Bar No. 81589)
4 BRIAN L. BECKER (State Bar No. 115431)
5 550 North Brand Boulevard, Suite 2100
6 Glendale, California 91203-1900
7 (818) 243-2121 or (213) 489-1414

ORIGINAL FILED

MAY 16 1996

LOS ANGELES
SUPERIOR COURT

Attorneys for Plaintiff
WATSON LAND COMPANY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 CENTRAL DISTRICT

BC150161

11 WATSON LAND COMPANY, a California
12 corporation,

Case No. _____

13 Plaintiff,

COMPLAINT OF THE WATSON LAND
COMPANY FOR:

14 v.

1. PERMANENT TRESPASS;
2. CONTINUING TRESPASS;
3. PERMANENT PRIVATE NUISANCE;
4. PERMANENT PUBLIC NUISANCE;
5. CONTINUING PRIVATE NUISANCE;
6. CONTINUING PUBLIC NUISANCE;
7. FRAUD;
8. FAILURE TO DISCLOSE DISCHARGE UNDER HEALTH & SAFETY CODE §25359.7;
9. EQUITABLE INDEMNITY;
10. UNJUST ENRICHMENT; AND
11. DECLARATORY RELIEF

15 ATLANTIC RICHFIELD COMPANY, a
16 Pennsylvania corporation; GEORGE
17 PEARSON, an individual, dba G & M OIL
18 COMPANY; G & M OIL COMPANY, INC., a
19 California corporation; TEXACO REFINING
20 AND MARKETING, INC., a Delaware
21 corporation; TRMI HOLDINGS, INC., a
22 Delaware corporation; REMEDIATION
23 CAPITAL CORPORATION, a Nevada
24 corporation; MONSANTO CHEMICAL
25 COMPANY, a Delaware corporation;
26 STAUFFER MANAGEMENT COMPANY, a
27 Delaware corporation; RHONE-POULENC
28 BASIC CHEMICALS COMPANY, a Delaware
corporation, SHELL OIL COMPANY, a
Delaware corporation and DOES 1
through 200, inclusive,

Defendants.

BRIGHT AND BROWN
850 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 489-1414
FACSIMILE (818) 243-3225

///

BRIGHT AND BROWN
890 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 489-1414
FACSIMILE (818) 243-3225

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Plaintiff, Watson Land Company, alleges as follows:

THE ACTION

1. This action is brought by Watson Land Company (hereinafter referred to as "Watson") seeking damages and other relief associated with the environmental contamination of real property in the City of Carson, California. The property is commonly known as the Watson Industrial Center South (hereinafter referred to as the "Watson Center"). The action seeks relief from a variety of defendants. Watson is informed and believes, and thereon alleges, that some of the defendants have caused the contamination of the Watson Center as a result of operations which those defendants have conducted on parcels immediately adjoining or in the vicinity of the Watson Center. Watson is informed and believes, and thereon alleges, that others of the defendants have installed pipelines through the Watson Center, the operation of which have also caused contamination of the Watson Center. This action seeks relief against all of the defendants predicated upon causes of action for permanent trespass, continuing trespass, permanent private nuisance, permanent public nuisance, continuing private nuisance, continuing public nuisance, equitable indemnity, unjust enrichment and declaratory relief. In addition to the previously stated causes of action, this action also seeks relief from defendant Atlantic Richfield Company on the basis of failure to disclose a discharge under Health & Safety Code §25359.7, and fraud.

PARTIES AND PROPERTY

2. Watson is a California corporation with its principal place of business in Carson, California. Watson is a developer/owner of commercial and industrial properties.

3. Watson is the owner of the Watson Center, consisting of approximately 400 acres, irregularly configured and bounded at the northern most point by 223rd Street, the western most point by Wilmington Avenue, the

BRIGHT AND BROWN
890 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 495-1414
FACSIMILE (818) 243-3225

1 southern most point by Sepulveda Boulevard and extending at the eastern most
2 point beyond Avalon Boulevard. The Watson Center is developed with
3 approximately 65 commercial and light industrial buildings which Watson leases.
4 Neither Watson, nor any of its tenants, have caused or contributed to the
5 environmental contamination complained of in this action.

6 4. Immediately across Wilmington Avenue and to the east of the
7 Watson Center is the ARCO Los Angeles Refinery (hereinafter referred to as the
8 "ARCO Refinery"). Watson is informed and believes, and thereon alleges, that the
9 ARCO Refinery is owned by defendant Atlantic Richfield Company (hereinafter
10 "ARCO") and is operated by a division of ARCO known as "ARCO Products
11 Company." Watson is informed and believes, and thereon alleges, that the ARCO
12 Refinery has been so owned and operated throughout the period of time relevant to
13 this complaint. Watson is further informed and believes, and thereon alleges,
14 that ARCO is a Pennsylvania corporation with its principal place of business in
15 Los Angeles, California. Watson is informed and believes, and thereon alleges,
16 that ARCO's operations at the ARCO Refinery caused or contributed to the
17 environmental contamination complained of in this action.

18 5. To the northeast of the Watson Center at 22351 Wilmington
19 Avenue is a parcel of property upon which is located a gas station. The property is
20 owned by Robert and LuAnne Leonard (hereinafter referred to as the "Leonards"
21 and the "Leonard Property"). Watson is informed and believes, and thereon
22 alleges, that the gas station on the Leonard Property has been operated during the
23 relevant period by Mohawk Petroleum Corporation (hereinafter referred to as
24 "Mohawk"), and later by defendant George Pearson, dba G & M Oil Company and
25 G & M Oil Company, Inc. (hereinafter collectively referred to as "G & M").
26 Watson is informed and believes, and thereon alleges, that George Pearson is a
27 resident of Huntington Beach, California and that G & M Oil Company, Inc. is a
28 California corporation with its principal place of business in Huntington Beach,

BRIGHT AND BROWN
550 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 495-1414
FACSIMILE (818) 243-3228

1 California. Watson is further informed and believes, and thereon alleges, that
2 Getty Refinery and Marketing Company (hereinafter referred to as "Getty")
3 succeeded to the liability of Mohawk for its operations on the Leonard Property and
4 that defendant Texaco Refining and Marketing, Inc., later acquired Getty and
5 thereby succeeded to the liabilities of Getty, including, but not limited to the
6 liabilities of Mohawk for operations on the Leonard Property. Watson is informed
7 and believes, and thereon alleges, that the corporate entity known as Texaco
8 Refining and Marketing, Inc., into which Getty was merged, changed its name to
9 TRMI Holdings Inc. (hereinafter referred to as "TRMI"). Watson is further
10 informed and believes, and thereon alleges, that on that same date, a separate
11 corporation was created under the name of Texaco Refining and Marketing, Inc.
12 (hereinafter referred to as "Texaco") which also succeeded to the liabilities
13 attributable to the operation of the gas station on the Leonard Property. (G & M,
14 Mohawk, Getty, Texaco and TRMI are collectively referred to herein as the
15 "Leonard Gas Station Defendants.") Watson is informed and believes, and
16 thereon alleges, that Mohawk and Getty no longer exist as separate corporations
17 and that Texaco and TRMI are both Delaware corporations with the identical
18 principal place of business in White Plains, New York. Watson is informed and
19 believes, and thereon alleges, that the gas station operations by the Leonard Gas
20 Station Defendants on the Leonard Property caused or contributed to the
21 environmental contamination complained of in this action.

22 6. Further to the northwest of the Watson Center are two parcels
23 which front on 223rd Street and upon which operations have been conducted
24 which are the subject of this action. Watson is informed and believes, and thereon
25 alleges, that the parcel located at 2100 223rd Street is owned by defendant
26 Remediation Capital Corporation, a Nevada corporation, with its principal place
27 of business in San Francisco, California. Watson is informed and believes, and
28 thereon alleges, that Remedial Capital Corporation acquired the property from

BRIGHT AND BROWN
950 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 486-1414
FACSIMILE (818) 243-3228

1 defendant Monsanto Chemical Company and succeeded to the liabilities resulting
2 from the operations conducted on that property. Watson is further informed and
3 believes, and thereon alleges, that Monsanto Chemical Company is a Delaware
4 corporation with its principal place of business in St. Louis, Missouri. (Remedial
5 Capital Corporation and Monsanto Chemical Company are collectively referred to
6 herein as "Monsanto" and the property is hereinafter referred to as the "Monsanto
7 Plant.") Watson is further informed and believes, and thereon alleges, that
8 Monsanto operated a detergent manufacturing facility at the Monsanto Plant
9 which caused or contributed to the environmental contamination complained of in
10 this action.

11 7. Watson is informed and believes, and thereon alleges, that the
12 parcel located at 2112 223rd Street is owned by defendant Stauffer Management
13 Company which acquired the property from Stauffer Chemical Company and
14 succeeded to the liability for operations conducted on that property. Watson is
15 informed and believes, and thereon alleges, that Stauffer Chemical Company
16 changed its name to Stauffer Chemical Company, a Division of Rhone-Poulenc,
17 Inc. Watson is informed and believes, and thereon alleges, that Stauffer
18 Chemical Company, a Division of Rhone-Poulenc, Inc. changed its name to
19 Rhone-Poulenc Basic Chemicals Company. Watson is informed and believes, and
20 thereon alleges, that Stauffer Chemical Company no longer exists as a separate
21 corporation, that defendant Stauffer Management Company is a Delaware
22 corporation with its principal place of business in Shelton, Connecticut, and that
23 Rhone-Poulenc Basic Chemicals Company is a Delaware corporation with its
24 principal place of business in Shelton, Connecticut. (Stauffer Management
25 Company, Stauffer Chemical Company and Rhone-Poulenc Basic Chemical
26 Company are hereinafter collectively referred to as "Stauffer" and the property is
27 hereinafter referred to as the "Stauffer Plant.") Watson is informed and believes,
28 and thereon alleges, that Stauffer operated a chemical manufacturing facility at

BRIGHT AND BROWN
350 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 469-1414
FACSIMILE (818) 243-3225

1 the Stauffer Plant which caused or contributed to the environmental
2 contamination complained of in this action.

3 8. Located in the middle of the Watson Center and running
4 beneath a street known as "Utility Way" and in a North/South line extending from
5 the northern most to the southern most edge of the Watson Center, is a pipeline
6 corridor in which several pipelines are located that carry petroleum, petroleum
7 products and other chemical substances (hereinafter referred to as the "Pipeline
8 Corridor"). Watson is informed and believes, and thereon alleges, that defendant
9 Shell Oil Company (hereinafter referred to as "Shell") owns and has operated
10 pipelines within the Pipeline Corridor. Watson is informed and believes, and
11 thereon alleges, that defendant ARCO owns and has operated pipelines within the
12 Pipeline Corridor. Watson is informed and believes, and thereon alleges, that
13 Shell is a Delaware corporation with its principal place of business in Houston,
14 Texas. Watson is informed and believes, and thereon alleges, that the operation of
15 these pipelines by Shell and ARCO, respectively, have caused or contributed to the
16 environmental contamination complained of in this action.

17 9. Watson is informed and believes, and thereon alleges, that
18 Does 1 through 25, inclusive, are the agents, representatives, subsidiaries,
19 affiliates, predecessors or successors of ARCO, and that each of these Doe
20 defendants is in some manner responsible for the damages caused to Watson, as
21 described more fully below.

22 10. Watson is informed and believes, and thereon alleges, that
23 Does 26 through 50, inclusive, are the agents, representatives, subsidiaries,
24 affiliates, predecessors or successors of the Leonard Gas Station Defendants, and
25 that each of these Doe defendants is in some manner responsible for the damages
26 caused to Watson, as described more fully below.

27 11. Watson is informed and believes, and thereon alleges, that
28 Does 51 through 75, inclusive, are the agents, representatives, subsidiaries,

BRIGHT AND BROWN
899 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(919) 243-2121 (F) 349-1414
FACSIMILE (919) 243-3220

1 affiliates, predecessors or successors of Monsanto, and that each of these Doe
2 defendants is in some manner responsible for the damages caused to Watson, as
3 described more fully below.

4 12. Watson is informed and believes, and thereon alleges, that
5 Does 76 through 100, inclusive, are the agents, representatives, subsidiaries,
6 affiliates, predecessors or successors of Stauffer, and that each of these Doe
7 defendants is in some manner responsible for the damages caused to Watson, as
8 described more fully below.

9 13. Watson is informed and believes, and thereon alleges, that
10 Does 101 through 125, inclusive, are the agents, representatives, subsidiaries,
11 affiliates, predecessors or successors of Shell, and that each of these Doe
12 defendants is in some manner responsible for the damages caused to Watson, as
13 described more fully below.

14 14. Watson is informed and believes, and thereon alleges, that
15 Does 126 through 150, inclusive, are other persons or entities that have operated
16 the gas station facilities on the Leonard Property and that each of these Does
17 defendants is in some manner responsible for the damages caused to Watson, as
18 described more fully below.

19 15. Watson is informed and believes, and thereon alleges, that
20 Does 151 through 200, inclusive, are the other persons or entities that have
21 conducted operations on or near the Watson Center and that each of these Doe
22 defendants is in some manner responsible for the damages to Watson, as
23 described more fully below.

24 FACTUAL BACKGROUND

25 16. Watson is informed and believes, and thereon alleges, that
26 groundwater in the vicinity of the Watson Center generally flows to the south -
27 southwest, placing the Watson Center hydraulically down to cross-gradient from
28

BRIGHT AND BROWN
890 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(818) 243-2121 (213) 499-1414
FACSIMILE (818) 243-3228

1 the ARCO Refinery, the Leonard Property, the Stauffer Plant and the Monsanto
2 Plant.

3 17. The soil and groundwater contamination which Watson has
4 discovered beneath the Watson Center is not visible and is not detectable absent
5 subsurface testing. Watson is informed and believes, and thereon alleges, that the
6 defendants, and each of them, knew or should have known that the contamination
7 which they caused was not likely to be discovered by Watson absent disclosure by
8 the defendants of the existence of such contamination.

9 18. The discharge of petroleum, petroleum products, hazardous
10 substances, industrial wastes or waste from manufacturing facilities into a
11 location in which they will or could endanger the waters of the State, including
12 groundwater, has been unlawful and prohibited since 1915 by Fish & Game Code
13 §5650 (formerly Penal Code §635), since 1949 by Water Code §13350 et seq. (formerly
14 the Dickey Water Act), since 1949 by Health and Safety Code §5410 and §5411 and
15 since 1952 by Los Angeles County Ordinance §20.36.010. Los Angeles County
16 Ordinance §20.36.010 has further prohibited the discharge of any hazardous
17 substances in locations where they would or might damage private property.
18 Health and Safety Code §5410 and §5411 have prohibited the discharge of waste in
19 any manner which will result in pollution or contamination of the waters of the
20 State or the creation of a nuisance, including an obstruction to the free use of
21 property or the comfortable enjoyment of property. Watson is informed and
22 believes, and thereon alleges, that each of the discharges of petroleum, petroleum
23 products, and other hazardous substances by the defendants herein, as described
24 more fully below, were unlawful at the time such discharges occurred.

25 MONSANTO PLANT

26 19. Watson is informed and believes, and thereon alleges, that the
27 Monsanto Plant manufactured detergent from approximately 1985 to 1991. Watson
28 is further informed and believes, and thereon alleges, that some time at the end of

BRIGHT AND BROWN
300 NORTH BRAND BOULEVARD
SUITE 2100
GLENDALE, CALIFORNIA 91203
(919) 243-2121 (213) 496-1414
FACSIMILE (919) 243-3223

1 1990, or early in 1991, Monsanto signed a consent order issued by the California
2 Environmental Protection Agency, Department of Toxic Substance Control
3 (hereinafter referred to as "DTSC") requiring Monsanto to remediate soil and
4 groundwater contamination emanating from the Monsanto Plant. In or around
5 the beginning of 1991, an environmental consultant acting on behalf of Monsanto
6 interviewed representatives of Watson for the stated purpose of preparing a
7 community relations plan for a site investigation and remediation at the Monsanto
8 Plant. In or around February of 1995, Watson received a copy of a fact sheet
9 published by the DTSC informing the general public of activities undertaken by
10 Monsanto to remediate groundwater contamination caused by the Monsanto
11 Plant. The 1995 fact sheet described interim measures implemented by Monsanto
12 to extract free-floating contamination from the groundwater, the completion of a
13 feasibility study prepared by Monsanto to identify, develop and evaluate remedial
14 action alternatives for the Monsanto site, and the pending preparation and
15 approval by the DTSC of the remedial action plan by Monsanto to remediate
16 contamination emanating from the Monsanto Plant. None of the information
17 supplied to Watson indicated that the Monsanto Plant had contaminated the soil or
18 groundwater beneath the Watson Center. As a result, Watson had no reason to
19 suspect that Monsanto had contaminated the Watson Center, until the discoveries
20 made by Watson in 1996, as more fully described below.

21 20. In addition to the fact that Watson had no reason to believe
22 that the Monsanto Plant had contaminated the soil and groundwater under the
23 Watson Center, as a result of the public disclosures made by Monsanto in
24 connection with the DTSC order, the DTSC order, the specific representations
25 made by the agents of Monsanto in connection with the preparation of the
26 community relations plan, and DTSC fact sheets, Watson also believed that
27 Monsanto had accepted responsibility for the contamination emanating from the
28 Monsanto Plant and would fully investigate, delineate and remediate that