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9 STONY POINT ASSOCIATES



10 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

11 IN RE THE MATTER OF:

12 STONY POINT CLEANERS
13 469 STONY POINT ROAD
14 SANTA ROSA CALIFORNIA

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PETITION BY STONY POINT
ASSOCIATES FOR REVIEW OF NORTH
COAST REGIONAL WATER QUALITY
CONTROL BOARD CLEANUP AND
ABATEMENT ORDER No. R1-2014-0018

17 **I. INTRODUCTION**

18 The first evidence of perchloroethylene release at Stony Point Cleaners was in 2002 –
19 seventeen years after Stony Point Associates sold the subject property to the current owner Dr.
20 David Paslin dba Ben Brett ManAff (Management Affiliates) and six (6) years into the troubled
21 term of the current operator, Mr. Stanley Kim. Based on a lack of evidence of earlier release, the
22 North Coast Regional Water Quality Control Board (“NCRWQCB”) twice appropriately refused
23 to name prior owners and operators as responsible parties when asked to do so by Dr. Paslin.

24 Meanwhile, almost five (5) years of litigation in Sonoma Superior Court by Dr. Paslin
25 failed to generate any evidence of release during Stony Point Associates’ (“SPA”) ownership of
26 the property from February 1984 to May 1985. Despite this lack of evidence, the NCRWQCB
27 abruptly reversed itself and named SPA as a discharger in a Cleanup and Abatement Order issued
28 on February 27, 2014. The Technical Memorandum accompanying that order admits “[s]taff does

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1 not have the data to date the release,” and “it is not possible to date the age of all the releases.”
2 Under the NCRWQCB’s reasoning, “any operator using PCE caused or threatened to cause
3 discharges,” which it asserts is sufficient to make every owner and operator jointly and severally
4 liable for the contamination at the property. This conclusion is contrary to law and ignores
5 compelling evidence that the contamination at the site was caused by the current operator.
6 Therefore, SPA respectfully requests the State Board review and reverse the NCRWQCB’s
7 decision to name SPA in its Cleanup and Abatement Order No. R1-2014-0018.

8 **II. BACKGROUND AND ANALYSIS**

9 SPA acquired Buildings 3 and 6 of Stony Point Shopping Center on or about February 1, 1984.
10 SPA deeded both buildings to Dr. David Paslin and his wife about 16 months later, on or about
11 May 24, 1985. Dr. Paslin d/b/a Ben Brett, ManAff (Management Affiliates) has owned the
12 Property for more than twenty-eight (28) years.

13 At some point after 1985, Dr. Paslin sold Building 3 for approximately \$1.2 million. In 2006,
14 he attempted to sell Building 6; however, the sale fell through when environmental investigations
15 identified PCE contamination in the soil and groundwater under Stony Point Cleaners. The results
16 of the investigation were forwarded to the NCRWQCB, which required Dr. Paslin to develop an
17 investigation work plan to determine the extent of contamination and appropriate remedial
18 measures.

19 On March 7, 2008, Dr. Paslin, through counsel, requested the NCRWQCB add prior
20 operators and owners as responsible parties in the NCRWQCB action.¹ The NCRWQCB denied
21 this request on October 29, 2009, noting that it had attempted “to collect additional information on
22 historical business operations to better evaluate evidence of when a discharge occurred.”²
23 Nevertheless, on January 13, 2009 Dr. Paslin filed a lawsuit against various former owners of the
24 Property (including SPA) and operators of Stony Point Cleaners alleging releases of PCE
25 beginning in 1981. Then, on December 31, 2010, Dr. Paslin again attempted to have the
26

27 ¹ Letter from Gregg Garrison to NCRWQCB (Mar. 7, 2008), attached hereto as Exhibit A.

28 ² Letter from Beth Lamb, NCRWQCB to David Paslin (Oct. 29, 2009), attached hereto as Exhibit B

1 NCRWQCB name prior owners and operators, arguing a study conducted in Santa Clara County,
2 along with “the reports of site consultants” indicated “extensive contamination occurred over a
3 prolonged period of time dating back to 1980-1981.” “Therefore,” he concluded, “the Board is
4 required to name the former operators and landowners as primary responsible parties and include
5 those owners and operators in investigations and cleanup directives.”³ In its April 29, 2011
6 response, the NCRWQCB once again refused to expand its action, stating, “there was no
7 information contained in [the December 31, 2010 letter] that provided us with the documentation
8 for naming additional responsible parties.”⁴

9 After five years of litigation, Dr. Paslin was (and is) unable to produce evidence of the
10 alleged releases. Thus, SPA filed a motion for summary judgment in the state-court case in
11 November, 2013. That motion was never ruled upon by the court, however, because Dr. Paslin
12 dismissed the suit prior to hearing last December.

13 As the state-court litigation was proceeding toward conclusion, SPA and the other
14 defendants were surprised to receive a copy of an NCRWQCB letter dated December 6, 2013 and
15 a Draft Cleanup and Abatement Order referring to all current and former owners and operators of
16 the property as “dischargers.” Given the complete lack of evidence to support holding SPA liable
17 for any contamination at the Property, SPA submitted comments on the Draft Order outlining the
18 fact that the contamination at the site occurred well after SPA sold the Property to Dr. Paslin.⁵
19 However, despite admitting its “[s]taff does not have the data to date the release,” and that “it is
20 not possible to date the age of all the releases,” the NCRWQCB issued a final Cleanup and
21 Abatement Order identical to the Draft Order and naming SPA.⁶

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23 _____
³ Letter from Gregg Garrison to NCRWQCB (Dec. 31, 2010), attached hereto as Exhibit C.

24 ⁴ Letter from Beth Lamb, NCRWQCB to David Paslin (Apr. 29, 2011), attached hereto as Exhibit D.

25 ⁵ Letter from Jesse A. Boyd on behalf of SPA to Beth Lamb (Jan. 10, 2014), attached hereto as Exhibit E. As much of
26 this Petition incorporates the information contained in the January 10 letter to Ms. Lamb, the exhibits to that letter are
not included here.

27 ⁶ Regional Water Quality Control Board, North Coast Region, Technical Memorandum (Feb. 25, 2014) at p. 4,
28 attached hereto as Exhibit F; Regional Water Quality Control Board, North Coast Region, Cleanup and Abatement
Order No. R1-2014-0018, attached hereto as Exhibit G.

1 Under the NCRWQCB's reasoning, "any operator using PCE caused or threatened to cause
2 discharges," which it asserts is sufficient to make every historical operator and property owner
3 jointly and severally liable for the contamination regardless of when the release of PCE occurred.⁷
4 This conclusion is contrary to law and ignores compelling evidence that the contamination at the
5 site was caused exclusively by the recent operations of Mr. Kim. Therefore, SPA respectfully
6 requests the State Board review and reverse the NCRWQCB's decision to name SPA in its
7 Cleanup and Abatement Order No. R1-2014-0018.

8 **A. There is No Evidence of Discharge During SPA's Tenure**

9 Prior to its determination, the NCRWQCB received a biased and misleading report from
10 Dr. Paslin's counsel and consultants dated September 4, 2013. Despite its conclusory allegations
11 to the contrary, the report does not contain evidence of discharge during SPA's tenure. Indeed, the
12 theories advanced by Dr. Paslin's representatives are demonstrably false. The NCRWQCB,
13 however, appears to have adopted its flawed reasoning in issuing the Final CAO.

14 In their report and accompanying letter, Dr. Paslin's consultant James Gribi and project
15 manager, Brian Kelleher stated the following:

16 According to a prior owner/operator of Stony Point Cleaners, during the early and
17 mid 1980s (prior to enforcement of current hazardous waste management and
18 hazardous materials storage regulations) contact water from the PCE machine's
water separator was collected in 5-gallon buckets, hand-carried into the boiler
room, and discharged to the sanitary sewer system via a floor drain.

19 With this information in hand, Gribi conducted investigations to determine if this
20 prior waste management practice resulted in subsurface PCE discharges. They
21 found the floor drain in a difficult to reach location with access to the top
obstructed by numerous pipes discharging wastewater from various sources.

22 On the basis of the investigation results, Gribi concluded that the primary PCE
23 discharge point to the subsurface was at a low spot in the concrete slab floor just
24 in front of the floor drain at the point most prone to receiving spillage during the
25 manual discharge of contact water to the drain. In particular they discovered there
26 was a crack in the 4-inch thick concrete slab floor crossing the low spot that acted
27 as a preferential pathway for contaminant migration. The soil gas sample
28 collected at 4 feet directly below the crack contained 4,565,094 µg/m³ PCE and
the soil sample collected at 1.5 feet contained 170 ppm PCE and had a strong
solvent odor.⁸

⁷ Technical Memorandum at p. 3

⁸ Letter from Brian Kelleher to Beth Lamb, NCRWQCB (Sep. 4, 2013), attached hereto as Exhibit H.

1 The specific section of the transverse crack identified as the discharge point is the
2 exact area that provided obstructed access to the obstructed top of the floor
3 drain/sink. This is identified as a breach in a hazardous waste handling primary
4 containment area as well as a classic preferential contaminant migration pathway
5 to the subsurface. ¶ [Based on an unidentified “U.S. government slab
6 construction classification system”], the crack... assumed to date to the time of
7 dry-cleaning tenant improvements... ¶ The PCE discharges occurred when a
8 portion of the spilled contact water puddled or otherwise wetted the floor in the
9 area of the preferential migratory pathway and then drained/seeped by gravity into
10 the subsurface after traveling a mere 4 inches through the concrete floor.⁹

11 Thus, it is Mr. Gribi and Mr. Kelleher’s position that “the primary PCE discharge point” at
12 the Property is a crack in the boiler room of Stony Point Cleaners. This was confirmed by Mr.
13 Gribi, under oath, at his deposition when he testified there were no other significant sources of
14 contamination at the Property aside from the crack.¹⁰

15 Combining their determination that the crack was the primary PCE discharge point with
16 alleged conversations with former operator Tim Hahn, Mr. Gribi and Mr. Kelleher make an
17 inferential leapt to conclude there were discharges during SPA’s tenure. However, this conclusion
18 rests entirely on speculation and is demonstrably false.

19 First, as noted by Mr. Gribi in the September 4, 2013 report, the crack is “assumed to date
20 to the time of dry-cleaning tenant improvements,” and Mr. Kelleher stated the crack “occurred as
21 soon as they brought the heavy equipment into the boiler room... [including] the boiler.. [and] the
22 hot water heater.”¹¹ However, at deposition, Mr. Gribi conceded he did not know when any of the
23 equipment in the boiler room was installed, or when the crack occurred.¹² In fact, all of the
24 equipment currently in the boiler room was not installed until 1992, a full seven years after SPA
25 sold the Property to Dr. Paslin.¹³ Indeed, a water heater did not even exist at the Property during

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27 ⁹ James Gribi, Report of PCE Source Area Investigation (Sep. 4, 2013) at pp. 6-7, attached hereto as Exhibit I.

28 ¹⁰ See Deposition of James Gribi (Oct. 3, 2013) at p. 120:6-8, attached hereto as Exhibit J; see also Deposition of Brian
Kelleher (Oct. 4, 2013) (“Kelleher Dep.”) at p. 202:8-16 (confirming that all of the stated conclusions are Mr. Gribi’s),
attached hereto as Exhibit K.

¹¹ Kelleher Dep. at 116:21-117:5, attached hereto as Exhibit K.

¹² Gribi Dep. at 70:14-72:20, 112:23-25, 113:15-18, attached hereto as Exhibit J.

¹³ Declaration of Peter Suk, attached hereto as Exhibit L.

1 SPA's ownership.¹⁴ Additionally, the day-to-day operators of the cleaners from 1984 through
2 1996 have stated, under oath, the crack did not exist during their tenure.¹⁵ Thus, there is no
3 evidence the primary discharge point identified by Mr. Gribi existed prior to 1996 when the
4 current operator, Mr. Stanley Kim, took over Stony Point Cleaners.

5 By letter dated November 11, 2013, it appears counsel for Dr. Paslin also transmitted to the
6 Board a "Brief Overview of Certain Select 9.23.13 Deposition Testimony of Young P. Hahn
7 Outlining Sudden and Accidental Releases of PCE." This "overview" seems to broaden the
8 alleged discharges beyond those associated with the crack to include vaguely-referenced leaks and
9 operations. SPA was not copied on this letter, and did not receive a copy until it was submitted
10 with Dr. Paslin's opposition to SPA's motion for summary judgment in the state-court case. As
11 SPA pointed out to the court in that action, the "select" excerpts are liberally edited and taken out
12 of context. More importantly, however, the cited testimony generally relates to Mr. Hahn's
13 experience as a drycleaner over a 30+ year career, not to any specific recollections of events while
14 he owned Stony Point Cleaners.¹⁶

15 Moreover, even if we assume for the sake of argument that a discharge occurred during Mr.
16 Hahn's tenure, there is no evidence it occurred during the initial 8 months when SPA owned the
17 Property as opposed to the following 4 years when Mr. Hahn operated exclusively under Dr.
18 Paslin's ownership.¹⁷ In addition, the contribution to the contamination at the Property by any
19 theoretical releases during Mr. Hahn's tenure would be "negligible or non-existent."¹⁸ The
20 contamination profile, limited lateral migration of the plume, and limited amount of PCE and its
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23 ¹⁴ *Id.*; Deposition of Tim Hahn (Sep. 23, 2013) at 45:13-20, attached hereto as Exhibit M.

24 ¹⁵ Deposition of Tim Hahn (Sep. 23, 2013), attached hereto as Exhibit M; Declaration of Peter Suk, attached hereto as
25 Exhibit L.

26 ¹⁶ *See* Deposition of Tim Hahn (Sep. 23, 2013) at p. 233:7-236:10, attached hereto as Exhibit M.

27 ¹⁷ *Id.*

28 ¹⁸ Declaration of Murray Einarson at ¶ 3, attached hereto as Exhibit N; *see also* Letter from Murray Einarson to
NCRWQCB (Jan. 10, 2014), attached hereto as Exhibit O.

1 daughter compounds, TCE, DCE, and vinyl chloride indicate all of the contamination occurred
2 sometime after 1994 – almost a decade after SPA sold the Property.¹⁹

3 In response to this lack of evidence, the NCRWQCB cites in its Technical Memorandum
4 an inspection report from 1987 requiring Mr. Hahn to place PCE and waste water in secondary
5 containment.²⁰ First, this document was created two (2) years after SPA sold the property to Dr.
6 Paslin. Second, the document contains no evidence of release. Thus, the document does not
7 support a finding of liability against SPA.

8 As outlined above, there remains no evidence that any discharge of PCE occurred during or
9 before SPA’s ownership of the property, much less any evidence of discharges that contributed to
10 the relatively low level of contamination on site. For the reasons outlined in this section alone, the
11 decision of the NCRWQCB should be reversed. However, there is also compelling evidence the
12 contamination at the property stems from the practices of the current operator of Stony Point
13 Cleaners, Mr. Kim.

14 **B. The Contamination at the Property was Caused by the Current Operator**

15 The current operator of Stony Point Cleaners, Mr. Stanley Kim, took over the business in
16 1996. While Mr. Kim is an amiable gentleman, his tenure at the Property has been plagued by a
17 lack of basic maintenance and poor housekeeping which has led to multiple citations by
18 governmental entities related to his use of PCE.

19 Upon taking over the business, Mr. Kim began disposing of PCE-contaminated separator
20 water by pouring it into the toilet in the rear of the facility. The separator water was either poured
21 directly into the toilet, or first sent through a Vic Hydrosorb filter. For proper operation, this filter
22 was supposed to be changed regularly. Mr. Kim admitted at deposition, however, that he **never**
23 changed the filter.²¹ In 2002, Mr. Kim’s improper disposal of PCE came to the attention of the
24 City of Santa Rosa’s Utilities Department, which discovered PCE in the sewer lateral running from

25 ¹⁹ *Id.*

26 ²⁰ See Santa Rosa Fire Dept. Inspection Form (Jul. 28, 1987) (noted “Completed 9/30/87”), attached hereto as Exhibit
27 P.

28 ²¹ Deposition of Stanley Kim (Nov. 20, 2013) at p. 103:4-14, attached hereto as Exhibit Q.

1 the property. The Utilities Department issued Mr. Kim a Cease and Desist Order, which forbade
2 him from further disposal of wastewater through the sewer system.²²

3 In 2002, after receiving the Cease and Desist Order, Mr. Kim changed his method of
4 disposal to “misting.”²³ This required Mr. Kim to pump the PCE-containing separator water
5 through a filter and a tube to a mister at the back of the Property. The mister then dispersed the
6 waste water into the air to evaporate.²⁴ This is an approved way of disposing of contact water if it
7 is done properly, but as noted by an inspector for the Bay Area Air Quality Management District,
8 there is no indication Mr. Kim has done anything “properly.”²⁵ In fact, for three years leading up
9 to May 2007 Mr. Kim again failed to replace the required filter – this time on the mister.²⁶ As a
10 consequence of his improper operations, Mr. Kim has been issued two citations by BAAQMD, one
11 in 2002 and one in 2006.²⁷

12 In addition to the practices for which Mr. Kim received citations from the City of Santa
13 Rosa and BAAQMD, for several years he used a barrel of PCE at the rear of the facility for
14 waterproofing garments. He discontinued this process only after being required to do so by
15 BAAQMD.²⁸

16 Mr. Kim’s housekeeping is also extraordinarily bad. The parties to the state-court action,
17 along with their consultants, inspected Stony Point Cleaners on November 20, 2013. Mr. Kim
18 received notice weeks before the inspection occurred, yet the state of the Property can only be
19 described as cluttered and dirty. This was particularly true in the boiler room, where there was
20 extensive evidence of deferred maintenance and water damage. Mr. Kim’s lack of attention to

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22 ²² Cease and Desist Order from City of Santa Rosa Utilities Department to Stanley Kim (Apr. 29, 2002), attached
hereto as Exhibit R.

23 ²³ Deposition of Stanley Kim (Nov. 20, 2013) at p. 102:13-23, attached hereto as Exhibit Q.

24 ²⁴ Deposition of Stanley Kim (Nov. 20, 2013) at p. 106:16-25, attached hereto as Exhibit Q.

25 ²⁵ Email exchange between BAAQMD and City of Santa Rosa Utilities Department, attached hereto as Exhibit S.

26 ²⁶ *Id.*

27 ²⁷ Notices of Violation dated June 14, 2002 and June 21, 2006, attached hereto as Exhibit T.

28 ²⁸ Deposition of Stanley Kim (Nov. 20, 2013) at p. 145:10-146:23, attached hereto as Exhibit Q.

1 housekeeping extends to his handling of PCE as shown by his multiple citations, and justifies the
2 conclusion Stony Point Cleaners during his tenure has “[d]efinitely [been] a shop to keep an eye
3 on.”²⁹ This is also evidenced by the multiple complaints Dr. Paslin received relating to improper
4 use and excessive PCE odor associated with Mr. Kim’s operation.³⁰

5 Over the 17+ years that Mr. Kim has operated Stony Point Cleaners, his failure to change
6 required filters and improper disposal methods have led to multiple citations from regulatory
7 agencies. As his housekeeping indicates, and as recognized by regulators and neighbors, there is
8 little indication Mr. Kim has done anything “properly” in handling PCE wastes. This, combined
9 with the characteristics of the contamination plume itself, show that most, if not all of the
10 contamination occurred during Mr. Kim’s tenure, and certainly occurred many years after SPA
11 owned the Property.

12 **C. The NCRWQCB’s Own Findings Show Naming SPA to be Legally Improper**

13 Under California law, “dischargers” may be held strictly liable in actions under CAL.
14 WATER CODE §§ 13304 and 13267; however, a showing of causation is required.³¹ Thus, where
15 liability is premised on mere ownership of a facility, there must be evidence that a discharge
16 occurred during that ownership.³² In addition, any such discharge must represent a substantial
17 factor in causing the contamination requiring a response.³³ To be a “substantial factor” in causing
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22 ²⁹ Email exchange between BAAQMD and City of Santa Rosa Utilities Department, attached hereto as Exhibit S.

23 ³⁰ See complaints forwarded to Dr. Paslin’s on-site representative, Terry Meckstroth, attached hereto as Exhibit U.

24 ³¹ See e.g. CAL. WATER CODE § 13304(c)(1); *Santa Clara Valley Water Dist. v. Olin Corp.*, 655 F.Supp.2d 1048, 1064
25 (N.D. Cal. 2009); see also *City of Modesto Redevelopment Agency v. Superior Court* (2004) 119 Cal.App.4th 28, 37-38
(construing §13304 in light of the common law principles bearing on nuisance and requiring causation); see also CAL.
26 WATER CODE § 13267(b)(1) (requiring the Board to “identify the evidence that supports requiring [an alleged
27 discharger] to provide [mandated] reports.”).

28 ³² *Id.*

³³ See e.g. *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 278-279 (discussing causation requirement in
nuisance actions).

1 an alleged harm, there must be “some substantial link or nexus” between the act and the injury.³⁴
2 “A mere possibility of such causation is not enough.”³⁵

3 As outlined in previous sections, Mr. Gribi conceded the boiler-room crack was the primary
4 source of contamination, and there was no other significant source at the Property. Indisputable
5 evidence shows the crack did not exist prior to 1996. As the only source of contamination
6 identified by Mr. Gribi did not appear for more than a decade after SPA’s ownership, there is “[no]
7 possibility” of release during SPA’s tenure.

8 More importantly the NCRWQCB has expressly conceded it “does not have the data to date
9 the release.”³⁶ Instead, it speculates there “may have been multiple sources of contamination,”
10 including, presumably, some hypothetical release during SPA’s tenure. The NCRWQCB relies
11 solely on this speculation to conclude:

12 As stated above, former owners and operators of the Stony Point Cleaner facility
13 used a dry cleaning solvent containing PCE and therefore are suspected of
14 discharging PCE to the subsurface. Landowners are also responsible for
15 discharges on their property whether or not they personally caused the discharge
because they “permit” or threaten to permit discharges. This is sufficient for the
Regional Water Board to exercise its authorities under these code sections.³⁷

16 While the Regional Board can require *investigation* based only on a suspicion of release, it must
17 “identify the evidence that supports requiring [an alleged discharger] to provide [mandated]
18 reports.” CAL. WATER CODE § 13267(b)(1). As the NCRWQCB has identified no evidence aside
19 from its own suspicions to support finding a release during SPA’s ownership, the Final CAO and
20 accompanying Technical Memorandum do not comply with § 13267.

21 In order to mandate remedial measures from SPA pursuant to CAL. WATER CODE § 13304,
22 there must be *actual* evidence sufficient to show SPA “caused or permitted... waste to be
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25 ³⁴ *Saelzler v. Advanced Group* 400 (2001) 25 Cal.4th 763, 778.

26 ³⁵ *Id.* at 776.

27 ³⁶ Technical Memorandum at p. 3.

28 ³⁷ *Id.*

1 discharged or deposited where it is, or probably will be, discharged into the waters of the state...³⁸
2 This requires evidence that a discharge occurred during or prior to SPA's ownership. Putting aside
3 the overwhelming evidence that the contamination was caused by recent releases from Mr. Kim,
4 *see* Section II(B), *supra*, the Regional Board's concession that it cannot date any releases make the
5 naming of SPA as a discharger in the Final CAO improper as a matter of law under § 13304.

6 There is no evidence of PCE discharge during SPA's ownership, much less any evidence
7 such a discharge "substantially contributed" to the contamination at the Property.³⁹ The "mere
8 possibility" of release, both as to timing and contribution to contamination, is not enough.⁴⁰ Thus,
9 SPA cannot be held liable for the contamination at the Property, and there is no legal basis to name
10 SPA on the Final CAO.⁴¹

11 **III. Conclusion**

12 For the reasons outlined above, SPA respectfully requests that the State Water Resources
13 Control Board reverse the NCRWQCB's decision to name SPA as a discharger in its Cleanup and
14 Abatement Order No. R1-2014-0018.

15
16 DATED: March 28, 2014

BUTY & CURLIANO LLP

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18 By: 

JESSE A. BOYD

Attorneys for STONY POINT ASSOCIATES

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25 ³⁸ *Id.*; *see also* CAL. WATER CODE § 13304; *Santa Clara Valley Water Dist.*, 655 F.Supp.2d at 1064; *City of Modesto*
Redevelopment Agency, 119 Cal.App.4th at 37-38.

26 ³⁹ *Saelzler*, 25 Cal.4th at 778.

27 ⁴⁰ *Id.*

28 ⁴¹ *Id.*; *see also Santa Clara Valley Water Dist.*, 655 F.Supp.2d at 1064.

PROOF OF SERVICE

1 I am employed in the County of Alameda, State of California. I am over the age of
2 eighteen years and not a party to the within entitled cause; my business address is 555 12th Street,
3 Suite 1280, Oakland, CA 94607.

4 On March 28, 2014, I served the attached: PETITION BY STONY POINT ASSOCIATES
5 FOR REVIEW OF NORTH COAST REGIONAL WATER QUALITY CONTROL BOARD
6 CLEANUP AND ABATEMENT ORDER No. R1-2014-0018

7 X (By Federal Express) on the following parties by placing a true and correct copy thereof
8 enclosed in a sealed envelope:

9 State Water Resources Control Board
10 Office of Chief Counsel
11 Jeannette L. Bashaw, Legal Analyst
12 1001 "I" Street, 22nd Floor
13 Sacramento, CA 95814

14 Matthias St. John
15 Executive Officer
16 NCRWQCB
17 5550 Skylane Blvd Ste A
18 Santa Rosa Ca 95403-1072

19 X (By Email): I caused a copy of the document(s) described on the attached document list,
20 together with a copy of this declaration, to be emailed listed on the following parties:

21 State Water Resources Control Board
22 Office of Chief Counsel
23 Jeannette L. Bashaw, Legal Analyst
24 1001 "I" Street, 22nd Floor
25 Sacramento, CA 95814
26 Jeannette.Bashaw@waterboards.ca.gov

27 I declare under penalty of perjury under the laws of the State of California that the
28 foregoing is true and correct. Executed on March 28, 2014, at Oakland, California.

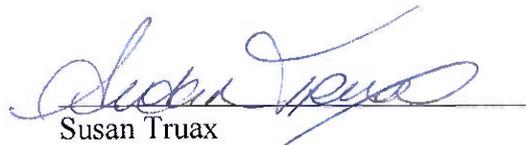

Susan Truax

EXHIBIT A

GARRISON LAW CORPORATION

March 7, 2008

VIA UPS

Colleen Hunt
North Coast Regional Water Quality Control Board
5550 Skylane Blvd, Suite A
Santa Rosa, CA 95403
Phone: (707) 576-2220 Fax: (707) 523-0135

In Reference To: Stony Point Cleaners, 469, Stony Point Road, Santa Rosa, CA
unauthorized PCE release site ("Site"); Case No. 1NS0898.
Subject: Request for Naming Primary and Secondary Responsible Parties.

Dear Regional Board:

Garrison Law Corporation, Santa Barbara, CA represents Ben Brett a.k.a. ManAff ("Mr. Brett") the fictitious business names of the current owner of the 27,000 square foot commercial property at 465-479 Stony Point Road Santa Rosa, CA ("Commercial Property"). The Commercial Property includes the above-referenced Site and seven other retail units. Mr. Brett's Commercial Property is located along the northern fringe of the Stony Point Shopping Center, a 10-acre retail complex built in the late 1970s which includes a super market, a drug store, a bank, several restaurants, and other typical retail stores and services.

Under correspondence dated January 31, 2007, the Board has named Mr. Brett a responsible party for the subsurface PCE contamination discovered at the Site based on his current ownership of the Commercial Property. Consistent with governing statutes for hazardous waste control, this letter is a formal request that the Board immediately name additional RP's in connection with the unauthorized PCE release based simply on the history of ownership and operation of the Site. Spilled PCE and/or PCE bearing wastes from dry cleaning operations is a listed hazardous waste under both State and Federal Statutes and is subject to applicable CA H&SC provisions governing hazardous waste control. As such, under the governing statutes, the Board can name RPs whether or not the date of the PCE discharge(s) is known.

Site Ownership

According to records found at the Sonoma County Recorder's office, the tract of land currently comprising the Stony Point Shopping Center, including the subject Commercial Property, was purchased in April 1977 by Santa Anita Development Corp (SADC). By 1980, SADC was selling off the developed or partially developed parcels to various commercial interests and enterprises. On May 22, 1981, SADC sold the subject Commercial Property to Pacific Development Group (PDG) an active partnership that includes Arn Youngman and Dennis Berryman. On February 22, 1982, PDG sold the subject Commercial Property to Pacific Investment Group (PIG), an active California Corporation, formed by the same individuals as the PDG partnership among others. On February 1, 1984, PIG sold the subject Commercial Property to Stony Point Associates (SPA) a partnership between Phillip Steinbock and David Hofmann. On May 31, 1985 SPA sold the subject Commercial Property to Mr. Brett.

Plaza Linda Vista

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North Coast Regional Water Quality Control Board
March 7, 2008
Page 2 of 4

History of Stony Point Cleaners Business Ownership and Operation

According to records held at the County Recorder's office, Stony Point Cleaners was operating at the Site as of October 5, 1981, presumably under a lease with PDG. At this time, MAF Inc., formed by Alfred J and Norma G Maffei sold the business to Jeanette (Jan) Herron/Knapp and Elmer (Pat) B. Knapp. On September 5, 1984, Pat and Jan Knapp sold the business to Tim and Young Hahn. On October 19, 1989, Seung and Young Hahn sold the business to Peter Suk. On April 18, 1996, Peter and Helen Suk sold the business to Stanley Kim and Do W. Lee.

Discovery of an Unauthorized PCE Release at 469 Stony Point Road

In July 2006, in advance of Mr. Brett's pending sale of the Commercial Property, AEI Consultants conducted subsurface investigations that revealed the presence of the dry cleaning solvent perchlorethylene (PCE) in the soil and groundwater beneath and south (down slope) of the Site. PCE contamination was detected in soil samples collected directly beneath the Stony Point Cleaners dry cleaning equipment. The associated August 30, 2006 AEI report was submitted to the Board. Under correspondence dated January 31, 2007, the Board responded to the report by issuing directives to Mr. Brett to submit a workplan to conduct investigations to define the vertical and lateral extent of subsurface PCE contamination. Pursuant to these directives, Mr. Brett's consultant Gribi Associates has prepared and submitted a workplan dated October 2, 2007.

Mr. Brett has not yet conducted the investigations proposed in the workplan and at this point is asking the Board to name additional RPs in the interests of obliging them to appropriately share in the costs of implementing the workplan. Mr. Brett is also seeking insurance coverage in connection with the losses he is incurring in connection with the PCE release(s).

Request for Naming Responsible Parties Made Pursuant to CA Health & Safety Code

Pursuant to CA Health & Safety Code, Division 20, Chapter 6.5 Hazardous Waste Control, Article 2. Definitions: "Site" has the same meaning the term "facility" as defined in Section 101(9) of the Federal Act (42 U.S.C. Sec. 9601(9)) which includes the following language "any site or area where a hazardous substance has been deposited."

Pursuant to CA Health & Safety Code, Division 20, Chapter 6.5 Hazardous Waste Control, Article 2. Definitions: "Responsible party" means those persons described in Section 107(a) of the Federal Act (42 U.S.C. Sec. 9607(a)) which includes the following language: "the owner and operator of a vessel or facility."

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Phone (805) 957-1700 Fax (805) 957-1709

Relevant Facility Ownership/Operational History

Responsible Party entity/ Contact info	Basis for responsibility	Period of ownership or operation
Dennis Berryman and Arn Youngman (c/o Pacific Development Group) One Corporate Plaza # 250 Newport Beach, CA 92660 (949) 760-8591	Facility owner (principals of unincorporated partnership and still active)	At least ~June 1981 – February 22, 1982
Pacific Investors Group c/o Dennis Berryman, President One Corporate Plaza Newport Beach, CA 92660 (949) 760-8591	Facility owner (active corporation)	October 5, 1981 – February 1, 1984
David Hofmann and Phillip Steinbock (Stony Point Associates) c/o James Hawley, Esq. Hoge, Fenton et al 60 S. Market Street, Ste 1400 San Jose, CA 95113 (408) 287-9501	Facility owner (principals of former partnership)	February 1, 1984 – May 30, 1985
Ben Brett c/o Gregg Garrison, Esq. 1525 State Street, Suite 100 Santa Barbara, CA 93101 (805) 957-1700	Facility owner (sole proprietor)	Since May 30, 1985
MAF Inc (presumably MAF Enterprises, Inc., incorporated 6/23/81 (suspended). c/o Alfred J and/or Norma G Maffei 43 Vivian Drive Pleasant Hill, CA 94523 (925) 685-3051 The contact info might be dated	Facility operator dba Stony Point Cleaners (suspended corporation)	At least ~June 1981 – October 5, 1981
Elmer B (Pat) Knapp and Jeanette Herron a.k.a. Jeanette (Jan) Knapp: 5495 5 th Street # 32 Kelseyville, CA 95451 (707) 279-9079 The contact info might be dated	Facility operator dba Stony Point Cleaners (sole proprietor)	October 5, 1981 – September 5, 1984
Tim, Seoung and Young Hahn Creekside Dry Cleaners 151 Sycamore Avenue, # G Hercules, CA 94557 (510) 799-2758	Facility operator dba Stony Point Cleaners (sole proprietor)	September 5, 1984 – October 19, 1989
Peter and Helen Suk 2014 Red Oak Circle Santa Rosa, CA 95403 (707) 575-7113	Facility operator dba Stony Point Cleaners (sole proprietor)	October 19, 1989 – April 18, 1996
Stanley Kim and Do W Lee Stony Point Cleaners 469 Stony Point Road Santa Rosa, CA 95401-5969 (707) 544-2536	Facility operator dba Stony Point Cleaners (sole proprietor)	Since April 18, 1996

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North Coast Regional Water Quality Control Board
March 7, 2008
Page 4 of 4

Based on the history of ownership and use of the Site, Mr. Brett is requesting that the County name the RPs that owned or operated the dry cleaning facility prior to his ownership as the Primary RPs. This takes into account that the City records show that provisions for mitigating sudden and accidental PCE spills (secondary containment systems) were not installed until approximately August 1987, making the period of earliest dry cleaning operations at the Site the most likely of the operations to have created the most significant unauthorized release(s) occurrences.

Attachment A – Various documents on property ownership found at the Sonoma County Recorder's Office Web Site and Secretary of State Business Portal.

Attachment B – Various documents on Stony Point Cleaners business ownership found at the Sonoma County Recorder's Office Web Site and Secretary of State Business Portal.

By way of this letter, we request that all primary and secondary responsible parties participate in financing the necessary site investigations and cleanup activities and provide relevant historical information concerning site operations that could potentially assist the Board and Mr. Brett in identifying and understanding the source(s) of subsurface contamination. We also request that the RPs provide any direct or secondary evidence of insurance policies covering the properties or the dry cleaning business operations during their periods of facility ownership or operation. The policies of greatest potential value are those issued prior to 1/1/86.

Please do not hesitate to contact me at 805.957.1700 with any questions you may have. Thank you.

Sincerely,
GARRISON LAW CORPORATION



Gregg S. Garrison, R.E.A. & C.E.I.
Attorney at Law

cc: Brian Kelleher, with attachments
Client, with attachments

Plaza Linda Vista
Suite 100 1525 State Street Santa Barbara, California 93101
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EXHIBIT B



**California Regional Water Quality Control Board
North Coast Region**

Bob Anderson, Chairman



**Arnold
Schwarzenegger
Governor**

Linda S. Adams
Secretary for
Environmental Protection

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October 29, 2009

Dr. David Paslin
Dba Ben Brett
ManAff (Management Affiliates)
2287 Cobblehill Place
San Mateo, CA 94402

Dear Dr. Paslin:

Subject: March 7, 2008 Garrison Law Corporation Letter

File: Stony Point Cleaners, 469 Stony Point Road, Santa Rosa
Case No. 1NSO898

North Coast Regional Water Quality Control Board (Regional Water Board) staff reviewed the March 7, 2008 letter prepared by Garrison Law Corporation, submitted on your behalf. In the letter Mr. Garrison requested the following:

- The Regional Water Board name all past owners and operators of the site as responsible parties based on the history of ownership and operation of the Site provided by Mr. Garrison,
- All responsible parties participate in financing the necessary site investigations and cleanup activities,
- All responsible parties provide relevant historical information concerning site operations to help identify source(s) of contamination, and
- All responsible parties provide any evidence of insurance policies.

Thank you for submitting a detailed history of owners and operators of Stony Point Cleaners. Although the information provided in this document helps complete owner/operator historical records, this information alone is not sufficient to name additional responsible parties. In order for the Regional Water Board to name additional responsible parties (other than the current property owner), we need evidence that the owner or operator either was in possession of the property when the discharge was occurring or caused the discharge to occur. There is insufficient evidence available at this time to determine the date of the discharge, and consequently identify the facility owner(s)/operator(s) responsible for the discharge.

Since receiving Mr. Garrison's letter, the Regional Water Board staff has attempted to contact former owners and operators to collect additional information on historical business operations to better evaluate evidence of when a discharge occurred, in order

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to be able to name additional responsible parties. Letters were sent out to the following people:

- Mr. Dennis Berryman of the Pacific Development Group former facility owner,
- Mr. and Mrs. Suk former operators of Stony Point Cleaners,
- Young and Seung Hahn of Creekside Dry Cleaners, former operators of the Stony Point Cleaners.

There was only a response from Mr. Berryman stating that he had no records or any other relevant information since he sold the property about 25 years ago.

Although the Regional Water Board staff will continue to try to obtain evidence to support naming additional responsible parties, as the current landowner, you are a responsible party. See *In the matter of the Petitions of Wenwest, Inc., Susan Rose, Wendy International, Inc. and Phillips Petroleum Company*, Order No. WQ 92-13, at p. 7.

Although you provided a *Soil and Groundwater Investigation Workplan* on October 12, 2007, we never received your responses to the Regional Water Board's January 3, 2008 comments on the Workplan. A response to those comments was due on March 3, 2008. Accordingly, please provide a respond to staff comments by December 15, 2009, and provide us with a time schedule to conduct the approved scope of work. As the investigation of the release continues, it is likely that additional evidence will be found to support naming additional parties. You may, through an action brought in civil court, be able to request contribution for the expenses of the investigation and cleanup from other parties determined to be responsible for the discharge.

If you have any questions, please contact me at (707) 576-2669.

Sincerely,

Beth Lamb, C.E.G.
Engineering Geologist

BML: 102909_Stony Point Cleaners1.doc

cc: Mr. Brian Kelleher, 812 S. Winchester Drive, Suite 103, #109, San Jose, CA 95128
Mr. Gregg S. Garrison, Attorney at Law, Garrison Law Corporation, 1525 State Street, Suite 100, Santa Barbara, CA 93101
Gribi Associates, 1090 Adams Street, Suite K, Benicia, CA 94510
Ms Kim Niemeyer, Office of Chief Counsel State Water Resources Control Board
P.O. Box 100 Sacramento, CA 95812-0100

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EXHIBIT C



December 31, 2010

Via First-Class Mail & Email

Beth Lamb, Engineering Geologist
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403
707-576-2220 FAX 707-623-0135
BLamb@waterboards.ca.gov

Re: Request for Naming Primary and Secondary Responsible Parties
Stony Point Cleaners, 469 Stony Point Road, Santa Rosa, CA
Unauthorized PCE Release Site; Case Number: 1NS0898

Dear Ms. Lamb:

This is the follow up to our March 7, 2008 letter to the Regional Water Board wherein our client, Dr. David Paslin, (dba Ben Brett) requested you to name former owners and operators of the site located at 469 Stony Point Road, Santa Rosa as responsible parties for the contamination resulting from dry cleaner operations. This letter is also in response to your letter of October 29, 2009 wherein you state there was insufficient information to identify the operator responsible for the discharge.

The current property owner, Dr. Paslin, never operated a dry cleaner facility at the subject site. This fact is not in dispute. The identities of the former dry cleaner operators, (the parties Knapp, Maffei, Suk and Hahn), have been well documented. Based on investigations conducted at the site by Dr. Paslin's consultants, it has been clearly shown the waste discharge(s) occurred during the time of operation of the dry cleaners by the former operators (See Exhibit B, Gribi &

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SANTA BARBARA, CALIFORNIA 93190
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GSGARRISON@GARRISONLAWCORP.COM
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Associates Scientific Studies and Expert Findings). The lateral spread of the contamination and the Santa Clara Valley Water District scientific study of groundwater contamination from past dry cleaner operations, and the reports of the site consultants, all indicate that the extensive contamination occurred over a prolonged period of time dating back to 1980-1981. Therefore, the Board is required to name the former operators and landowners as primary responsible parties and include these owners and operators in investigation and cleanup directives.

The Board is required to name the former landowners as responsible parties. As property owners, and landlords of the former operators, these landowners had "knowledge of the activities that resulted in the discharge (dry cleaning operations)" and they had "the legal ability to prevent the discharge." These landlords and property owners "had a significant ownership interest in the property at the time of discharge(s)."¹

The record and scientific data clearly support that the owners and operators of the site prior to the installation of secondary containment and cradle to grave management of PCE wastes caused significant sudden and accidental releases of PCE.

Therefore, please name the following additional **PRIMARY RESPONSIBLE PARTIES**:

1. David J. Hoffman dba Stony Point Associates (owner)
2. Phillip M. Steinboch dba Stony Point Associates (owner)
3. Pacific Development Group (owner)
4. Pacific Investment Group (owner)
5. Stony Point Associates (owner)
6. Norma G. Maffei, dba M.A.F., (operator)
7. U.L. Hahn aka Tim Hahn (operator)
8. Young Hahn (operator)
8. Elmer Knapp (operator)

¹ In the matter of the Petition of Wenwest, Inc., Susan Rose, Wendy International, Inc. and Phillips Petroleum Company, Order o WQ 92-13.

II. CONCLUSIVE EVIDENCE SHOWING POSSESSION OF PROPERTY OF THE PROPOSED ADDITIONAL PRIMARY PARTIES

DOCUMENTS CONCLUSIVELY SHOWS OWNERS/OPERATORS OF SITE

We conducted an exhaustive search of City and County records and located multiple recorded documents that constitute conclusive evidence of when the prior owners and operators were in possession of the property.

OWNERSHIP & OPERATOR HISTORY FROM 1980 TO 1985

DATE	PARTY	TYPE	Evidence
09-24-1984	Pat Knapp & Jan Knapp to Tim Hahn and Young J. Hahn	Operators of Stony Point Cleaners	Notice of Intended Bulk Transfer
01-26-1984	Stony Point Associates & Pacific Investors Group	Owners	Assumption Agreement, Release and Modification of Note and Deed of Trust
01-24-1984	Stony Point Associates (Holman & Stremboek)	Owners	Statement of Partnership of Stony Point Associates
04-19-1983	Pacific Investment Group	Owners	Deed of Trust and Assignment of Rents
12-01-1983	M.A.F. INC. (Christian Maffei & Victoria Maffei)	Operators	Assignment of Deed of Trust and Assignment of Rents
02-17-1982	Pacific Development Group (Berryman & Youngman)	Owners	Grant Deed to Pacific Investors Group
11-04-1981	M.A.F. INC. & Pacific Development Corporation	Owners and Operators	Financial Statement - M.A.F. INC operator & Pacific Development Corporation Property Owner
10-30-1981	Jeannette Herron & M.A.F. INC	Operators	Deed of Trust and Assignment of Rents
10-05-1981	M.A.F. INC & Jeannette Herron & Elmer Knapp (Stony Point Cleaners)	Operators	Notice of Bulk Transfer
05-22-1981	Pacific Development Group Corporation	Owners	Grant Deed
05-22-1981	Pacific Development Group	Owners	Construction Deed and Assignments of Rents with Union Bank
10-30-1980	Pacific Development Group (Berryman & Best & Grant & Youngman)	Owners	Statement of Partnership Formation
04-22-1980	Santa Anita Development Corporation	Owners	Notice of Completion by Midstate Construction

SITE OWNERSHIP NARRATIVE

According to records found at the Sonoma County Recorder's office, the tract of land currently comprising the Stony Point Shopping Center, including the subject Commercial Property, was purchased in April 1977 by Santa Anita Development Corporation (SADC). On April 22, 1981 Ms. Wild Kelley of SADC filed a Notice of Completion. The Notice indicated Midstate Construction performed "...work of improvement on the property..." on April 17, 1981. The Notice also indicated the street addresses of the property at "441, 445, 447, 449, 453, 455, 457, 465, 467, 469, 471, 475, 477, 479, 483, Stony Point." (See Exhibit A, Notice of Completion)

By 1980, SADC was selling off the developed parcels to various commercial interests; on May 22, 1981, SADC sold the subject commercial property to Pacific Development Group (PDG), an active partnership that includes Arn Youngman and Dennis Berryman. (See Exhibit A, Corporation Grant Deed) Recall your agency contacted Mr. Berryman via mail and Mr. Berryman responded "...stating that he had no records or any other relevant information since he sold the property about 25 years ago." (See Exhibit A, Response from RWQCB October 29, 2009) This is confirmed by a November 14, 1980 Pacific Group Development Statement of Partnership recorded at the Sonoma County Recorder's office. Mr. Dennis Berryman signed as one of four partners. (See Exhibit A, Pacific Group Development Statement of Partnership)

On February 17, 1982, PDG sold the subject commercial property to Pacific Investment Group (PIG), an active California Corporation, formed by the same individuals as the PDG partnership among others. Note that Mr. Dennis Berryman signed on behalf of PIG. (See Exhibit A, Partnership Grant Deed) On February 1, 1984, PIG sold the subject commercial property to Stony Point Associates (SPA) a partnership between Phillip Steinbock and David Hofman. (See Exhibit A, Assumption Agreement, Loan)

On May 31, 1985 SPA sold the subject commercial property to our client, Mr. Ben Brett. (See Exhibit A, Deed of Trust and Assignment of Rents)

THE RELEASES FOUND AT THE SITE CORRELATE TO EXPECTED PRE-CONTAINMENT RELEASES – LEGACY OPERATORS AND PROPERTY OWNERS SHOULD BE NAMED AS RESPONSIBLE PARTIES

According to the following landmark report of the Dry Cleaner PCE pollution problem (“the SCVWD report”) “The threat of groundwater contamination posed by dry cleaning operations is primarily a legacy issue.” (Exhibit C, Mohr, Thomas KG. *Study of Potential for Groundwater Contamination from Past Dry Cleaner Operations in Santa Clara County*. Publication, Santa Clara Valley Water District, <<http://www.valleywater.org/Search.aspx?searchtext=drey%20cleaner%20study>>.)

Moreover, the SCVWD report makes it clear that pre-secondary containment owners and operators are those most appropriately named as Responsible Parties when subsurface PCE contamination problems associated with this unfortunate legacy ultimately surface (page iii).

We have included documents showing that secondary containment was added to Stony Point Cleaners in August 1987. As mentioned above and in the SCVWD report, this correlates with the period that dry cleaners were mandated under RCRA and associated State and Local Statutes and Codes to minimize and segregate PCE wastes and re-route them from the sewers and dumpsters to secure areas for recycling or Class I disposal.

Gribi Associates has recently conducted comprehensive site investigations that reveal that the subsurface PCE contamination pattern for Stony Point Cleaners is highly typical of pre-secondary containment dry cleaning facilities that were in operation in the early to mid 1980s. The contaminant distribution reveals PCE entered the subsurface during a period when PCE laden wastewaters were being discharged to the sanitary sewer, PCE laden solid wastes were being routed to the dumpster at the west end of the building, and areas of PCE use and storage inside the building lacked secondary containment. The Gribi report is currently in preparation with an expected submittal date by the end of January 2011.

CONCLUSION

Attached please find the SCVWD report that contains the additional information required by the Board to name the correct Responsible Parties, namely all owners and operators from the start of

the dry cleaning facility operations in 1980 until the installation of secondary containment in August 1987.

In the event the Board requires additional information to name former operators and former landowners as responsible parties, we would like to schedule a meeting with you to present the findings.

We appreciate your most prompt attention to the above. As always, please do not hesitate to contact me any time regarding this matter.

Very truly yours,
GARRISON LAW CORPORATION



Gregg S. Garrison, JD, REA, CEM²

- encl: 1. Exhibit A -- Operational & Ownership History with Supporting Documents
2. Exhibit B -- Gribi & Associates Scientific Studies and Expert Findings
3. Exhibit C -- *Study of Potential for Groundwater Contamination from Past Dry Cleaner Operations in Santa Clara County* by Thomas KG Mohr, Santa Clara Valley Water District

cc: client

Mr. Brian Kelleher, 5655 Silver Creek Valley Road, PMB 281, San Jose, CA 95138
(bkellehr@ix.netcom.com)

Mr. David J. Hoffman c/o Attorneys Madeliene L. Buty & Angel L. Lewis, 555 City Center, Suite 1280, Oakland, CA 94607
(mlb@butycurliano.com & all@butycurliano.com)

Mr. Phillip M. Steinbock, c/o Attorneys Madeliene L. Buty & Angel L. Lewis, 555 City Center, Suite 1280, Oakland, CA 94607
(mlb@butycurliano.com & all@butycurliano.com)

² Mr. Garrison is licensed to practice in California, New York, Texas and the District of Columbia.

Stony Point Associates, c/o Attorneys Madeliene L. Buty & Angel L. Lewis, 555 City Center, Suite 1280, Oakland, CA 94607
(mlb@butycurliano.com & all@butycurliano.com)

Pacific Investors Group, Inc. c/o Attorneys John P. Phillips & Chris Mooney, 55 Second Street, 24th Floor, San Francisco, CA 94105-3441
(johnphillips@paulhastings.com & christophermooney@paulhastings.com)

Pacific Development Group, Inc. c/o Attorneys John P. Phillips & Chris Mooney, 55 Second Street, 24th Floor, San Francisco, CA 94105-3441
(johnphillips@paulhastings.com & christophermooney@paulhastings.com)

Ms. Norma G. Maffei, dba M.A.F. 43 Vivian Drive, Pleasant Hill, CA 94523

Mr. Elmer Knapp, 5227 California Way, Paradise, CA 95969

Mr. U.L. Hahn, aka, Tim Hahn, c/o Creekside Cleaners, 1511 Sycamore Avenue, Suite G, Hercules, CA 94547-1769

Mr. Young Hahn, c/o Creekside Cleaners, 1511 Sycamore Avenue, Suite G, Hercules, CA 94547-1769

EXHIBIT D



California Regional Water Quality Control Board
North Coast Region
Geoffrey M. Hales, Chairman



Linda S. Adams
Acting Secretary for
Environmental Protection

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Edmund G. Brown Jr.
Governor

April 29, 2011

Dr. David Paslin
dba Ben Brett
ManAff (Management Affiliates)
2287 Cobblehill Place
San Mateo, CA 94402

Dear Dr. Paslin:

Subject: Request for Naming Primary and Secondary Responsible Parties

File: Stony Point Cleaners, 469 Stony Point Road, Santa Rosa
Case No. 1NSO898 (CR 201-0089)

North Coast Regional Water Quality Control Board (Regional Water Board) staff received a letter from your lawyer Mr. Gregg Garrison regarding *Request for Naming Primary and Secondary Responsible Parties*, dated December 31, 2010. As we transmitted to Mr. Garrison in an email dated April 18, 2011, there was no information contained in this letter that provided us with the documentation for naming additional responsible parties.

You also need to be advised that Regional Water Board orders do not name primary and secondary responsible parties. All parties named on an order are considered jointly and severally liable. If you have any questions, please contact me by email blamb@waterboards.ca.gov or call me at (707) 576-2669.

Sincerely,

Beth Lamb, C.E.G.
Engineering Geologist

110429_BML_StonyPointCleaners5

cc: Mr. Brian Kelleher, 5655 Silver Creek Valley Road, PMB 281, San Jose, CA 95138
Mr. Gregg S. Garrison, Attorney at Law, Garrison Law Corporation,
161 Cortez Avenue, Half Moon Bay, CA 94019-5325
Mr. James Gribi, Gribi Associates, 1090 Adams Street, Suite K, Benicia, CA 94510

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EXHIBIT E



Buty & Curliano LLP

January 10, 2014

VIA E-MAIL AND U.S. MAIL

Beth Lamb
Engineering Geologist
California Water Boards
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

Re: Stony Point Cleaners, 469 Stony Point Road, Santa Rosa
Case No. INS0898

Dear Ms. Lamb,

This firm represents Stony Point Associates ("SPA"), the owner of the building containing 469 Stony Point Road, Santa Rosa, California ("Property") from February 1, 1984 until May 24, 1985. I write in response to your letter of December 6, 2013 addressed to SPA and numerous other entities, wherein you invite comments on a Draft Cleanup and Abatement Order related to the Property.

As outlined below, there is no evidence of PCE discharges during SPA's relatively brief tenure at the Property almost 30 years ago. Meanwhile, there is substantial sworn testimony and technical evidence showing the vast majority, if not all, of the contamination seen at the site occurred after 1996, when the current operator of Stony Point Cleaners acquired the business. Thus, there is no factual or legal basis to name SPA in any CAO related to the Property, and we urge you to reconsider SPA's inclusion as a discharger when a final CAO is issued.

Background:

SPA acquired Buildings 3 and 6 of Stony Point Shopping Center, on or about February 1, 1984. SPA deeded both buildings to Dr. David Paslin and his wife about 16 months later, on or about May 24, 1985. Dr. Paslin d/b/a Ben Brett and Management Affiliates has owned the Property since (28+ years).

At some point after 1985, Dr. Paslin sold Building 3 for approximately \$1.2 million. In 2006, he attempted to sell Building 6; however, the sale fell through when environmental investigations identified PCE contamination in the soil and groundwater under Stony Point Cleaners. As you know, the results of the investigation were forwarded to the North Coast Regional Water Quality Control Board ("Board"), which required Dr. Paslin

Beth Lamb

Re: Stony Point Cleaners, Case No. INSO898

January 10, 2014

Page 2

to develop an investigation work plan to determine the extent of contamination and appropriate remedial measures.

On March 7, 2008, Dr. Paslin, through counsel, requested the Board add prior operators and owners as responsible parties in the Board action.¹ The Board denied this request on October 29, 2009, noting that it had attempted “to collect additional information on historical business operations to better evaluate evidence of when a discharge occurred.”² Meanwhile, on January 13, 2009 Dr. Paslin filed a lawsuit against various former owners of the Property (including SPA) and operators of Stony Point Cleaners alleging releases of PCE beginning in 1981. On December 31, 2010, Dr. Paslin again attempted to have the Board name prior owners and operators, arguing a study conducted in Santa Clara County, along with “the reports of site consultants” indicated “extensive contamination occurred over a prolonged period of time dating back to 1980-1981.” “Therefore,” he concluded, “the Board is required to name the former operators and landowners as primary responsible parties and include those owners and operators in investigations and cleanup directives.”³ In its April 29, 2011 response, the Board once again refused to expand its action, stating, “there was no information contained in [the December 31, 2010 letter] that provided us with the documentation for naming additional responsible parties.”⁴

Despite five years of litigation, Dr. Paslin was unable to produce evidence of the alleged releases, and SPA filed a motion for summary judgment in the state-court case. That motion was never ruled upon by the court, however, because the lawsuit was dismissed prior to hearing.

As the state-court litigation was proceeding toward conclusion, SPA and the other defendants were surprised to receive a copy of your letter of December 6, 2013 referring to all current and former owners and operators of the Property as “dischargers.” Given the lack of evidence to support holding SPA liable for any contamination at the Property, we must attribute the apparent change in the Board’s position to the misleading information and unsupported conclusions presented by Dr. Paslin’s representatives over the past few months. As outlined below and in the attached documents, the contamination at the site occurred well after SPA sold the Property to Dr. Paslin. Thus, the Board’s initial refusals to name SPA in this matter remain entirely appropriate. We

¹ Letter from Gregg Garrison to NCRWQCB (Mar. 7, 2008). Documents already submitted to the Board or originating with the Board will not be attached to this letter. SPA will forward to the Board any documents referenced in this letter but not attached upon request.

² Letter from Beth Lamb, NCRWQCB to David Paslin (Oct. 29, 2009).

³ Letter from Gregg Garrison to NCRWQCB (Dec. 31, 2011).

⁴ Letter from Beth Lamb, NCRWQCB to David Paslin (Apr. 29, 2011).

Beth Lamb

Re: Stony Point Cleaners, Case No. 1NSO898

January 10, 2014

Page 3

respectfully submit that an unbiased assessment of the evidence will show there is no factual or legal basis to name SPA in any CAO related to the property.

There is No Evidence of Discharge During SPA's Tenure:

The information submitted to the Board by Dr. Paslin's counsel and consultants does not contain evidence of discharge during SPA's tenure. Additionally, the theories advanced by Dr. Paslin's representatives are provably false.

In a report and letter to the Board dated September 4, 2013, Dr. Paslin's consultant James Gribi and project manager, Brian Kelleher stated the following:

According to a prior owner/operator of Stony Point Cleaners, during the early and mid 1980s (prior to enforcement of current hazardous waste management and hazardous materials storage regulations) contact water from the PCE machine's water separator was collected in 5-gallon buckets, hand-carried into the boiler room, and discharged to the sanitary sewer system via a floor drain.

With this information in hand, Gribi conducted investigations to determine if this prior waste management practice resulted in subsurface PCE discharges. They found the floor drain in a difficult to reach location with access to the top obstructed by numerous pipes discharging wastewater from various sources.

On the basis of the investigation results, Gribi concluded that the primary PCE discharge point to the subsurface was at a low spot in the concrete slab floor just in front of the floor drain at the point most prone to receiving spillage during the manual discharge of contact water to the drain. In particular they discovered there was a crack in the 4-inch thick concrete slab floor crossing the low spot that acted as a preferential pathway for contaminant migration. The soil gas sample collected at 4 feet directly below the crack contained 4,565,094 $\mu\text{g}/\text{m}^3$ PCE and the soil sample collected at 1.5 feet contained 170 ppm PCE and had a strong solvent order.⁵

The specific section of the transverse crack identified as the discharge point is the exact area that provided obstructed access to the obstructed top of the floor drain/sink. This is identified as a breach in a hazardous waste handling primary containment area as well as a classic preferential contaminant migration pathway to the subsurface. ¶ [Based

⁵ Letter from Brian Kelleher to Beth Lamb, NCRWQCB (Sep. 4, 2013).

Beth Lamb

Re: Stony Point Cleaners, Case No. INSO898

January 10, 2014

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on an unidentified “U.S. government slab construction classification system”], the crack... assumed to date to the time of dry-cleaning tenant improvements... ¶ The PCE discharges occurred when a portion of the spilled contact water puddled or otherwise wetted the floor in the area of the preferential migratory pathway and then drained/seeped by gravity into the subsurface after traveling a mere 4 inches through the concrete floor.⁶

Thus, it is Mr. Gribi and Mr. Kelleher’s position that “the primary PCE discharge point” at the Property is a crack in the boiler room of Stony Point Cleaners. This was confirmed by Mr. Gribi, under oath, at his deposition when he testified there were no other significant sources of contamination at the Property aside from the crack.⁷

Combining their determination that the crack was the primary PCE discharge point with alleged conversations with former operator Tim Hahn, Mr. Gribi and Mr. Kelleher make an inferential leapt to conclude there were discharges during SPA’s tenure. However, this conclusion rests on multiple assumptions that are provably false.

First, as noted by Mr. Gribi in the September 4, 2013 report, the crack is “assumed to date to the time of dry-cleaning tenant improvements,” and Mr. Kelleher stated the crack “occurred as soon as they brought the heavy equipment into the boiler room... [including] the boiler.. [and] the hot water heater.”⁸ However, at deposition, Mr. Gribi conceded he did not know when any of the equipment in the boiler room was installed, or when the crack occurred.⁹ In fact, all of the equipment currently in the boiler room was not installed until 1992, a full seven years after SPA sold the Property to Dr. Paslin.¹⁰ Indeed, a water heater did not even exist at the Property during SPA’s ownership.¹¹ Additionally, the day-to-day operators of the cleaners from 1984 through 1996 have stated, under oath, the crack did not exist during their tenure.¹² Thus, there is

⁶ James Gribi, Report of PCE Source Area Investigation (Sep. 4, 2013) at pp. 6-7.

⁷ See Deposition of James Gribi (Oct. 3, 2013) at p. 120:6-8, attached to this letter as Exhibit A; see also Deposition of Brian Kelleher (Oct. 4, 2013) at p. 202:8-16 (confirming that all of the stated conclusions are Mr. Gribi’s), attached to this letter as Exhibit B.

⁸ Deposition of Brian Kelleher (Oct. 4, 2013) (“Kelleher Dep.”) at 116:21-117:5, attached to this letter as Exhibit B.

⁹ Gribi Dep. at 70:14-72:20, 112:23-25, 113:15-18, attached to this letter as Exhibit A.

¹⁰ Declaration of Peter Suk, attached to this letter as Exhibit C.

¹¹ *Id.*; Deposition of Tim Hahn (Sep. 23, 2013) at 45:13-20, attached to this letter as Exhibit D.

¹² Deposition of Tim Hahn (Sep. 23, 2013), attached to this letter as Exhibit D; Declaration of Peter Suk, attached to this letter as Exhibit C.

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no evidence the primary discharge point identified by Mr. Gribi existed prior to 1996 when the current operator, Mr. Stanley Kim, took over Stony Point Cleaners.

By letter dated November 11, 2013, it appears counsel for Dr. Paslin also transmitted to the Board a "Brief Overview of Certain Select 9.23.13 Deposition Testimony of Young P. Hahn Outlining Sudden and Accidental Releases of PCE." This "overview" seems to broaden the alleged discharges beyond those associated with the crack to include vaguely-referenced leaks and operations. SPA was not copied on this letter, and did not receive a copy until it was submitted with Dr. Paslin's opposition to SPA's motion for summary judgment in the state-court case. As SPA pointed out to the court, the "select" excerpts are liberally edited and taken out of context. More importantly, however, the cited testimony generally relates to Mr. Hahn's experience as a drycleaner over a 30+ year career, not to any specific recollections of events while he owned Stony Point Cleaners.¹³

Additionally, even if we assume for the sake of argument that a discharge occurred during Mr. Hahn's tenure, there is no evidence it occurred during the initial 8 months when SPA owned the Property as opposed to the following 4 years when Mr. Hahn operated under Dr. Paslin's ownership.¹⁴ More importantly, the contribution to the contamination at the Property by any theoretical releases during Mr. Hahn's tenure would be "negligible or non-existent."¹⁵ The contamination profile, limited lateral migration of the plume, and limited amount of PCE and its daughter compounds, TCE, DCE, and vinyl chloride indicate all of the contamination occurred sometime after 1994 – almost a decade after SPA sold the Property.¹⁶

As outlined above, there remains no evidence that any discharge of PCE occurred during or before SPA's ownership of the property, much less that any such discharges contributed to the contamination currently seen on site. For this reason alone, the Board should refrain from naming SPA on any CAO. However, there is also compelling evidence the contamination at the Property stems from the practices of the current operator of Stony Point Cleaners, Mr. Kim.

The Contamination at the Property was Caused by the Current Operator:

The current operator of Stony Point Cleaners, Mr. Stanley Kim, took over the business in 1996. While Mr. Kim is an amiable gentleman, his tenure at the Property has been

¹³ See Deposition of Tim Hahn (Sep. 23, 2013) at p. 233:7-236:10, attached to this letter as Exhibit D.

¹⁴ *Id.*

¹⁵ Declaration of Murray Einarson at ¶ 3, attached to this letter as Exhibit E; see also Letter from Murray Einarson to NCRWQCB (Jan. 10, 2014), submitted in conjunction with this letter.

¹⁶ *Id.*

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plagued by a lack of basic maintenance and poor housekeeping which has led to multiple citations by governmental entities related to his use of PCE.

Upon taking over the business, Mr. Kim began disposing of PCE-contaminated separator water by pouring it into the toilet in the rear of the facility. The separator water was either poured directly into the toilet, or first sent through a Vic Hydrosorb filter. For proper operation, this filter was supposed to be changed regularly. Mr. Kim admitted at deposition, however, that he never changed the filter.¹⁷ In 2002, Mr. Kim's improper disposal of PCE contaminated separator water came to the attention of the City of Santa Rosa's Utilities Department, which discovered PCE in the sewer lateral running from the property. The Utilities Department issued Mr. Kim a Cease and Desist Order, which forbade him from further disposal of wastewater through the sewer system.¹⁸

In 2002, after receiving the Cease and Desist Order, Mr. Kim changed his method of disposal to "misting."¹⁹ That is, pumping the PCE-containing separator water through a filter and a tube to a mister at the back of the Property. The mister then dispersed the waste water into the air to evaporate.²⁰ This is an approved way of disposing of contact water if it is done properly, but as noted by an inspector for the Bay Area Air Quality Management District, there is no indication Mr. Kim has done anything "properly."²¹ In fact, for three years leading up to May 2007 Mr. Kim again failed to replace the required filter – this time on the mister.²² As a consequence of his improper operations, Mr. Kim Mr. Kim has been issued two citations by BAAQMD, one in 2002 and one in 2006.²³

In addition to the practices for which Mr. Kim received citations from the City of Santa Rosa and BAAQMD, for several years he used a barrel of PCE at the rear of the facility for waterproofing garments. He discontinued this process after being required to do so by BAAQMD.²⁴ Also, Mr. Kim's housekeeping is extraordinarily bad. The parties to the state-court action, along with their consultants, inspected Stony Point Cleaners on

¹⁷ Deposition of Stanley Kim (Nov. 20, 2013) at p. 103:4-14, attached to this letter as Exhibit F.

¹⁸ Cease and Desist Order from City of Santa Rosa Utilities Department to Stanley Kim (Apr. 29, 2002), attached to this letter as Exhibit G.

¹⁹ Deposition of Stanley Kim (Nov. 20, 2013) at p. 102:13-23, attached to this letter as Exhibit F.

²⁰ Deposition of Stanley Kim (Nov. 20, 2013) at p. 106:16-25, attached to this letter as Exhibit F.

²¹ Email exchange between BAAQMD and City of Santa Rosa Utilities Department, attached to this letter as Exhibit H.

²² *Id.*

²³ Notices of Violation dated June 14, 2002 and June 21, 2006, attached to this letter as Exhibit I.

²⁴ Deposition of Stanley Kim (Nov. 20, 2013) at p. 145:10-146:23, attached to this letter as Exhibit F.

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November 20, 2013. Mr. Kim received notice weeks before the inspection occurred, yet the state of the Property can only be described as cluttered and filthy. This was especially true in the boiler room, where there was extensive evidence of deferred maintenance and water damage. Mr. Kim's lack of attention to housekeeping extends to his handling of PCE as shown by his multiple citations, and justifies the conclusion Stony Point Cleaners during his tenure has "[d]efinitely [been] a shop to keep an eye on."²⁵ This is also evidenced by the multiple complaints Dr. Paslin received relating to improper use and excessive PCE odor associated with Mr. Kim's operation.²⁶

Over the 17+ years that Mr. Kim has operated Stony Point Cleaners, his failure to change required filters and improper disposal methods have led to multiple citations from regulatory agencies. As his housekeeping indicates, and as recognized by his regulators and neighbors, there is little indication Mr. Kim has done anything "properly" in handling PCE wastes. This, combined with the characteristics of the contamination plume itself, show that most, if not all of the contamination occurred during Mr. Kim's tenure, and certainly occurred many years after SPA owned the Property.

There is No Legal Basis to Name SPA on Any CAO Related to the Property:

While "dischargers" may be held strictly liable in actions under CAL. WATER CODE §§ 13304 and 13267, a showing of causation is required.²⁷ That is, where liability is premised on mere ownership of a facility, there must be evidence that a discharge occurred during that ownership.²⁸ In addition, any such discharge must represent a substantial factor in causing the contamination requiring a response.²⁹ To be a "substantial factor" in causing an alleged harm, there must be "some substantial link or

²⁵ Email exchange between BAAQMD and City of Santa Rosa Utilities Department, attached to this letter as Exhibit H.

²⁶ See complaints forwarded to Dr. Paslin's on-site representative, Terry Meckstroth, attached to this letter as Exhibit J.

²⁷ See e.g. CAL. WATER CODE § 13304(c)(1); *Santa Clara Valley Water Dist. v. Olin Corp.*, 655 F.Supp.2d 1048, 1064 (N.D. Cal. 2009); see also *City of Modesto Redevelopment Agency v. Superior Court* (2004) 119 Cal.App.4th 28, 37-38 (construing §13304 in light of the common law principles bearing on nuisance and requiring causation); see also CAL. WATER CODE § 13267(b)(1) (requiring the Board to "identify the evidence that supports requiring [an alleged discharger] to provide [mandated] reports.").

²⁸ *Id.*

²⁹ See e.g. *Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 278-279 (discussing causation requirement in nuisance actions).

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nexus” between the act and the injury.³⁰ “A mere possibility of such causation is not enough.”³¹

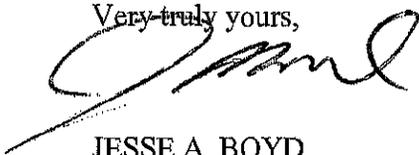
As outlined in previous sections, Mr. Gribi conceded the boiler-room crack was the primary source of contamination, and there was no other significant source at the Property. Indisputable evidence shows the crack did not exist prior to 1996. As the only source of contamination identified by Mr. Gribi did not appear for more than a decade after SPA’s ownership, there is “[no] possibility” of significant release during SPA’s tenure. Therefore, SPA should not be named in any CAO related to the Property. Additionally, even, if we assume for the sake of argument there was a discharge during SPA’s ownership, its “contribution to the contamination currently seen at the Property is either non-existent or negligible.”³² Thus, any such release cannot be a legal cause of the contamination.³³

There is no evidence of PCE discharge during SPA’s ownership, much less any evidence such a discharge “substantially contributed” to the contamination at the Property.³⁴ The “mere possibility” of causation is not enough.³⁵ Thus, SPA cannot be held liable for the contamination at the Property, and there is no legal basis to name SPA on any related CAO.³⁶

Conclusion:

For the reasons outlined above, SPA respectfully requests that the Board refrain from naming SPA in any CAO related to the Property. Please feel free to contact me if you require copies of any documents cited in this letter, or if you require any additional information to make your determination.

Very truly yours,



JESSE A. BOYD

³⁰ *Saelzler v. Advanced Group 400* (2001) 25 Cal.4th 763, 778.

³¹ *Id.* at 776.

³² Declaration of Murray Einarson at ¶ 3, attached to this letter as Exhibit E.

³³ *Saelzler*, 25 Cal.4th at 776, 778.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*; see also *Santa Clara Valley Water Dist.*, 655 F.Supp.2d at 1064.

EXHIBIT F

**REGIONAL WATER QUALITY CONTROL BOARD
NORTH COAST REGION**

Technical Memorandum

Date: February 25, 2014

From: Beth Lamb, C.E.G., CHg

Subject: Response to Comments for Draft Cleanup and Abatement Order
No. R1-2014-0018 for Stony Point Cleaners

File: Stony Point Cleaners, 469 Stony Point Road, Santa Rosa
Case No. 1NSO898

Background

On December 6, 2013, a draft of Cleanup and Abatement Order (CAO) Order No. R1-2014-0018 was transmitted by the California North Coast Regional Water Quality Control Board (Regional Water Board) for Stony Point Cleaners at 469 Stony Point Road in Santa Rosa, California (Site). The Draft Order requires the dischargers to submit workplans for: 1) installation of interim remedial measures and 2) indoor air monitoring.

Comments were received from the following:

1. Christopher M. Mooney, Paul Hastings LLP, on behalf of Pacific Development Group and Pacific Investors Group (Pacific) letter received January 10, 2014.
2. Jesse A Boyd, Buty & Curliano LLP, on behalf of Stony Point Associates (SPA), letter received on January 13, 2014.
3. Jeffrey M. Curtiss, Stanzler Law Group, on behalf of Peter Suk, letter received January 10, 2014.
4. Vicki Maffei, M.A.F. Inc, letter received January 22, 2014.
5. Gregg Garrison, Garrison Law Corporation, on behalf of Ben Brett/ManAff, letter received February 10, 2014.

Staff's General Response to Comments:

As stated in the CAO, past practices at the Site resulted in a release or releases of dry cleaning solvents to the subsurface. Specifically, concentrations of tetrachloroethene (PCE) have been detected in soil, soil vapor and groundwater at the Stony Point Shopping Center in Santa Rosa with the highest concentrations being detected near the boiler at the back of the active dry cleaning facility. It has been established in numerous technical documents that dry cleaners discharged PCE to the subsurface through a variety of mechanisms including dry cleaning equipment leakage, improper operation and maintenance, poor solvent storage and disposal practices, and permitted and unpermitted discharges to

Response to Comments
Stony Point Cleaners

sanitary sewers or storm sewers. All former operators of the Stony Point Dry Cleaner facility used a dry cleaning solvent containing PCE and therefore are suspected of discharging PCE to the subsurface. Landowners are also responsible for discharges on their property whether or not they personally caused the discharge.

The CAO names all former property owners and all dry cleaner operators as dischargers without apportioning responsibility. Apportioning responsibility is not a function of the Regional or State Water Boards. Responsibility for cleanups under the Porter-Cologne Water Quality Control Act is joint and several. (See In the Matter of the Petition of Union Oil Company of California, (SWRCB Order No. WQ 90-2).) The landowner is responsible for discharges on their property, regardless of whether that person caused or contributed to the discharge. (See e.g. In the Matter of the Petition of Wenwest (SWRCB Order No. WQ 92-13).)

Summarized Comments:

- 1) M.A.F., Inc. – First owner/operator of dry cleaner from March 1981 to October 1981.
 - Comment – They were the first operator, only operated the facility for 3 months until sold in October 1981, and that they only bought 90 gallons of solvent to use in the machines.

Response – Improper use and disposal of 90 gallons of solvent in the time period M.A.F., Inc. operated could be sufficient to create the soil and groundwater impacts seen on this property.

- 2) SPA - Building owner from February 1, 1984 to May 24, 1985.
 - Comment – No evidence of PCE discharges during SPA tenure 1984 to 1985 (16 months).

Response – There is evidence that there were multiple sources for soil and groundwater contamination. It is not possible to date the age of all the releases. Standard dry cleaning operations prior to enforcement of regulations were known to have impacted soil and groundwater.

- Comment – The contamination plume is not older than 20 years based on the lateral and vertical extent combined with the calculated groundwater velocity and relatively low concentrations of chemicals.

Response – There is insufficient data to come to this conclusion. The plume is not completely defined and groundwater velocity is unknown. It is unknown what quantity of solvent was discharged, where the discharge occurred, or what biological and chemical degradation processes control this plume.

Response to Comments
Stony Point Cleaners

- Comment – Contamination was caused by the current operator.

Response – The first inspection of the property was in 1987 when City of Santa Rosa Fire Department inspected the facility. There is no evidence to show that prior to the first inspection that earlier operators were not using the same practices which led to a release to the subsurface. Soil sampling shows that there may have been multiple sources of contamination including sewer discharges, dripping or spills inside the building, disposal into the dumpster, and a discharge to the planter outside the dry cleaner.

- Comment – No legal basis to name SPA on the CAO because a showing of causation is required under Water Code 13304 and 13267.

Response – Under Water Code section 13267, the Regional Water Board may require technical or monitoring reports from “any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region....” Under Water Code section 13304, “any person who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state...shall upon order of the regional board, clean up the waste or abate the effects of the waste....” As stated above, former owners and operators of the Stony Point Dry Cleaner facility used a dry cleaning solvent containing PCE and therefore are suspected of discharging PCE to the subsurface. Landowners are also responsible for discharges on their property whether or not they personally caused the discharge because they “permit” or threaten to permit discharges. This is sufficient for the Regional Water Board to exercise its authorities under these code sections.

3) Peter Suk – Dry cleaner operator from 1989 to 1996.

- Comment – No evidence that there was a release during time Mr. Suk operated the dry cleaner from 1989 to 1996.

Response – The operator used a solvent containing PCE. Standard dry cleaning operations, poor housekeeping and accidental releases prior to enforcement of regulations were known to have impacted soil and groundwater. There is evidence that there were multiple sources for soil and groundwater contamination. While it is not possible to date the age of all the releases, there is sufficient evidence to conclude that any operator using PCE caused or threatened to cause discharges.

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Stony Point Cleaners

4) Pacific - Property owner from 1981 to 1984.

- Comment – There was evidence of PCE release during current ownership and operations.

Response – There is evidence that there were multiple sources for soil and groundwater contamination. It is not possible to date the age of all the releases. Standard dry cleaning operations prior to enforcement of regulations were known to have impacted soil and groundwater. Even after regulations were put in place, an unauthorized release can occur which is evidence by the finding in 2002 that wastewater containing PCE was found in the sewer lateral at Stony Point Cleaners.

- Comment – There is a lack of evidence of PCE release during prior ownership and operations.

Response – There is no evidence that there was not a release. Most dry cleaners of this age had releases to the subsurface. Some standard operating procedures like disposing of condensate water into bathroom sinks were common but were later found to have caused soil and groundwater contamination.

- Comment – Historical operations and onsite testing and sampling results refute Dr. Paslin's claims of pre-1987 releases.

Response – Staff does not agree. The first inspection at this site was conducted in 1987 by the Santa Rosa Fire department. However, prior to that time standard practices may have resulted in a release at the site either through improper or proper use of chemicals. The fact that in 2002 there was evidence of improper disposal does not preclude the fact that these practices were a continuation of earlier practices. Staff does not have the data to date the release or more likely releases to the subsurface.

5) Ben Brett - Current property owner.

- Comment – All parties that owned the facility from 1981 to May 1985 are jointly and severally liable for the PCE contamination based on Federal and State Court rulings.

Response – Staff concurs.

- Comment – Owners and operators were out of compliance with Resource Conservation and Recovery Act (RCRA) regulations which required cradle to grave management of hazardous materials.

Response – There is no evidence of any compliance with RCRA until the site was first inspected by Santa Rosa Fire Department in 1987.

Response to Comments
Stony Point Cleaners

The CAO is being issued as the draft was written. All named dischargers have the option of petitioning to the State Water Board, as stated in the CAO:

“Any person affected by this action of the Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If the Dischargers choose to appeal the Order, the Dischargers are advised that they must comply with the Order while the appeal is being considered.”

EXHIBIT G

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER No. R1-2014-0018

For

DAVID PASLIN (DBA BEN BRETT),
MANAFF (MANAGEMENT AFFILIATES),
PACIFIC DEVELOPMENT GROUP
PACIFIC INVESTORS GROUP
STONY POINT ASSOCIATES
M.A.F. ENTERPRISES INC.,
ELMER B. (PAT) KNAPP AND JEANNETTE (JAN) HERRON KNAPP
SEUNG UI (TIM) HAHN AND YOUNG HAHN
PETER SUK AND HELEN SUK
AND
STANLEY KIM AND DO W LEE
STONY POINT CLEANERS
469 STONY POINT ROAD
SANTA ROSA CALIFORNIA

Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Stony Point Cleaners is located at 469 Stony Point Road, in Santa Rosa California, Sonoma County Assessor's Parcel No. 146-040-027-000 (Site). David Paslin (dba Ben Brett) is the current property owner, and Stanley Kim and Do W Lee are the current operators of Stony Point Cleaners.
2. Stony Point Cleaners has been in operation since June 1981. The initial facility operator was M.A.F. Enterprises Inc. In October 1981, the business was sold to Elmer B. (Pat) Knapp and Jeannette (Jan) Herron Knapp. Mr. and Mrs. Knapp operated Stony Point Cleaners until September 5, 1984 when the business was sold to Seung Ui (Tim) Hahn and Young Hahn. The Hahns operated the business until October 19, 1989. The Hahns sold Stony Point Cleaners to Peter and Helen Suk who operated the cleaners until April 18, 1996 when it was sold to the current owners.
3. In May 1981, when Stony Point Cleaners started operation, the property was owned by the Pacific Development Group. On February 22, 1982, Pacific Development group sold the property to Pacific Investment Group. On February 1, 1984, Pacific Investment Group sold the commercial property to Stony Point Associates who, in May 31, 1985, sold the property to the current owner.
4. All former operators and owners of the property are hereinafter collectively referred to as "the Dischargers."

5. Past practices at the Site resulted in a release or releases of dry cleaning solvents to the subsurface. In July 2006, subsurface borings installed adjacent to Stony Point Cleaners detected tetrachloroethene (PCE) in soil and groundwater. Since that time numerous soil, soil vapor, and groundwater samples have been collected and analyzed to determine the vertical and lateral extent of contamination associated with a release of the dry cleaning solvent PCE.
6. The highest concentrations of PCE have been detected near the boiler at the back of the Stony Point Cleaners facility. Soil vapor sampling has detected concentrations of PCE at 4,565,094 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) in a sample taken at 4 feet below the floor of the dry cleaner. This indicates that there is a potential for worker exposure to elevated concentrations of PCE in the indoor air. An evaluation of the indoor air quality is now needed.
7. Groundwater sampling from both shallow (between 5 and 15 feet below ground surface, bgs) and deep (25 to 30 feet bgs) monitoring wells show that the highest concentrations of PCE are from wells constructed inside the building. Specifically, during the most recent monitoring event (March 28, 2013), a groundwater sample from shallow well MW-1S detected concentrations of PCE at 8,700 parts per billion (ppb) and groundwater from deep monitoring well MW-1 detected concentrations of PCE at 1,100 ppb. Both wells are located inside the dry cleaner building.
8. The chemical PCE is a human carcinogen, and is listed by the State of California, pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986, as a chemical known to the State to cause cancer. PCE degrades to trichloroethene (TCE), cis and trans -1,2-dichloroethene (1,2-DCE), and vinyl chloride (VC). These breakdown products are also human carcinogens.
9. Interim remedial measures (IRMs) were proposed in *Revised Report of Remedial Investigation and Workplan for IRMs and Shallow Soil Gas and Groundwater Monitoring*, dated June 10, 2011, prepared by the environmental consulting firm Gribi Associates. Since that time additional characterization of the source area inside the dry cleaners has been conducted and now revisions to the proposed remedial measures are needed prior to begin cleanup of this property.
10. The Water Quality Control Plan for the North Coast Region (Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives to protect those uses, and establishes implementation policies to attain water quality objectives. The beneficial uses of areal groundwater include domestic, agricultural, and industrial supply.
11. The site is located within 1,500 feet of Santa Rosa Creek which is a tributary to the Laguna de Santa Rosa which flows into the Russian River. The existing and potential beneficial uses of the Laguna de Santa Rosa and the Russian River include:

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- a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial process supply
 - d. groundwater recharge
 - e. navigation
 - f. water contact recreation
 - g. non-contact water recreation
 - h. commercial and sport fishing
 - i. warm freshwater habitat
 - j. cold freshwater habitat
 - k. wildlife habitat
 - l. migration of aquatic organisms
 - m. spawning, reproduction, and/or early development
 - n. fresh water replenishment
 - o. estuarine habitat
 - p. rare, threatened or endangered species.
12. The Dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance. Continuing discharges are in violation of the Porter-Cologne Water Quality Control Act and provisions of the Water Quality Control Plan for the North Coast Region (Basin Plan).
13. The California Water Code, and regulations and policies developed thereunder apply to the Site and require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Discharge prohibitions contained in the Basin Plan also apply to this site. Specifically, the Basin Plan incorporates State Water Resources Control Board (State Water Board) Resolutions No. 68-16, No. 88-63, and No. 92-49.
- a. Water Code section 13267(b) authorizes the Regional Water Board to require dischargers and suspected dischargers to provide technical or monitoring program reports.
 - b. Water Code section 13304 authorizes the Regional Water Board to require dischargers to cleanup and abate the effects of discharged waste.
 - c. State Water Board Resolution No. 68-16 ("State of Policy with Respect to Maintaining High Quality Waters in California") protects surface and ground waters from degradation. It provides that high quality waters shall be maintained unless any change will be consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses and will not result in water quality less than that prescribed in the policies.

- d. State Water Board Resolution 88-63 requires Regional Water Boards to protect the beneficial use of groundwater as a source of drinking water. The Basin Plan establishes the beneficial use of groundwater as a source of drinking water for all areas within the North Coast Region. The Basin Plan identifies water quality objectives for petroleum constituent levels in groundwater to protect its beneficial use as a source of drinking water.
 - e. State Water Board Resolution No. 92-49 ("Policies and Procedures for the Investigation and Cleanup of Discharges Under Section 13304 of the California Water Code") specifies that alternative cleanup levels greater than background concentration shall be permitted only if the discharger demonstrates that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board.
14. Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to the level of water quality objectives for protection of beneficial uses. A table of applicable Water Quality Objectives for groundwater is incorporated in this Order as Attachment A.
15. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). Because the Regional Water Board is unable, pursuant to Water Code section 13360, to direct the manner and method of compliance, the Regional Water Board will not have any plan for actual cleanup of the Site until the responsible parties have identified in a draft remedial action plan the proposed method of cleaning up the Site. Once the discharger has submitted a remedial action plan, the Regional Water Board will ensure that prior to granting concurrence with the final remedial action plan, it has complied with the requirements of CEQA. Until the Site has been investigated and a remedial action plan has been proposed, it is impossible for the Regional Water Board to identify and mitigate potentially significant adverse impacts associated with the cleanup of the Site. Because of the need to initiate investigation of the contamination of the Site before the Regional Water Board is able to identify how the Site will be cleaned up and any potentially significant impacts that could result to the environment from the cleanup, this CAO only requires immediate investigation of the Site, and defers actual cleanup until the Regional Water Board has concurred with a final remedial action plan and has complied with the requirements of CEQA.

Cleanup and Abatement Order
No. R1-2014-0018

16. Any person affected by this action of the Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If the Dischargers choose to appeal the Order, the Dischargers are advised that they must comply with the Order while the appeal is being considered.
17. This Cleanup and Abatement Order (CAO) in no way limits the authority of this Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup at the Site consistent with California Water Code. This CAO may be revised by the Executive Officer, as additional information becomes available.
18. Failure to comply with the terms of this Order may result in enforcement under the California Water Code. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to Water Code section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day or ten dollars (\$10) per gallon of waste discharged.
19. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Water Code section 13304 (c) (1).

THEREFORE, IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 (b) and 13304, the Dischargers shall clean up and abate the discharge and threatened discharge forthwith and shall comply with the following provisions of this Order:

- A. Submit in a format acceptable to the Executive Officer a revised IRM Workplan within 45 days of the date of this order.
- B. Implement IRMs within 90 days of Executive Officer concurrence with the IRM Workplan revisions.
- C. Within 60 days of construction of IRMs, submit an installation and first remedial operational status report.

Cleanup and Abatement Order
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- D. Submit quarterly IRMs status reports within 30 days of the end of each calendar quarter.
- E. Submit an indoor air testing workplan to determine the human health risks to workers inside the building within 45 days of the date of this order.
- F. Upon completion of indoor air testing issue a public notice of all the results to all tenants, business owners, and property owners in the Stony Point Shopping Center.
- G. Conduct all work in accordance with all applicable local ordinances and under the direction of a California Professional Geologist or Civil Engineer experienced in soil and groundwater pollution investigations and remediation projects including chlorinated hydrocarbons. All work plans and reports must be signed and stamped by the licensed professional in responsible charge of the project. All necessary permits shall be obtained prior to conducting work.
- H. Comply with the requirements specified in Monitoring and Reporting Program Order No. R1-2013-0082.
- I. The Dischargers shall pay all cost recovery invoices within 30 days of issuance of the invoice.
- J. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule contained in this Order or submitted pursuant to this Order and approved by the Executive Officer, the Dischargers may request, in writing, an extension of time. The extension request must be submitted a minimum of five business days in advance of the due date sought to be extended and shall include justification for the delay and a demonstration of a good faith effort to achieve compliance with the due date. The extension request shall also include a proposed time schedule with a new performance date for the due date in question and all subsequent dates dependent on the extension. An extension may be granted for good cause by written concurrence from the Executive Officer.
- K. Violations of any of the terms and conditions of this Order may subject Dischargers to possible enforcement action, including civil liability under applicable provisions of the Water Code.

Ordered By: _____
Original signed by
Matthias St. John
Executive Officer
February 27, 2014

Attachment A: Water Quality Objectives

Attachment A

Table of Water Quality Objectives

STONY POINT CLEANERS
 469 STONY POINT ROAD
 SANTA ROSA CALIFORNIA
 Case No. 1NSO898

The California Water Code, and regulations and policies developed thereunder require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup and abatement activities are to provide attainment of background levels of water quality or the highest water quality that is reasonable if background levels of water quality cannot be restored. Alternative cleanup levels greater than background concentration shall be permitted only if the discharger demonstrates that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board (State Water Resources Control Board Resolutions Nos. 68-16 and 92-49).

Water quality objectives in the Basin Plan are adopted to ensure protection of the beneficial uses of water. The Basin Plan provides that "whenever several different objectives exist for the same water quality parameter, the strictest objective applies". Accordingly, the most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement actions must evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels. The table below sets out the water quality objectives for waters of the State impacted by discharges from the identified constituents of concern:

Constituent of Concern	Practical Quantitation Limit µg/L	Water Quality Objective µg/L	Reference for Objectives
Trichloroethene	< 0.5	1.7	California Public Health Goal (PHG) in Drinking Water (Office of Environmental Health Hazard Assessment) applied to GENERAL water quality objective in the Basin Plan
Tetrachloroethene	< 0.5	0.06	California Public Health Goal (PHG) in Drinking Water (Office of Environmental Health Hazard Assessment) applied to GENERAL water quality objective in the Basin Plan
Cis-1,2-Dichloroethene	< 0.5	6	California Department of Health Services Maximum Contaminant Level applied to the CHEMICAL CONSTITUENTS water quality objective in the Basin Plan
Trans-1,2-dichloroethene	< 0.5	10	California Department of Health Services Maximum Contaminant Level applied to the CHEMICAL CONSTITUENTS water quality objective in the Basin Plan
1,1-Dichloroethene	< 0.5	6	California Department of Health Services Maximum Contaminant Level applied to the CHEMICAL CONSTITUENTS water quality objective in the Basin Plan
1,1,1-Trichloroethane	< 0.5	200	California Department of Health Services Maximum Contaminant Level applied to the CHEMICAL CONSTITUENTS water quality objective in the Basin Plan
Vinyl Chloride	< 0.5	0.05	California Public Health Goal (PHG) in Drinking Water (Office of Environmental Health Hazard Assessment) applied to GENERAL water quality objective in the Basin Plan

EXHIBIT H



5655 Silver Creek Valley Road
PMB 281
San Jose, CA 95138
408-677-3307 (P)
408-677-3272 (F)
bkellehr@ix.netcom.com

September 4, 2013

Beth Lamb
North Coast Regional Water Quality Control Board
5550 Skylane Blvd, Suite A
Santa Rosa, CA 95403

In Reference To: Stony Point Cleaners: 469 Stony Point Road, Santa Rosa, CA, unauthorized PCE release site ("Site"); Case No. 1NS0898.
Subject: Technical Report Submittal: *Report of PCE Source Area Investigation*, September 4, 2013.

Dear Ms. Lamb:

Via Geotracker and US Mail, please find enclosed herewith in connection with the above-referenced property (Site) a copy of the above-referenced technical report prepared by Gribi Associates, Benicia, CA (Gribi). On behalf of the responsible parties, I declare under penalty of perjury that I have reviewed the information contained in the enclosed document and believe that it is true and correct to the best of my knowledge.

The report describes and documents the collection of eleven soil gas samples and seven soil samples from three shallow borings in the boiler room area at the north end of the Stony Point Cleaners facility. The source area investigation was recommended in the semi-annual groundwater monitoring report submitted to the Regional Board in April 2013 and was considered an extension of the remedial investigation (RI) work in progress under a June 18, 2010 RI workplan. At the Regional Board's request, a detailed scope of work was submitted to the Regional Board on August 1, 2013, by way of notification. The investigation results were needed for a mandatory settlement conference held on August 12, 2013, in connection with the ongoing litigation over liability.

According to a prior owner/operator of Stony Point Cleaners, during the early and mid 1980s (prior to enforcement of current hazardous waste management and hazardous materials storage regulations) contact water from the PCE machine's water separator was collected in 5-gallon buckets, hand-carried into the boiler room, and discharged to the sanitary sewer system via a floor drain.

With this information in hand, Gribi conducted investigations to determine if this prior waste management practice resulted in subsurface PCE discharges. They found the floor drain in a difficult to reach location with access to the top obstructed by numerous pipes discharging wastewater from various sources.

On the basis of the investigation results, Gribi concluded that the primary PCE discharge point to the subsurface was at a low spot in the concrete slab floor just in front of the floor drain at the point most prone to receiving spillage during the manual discharge of contact water to the drain. In particular they discovered there was a crack in the 4-inch thick concrete slab floor crossing the low spot that acted as a preferential pathway for contaminant migration. The soil gas sample collected at 4 feet directly below the crack contained 4,565,094 ug/m³ PCE and the soil sample collected at 1.5 feet contained 170 ppm PCE and had a strong solvent odor. As part of the investigation, Gribi

measured the width of the crack as it passed through the low spot at 7 mm and tested the rate of gravity drainage into the subsurface via the crack at 10 ml/sec.

On the basis of the above, Gribi is recommending that currently-proposed IRMs be more focused on remediating the identified primary discharge point in the boiler room, to include removal and replacement of a portion of the rear wall to facilitate access to the boiler room and focused removal of contaminated soil in the area of the identified primary PCE discharge point. Toward that end, Gribi is recommending an addendum to the June 2010 IRM workplan.

Anticipating Regional Board approval of the recommendation to amend the IRM workplan, we have authorized Gribi to complete this task.

We appreciate the Regional Board's patience in this matter.

Please do not hesitate to contact me at 408-677-3307 with any questions you may have. Thank you for your ongoing courtesy and cooperation.

Sincerely,


Brian Kelleher
Project coordinator

Cc w partial enclosures or no enclosures via e-mail and/or US mail

Ben Brett;
Gregg S. Garrison, R.E.A. & C.E.I, Attorney at Law;
Pacific Investments,/Pacific Development, c/o Paul, Hastings, Janofsky, & Walker;
Stony Point Associates, c/o Buty & Curliano LLP;
Elmer B (Pat) Knapp and Jeanette Herron aka Jeanette (Jan) Knapp;
Tim, Seoung and Young Hahn, Creekside Dry Cleaners;
Maffee (former operator dba Stony Point Cleaners);
Tom Scott, General Manager, Oliver's Market;
CVS Caremart, c/o Diana Boiselle, Lease Administrator;
Jim Gribi, Gribi Associates (cover letter only).

EXHIBIT I



September 4, 2013

Ben Brett/Manaff
c/o Brian Kelleher
Kelleher & Associates Environmental Mgmt LLC
5655 Silver Creek Valley Road PMB 281
San Jose, CA 95138

Subject: Report of PCE Source Area Investigation
Stony Point Cleaners, 469 Stony Point Road, Santa Rosa, California
NCRWQCB Case No. 1NSO898, Geotracker Global ID No. SL0609767669

Dear Mr. Brett:

Gribi Associates is pleased to submit this *Report of PCE Source Area Investigation* on behalf of Ben Brett/Manaff and other parties of interest for the property located at 469 Stony Point Road in Santa Rosa, California (Site) (see Figure 1 and Figure 2). This report describes and documents the collection of eleven soil gas samples and seven soil samples from three shallow borings in the boiler room area at the north end of the Stony Point Cleaners facility. The source area investigation was recommended in the semi-annual groundwater monitoring report submitted to the Regional Board in April 2013 and was considered an extension of the remedial investigation (RI) work in progress under a June 18, 2010 RI workplan. At the Regional Board's request, a detailed scope of work was submitted to the Regional Board on August 1, 2013, by way of notification. The investigation results were needed for a mandatory settlement conference held on August 12, 2013, in connection with the ongoing litigation over liability.

1.0 BACKGROUND AND PROJECT APPROACH

Previous Site investigations revealed elevated concentrations of tetrachloroethylene (PCE, or "perc") in shallow soil, groundwater, and soil vapor emanating from the north end of the Stony Point Cleaners facility. Based on information provided to the project coordinator during a March 2013 interview with a former Stony Point Cleaners operator, there is evidence that prior to approximately 1987, water condensate from the dry cleaning machine (contact water) was collected in 5-gallon buckets approximately once per week, hand carried into the boiler room and poured into a floor drain. This recollection of events by the former operator is substantiated by Santa Rosa Fire Department records showing that in February 1987 the facility was visited by a hazardous material storage inspector who first informed the operator of his obligations to comply with the City of Santa Rosa hazardous materials storage ordinance adopted in the mid 1980s. The hazardous material storage ordinance required compliance with all hazardous waste regulations subject to permitting and annual inspections, including the need to segregate and

treat contact water prior to discharge into the sewer. Considering the encumbered location of the drain coupled with the presence of multiple pipes entering it from the top obstructing access, some degree of spillage onto the boiler room floor was inevitable, particularly considering the absence of any awareness of the consequences.

In order to assess potential PCE subsurface releases from floor drain spillage within the boiler room, we adopted a project approach which included conducting detailed inspections of the boiler room both before and after sampling, then collecting shallow soil gas samples at the north end of the dry cleaning facility to attempt to identify sub-slab PCE "hot spots," and finally, conducting soil sampling in identified "hot spot" areas.

2.0 DESCRIPTION OF SOIL VAPOR AND SOIL SAMPLING ACTIVITIES AND RESULTS

On July 31, 2013, Gribi Associates conducted a detailed inspection of the boiler room and the north end of the dry cleaning facility. During this inspection, we noted one southwest-trending floor crack in the boiler room beginning at the southwest corner of the floor drain, and one east-west trending crack south of the boiler room adjacent to the dry cleaning machine. It was also noted that the floor drain in the boiler room is raised 1.5 inches above the surrounding concrete slab flooring, with a raised concrete skirt surrounding the metal drain and drain sump. There were several pipes entering the drain delivering waste water from various locations, including the boiler itself. The floor drain does not receive drainage from the floor and, because it is raised, is more appropriately called a floor sink.

2.1 Soil Vapor Sampling

Gribi Associates contracted Optimal Technologies to conduct soil vapor sampling and mobile lab analysis at eleven locations (SG-A through SG-D, SG-F through SG-H, and SG-J through SG-N) on August 2, 2013 (see Figure 3). Soil gas sampling consisted of advancing a hollow soil gas sampling rod with retractable screened sampling tip to the desired depth, and then retracting the tip to allow for soil gas sampling. Sampling depth was determined individually at each sampling point based on flow, with sampling conducted only if sufficient flow was attainable. Vapor sampling depths ranged from 3.0 feet to 5.0 feet below ground surface. After allowing the sample train to equilibrate for several minutes, the soil gas sample was collected after purging approximately three times the internal volume of the sample train. Soil gas samples were collected in clean, glass syringes and injected directly into Optimal Technology's mobile lab equipment for gas chromatographic analysis. Soil gas samples were analyzed for halogenated volatile organic compounds (HVOCs) by EPA Method 8021B. During sampling, a tracer gas, isobutane in shaving cream, was placed adjacent to the sampling apparatus, and isobutane was included in the lab analysis for each sample. A more detailed description of field methods is contained in the Optimal Technology sampling and laboratory data reports, included in Attachment A.

Results of the soil gas survey are summarized on Figure 4. Vapor PCE concentrations ranged from 2,022 ug/m³ at SG-0, located just outside the rear wall of the boiler room, to 4,565,094

ug/m³ at SB-D, located directly in front of the floor drain and intercepting an open crack in the floor. The median concentration for the eleven samples was 341,534 ug/m³. Relative to the median, the following results indicated three possible points of discharge:

- **2 feet southwest of the floor sink/drain:** SG-D at 4,565,094 ug/m³, adjacent to the crack in the floor;
- **6 feet west of boiler room floor sink/drain:** SG-B at 1,641,386 ug/m³; and.
- **1 foot west of the floor sink/drain:** SG-C, at 804,984 ug/m³ located just a few feet north of SG-D.

2.2 Shallow Soil Sampling

On August 9, 2013, Gribi Associates collected soil samples from three shallow borings (B-A, B-B, and B-C) located at or near the three possible points of discharge identified via soil vapor sampling (see Figure 3). Soil sampling consisted of, first, coring through the concrete using a coring machine, and then digging to the desired depth using hand tools (digging bar and hand auger). Photos 1 and 2 in Attachment B collectively show the obstructed floor sink/drain and the three boring locations. Two soil samples were collected from borings B-A and B-B, and three samples were collected from boring B-C. All soil samples were preserved in the field utilizing EPA Method 5035 (Close-System Purge and Trap and Extraction). This method involves using a specialized soil sampler to collect a known amount of soil (approximately 5 grams) and placing this soil in a VOA containing a pre-measured amount a liquid solvent (for each sample, two VOAs with methanol and one VOA with sodium bisulfate). The VOA is then quickly sealed, labeled, and placed in cold storage for transport to the laboratory.

The slab itself was 4 inches thick and was underlain by a layer of plastic sheeting (membrane) that comprised a moisture barrier. Due to the coring, Gribi personnel could not tell the condition of the membrane at the boring locations. It is assumed, however, that the moisture barrier membrane was breached during the installation of the nearby floor drain slab if not by chronic exposure to the solvent properties of liquid or vapor phase PCE.

Soils beneath the concrete slab flooring generally consisted of approximately 4 inches of medium-grained sand, followed by silty coarse gravel to total depths investigated. Moderate to strong solvent odors were noted in boring B-C in the silty gravel (below the sub-slab sand), starting at about 10 inches below the floor. No solvent odors were noted in soils in borings B-A or B-B.

Soil laboratory analytical results are summarized in Table 1 and on Figure 4. The laboratory data report is contained in Attachment C.

SUMMARY OF SOIL LABORATORY ANALYTICAL RESULTS Stony Point Cleaners						
Sample ID	Sample Depth	Concentration, in milligrams per kilogram (mg/kg)				
		PCE	TCE	c-1,2-DCE	t-1,2-DCE	VC
B-A-0.5'	0.5 ft	0.038	<0.0050	<0.0050	<0.0050	<0.0050
B-A-1.0'	1.0 ft	0.520	0.012	<0.0050	<0.0050	<0.0050
B-B-1.0'	1.0 ft	0.820	<0.0087	<0.0087	<0.0087	<0.0087
B-B-1.5'	1.5 ft	10	0.014	<0.0044	<0.0044	<0.0044
B-C-0.5'	0.5 ft	0.063	<0.0093	<0.0093	<0.0093	<0.0093
B-C-1.0'	1.0 ft	85	0.031	<0.0050	<0.0050	<0.0050
B-C-1.5'	1.5 ft	170	0.056	<0.0050	<0.0050	<0.0050

PCE = Tetrachloroethylene
 TCE = Tetrachloroethylene
 c-1,2-DCE = cis-1,2-Dichloroethylene
 t-1,2-DCE = trans-1,2-Dichloroethylene
 VC = Vinyl Chloride
 <0.0050 = Not detected above the expressed value

Highly elevated PCE concentrations were encountered in soil samples collected at 1.0 foot and 1.5 feet below ground surface in boring B-C, located at the floor crack just southwest of the sink/drain. A moderate PCE concentration was encountered at 1.5 feet in depth in boring B-B, located immediately west of the floor sink/drain. Boring B-B is little more than a foot away from B-C and from the floor crack, and the PCE contamination at B-B is considered to be associated with the same discharges via the crack.

3.0 DESCRIPTION AND ASSESSMENT OF FLOOR DRAIN AND FLOOR CRACKS

3.1 Initial Assessment, August 9, 2013

During soil sampling on August 9, 2013, Gribi Associates inspected the floor drain and associated floor crack in the northeast corner of the boiler room. Photo 1 in Attachment B shows boring B-C intercepting the crack. The crack radiates from the southwest corner of the floor sink/drain and extends southwesterly about six feet toward the boiler.

The crack was carefully inspected before and after the coring. It was observed to penetrate the 4-inch-thick slab from top to bottom. The portion of the crack where it was intercepted by the boring was observed to be greater than 2 millimeter (mm) wide.

3.2 Detailed Assessment, August 23, 2013

On August 23, 2013, Gribi Associates conducted a detailed assessment of the floor drain and cracks in the boiler room. This assessment included: (1) Thorough inspection of all floor areas

in the boiler room; (2) Measurement of floor crack widths; (3) Elevation survey of the concrete floor to delineate drainage patterns; and (4) Water pour testing to assess actual flow into floor cracks.

3.2.1 Inspection of Floor Areas

A thorough inspection of the floor area revealed the presence of a seam in the concrete enclosing a rectangular area measuring approximately 6 feet by 2.5 feet and which surrounds the floor sink and drain and the water heater area. The width of this seam is variable, generally ranging from 4 to 8 mm, and the seam appears to have been sealed. This rectangular area appears to have been cut out of the main concrete floor when the floor sink/drain was installed and connected to the main sewer line at the inception of the dry cleaning business. As shown on Figure 3, the main sewer line for the Site building runs beneath the north side of the Site building, just south of the sink/drain location, which accounts for the large size of the rectangular cut out.

The sink/drain area is raised approximately 1.5 inches above the surrounding floor surface. The sink/drain is constructed of metal, and a fairly significant gap is present at the southwest corner of the sink, where the concrete lip appears to have degraded away from the metal sink. The crack that propagates southwest from the southwest edge of the metal sink begins where this concrete degradation has occurred. This crack appears to end at the sealed concrete seam and moves “en-echelon” approximately four inches southward before again beginning to propagate southwestward.

3.2.2 Measurement of Floor Crack Widths

Widths of the southwesterly floor crack, which are shown on Figure 5, vary from 0.5 millimeter (mm) to approximately 7 millimeters. The crack is widest, at about 7 mm, just southwest of the sink/drain and generally decreases in width away from the sink/drain area. A feeler gauge was extended into the cracks and generally extended more than two inches into the crack in the thickest locations. Also, the photos of the B-C boring location, taken on August 9 after coring through the concrete, clearly show that the crack extends fully through the 4-inch thick slab. The measured crack widths, which are typically greater than 2 mm, are classified by U.S. General Services Administration (GSA) standards as wide.¹ Crack widths increase moving toward the floor sink/drain.

3.2.3 Measurement of Floor Elevations

Relative floor elevations were measured to the nearest millimeter using a laser level. These measurements, which are shown on Figure 5, indicate a low spot in the floor between the compressor and the sink/drain area, just northwest of the floor crack. Also, the southeast side of the floor crack is approximately 1 mm higher than the northwest side of crack. The overall elevation differences in the boiler room are generally less than 5 mm.

¹ *Types of Cracks in Concrete and Typical Causes*, US General Services Administration, Procedure Code 0373202S, 02/24/2012.

Given the presence of the boiler, compressor, and water heater, all of which are very heavy, and stemming from the fact that the crack emanates from the corner of the floor sink/drain saw cut and runs diagonally away from the cut, the crack is presumed to fall under the category of tension cracking according to GSA classification. Thus, we conclude that the crack was caused by cutting out sections of rebar in an area of heavy load in installing the floor drain/sink and connecting it to the sanitary sewer line that runs under the building. This crack was observed to contain water, even though the surrounding floor was dry, clearly indicating that a nearby upstream section of the crack is actively draining the water currently leaking on the boiler room floor (see Attachment B Photo 1).

The crack is at its widest in proximity to the drain in the very area that was most prone to receiving spillage associated with haphazardly pouring 5-gallon buckets full of water into the only accessible area. In particular, there is a conspicuous low point in the area of most concern, where the crack in the floor is widest.

3.2.4 Water Pour Testing

Photos 3 through 8 in Attachment B were taken during the pour testing.

The initial pour test involved constructing a small (6-inch length) basin over the crack using modeling clay, then pouring 200 to 300 milliliters (ml) of water into the basin, and timing the water discharge into the crack. Results of this test were that the water discharged into the crack almost immediately and that, upon addition of more water, the crack continued to accept water. In this case, 300 ml of water discharged into the crack in less than 30 seconds.

The second pour test involved pouring 4 to 5 gallons of water onto the boiler room floor at the southwest edge of the sink/drain, and tracking flow and discharge visually. Results of this test were that water entered the section of the crack between the water heater and boring B-C, as well as the area of the crack just southwest from B-C, rapidly and steadily. In this case, most of the 4 to 5 gallons of water were absorbed into the floor crack within 3 to 4 minutes.

It is clear from these results that the majority of contact water spilled on the boiler room floor in the vicinity of the sink/drain would readily enter the subsurface via the floor crack immediately southwest of the sink/drain. Water from the pour test entered the crack so quickly that accidental spillage of contact water in the past would presumably have been unnoticed by the operator because it disappeared quickly, with minimal puddling on the floor.

4.0 CONCLUSIONS

Results of this investigation clearly identified a primary PCE discharge point into the floor crack immediately southwest from the boiler room floor drain/sink, which was a primary containment area for PCE waste handling. In particular, it is concluded that:

1. The specific section of the transverse crack identified as the discharge point is the exact area that provided obstructed access to the obstructed top of the floor drain/sink. This is

identified as a breach in a hazardous waste handling primary containment area as well as a classic preferential contaminant migration pathway to the subsurface.

2. Using a U.S. government slab construction classification system, the crack is considered wide and is tentatively identified as a tension crack that was caused by breaching the rebar in installing the floor drain/sink in an area of very heavy load. On this basis, it is assumed to date to the time of dry cleaning tenant improvements.
3. Given the absence of any particular concern by the previous operators about spilling contact water on the boiler room floor in the early and mid 1980s, coupled with the obstructed access to the sink/drain and the inherent susceptibility to spillage using 5-gallon buckets to accomplish the discharge, it is concluded that, with each discharge to the sink/drain, there was some degree of spillage onto the floor in the exact area of the crack and, as such, many occasions of substantial spillage.
4. There was sufficient PCE in the spilled contact water to account for much of the PCE distribution discovered in the subsurface during the course of remedial investigations. According to published sources, PCE contact water typically contains PCE levels that approach or exceed the saturation point (150 milligrams per liter) and, upon cooling, typically form some dense separate phase.
5. By operator accounts, PCE discharges to the subsurface within the boiler room occurred approximately weekly during the period from when PCE dry cleaning operations commenced in 1981 through approximately 1987 when the operator was compelled to get a hazardous material storage permit and comply with applicable regulatory requirements for hazardous waste management, including segregation and treatment of the contact water.
6. The PCE discharges occurred when a portion of the spilled contact water puddled or otherwise wetted the floor in the area of the preferential migratory pathway and then drained/seeped by gravity into the subsurface after traveling a mere 4 inches through the concrete floor.
7. Once the PCE-contaminated water entered the subsurface, the liquid phase rapidly percolated into the permeable strata underlying the slab and ultimately entered the perched water zone, creating the recalcitrant shallow and deeper groundwater plumes depicted in Figures 6 and 7. In addition, vapor phase PCE emanating from impacted soil and groundwater migrated vertically and laterally via preferential pathways, creating much of the recalcitrant PCE vapor plume depicted in Figure 8.
8. The contact water was intended to be discharged entirely to the sanitary sewer rather than to the subsurface, and the primary containment area was presumed tight. On this basis, the repeated small volume PCE discharges to the subsurface were unintended/accidental.
9. Upon the contact water entering the crack, the aqueous phase PCE discharges to the subsurface occurred quickly via gravity drainage/seepage. Due to the infiltration of contaminated water into the pores of the concrete and to the retention of minor amounts of contaminated water in the crack after the spill event ended, there was presumably a gradual diffusive vapor phase component associated with the escape of PCE from the contaminated concrete.

10. The unintended discharges resulted from the failure to seal the boiler room floor before dry cleaning operations commenced in 1981, followed by repeated exposure to the same harmful conditions. The discharges could have been prevented by sealing the floor with a thick coat of epoxy resin.

RECOMMENDATIONS

On the basis of the above conclusions, we recommend that currently-proposed IRMs be more focused on remediating the identified primary discharge point in the boiler room, to include removal and replacement of a portion of the rear wall to facilitate access to the boiler room and focused removal of contaminated soil in the area of the identified primary PCE discharge point. Toward that end, we propose to prepare an addendum to the June 2010 IRM workplan.

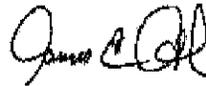
We appreciate this opportunity to provide this report for your review. Please contact us if there are questions or if additional information is required.

Very truly yours,



Matthew A. Rosman
Project Engineer

Enclosure

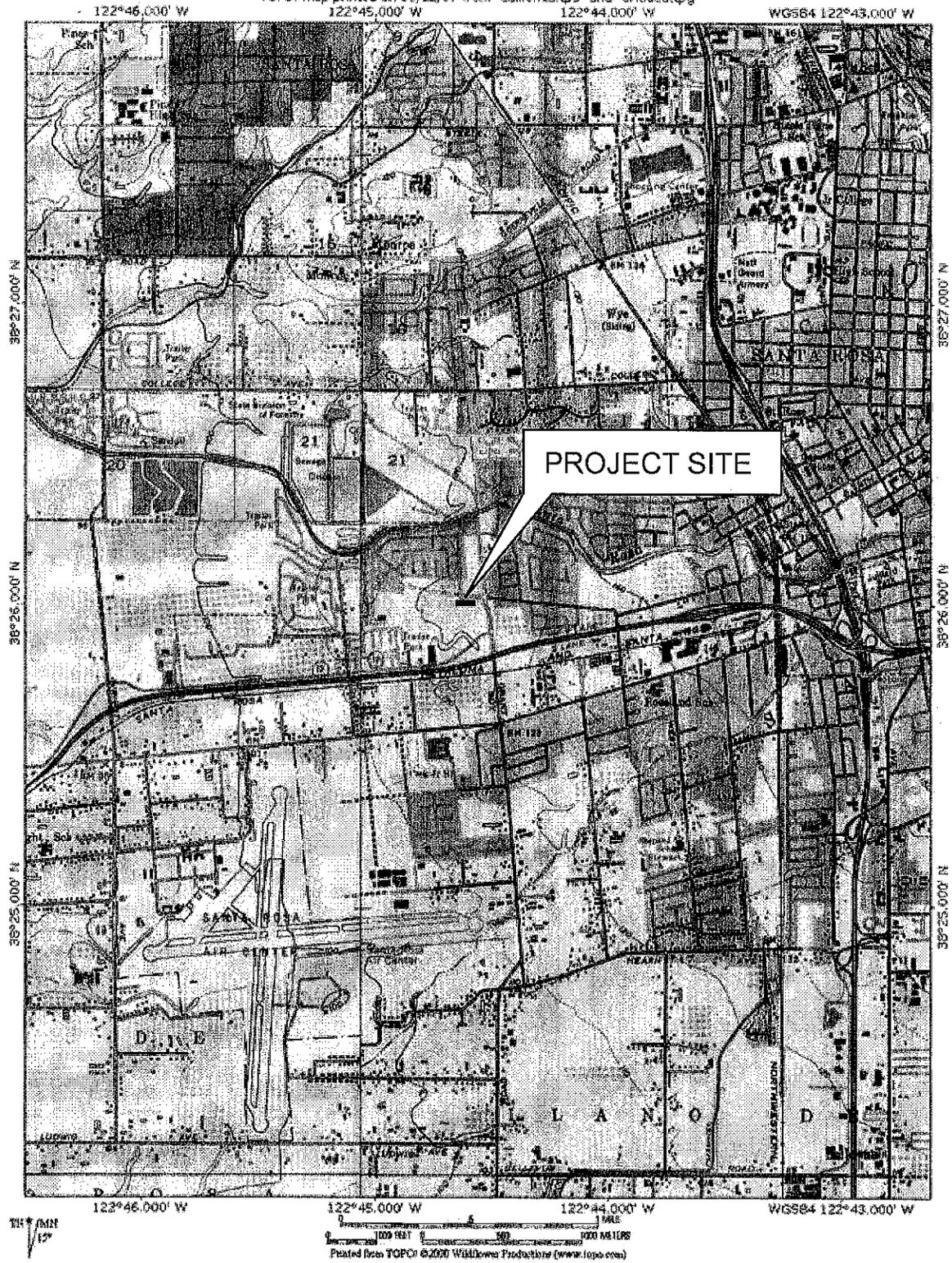


James E. Gribi
Professional Geologist
California No. 5843



FIGURES

TOPOI map printed on 09/12/07 from "California.topo" and "Untitled.tpg"



DESIGNED BY:

CHECKED BY: JEG

SITE VICINITY MAP

DATE: 09/04/2013

FIGURE: 1

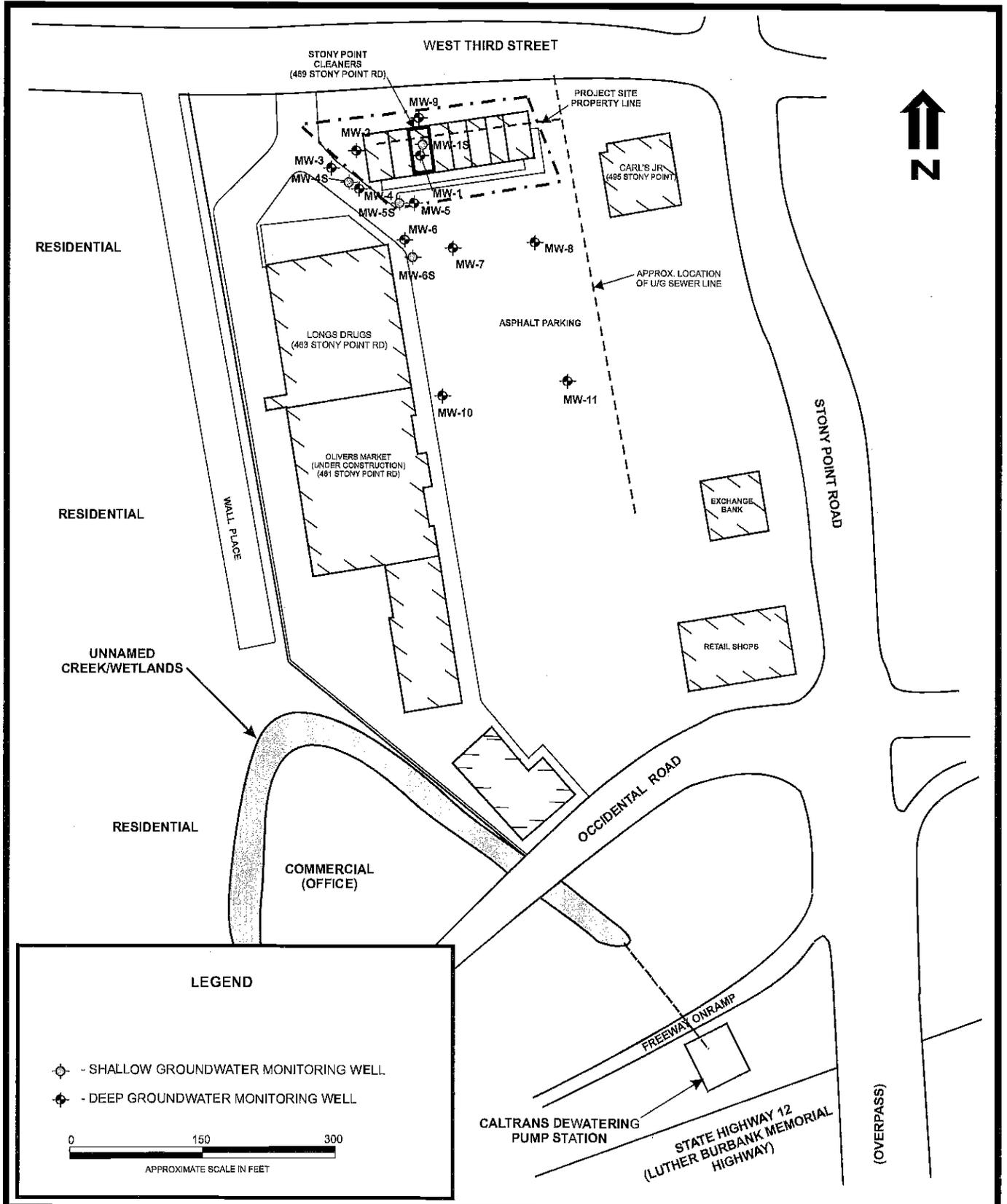
DRAWN BY: MAR

SCALE:

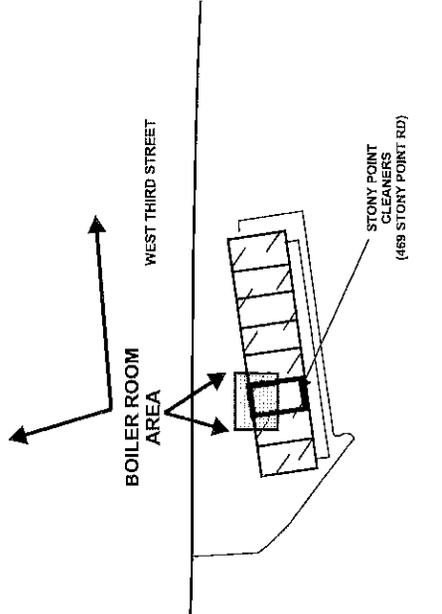
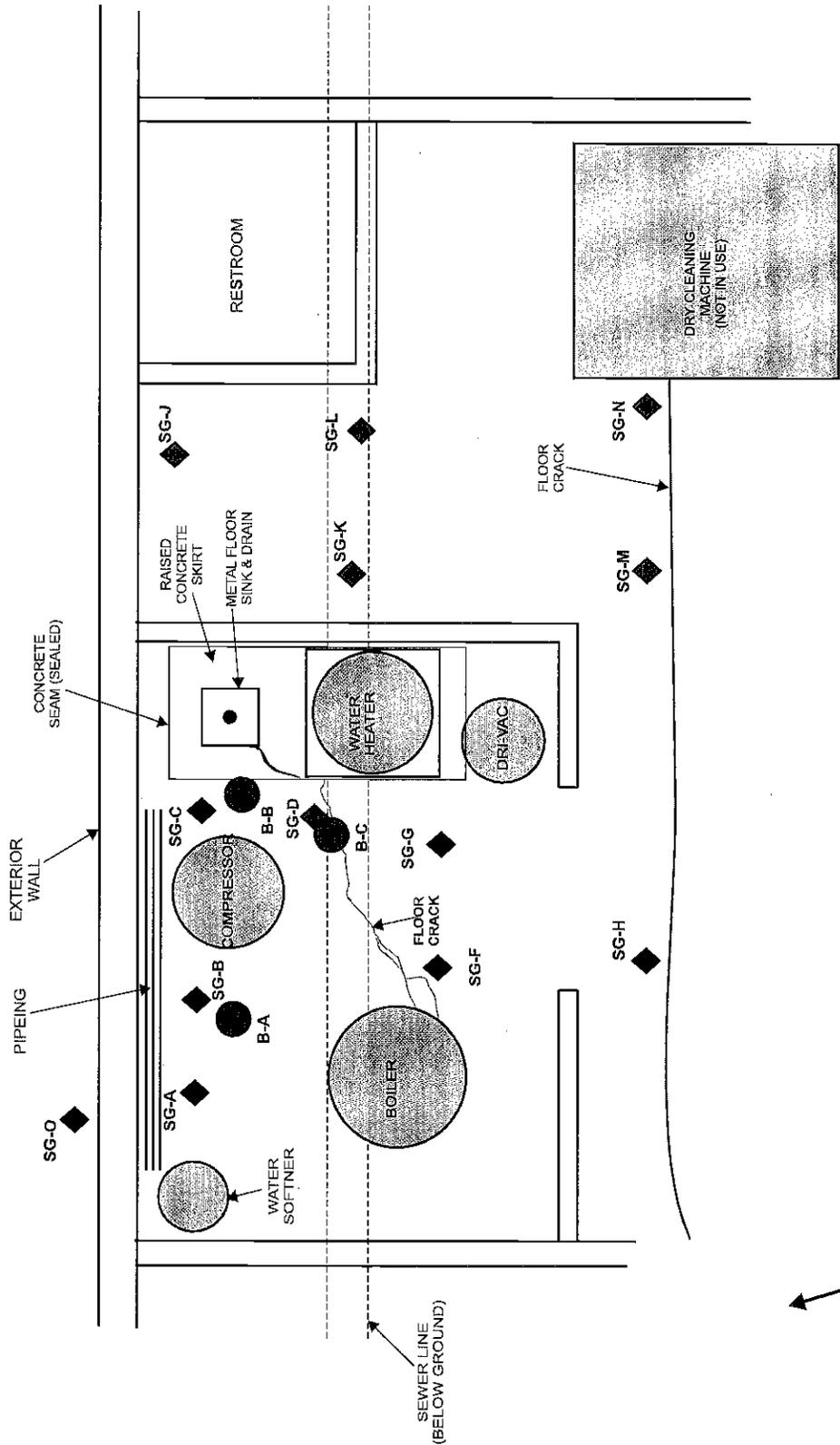
469 STONY POINT ROAD
SANTA ROSA, CALIFORNIA

PROJECT NO:





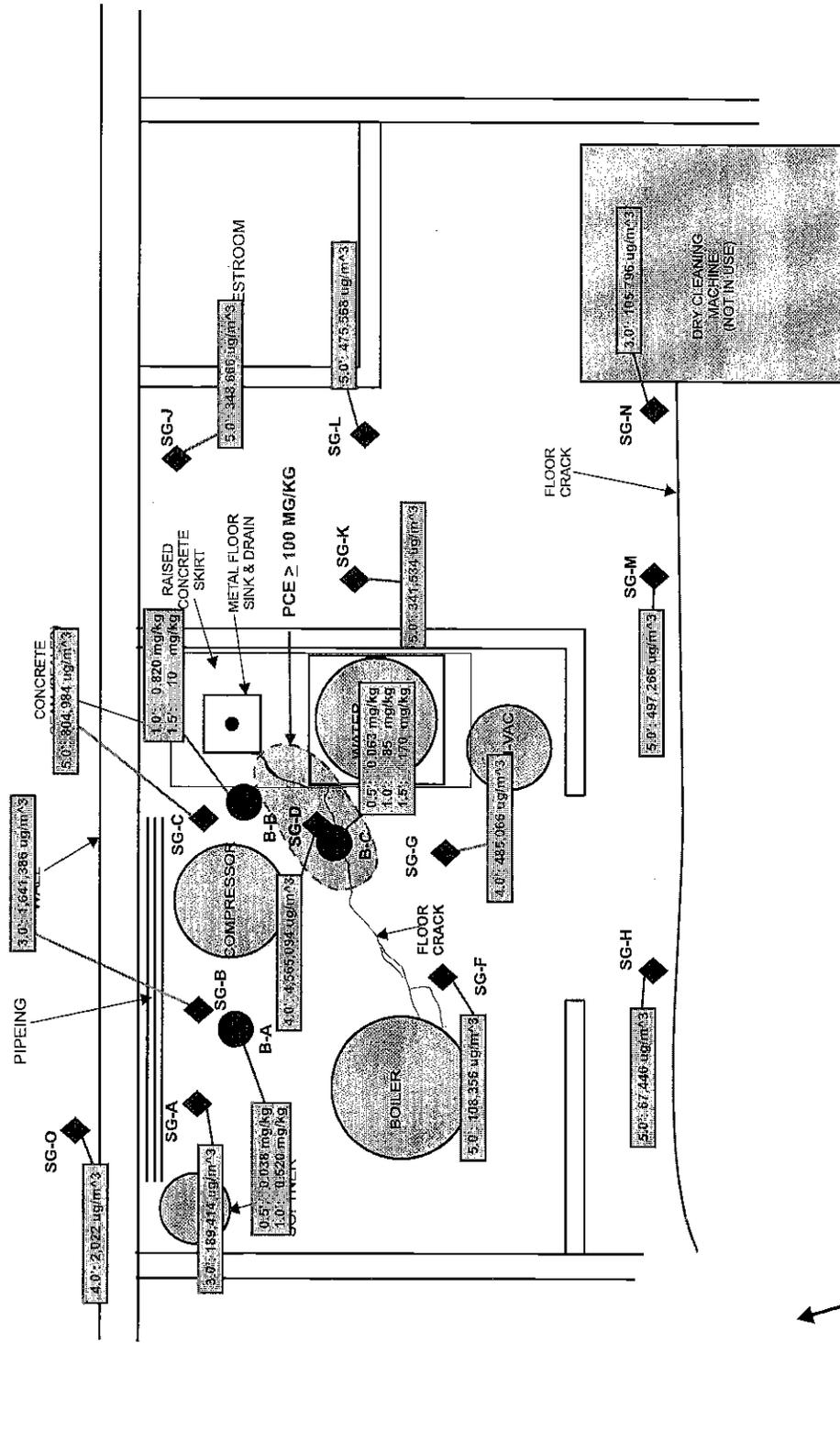
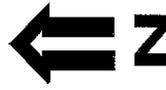
DESIGNED BY:	CHECKED BY: JEG	SITE PLAN	DATE: 09/04/2013	FIGURE: 2
DRAWN BY: MAR	SCALE:		GRIBI	
PROJECT NO:	469 STONY POINT ROAD SANTA ROSA, CALIFORNIA			



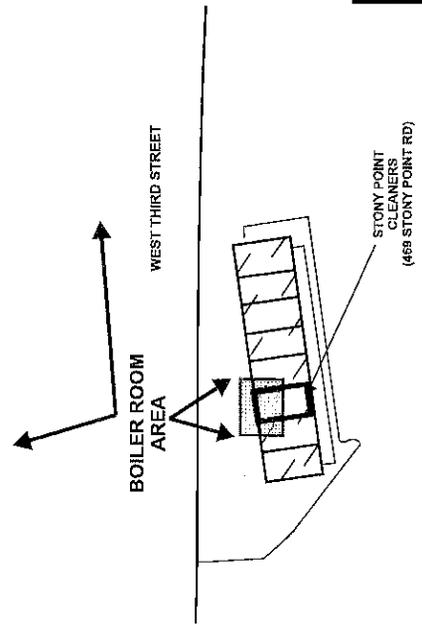
- ◆ - SOIL GAS SAMPLE LOCATION
- - SOIL SAMPLE LOCATION

DESIGNED BY:	SCALE:	DATE: 09/04/2013	FIGURE: 3
DRAWN BY: RB		GRIBI STONY POINT CLEANERS 489 STONY POINT ROAD SANTA ROSA, CALIFORNIA	
PROJECT NO:			

BOILER ROOM INVESTIGATION PLAN

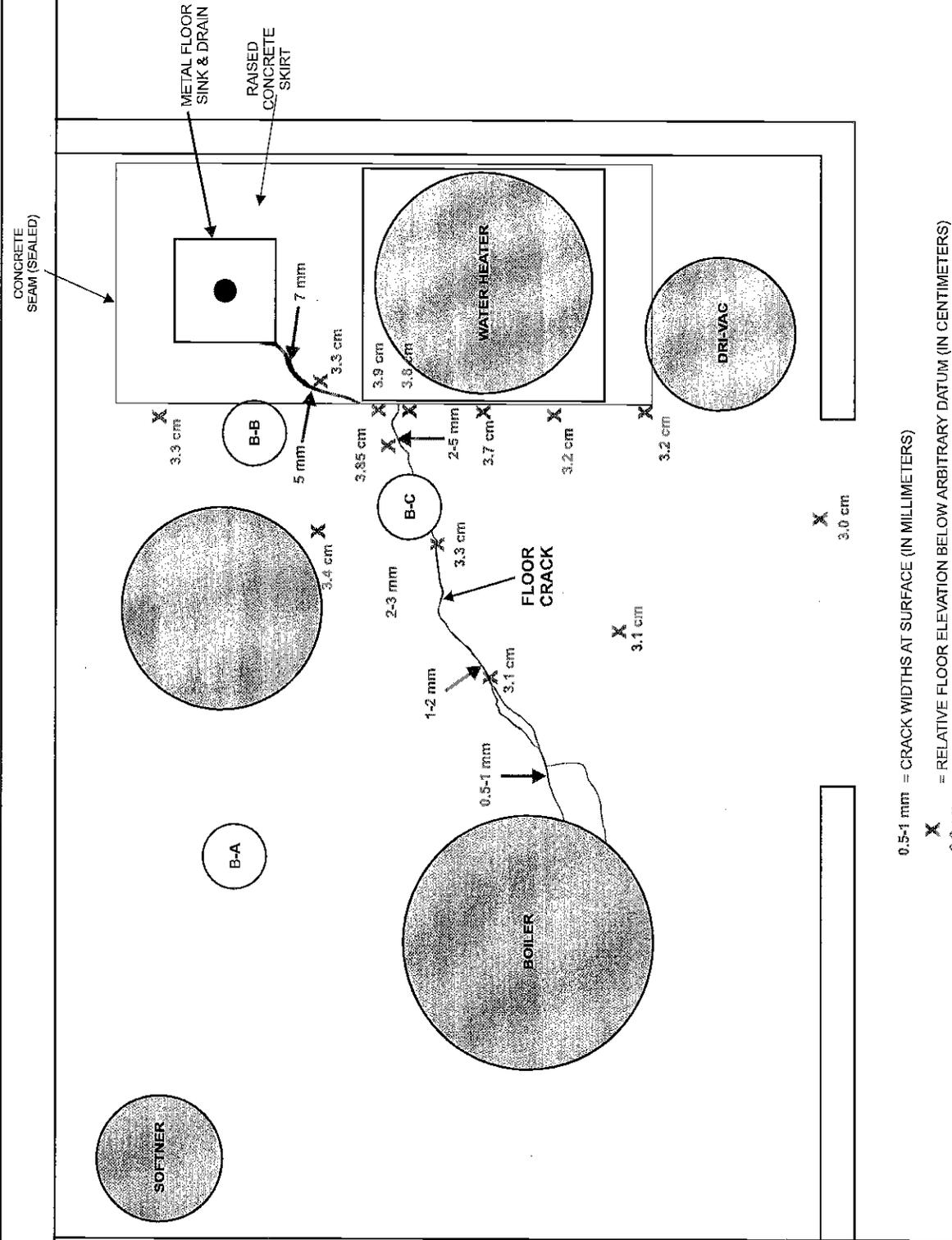


◆ - SOIL GAS SAMPLE LOCATION
 ● - SOIL SAMPLE LOCATION



DESIGNED BY:	RB	SCALE:	
DRAWN BY:	RB	PROJECT NO.:	
SOIL & SOIL GAS PCE RESULTS			
STONY POINT CLEANERS 469 STONY POINT ROAD SANTA ROSA, CALIFORNIA			
DATE: 09/04/2013	FIGURE: 4		





0.5-1 mm = CRACK WIDTHS AT SURFACE (IN MILLIMETERS)
 X = RELATIVE FLOOR ELEVATION BELOW ARBITRARY DATUM (IN CENTIMETERS)
 3.0 cm



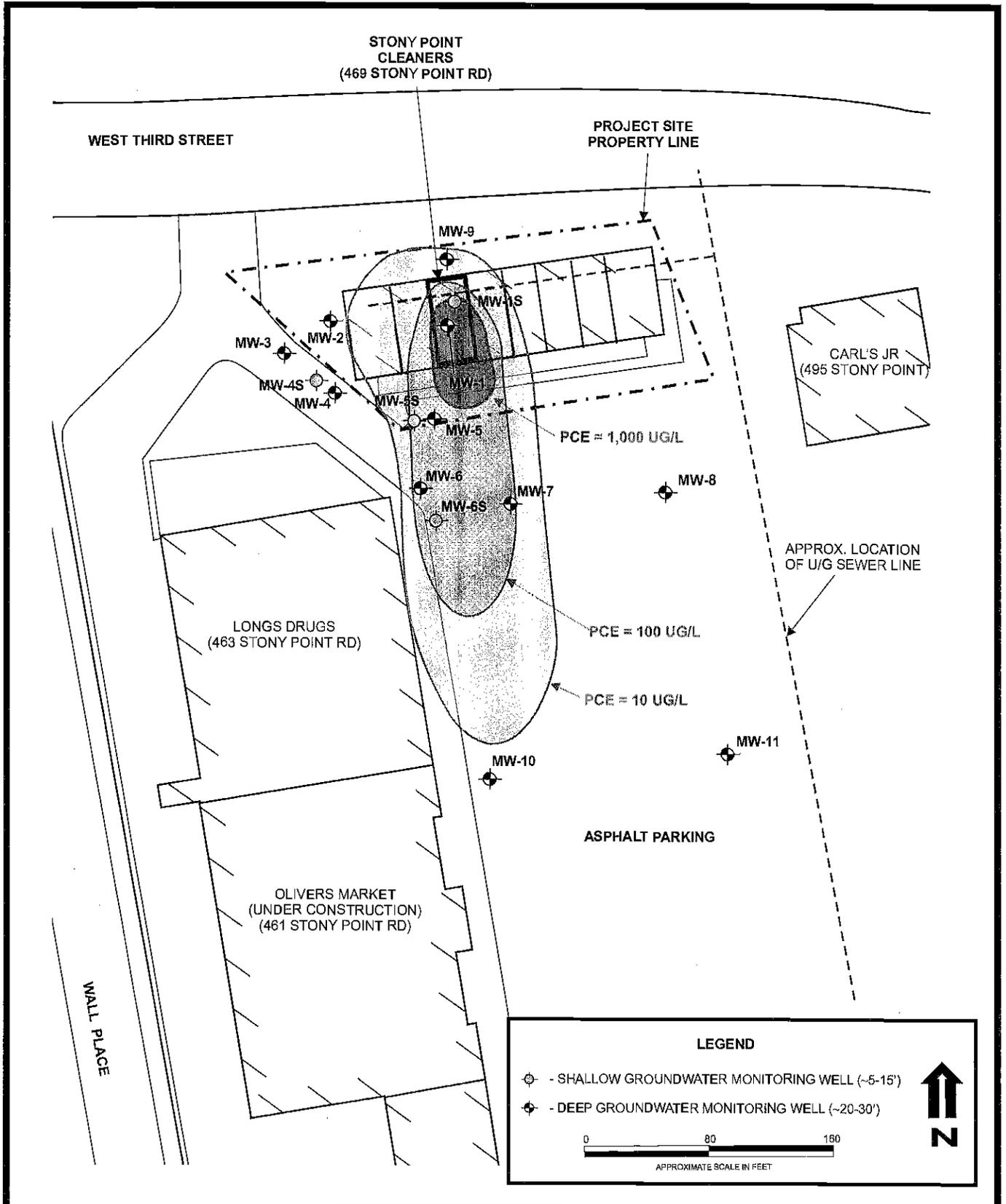
DESIGNED BY:	CHECKED BY: JEG
DRAWN BY: RB	SCALE:
PROJECT NO:	

FLOOR ELEVATIONS &
 CRACK WIDTHS
 STONY POINT CLEANERS
 469 STONY POINT ROAD
 SANTA ROSA, CALIFORNIA

DATE: 09/04/2013

FIGURE: 5



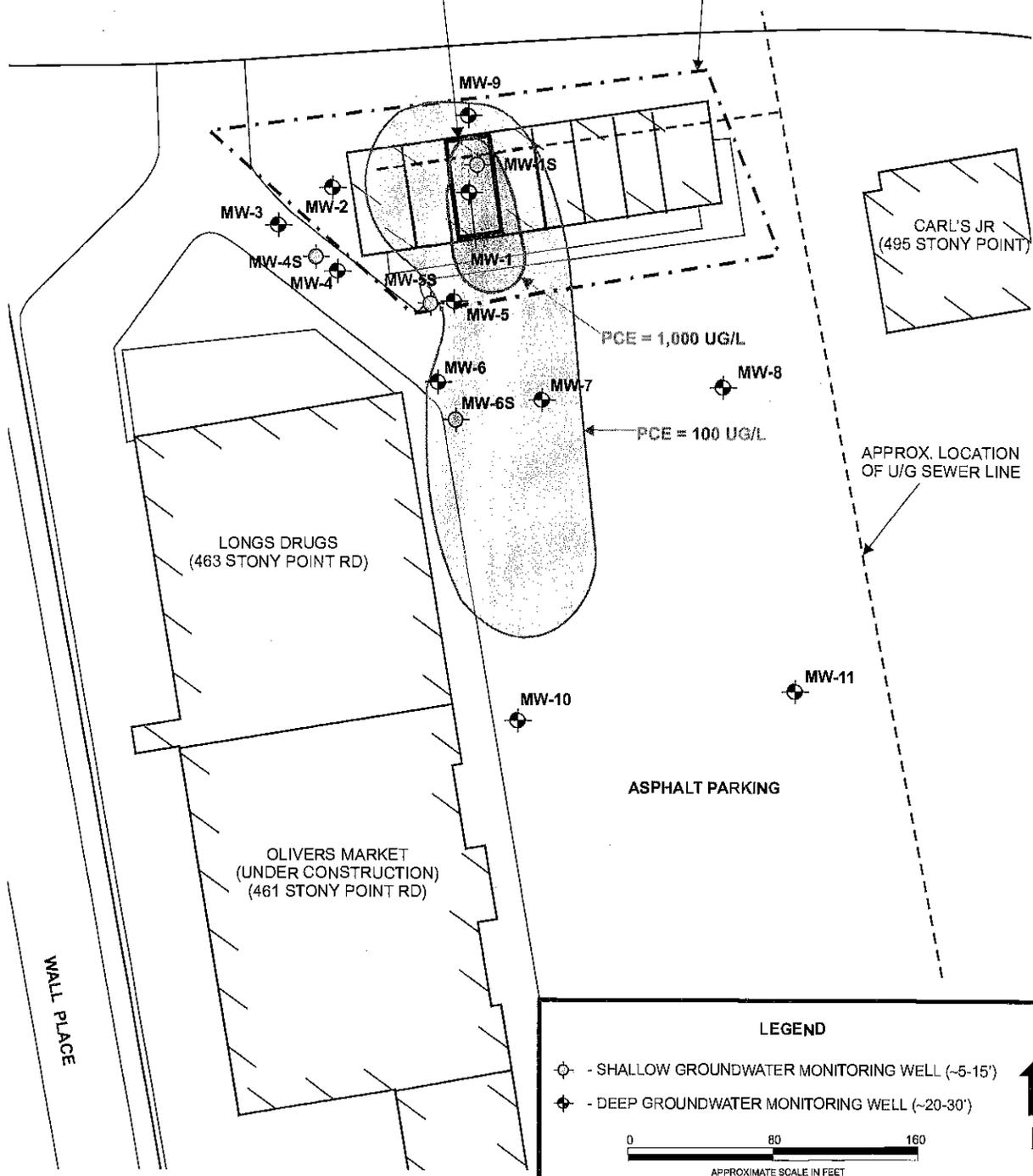


DESIGNED BY:	CHECKED BY: JEG	SHALLOW GROUNDWATER HVOC RESULTS, 03/28/2013	DATE: 09/04/2013	FIGURE: 6
DRAWN BY: MAR	SCALE:			
PROJECT NO:	469 STONY POINT ROAD SANTA ROSA, CALIFORNIA			

STONY POINT
CLEANERS
(469 STONY POINT RD)

WEST THIRD STREET

PROJECT SITE
PROPERTY LINE



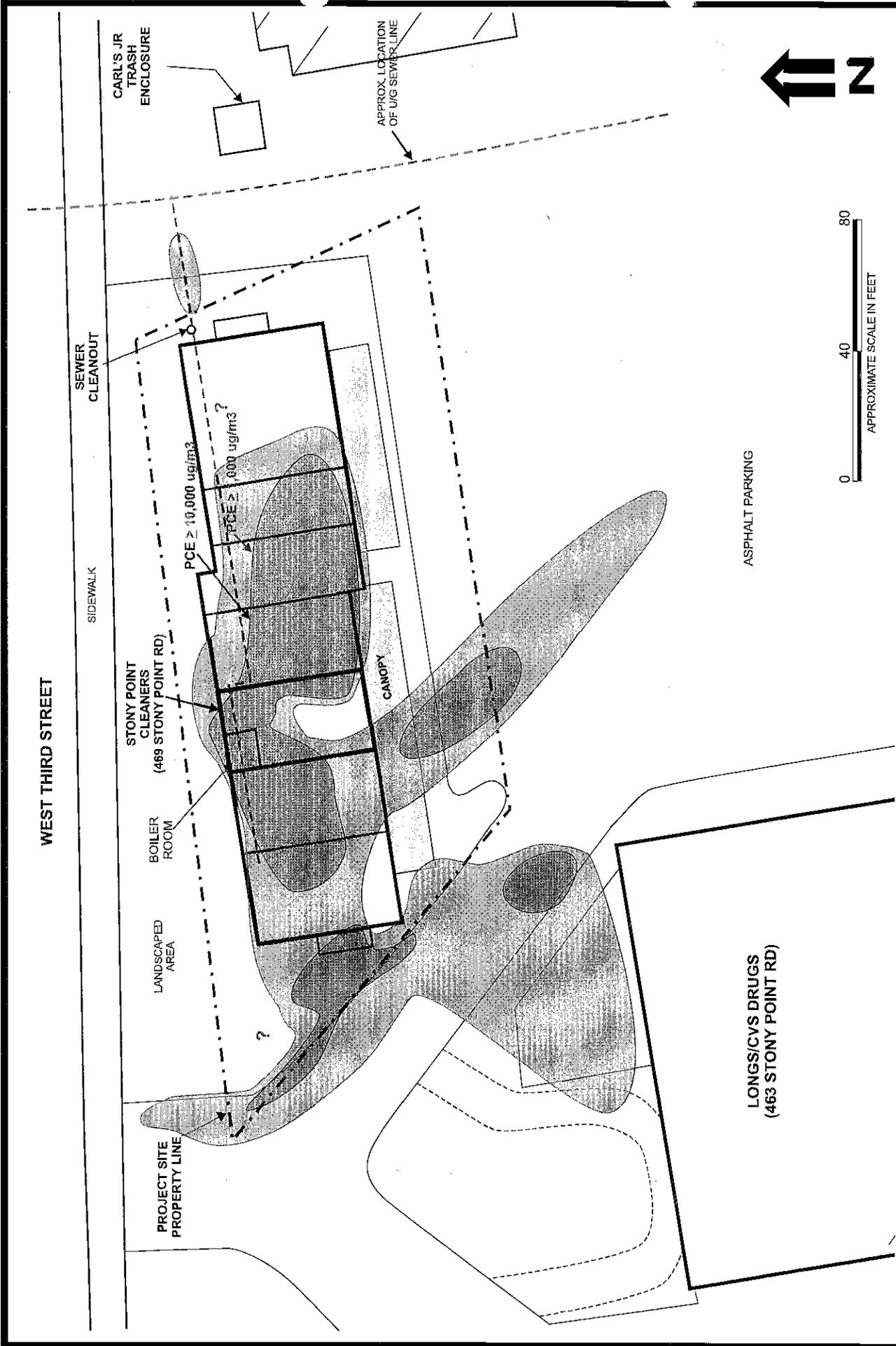
LEGEND

- - SHALLOW GROUNDWATER MONITORING WELL (~5-15')
- ⊕ - DEEP GROUNDWATER MONITORING WELL (~20-30')

0 80 160
APPROXIMATE SCALE IN FEET

↑
N

DESIGNED BY:	CHECKED BY: JEG	DEEP GROUNDWATER HVOC RESULTS, 03/28/2013	DATE: 09/04/2013	FIGURE: 7
DRAWN BY: MAR	SCALE:			
PROJECT NO:		469 STONY POINT ROAD SANTA ROSA, CALIFORNIA		



DESIGNED BY:		DATE: 09/04/2013	FIGURE: 8
DRAWN BY:	RB	RI INVESTIGATION SOIL VAPOR PCE CONTOURS	
PROJECT NO:		STONY POINT CLEANERS 469 STONY POINT ROAD SANTA ROSA, CALIFORNIA	
	SCALE:	CRIBI	

ATTACHMENT A
OPTIMAL TECHNOLOGY
SOIL GAS SAMPLING REPORT



August 5, 2013

Mr. Matt Rosman
Gribi Associates
1090 Adams Street, Suite K
Benicia, CA 94510

Dear Mr. Rosman:

This letter presents the results of the soil vapor investigation conducted by Optimal Technology (Optimal), for Gribi Associates on August 2, 2013. The study was performed at 469 Stoney Point Road, Santa Rosa, California.

Optimal was contracted to perform a soil vapor survey at this site to screen for possible chlorinated solvents and aromatic hydrocarbons. The primary objective of this soil vapor investigation was to determine if soil vapor contamination is present in the subsurface soil.

Gas Sampling Method

Gas sampling was performed by hydraulically pushing soil gas probes to a depth of 3.0-5.0 feet below ground surface (bgs). An electric rotary hammer drill was used to drill a 1.0-inch diameter hole through the overlying surface to allow probe placement when required. The same electric hammer drill was used to push probes in areas of resistance during placement.

At each sampling location an electric vacuum pump set to draw 0.2 liters per minute (L/min) of soil vapor was attached to the probe and purged prior to sample collection. Vapor samples were obtained in SGE gas-tight syringes by drawing the sample through a luer-lock connection which connects the sampling probe and the vacuum pump. Samples were immediately injected into the gas chromatograph/purge and trap after collection. New tubing was used at each sampling point to prevent cross contamination.

All analyses were performed on a laboratory grade Hewlett Packard model 5890 Series II gas chromatograph equipped with a Hewlett Packard model 5971 Mass Spectra Detector and Tekmar LSC 2000 Purge and Trap. An SGE capillary column using helium as the carrier gas was used to perform all analysis. All results were collected on a personal computer utilizing Hewlett Packard's 5971 MS and chromatographic data collection and handling system.

Quality Assurance

5-Point Calibration

The initial five point calibration consisted of 20, 50, 100, 200 and 500 ul injections of the calibration standard. A calibration factor on each analyte was generated using a best fit line method using the HP data system. If the r^2 factor generated from this line was not greater than 0.990, an additional five point calibration would have been performed. Method reporting limits were calculated to be 10-1000 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) for the individual compounds.

A daily calibration check and end of run calibration check was performed by preparing a calibration solution from a pre-mixed standard supplied by CPI International. The standard contained common halogenated solvents and aromatic hydrocarbons (see Table 1). The individual compound concentrations in the standards ranged between 0.025 nanograms per microliter (ng/ μl) and 0.25 ng/ μl .

TABLE 1

Dichlorodifluoromethane	Carbon Tetrachloride	Chloroethane
Trichlorofluoromethane	1,2-Dichloroethane	Benzene
1,1-Dichloroethene	Trichloroethene	Toluene
Methylene Chloride	1,1,2-Trichloroethane	Ethylbenzene
trans-1,2-Dichloroethene	Tetrachloroethene	m-/p-Xylene
1,1-Dichloroethane	Chloroform	o-Xylene
cis-1,2-Dichloroethene	1,1,1,2-Tetrachloroethane	Vinyl Chloride
1,1,1-Trichloroethane	1,1,2,2-Tetrachloroethane	Freon 113
4-Methyl-2-Pentanone	Cyclohexane	Acetone
Chlorobenzene	2-Butanone	Isobutane

Sample Replicates

A replicate analysis (duplicate) was run to evaluate the reproducibility of the sampling system and instrument. The difference between samples did not vary more than 20%.

Equipment Blanks

Blanks were run at the beginning of each workday and after calibrations. The blanks were collected using an ambient air sample. These blanks checked the septum, syringe, GC column, GC detector and the ambient air. Contamination was not found in any of the blanks analyzed during this investigation. Blank results are given along with the sample results.

Tracer Gas

A tracer gas was applied to the soil gas probes near each point of connection in which ambient air could enter the sampling system. These points include the top of the sampling probe where the tubing meets the probe connection and the surface bentonite seals. Isobutane was used as the tracer gas, found in common shaving cream. No Isobutane was found in any of the samples collected.

Scope of Work

To achieve the objective of this investigation a total of 15 vapor samples were collected from 13 locations at the site. Sampling depths, vacuum readings, purge volume and sampling volumes are given on the analytical results page. All the collected vapor samples were analyzed on-site using Optimal's mobile laboratory.

Subsurface Conditions

Subsurface soil conditions at this site were predominately silty-clay and clay from ground surface to 5.0 feet bgs. These soil conditions offered sampling flows at 0-45" water vacuum. Depth to groundwater was unknown at the time of the investigation.

Results

During this vapor investigation all fifteen samples contained levels of Tetrachloroethene (PCE). PCE levels ranged from 2,022 ug/m³ at SG-O to 4,565,094 ug/m³ at SG-D. Ten samples contained levels of Trichloroethene (TCE). TCE levels ranged from 180 ug/m³ at SG-G to 16,374 ug/m³ at SG-B. None of the other compounds listed in Table 1 above were detected above the listed reporting limits. A complete table of analytical results is included with this report.

Disclaimer

All conclusions presented in this letter are based solely on the information collected by the soil vapor survey conducted by Optimal Technology. Soil vapor testing is only a subsurface screening tool and does not represent actual contaminant concentrations in either the soil and/or groundwater. We enjoyed working with you on this project and look forward to future projects. If you have any questions please contact me at (877) 764-5427.

Sincerely,



Attila Baly
Project Manager

ATTACHMENT B
SITE PHOTOS



Photo 1: View of three soil borings in boiler room. B-A on left, B-B on upper right, and B-C on lower right side of photo. Floor crack at B-C readily visible on left side of photo.

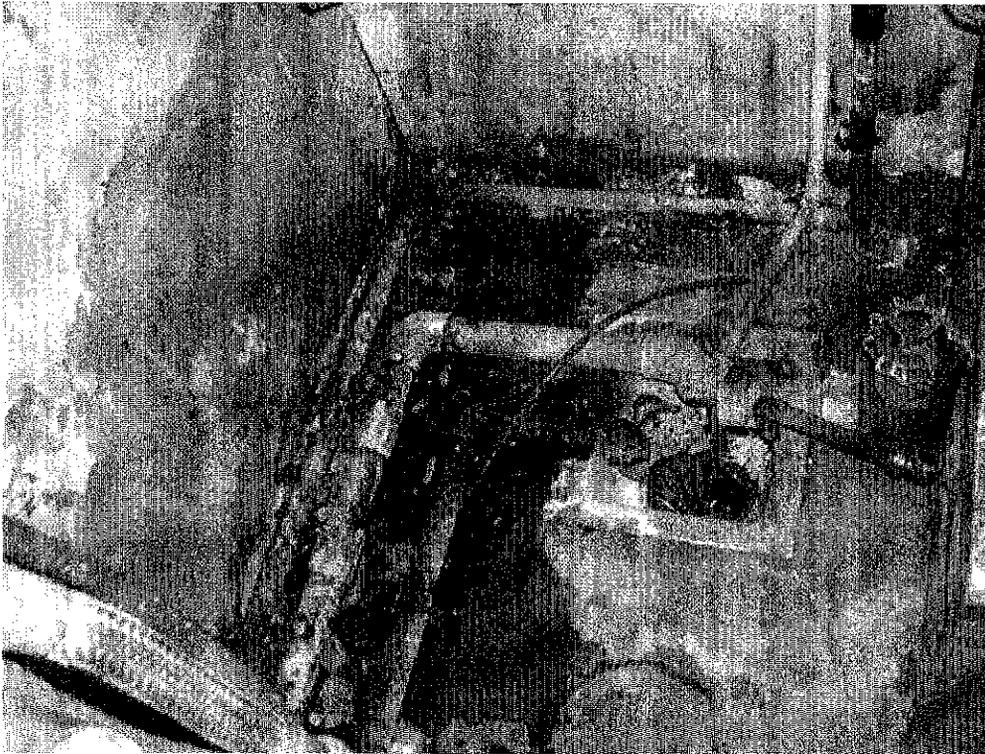


Photo 2: View of floor sink/drain area. Note crack in concrete on lower right side of photo, emanating from corner of sink. Boiler water collects along left wall because there are no breaches in concrete at that location (crack area is normally dry).



Photo 3: View of pour test in clay basin, just southwest of sink/drain area (boring B-C on lower left side of photo). Open crack, where water fell through crack, is visible in lower portion of basin.



Photo 4: Close-up view of pour test in clay basin, just southwest of sink/drain area. Again, open crack, where water fell through crack, is visible on lower side of photo.

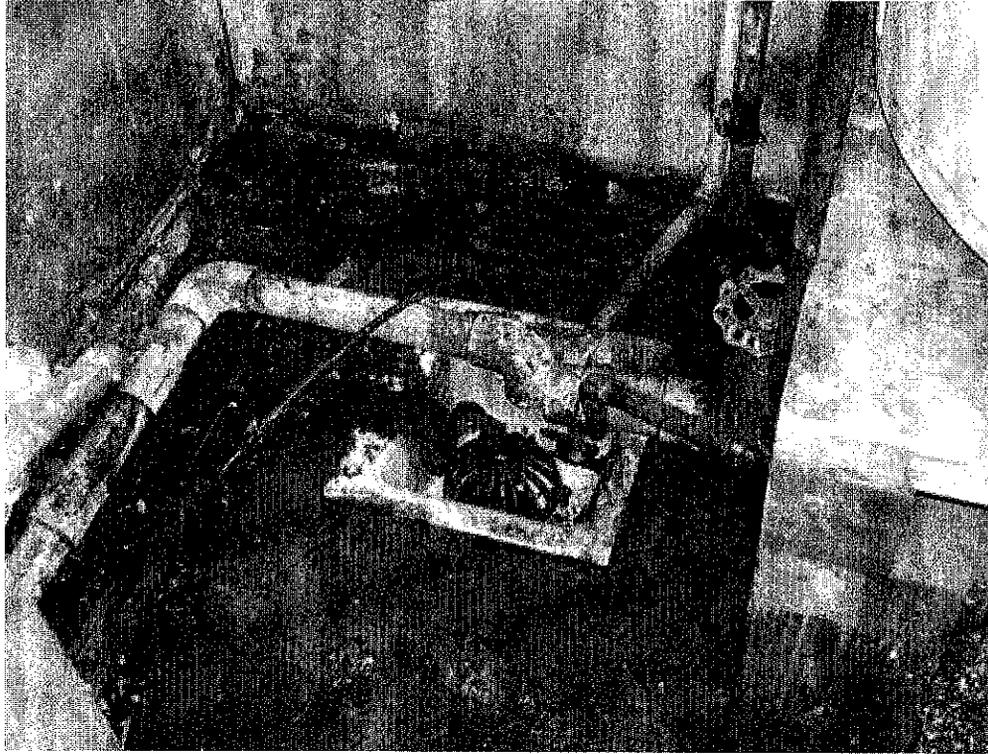


Photo 5: View of sink/drain area during 5-gallon pour test. Note crack on lower right side of photo does not have free water (water has infiltrated into crack).



Photo 6: View of crack following 5-gallon pour test. Note width of crack and lack of pooled water. Also, some small white flecks are visible in crack, having got caught as water fell into crack.



Photo 7: View of crack following 5-gallon pour test. Note width of crack and lack of pooled water. Also, some small white flecks are visible in crack, having got caught as water fell into crack.



Photo 8: View of crack following 5-gallon pour test. Note open (no liquid) portion of crack, where water fell into crack.

ATTACHMENT C

**LABORATORY DATA REPORTS AND
CHAIN-OF-CUSTODY RECORDS**



25712 Commercentre Drive
Lake Forest, California 92630
949.297.5020 Phone
949.297.5027 Fax

13 August 2013

Jim Gribi
Gribi Associates
1090 Adam Street, Suite K
Benicia, CA 94510
RE: Stony Point Cleaners

Enclosed are the results of analyses for samples received by the laboratory on 08/10/13 09:05. If you have any questions concerning this report, please feel free to contact me.

Sincerely,

Daniel Chavez For John Shepler
Laboratory Director



25712 Commercentre Drive
Lake Forest, California 92630
949.297.5020 Phone
949.297.5027 Fax

Gribi Associates
1090 Adam Street, Suite K
Benicia CA, 94510

Project: Stony Point Cleaners
Project Number: [none]
Project Manager: Jim Gribi

Reported:
08/13/13 13:00

ANALYTICAL REPORT FOR SAMPLES

Sample ID	Laboratory ID	Matrix	Date Sampled	Date Received
B-A-0.5	T131747-01	Soil	08/09/13 10:55	08/10/13 09:05
B-A-1.0	T131747-02	Soil	08/09/13 11:05	08/10/13 09:05
B-B-1.0	T131747-03	Soil	08/09/13 10:40	08/10/13 09:05
B-B-1.5	T131747-04	Soil	08/09/13 10:50	08/10/13 09:05
B-C-0.5	T131747-05	Soil	08/09/13 10:15	08/10/13 09:05
B-C-1.0	T131747-06	Soil	08/09/13 10:25	08/10/13 09:05
B-C-1.5	T131747-07	Soil	08/09/13 11:15	08/10/13 09:05

SunStar Laboratories, Inc.

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.

Daniel Chavez For John Shepler, Laboratory Director



25712 Commercentre Drive
 Lake Forest, California 92630
 949.297.5020 Phone
 949.297.5027 Fax

Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
--	---	-----------------------------

B-A-0.5
T131747-01 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Bromodichloromethane	ND	5.0	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Bromomethane	ND	5.0	"	"	"	"	"	"	
Carbon tetrachloride	ND	5.0	"	"	"	"	"	"	
Chlorobenzene	ND	5.0	"	"	"	"	"	"	
Chloroethane	ND	5.0	"	"	"	"	"	"	
Chloroform	ND	5.0	"	"	"	"	"	"	
Chloromethane	ND	5.0	"	"	"	"	"	"	
Dibromochloromethane	ND	5.0	"	"	"	"	"	"	
Dibromomethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethene	ND	5.0	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
1,2-Dichloropropane	ND	5.0	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
Methylene chloride	ND	5.0	"	"	"	"	"	"	
Styrene	ND	5.0	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	5.0	"	"	"	"	"	"	
Tetrachloroethene	38	5.0	"	"	"	"	"	"	
1,1,2-Trichloroethane	ND	5.0	"	"	"	"	"	"	
1,1,1-Trichloroethane	ND	5.0	"	"	"	"	"	"	
Trichloroethene	ND	5.0	"	"	"	"	"	"	
Vinyl chloride	ND	5.0	"	"	"	"	"	"	
Surrogate: Toluene-d8		98.5 %	85.5-116		"	"	"	"	
Surrogate: 4-Bromofluorobenzene		120 %	81.2-123		"	"	"	"	
Surrogate: Dibromofluoromethane		122 %	95.7-135		"	"	"	"	

SunStar Laboratories, Inc.

Daniel Chavez For John Shepler, Laboratory Director

The results in this report apply to the samples analyzed in accordance with the chain of custody document. This analytical report must be reproduced in its entirety.



25712 Commercentre Drive
Lake Forest, California 92630
949.297.5020 Phone
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Gribi Associates
1090 Adam Street, Suite K
Benicia CA, 94510

Project: Stony Point Cleaners
Project Number: [none]
Project Manager: Jim Gribi

Reported:
08/13/13 13:00

B-A-0.5
T131747-01 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

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Daniel Chavez For John Shepler, Laboratory Director



25712 Commercentre Drive
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 949.297.5020 Phone
 949.297.5027 Fax

Gribi Associates
 1090 Adam Street, Suite K
 Benicia CA, 94510

Project: Stony Point Cleaners
 Project Number: [none]
 Project Manager: Jim Gribi

Reported:
 08/13/13 13:00

B-A-1.0
T131747-02 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
Bromodichloromethane	ND	5.0	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Bromomethane	ND	5.0	"	"	"	"	"	"	
Carbon tetrachloride	ND	5.0	"	"	"	"	"	"	
Chlorobenzene	ND	5.0	"	"	"	"	"	"	
Chloroethane	ND	5.0	"	"	"	"	"	"	
Chloroform	ND	5.0	"	"	"	"	"	"	
Chloromethane	ND	5.0	"	"	"	"	"	"	
Dibromochloromethane	ND	5.0	"	"	"	"	"	"	
Dibromomethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethene	ND	5.0	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
1,2-Dichloropropane	ND	5.0	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
Methylene chloride	ND	5.0	"	"	"	"	"	"	
Styrene	ND	5.0	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	5.0	"	"	"	"	"	"	
Tetrachloroethene	520	5.0	"	"	"	"	"	"	
1,1,2-Trichloroethane	ND	5.0	"	"	"	"	"	"	
1,1,1-Trichloroethane	ND	5.0	"	"	"	"	"	"	
Trichloroethene	12	5.0	"	"	"	"	"	"	
Vinyl chloride	ND	5.0	"	"	"	"	"	"	
Surrogate: Toluene-d8		99.6 %		85.5-116	"	"	"	"	
Surrogate: 4-Bromofluorobenzene		112 %		81.2-123	"	"	"	"	
Surrogate: Dibromofluoromethane		115 %		95.7-135	"	"	"	"	

SunStar Laboratories, Inc.

Daniel Chavez For John Shepler, Laboratory Director

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Gribi Associates
1090 Adam Street, Suite K
Benicia CA, 94510

Project: Stony Point Cleaners
Project Number: [none]
Project Manager: Jim Gribi

Reported:
08/13/13 13:00

B-A-1.0
T131747-02 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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Daniel Chavez For John Shepler, Laboratory Director

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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
--	---	-----------------------------

B-B-1.0
T131747-03 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
Bromodichloromethane	ND	8.7	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Bromomethane	ND	8.7	"	"	"	"	"	"	
Carbon tetrachloride	ND	8.7	"	"	"	"	"	"	
Chlorobenzene	ND	8.7	"	"	"	"	"	"	
Chloroethane	ND	8.7	"	"	"	"	"	"	
Chloroform	ND	8.7	"	"	"	"	"	"	
Chloromethane	ND	8.7	"	"	"	"	"	"	
Dibromochloromethane	ND	8.7	"	"	"	"	"	"	
Dibromomethane	ND	8.7	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	8.7	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	8.7	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	8.7	"	"	"	"	"	"	
1,1-Dichloroethane	ND	8.7	"	"	"	"	"	"	
1,2-Dichloroethane	ND	8.7	"	"	"	"	"	"	
1,1-Dichloroethene	ND	8.7	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	8.7	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	8.7	"	"	"	"	"	"	
1,2-Dichloropropane	ND	8.7	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	8.7	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	8.7	"	"	"	"	"	"	
Methylene chloride	ND	8.7	"	"	"	"	"	"	
Styrene	ND	8.7	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	8.7	"	"	"	"	"	"	
Tetrachloroethene	820	8.7	"	"	"	"	"	"	
1,1,2-Trichloroethane	ND	8.7	"	"	"	"	"	"	
1,1,1-Trichloroethane	ND	8.7	"	"	"	"	"	"	
Trichloroethene	ND	8.7	"	"	"	"	"	"	
Vinyl chloride	ND	8.7	"	"	"	"	"	"	
Surrogate: Toluene-d8		94.5 %		85.5-116	"	"	"	"	
Surrogate: 4-Bromofluorobenzene		103 %		81.2-123	"	"	"	"	
Surrogate: Dibromofluoromethane		121 %		95.7-135	"	"	"	"	

SunStar Laboratories, Inc.

Daniel Chavez For John Shepler, Laboratory Director

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949.297.5027 Fax

Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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B-B-1.0
T131747-03 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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B-B-1.5
T131747-04 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
Bromodichloromethane	ND	4.4	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Bromomethane	ND	4.4	"	"	"	"	"	"	
Carbon tetrachloride	ND	4.4	"	"	"	"	"	"	
Chlorobenzene	ND	4.4	"	"	"	"	"	"	
Chloroethane	ND	4.4	"	"	"	"	"	"	
Chloroform	ND	4.4	"	"	"	"	"	"	
Chloromethane	ND	4.4	"	"	"	"	"	"	
Dibromochloromethane	ND	4.4	"	"	"	"	"	"	
Dibromomethane	ND	4.4	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	4.4	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	4.4	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	4.4	"	"	"	"	"	"	
1,1-Dichloroethane	ND	4.4	"	"	"	"	"	"	
1,2-Dichloroethane	ND	4.4	"	"	"	"	"	"	
1,1-Dichloroethene	ND	4.4	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	4.4	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	4.4	"	"	"	"	"	"	
1,2-Dichloropropane	ND	4.4	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	4.4	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	4.4	"	"	"	"	"	"	
Methylene chloride	ND	4.4	"	"	"	"	"	"	
Styrene	ND	4.4	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	4.4	"	"	"	"	"	"	
Tetrachloroethene	10000	220	"	50	"	"	"	"	
1,1,2-Trichloroethane	ND	4.4	"	1	"	"	"	"	
1,1,1-Trichloroethane	ND	4.4	"	"	"	"	"	"	
Trichloroethene	14	4.4	"	"	"	"	"	"	
Vinyl chloride	ND	4.4	"	"	"	"	"	"	
Surrogate: Toluene-d8		96.5 %		85.5-116	"	"	"	"	
Surrogate: 4-Bromofluorobenzene		102 %		81.2-123	"	"	"	"	
Surrogate: Dibromofluoromethane		122 %		95.7-135	"	"	"	"	

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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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B-B-1.5
T131747-04 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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B-C-0.5
T131747-05 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
Bromodichloromethane	ND	9.3	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Bromomethane	ND	9.3	"	"	"	"	"	"	
Carbon tetrachloride	ND	9.3	"	"	"	"	"	"	
Chlorobenzene	ND	9.3	"	"	"	"	"	"	
Chloroethane	ND	9.3	"	"	"	"	"	"	
Chloroform	ND	9.3	"	"	"	"	"	"	
Chloromethane	ND	9.3	"	"	"	"	"	"	
Dibromochloromethane	ND	9.3	"	"	"	"	"	"	
Dibromomethane	ND	9.3	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	9.3	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	9.3	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	9.3	"	"	"	"	"	"	
1,1-Dichloroethane	ND	9.3	"	"	"	"	"	"	
1,2-Dichloroethane	ND	9.3	"	"	"	"	"	"	
1,1-Dichloroethene	ND	9.3	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	9.3	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	9.3	"	"	"	"	"	"	
1,2-Dichloropropane	ND	9.3	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	9.3	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	9.3	"	"	"	"	"	"	
Methylene chloride	ND	9.3	"	"	"	"	"	"	
Styrene	ND	9.3	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	9.3	"	"	"	"	"	"	
Tetrachloroethene	63	9.3	"	"	"	"	"	"	
1,1,2-Trichloroethane	ND	9.3	"	"	"	"	"	"	
1,1,1-Trichloroethane	ND	9.3	"	"	"	"	"	"	
Trichloroethene	ND	9.3	"	"	"	"	"	"	
Vinyl chloride	ND	9.3	"	"	"	"	"	"	
<i>Surrogate: Toluene-d8</i>		98.1 %		85.5-116	"	"	"	"	
<i>Surrogate: 4-Bromofluorobenzene</i>		112 %		81.2-123	"	"	"	"	
<i>Surrogate: Dibromofluoromethane</i>		118 %		95.7-135	"	"	"	"	

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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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B-C-0.5
T131747-05 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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Gribi Associates
 1090 Adam Street, Suite K
 Benicia CA, 94510

Project: Stony Point Cleaners
 Project Number: [none]
 Project Manager: Jim Gribi

Reported:
 08/13/13 13:00

B-C-1.0
T131747-06 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
Bromodichloromethane	ND	5.0	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Bromomethane	ND	5.0	"	"	"	"	"	"	
Carbon tetrachloride	ND	5.0	"	"	"	"	"	"	
Chlorobenzene	ND	5.0	"	"	"	"	"	"	
Chloroethane	ND	5.0	"	"	"	"	"	"	
Chloroform	ND	5.0	"	"	"	"	"	"	
Chloromethane	ND	5.0	"	"	"	"	"	"	
Dibromochloromethane	ND	5.0	"	"	"	"	"	"	
Dibromomethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethene	ND	5.0	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
1,2-Dichloropropane	ND	5.0	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
Methylene chloride	ND	5.0	"	"	"	"	"	"	
Styrene	ND	5.0	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	5.0	"	"	"	"	"	"	
Tetrachloroethene	85000	250	"	50	"	"	"	"	E
1,1,2-Trichloroethane	ND	5.0	"	1	"	"	"	"	
1,1,1-Trichloroethane	ND	5.0	"	"	"	"	"	"	
Trichloroethene	31	5.0	"	"	"	"	"	"	
Vinyl chloride	ND	5.0	"	"	"	"	"	"	
Surrogate: Toluene-d8		90.3 %		85.5-116	"	"	"	"	
Surrogate: 4-Bromofluorobenzene		112 %		81.2-123	"	"	"	"	
Surrogate: Dibromofluoromethane		132 %		95.7-135	"	"	"	"	

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Gribi Associates
1090 Adam Street, Suite K
Benicia CA, 94510

Project: Stony Point Cleaners
Project Number: [none]
Project Manager: Jim Gribi

Reported:
08/13/13 13:00

B-C-1.0
T131747-06 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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B-C-1.5
T131747-07 (Soil)

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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SunStar Laboratories, Inc.

Volatile Organic Compounds by EPA Method 8260B

Analyte	Result	Reporting Limit	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
Bromodichloromethane	ND	5.0	ug/kg	1	3081211	08/10/13	08/12/13	EPA 8260B/5035	
Carbon tetrachloride	ND	5.0	"	"	"	"	"	"	
Chlorobenzene	ND	5.0	"	"	"	"	"	"	
Chloroethane	ND	5.0	"	"	"	"	"	"	
Chloroform	ND	5.0	"	"	"	"	"	"	
Chloromethane	ND	5.0	"	"	"	"	"	"	
Dibromochloromethane	ND	5.0	"	"	"	"	"	"	
Dibromomethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,3-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,4-Dichlorobenzene	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,2-Dichloroethane	ND	5.0	"	"	"	"	"	"	
1,1-Dichloroethene	ND	5.0	"	"	"	"	"	"	
cis-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
trans-1,2-Dichloroethene	ND	5.0	"	"	"	"	"	"	
1,2-Dichloropropane	ND	5.0	"	"	"	"	"	"	
cis-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
trans-1,3-Dichloropropene	ND	5.0	"	"	"	"	"	"	
Methylene chloride	ND	5.0	"	"	"	"	"	"	
Styrene	ND	5.0	"	"	"	"	"	"	
1,1,2,2-Tetrachloroethane	ND	5.0	"	"	"	"	"	"	
Tetrachloroethene	170000	250	"	50	"	"	"	"	E
1,1,2-Trichloroethane	ND	5.0	"	1	"	"	"	"	
1,1,1-Trichloroethane	ND	5.0	"	"	"	"	"	"	
Trichloroethene	56	5.0	"	"	"	"	"	"	
Vinyl chloride	ND	5.0	"	"	"	"	"	"	
Surrogate: Toluene-d8		93.5 %		85.5-116	"	"	"	"	
Surrogate: 4-Bromofluorobenzene		108 %		81.2-123	"	"	"	"	
Surrogate: Dibromofluoromethane		128 %		95.7-135	"	"	"	"	

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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [none] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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Volatile Organic Compounds by EPA Method 8260B - Quality Control
SunStar Laboratories, Inc.

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
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Batch 3081211 - EPA 5030 GCMS

Blank (3081211-BLK1)

Prepared & Analyzed: 08/12/13

Bromodichloromethane	ND	5.0	ug/kg							
Bromomethane	ND	5.0	"							
Carbon tetrachloride	ND	5.0	"							
Chlorobenzene	ND	5.0	"							
Chloroethane	ND	5.0	"							
Chloroform	ND	5.0	"							
Chloromethane	ND	5.0	"							
Dibromochloromethane	ND	5.0	"							
Dibromomethane	ND	5.0	"							
1,2-Dichlorobenzene	ND	5.0	"							
1,3-Dichlorobenzene	ND	5.0	"							
1,4-Dichlorobenzene	ND	5.0	"							
1,1-Dichloroethane	ND	5.0	"							
1,2-Dichloroethane	ND	5.0	"							
1,1-Dichloroethene	ND	5.0	"							
cis-1,2-Dichloroethene	ND	5.0	"							
trans-1,2-Dichloroethene	ND	5.0	"							
1,2-Dichloropropane	ND	5.0	"							
cis-1,3-Dichloropropene	ND	5.0	"							
trans-1,3-Dichloropropene	ND	5.0	"							
Methylene chloride	ND	5.0	"							
Styrene	ND	5.0	"							
1,1,2,2-Tetrachloroethane	ND	5.0	"							
Tetrachloroethene	ND	5.0	"							
1,1,2-Trichloroethane	ND	5.0	"							
1,1,1-Trichloroethane	ND	5.0	"							
Trichloroethene	ND	5.0	"							
Vinyl chloride	ND	5.0	"							
Surrogate: Toluene-d8	38.9		"	39.9		97.4	85.5-116			
Surrogate: 4-Bromofluorobenzene	43.1		"	39.9		108	81.2-123			
Surrogate: Dibromofluoromethane	40.9		"	39.9		102	95.7-135			

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Gribi Associates
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 Benicia CA, 94510

Project: Stony Point Cleaners
 Project Number: [none]
 Project Manager: Jim Gribi

Reported:
 08/13/13 13:00

Volatile Organic Compounds by EPA Method 8260B - Quality Control
SunStar Laboratories, Inc.

Analyte	Result	Reporting Limit	Units	Spike Level	Source Result	%REC	%REC Limits	RPD	RPD Limit	Notes
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Batch 3081211 - EPA 5030 GCMS

LCS (3081211-BS1)

Prepared & Analyzed: 08/12/13

Chlorobenzene	100	5.0	ug/kg	99.8		100	75-125			
1,1-Dichloroethene	77.7	5.0	"	99.8		77.9	75-125			
Trichloroethene	89.8	5.0	"	99.8		89.9	75-125			
Benzene	83.5	5.0	"	99.8		83.6	75-125			
Toluene	92.4	5.0	"	99.8		92.6	75-125			
Surrogate: Toluene-d8	39.1		"	39.9		98.0	85.5-116			
Surrogate: 4-Bromofluorobenzene	43.3		"	39.9		108	81.2-123			
Surrogate: Dibromofluoromethane	42.8		"	39.9		107	95.7-135			

LCS Dup (3081211-BS1)

Prepared & Analyzed: 08/12/13

Chlorobenzene	97.8	5.0	ug/kg	99.8		98.0	75-125	2.42	20	
1,1-Dichloroethene	79.5	5.0	"	99.8		79.7	75-125	2.22	20	
Trichloroethene	89.6	5.0	"	99.8		89.8	75-125	0.223	20	
Benzene	83.8	5.0	"	99.8		84.0	75-125	0.418	20	
Toluene	92.8	5.0	"	99.8		93.0	75-125	0.431	20	
Surrogate: Toluene-d8	38.7		"	39.9		96.9	85.5-116			
Surrogate: 4-Bromofluorobenzene	41.9		"	39.9		105	81.2-123			
Surrogate: Dibromofluoromethane	41.7		"	39.9		104	95.7-135			

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Gribi Associates 1090 Adam Street, Suite K Benicia CA, 94510	Project: Stony Point Cleaners Project Number: [note] Project Manager: Jim Gribi	Reported: 08/13/13 13:00
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Notes and Definitions

- E The concentration indicated for this analyte is above the calibration range of the instrument. This value should be considered as an estimate as the actual value may be higher.
- DET Analyte DETECTED
- ND Analyte NOT DETECTED at or above the reporting limit
- NR Not Reported
- dry Sample results reported on a dry weight basis
- RPD Relative Percent Difference

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Chain of Custody Record

SunStar Laboratories, Inc.
 25712 Commerce Centre Dr
 Lake Forest, CA 92630
 949-297-5020

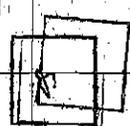
Client: Grb1 Associates
 Address: _____
 Phone: _____ Fax: _____
 Project Manager: J Grb1

Date: 8/9/13 Page: 1 of 1
 Project Name: Stony Point Cleaners
 Collector: J Grb1 Client Project #: _____
 Batch #: T131747 EDF #: _____

Sample ID	Date Sampled	Time	Sample Type	Container Type	Analysis	Laboratory ID #	Comments/Preservative	Total # of containers
B-A-0.5	8/9/13	1055	Soil	535 VHS	8260 Chlorinated HCS only	01		
B-A-1.0		1105			8260 + OXY	02		
B-B-1.0		1040			8260 BTEX, OXY only	03		
B-B-1.5		1050			8270	04		
B-C-0.5		1015			8021 BTEX	05		
B-C-1.0		1025			8015M (gasoline)	06		
B-C-1.5		1115			8015M (diesel)	07		
					8015M Ext./Carbon Chain			
					6010/7000 Title 22 Metals			
Relinquished by: (signature) <u>[Signature]</u> Date / Time <u>8/13 1430</u>					Received by: (signature) <u>[Signature]</u> Date / Time <u>8-9-13</u>	Total # of containers <u>40</u>		
Relinquished by: (signature) <u>[Signature]</u> Date / Time <u>8-10-13</u>					Received by: (signature) <u>[Signature]</u> Date / Time <u>9-05</u>	Chain of Custody seals <u>MINNA</u>		
Relinquished by: (signature) <u>[Signature]</u> Date / Time <u>8-10-13</u>					Received by: (signature) <u>[Signature]</u> Date / Time <u>9-05</u>	Seals Intact? <u>MINNA</u>		
Relinquished by: (signature) <u>[Signature]</u> Date / Time <u>8-10-13</u>					Received by: (signature) <u>[Signature]</u> Date / Time <u>9-05</u>	Received good condition/cold <u>40</u>		
Turn around time: <u>8:12 2:00 PM</u>					Notes: 24 HRS 24 HRS			

ASAP

COC 111253



SAMPLE RECEIVING REVIEW SHEET

BATCH # 7131747

Client Name: GRIBI

Project: STEADY POINT CLEANERS

Received by: SUNNY

Date/Time Received: 8/10/13 / 9:05

Delivered by: Client SunStar Courier GSO FedEx Other _____

Total number of coolers received 1 Temp criteria = 6°C > 0°C (no frozen containers)

Temperature: cooler #1 4.2 °C +/- the CF (-0.2°C) = 4.0 °C corrected temperature

cooler #2 _____ °C +/- the CF (-0.2°C) = _____ °C corrected temperature

cooler #3 _____ °C +/- the CF (-0.2°C) = _____ °C corrected temperature

Samples outside temp. but received on ice, w/in 6 hours of final sampling. Yes No* N/A

Custody Seals Intact on Cooler/Sample. Yes No* N/A

Sample Containers Intact Yes No*

Sample labels match COC ID's Yes No*

Total number of containers received match COC Yes No*

Proper containers received for analyses requested on COC Yes No*

Proper preservative indicated on COC/containers for analyses requested Yes No* N/A

Complete shipment received in good condition with correct temperatures, containers, labels, volumes preservatives and within method specified holding times. Yes No*

* Complete Non-Conformance Receiving Sheet if checked Cooler/Sample Review - Initials and date SL 8/10/13

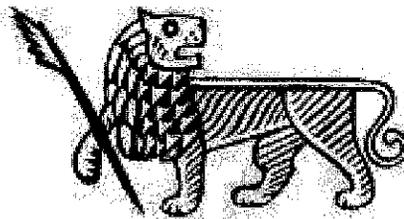
Comments:

EXHIBIT J

In The Matter Of:
MANAGEMENT AFFILIATES v.
KNAPP

JAMES GRIBI
October 3, 2013

GROSSMAN & COTTER
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SONOMA

MANAGEMENT AFFILIATES (ManAff)
& BEN BRETT dba for DAVID
PASLIN, an individual,

Plaintiff(s),

vs.

Case No. SCV 244318

ELMER B. KNAPP, an individual; and
YOUNG P. HAHN, an individual; and
U.L. HAHN aka TIM HAHN, an
Individual; and DAVID J. HOFFMAN; an
individual; and PHILLIP M. STEINBOCH,
an individual; and PETER J. SUK, an
individual; and HELEN SUK, an
individual; and PACIFIC INVESTMENT
GROUP, INC.; and STONY POINT
ASSOCIATES; and Does 1 to 99,

Defendants.

AND ALL RELATED CROSS ACTIONS.

DEPOSITION OF JAMES GRIBI

October 3, 2013

Reported by: DEBBY CLARY, CSR NO. 9705

Registered Merit Reporter

A P P E A R A N C E S

FOR PLAINTIFFS:

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FOR DEFENDANTS STONY POINT ASSOCIATES, DAVID J. HOFMANN

(erroneously sued as DAVID J. HOFFMAN) and PHILLIP M.

STEINBOCK (erroneously sued as PHILLIP M. STEINBOCH):

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FOR DEFENDANT PACIFIC INVESTORS GROUP:

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BY: CHRISTOPHER MOONEY, ESQ.

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christophermooney@paulhastings.com

1 exhibit.

2 (WHEREUPON, DEFENDANTS' EXHIBIT F
3 WAS MARKED FOR IDENTIFICATION.)

4 BY MR. BOYD:

5 Q. Okay. Now, looking at Figure 3, which is on
6 the first page of Exhibit F that you've just been
7 handed, which is -- would you agree that that Figure 3
8 is Figure 3 from the September 4th report is the same?

9 A. Yes.

10 Q. Okay. Looking at that figure, does that depict
11 the northern portion of the Stony Point Cleaners site --

12 A. Yes.

13 Q. -- or facility?

14 Looking at the box in the lower right-hand
15 corner of that figure labeled "Dry cleaning machine not
16 in use," do you see that?

17 A. Yes.

18 Q. What brand of dry cleaning machine is that?

19 A. I'm not sure.

20 Q. When was it installed?

21 A. I believe it was installed when the dry cleaner
22 was put in operation. I think that's correct.

23 Q. And what do you base that assumption on?

24 A. I think Brian Kelleher talked to the previous
25 owner. I'm relying on information from him.

1 Q. You've not independently verified the
2 information?

3 A. No.

4 Q. Or the date of installation of that machine?

5 A. No.

6 Q. Do you have any reason to dispute that that
7 machine was installed in 1992?

8 A. No.

9 Q. Looking at the upper left-hand portion of this
10 description, or this diagram on, which is Figure 3, that
11 shows a circle with a boiler in it. Do you see that?

12 A. Yes.

13 Q. What is the manufacturer of that boiler?

14 A. I don't know.

15 Q. And when was that boiler installed?

16 A. I don't know.

17 Q. Looking at the circle called "Compressor," you
18 see that on the diagram?

19 A. Yes.

20 Q. And do you know the brand name or the
21 manufacturer of that compressor?

22 A. No.

23 Q. And do you know when that compressor was
24 installed?

25 A. No.

1 Q. And same questions on the water heater, do you
2 know the brand name or --

3 A. No.

4 Q. -- the date of installation, is that --

5 A. No.

6 Q. You do not know the brand name or the date of
7 installation of the water heater; is that right?

8 A. Correct.

9 Q. And the same as to the dry vac, correct?

10 A. Correct.

11 Q. And the same as to the water softener, correct?

12 A. Correct.

13 Q. Do you have any information as to when the
14 floor drain was installed?

15 A. No.

16 Q. Do you have any reason to dispute that the
17 facility, including the locations of this equipment, was
18 remodeled and changed after 1987?

19 A. No. I don't have any firsthand knowledge of
20 that.

21 Q. Okay. That boiler is a heavy piece of
22 equipment, isn't it?

23 MR. KALFEN: Objection; vague and ambiguous.

24 THE WITNESS: It's a, yeah, it is a big piece
25 of equipment.

1 Q. This conclusion you have here assumes that the
2 crack existed from the very beginning of operations in
3 1981, correct?

4 A. Yeah, I think the assumption is that by,
5 whenever the dry cleaning, whenever the floor drain was
6 put in and they cut out the concrete and put in new
7 concrete, that that caused the crack that, I mean the
8 crack obviously started from the edge of the, of the, of
9 the floor drain and radiated out from there.

10 If there was no floor drain there and it was
11 just the concrete slab without -- they cut a big
12 rectangle out of there to put in the floor drain. If
13 that wouldn't have occurred, then there's every
14 likelihood that that crack wouldn't, wouldn't have
15 occurred, because, and so that's, you know, that's, the
16 crack occurred after the floor drain was put in.

17 It couldn't have been otherwise because the
18 concrete that surrounds the floor drain was put in as
19 part of the floor drain. So the assumption is that when
20 the floor drain was put in, that the crack occurred
21 sometime after that and as a result of putting in the
22 floor drain.

23 Q. But you don't know when the crack occurred,
24 correct?

25 A. No. That's correct.

1 Q. Okay. And this statement here that the
2 discharges could have been prevented by sealing of the
3 floor with a thick coat of epoxy resin assumes that that
4 sealing occurred after the floor crack was in existence,
5 correct? Simply sealing a floor with no cracks in it,
6 the epoxy resin is going to crack along with the floor,
7 correct?

8 A. Yes.

9 Q. So this assumes that, what you're saying here
10 is if somebody saw a crack in the floor that, assuming
11 the crack didn't increase in size, if they put an epoxy
12 resin over it, it would have sealed the floor and kept
13 the discharges from happening, correct?

14 A. Yes.

15 Q. But again, you have no idea whether it was
16 before or after 1987 that this crack occurred, correct?

17 MR. KALFEN: Objection; asked and answered.

18 THE WITNESS: Correct.

19 BY MR. BOYD:

20 Q. And if, that means that if the epoxy resin had
21 been installed before 1987, it may have cracked along
22 with the concrete if the crack occurred after 1987,
23 correct?

24 A. Yeah, I think what we were trying to say there
25 is that if you noticed the crack, then if you had taken

1 Q. And to be clear, you have installed monitoring
2 wells on the Stony Point property south of the known
3 contaminated area that have come back with no detects in
4 the shallow groundwater aquifer, correct?

5 A. Correct.

6 Q. Are there any other sources aside from the
7 crack that you would call significant in this case?

8 A. Not that I'm aware of, no.

9 Q. Can you describe for me any quality control
10 steps that you performed during your, let's just start
11 with groundwater sampling.

12 MR. KALFEN: Objection; overbroad.

13 THE WITNESS: Well, we use the same sampling
14 protocols that, that are standard for the industry, and
15 in terms of sampling methods, sample preservation, use a
16 certified laboratories and that sort of thing.

17 BY MR. BOYD:

18 Q. As far as collecting the samples, what's, for
19 grab sample, grab groundwater samples, what technique do
20 you use?

21 A. Typically, kind of the standard is to use, to
22 drill the boring to a certain depth and then install
23 temporary PVC casing and collect the sample using a
24 small diameter bailer.

25 Q. And the casing will have screens at different

1 I, DEBBY CLARY, duly authorized to administer
2 oaths pursuant to Section 2093(b) of the California Code
3 of Civil Procedure, do hereby certify: That the witness
4 in the foregoing deposition was by me duly sworn to
5 testify the truth in the within-entitled cause; that
6 said deposition was taken at the time and place therein
7 cited; that the testimony of the said witness was
8 reported by me and was hereafter transcribed under my
9 direction into typewriting; that the foregoing is a
10 complete and accurate record of said testimony; and that
11 the witness was given an opportunity to read and correct
12 said deposition and to subscribe the same.

13 Should the signature of the witness not be
14 affixed to the deposition, the witness shall not have
15 availed him or herself of the opportunity to sign or the
16 signature has been waived.

17 I further certify that I am not of counsel, nor
18 attorney for any of the parties in the foregoing
19 deposition and caption named, nor in any way interested
20 in the outcome of the cause named in said caption.

21 DATED: October 11, 2013

22 

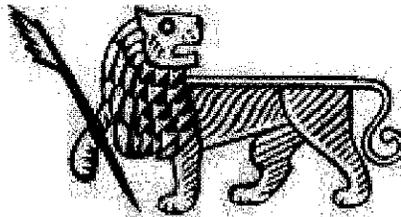
23 DEBBY CLARY, CSR. NO. 9705
24 REGISTERED MERIT REPORTER
25

EXHIBIT K

In The Matter Of:
MANAGEMENT AFFILIATES v.
KNAPP

BRIAN KELLEHER
October 4, 2013

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SONOMA

MANAGEMENT AFFILIATES (ManAff)
& BEN BRETT dba for DAVID
PASLIN, an individual,

Plaintiff(s),

vs.

Case No. SCV 244318

ELMER B. KNAPP, an individual; and
YOUNG P. HAHN, an individual; and
U.L. HAHN aka TIM HAHN, an
Individual; and DAVID J. HOFFMAN; an
individual; and PHILLIP M. STEINBOCH,
an individual; and PETER J. SUK, an
individual; and HELEN SUK, an
individual; and PACIFIC INVESTMENT
GROUP, INC.; and STONY POINT
ASSOCIATES; and Does 1 to 99,

Defendants.

/

AND ALL RELATED CROSS ACTIONS.

/

DEPOSITION OF BRIAN KELLEHER

October 4, 2013

Reported by: DEBBY CLARY, CSR NO. 9705

Registered Merit Reporter

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(erroneously sued as DAVID J. HOFFMAN) and PHILLIP M.

STEINBOCK (erroneously sued as PHILLIP M. STEINBOCH):

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BY: JESSE A. BOYD, ESQ.

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FOR DEFENDANT PACIFIC INVESTORS GROUP:

PAUL HASTINGS, LLP

BY: CHRISTOPHER MOONEY, ESQ.

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San Francisco, California 94105-7100

(415) 856-7000

christophermooney@paulhastings.com

1 MR. BOYD: So go ahead and read back my
2 question. Sorry.

3 THE REPORTER: "But you don't know which
4 direction they came in from, you don't
5 know whether they ran along the back wall,
6 you don't know which direction they went
7 into the floor drain if they existed when
8 Mr. Hahn was there, correct?"

9 BY MR. BOYD:

10 Q. Is that correct, sir?

11 A. I said that's correct. But what difference
12 does it make?

13 MR. BOYD: Move to strike the nonresponsive
14 portions.

15 Q. Okay. Now, I believe that picture No. 2 shows
16 what appears to be the portion of the crack depicted in
17 Figure No. 3 running from the bottom right-hand corner
18 of the floor drain relatively diagonally to the lower
19 right corner of the photo; is that right?

20 A. Yes.

21 Q. And you don't know when that crack occurred, do
22 you?

23 A. I can't say for sure. My opinion is it
24 occurred as soon as they brought the heavy equipment
25 into the boiler room.

1 Q. Okay. That would be the boiler, correct?

2 A. The boiler and the whatever else was in there.

3 Q. Okay. And that would be the hot water heater,
4 correct?

5 A. Yes.

6 Q. Pointing you to Figure 3, it appears to me as
7 though the crack extends -- and that is the smaller
8 crack depicted on the figure, not the crack in the
9 raised concrete skirt that's depicted that looks larger,
10 but the smaller crack that appears to extend from the
11 boiler to the hot water heater stand... well, it appears
12 to me that that extends from the boiler to the hot water
13 heater stand.

14 Is that how it appears to you?

15 A. Which figure are we looking at again?

16 Q. We're looking at Figure 3. Sorry, this one.

17 A. Okay.

18 Q. And do you believe that that accurately
19 reflects the location of the crack?

20 A. Yes.

21 Q. And would you agree that that crack most likely
22 occurred upon installation of either the boiler or the
23 water heater or both?

24 MR. KALFEN: Objection; calls for speculation.

25 THE WITNESS: The boiler.

1 know?

2 A. I don't think they would. I think that all
3 those sample points are within the, probably very close
4 or within the shaded area for 10,000.

5 Q. Have you generated any reports on your own in
6 this matter?

7 A. No.

8 Q. You've relied on Mr. Gribi to generate the
9 technical data and reports related to the Stony Point
10 Cleaners, correct?

11 A. Correct.

12 Q. Would you defer to him as far as the
13 interpretation of those results?

14 A. They're his reports. You know, I suggest
15 language, suggest conclusions. I suggest
16 recommendations, but it's completely up to him.

17 Q. Okay.

18 A. It's his report.

19 Generally speaking, the contractors that I use,
20 we have, we have worked together for a long time in the
21 past. We trust each other. We respect each other.
22 It's not like we don't have disagreements on certain
23 things, but generally, we concur on most things. And in
24 the end it's their report. They get to put in whatever
25 they want to.

1 I, DEBBY CLARY, duly authorized to administer
2 oaths pursuant to Section 2093(b) of the California Code
3 of Civil Procedure, do hereby certify: That the witness
4 in the foregoing deposition was by me duly sworn to
5 testify the truth in the within-entitled cause; that
6 said deposition was taken at the time and place therein
7 cited; that the testimony of the said witness was
8 reported by me and was hereafter transcribed under my
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14 affixed to the deposition, the witness shall not have
15 availed him or herself of the opportunity to sign or the
16 signature has been waived.

17 I further certify that I am not of counsel, nor
18 attorney for any of the parties in the foregoing
19 deposition and caption named, nor in any way interested
20 in the outcome of the cause named in said caption.

21 DATED: October 11, 2013

22 

23 DEBBY CLARY, CSR. NO. 9705
24 REGISTERED MERIT REPORTER
25

EXHIBIT L

DECLARATION OF PETER SUK

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I, Peter Suk, hereby declare as follows:

1. I have not been offered any reward or inducement for the execution of this declaration. I have personal knowledge of the facts set forth below, and if called upon to do so, I would testify consistently with them.

2. From November 11, 1989 through February 17, 1996, I owned and operated Stony Point Cleaners, located at 469 Stony Point Road in Santa Rosa, California. I was involved in and oversaw the day-to-day operations on-site.

3. In 1992 I upgraded the equipment at Stony Point Cleaners. This involved: Replacement of the cleaning machine and boiler, and the installation of a water heater. There was no water heater on site when I purchased the business.

4. The separator water of the drycleaning machine installed in 1992 was collected in a drum and hauled away by a company called Safety Kleen. The drum was not located in the boiler room.

5. The crack shown in the photos attached as Exhibit A to this declaration did not exist during my tenure at Stony Point Cleaners.

6. The crack indicated in the diagram attached as Exhibit B to this declaration did not exist during my tenure at Stony Point Cleaners.

7. The boiler room shown in the photos attached hereto as Exhibit A was in much better condition during my tenure at Stony Point Cleaners.

8. During my tenure, there were only two pipes entering the floor drain in the boiler room – one from the boiler, and one from the water heater.

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9. When I purchased Stony Point Cleaners, and throughout my tenure, the boiler room was in good condition. There was no water damage to the walls or equipment and the walls were completely covered with undamaged sheetrock.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 24 day of October, 2013 in Oakland, California.


Peter Suk

EXHIBIT A



Photo 1: View of three soil borings in boiler room. B-A on left, B-B on upper right, and B-C on lower right side of photo. Floor crack at B-C readily visible on left side of photo.

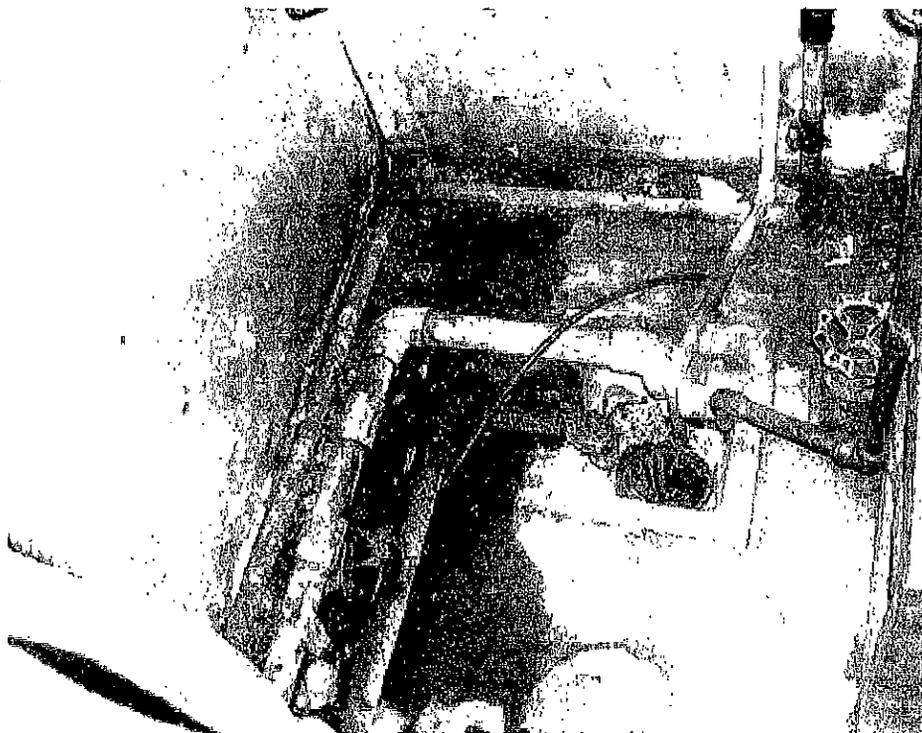


Photo 2: View of floor sink/drain area. Note crack in concrete on lower right side of photo, emanating from corner of sink. Boiler water collects along left wall because there are no breaches in concrete at that location (crack area is normally dry).

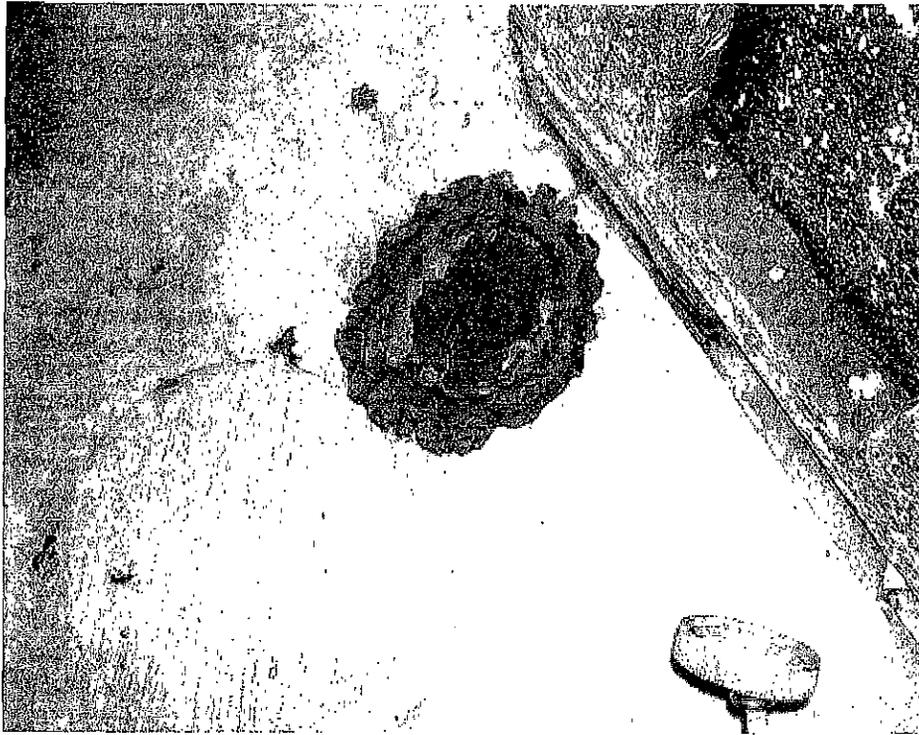


Photo 3: View of pour test in clay basin, just southwest of sink/drain area (boring B-C on lower left side of photo). Open crack, where water fell through crack, is visible in lower portion of basin.

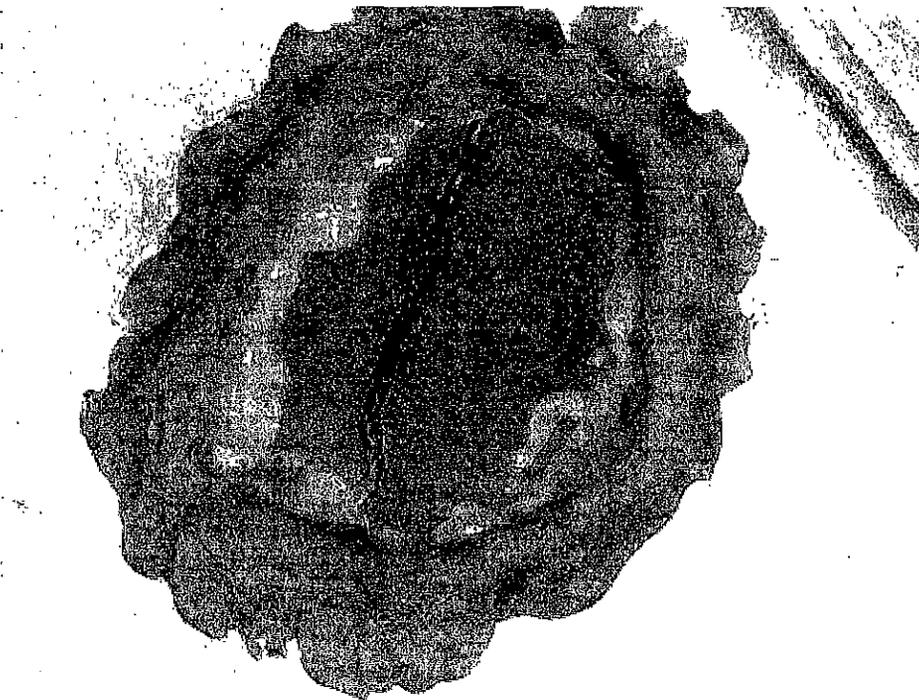


Photo 4: Close-up view of pour test in clay basin, just southwest of sink/drain area. Again, open crack, where water fell through crack, is visible on lower side of photo.

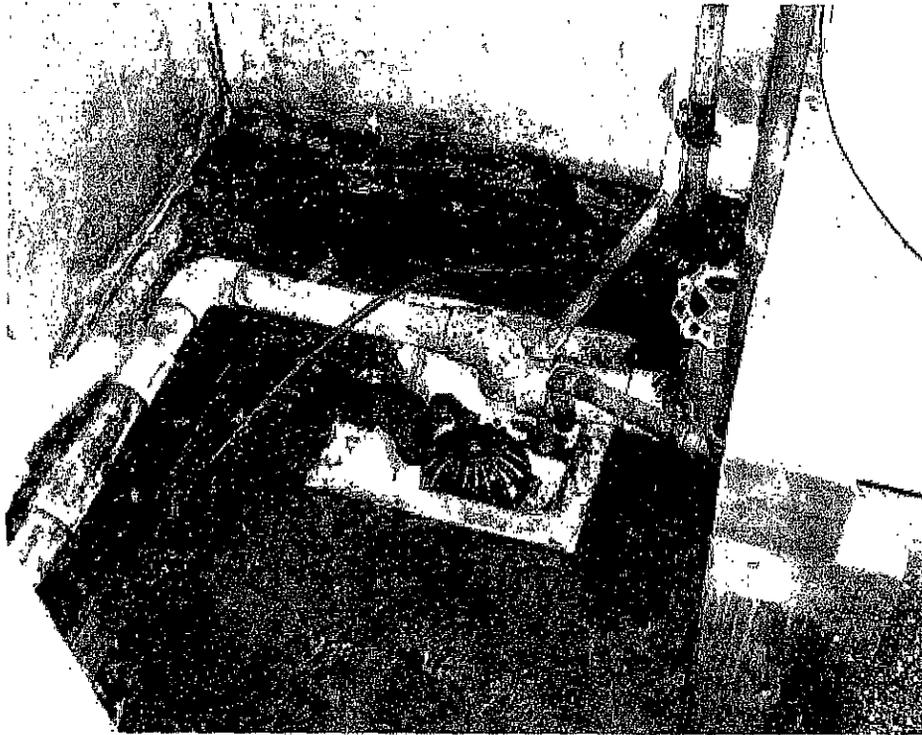


Photo 5: View of sink/drain area during 5-gallon pour test. Note crack on lower right side of photo does not have free water (water has infiltrated into crack).



Photo 6: View of crack following 5-gallon pour test. Note width of crack and lack of pooled water. Also, some small white flecks are visible in crack, having got caught as water fell into crack.

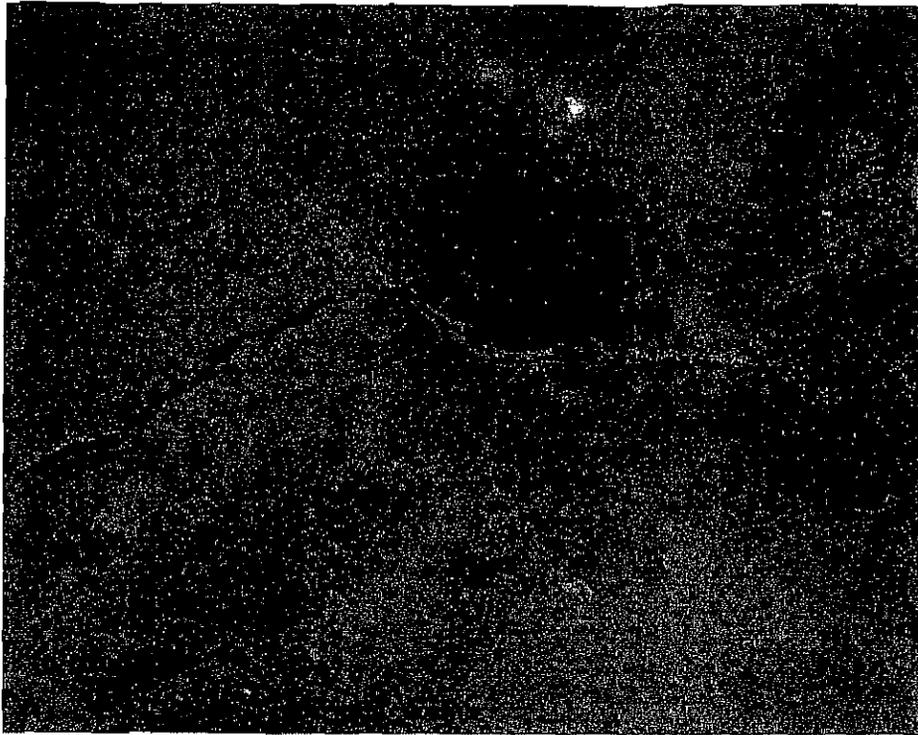
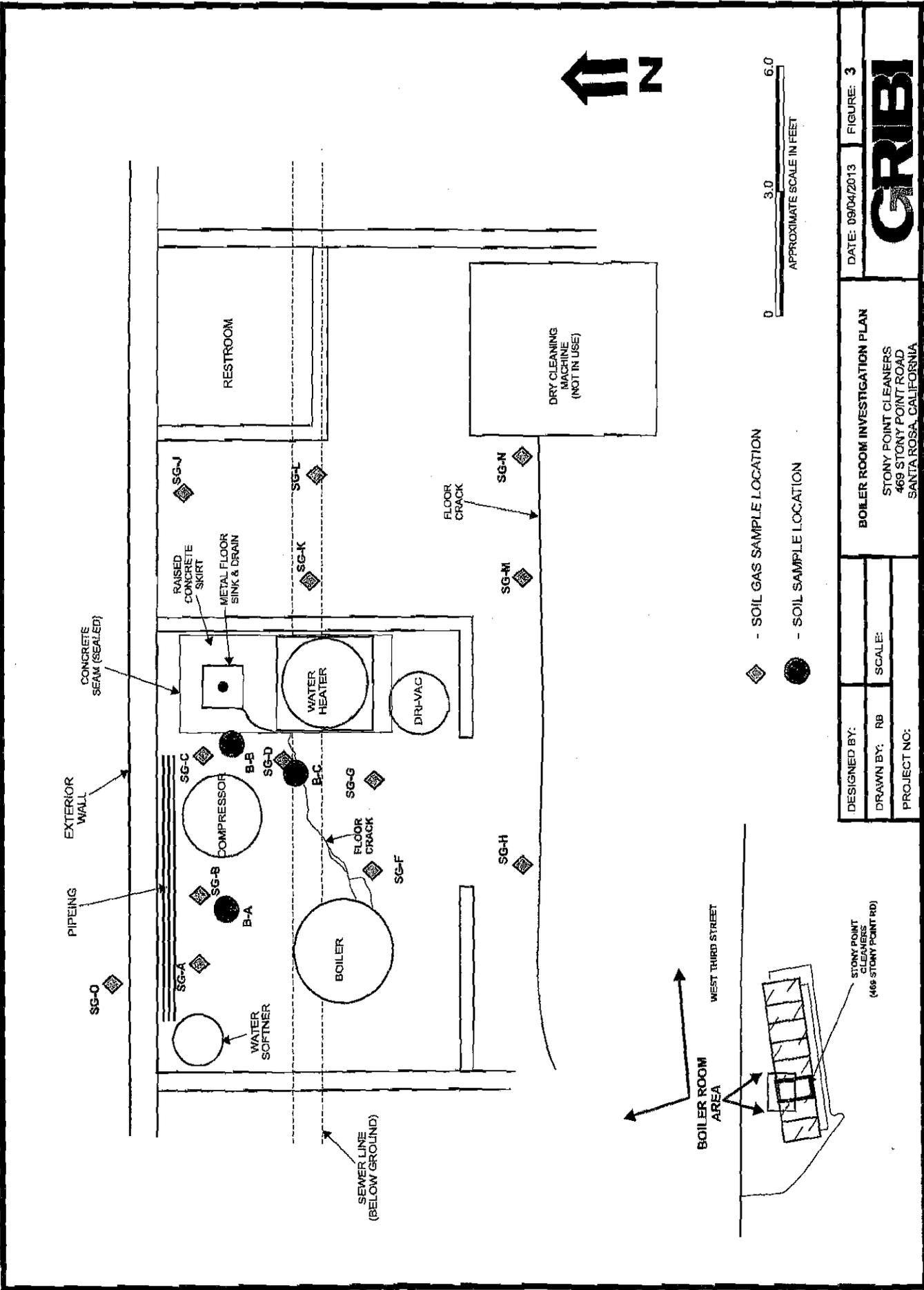


Photo 7: View of crack following 5-gallon pour test. Note width of crack and lack of pooled water. Also, some small white flecks are visible in crack, having got caught as water fell into crack.



Photo 8: View of crack following 5-gallon pour test. Note open (no liquid) portion of crack, where water fell into crack.

EXHIBIT B



DATE: 09/04/2013
 FIGURE: 3

BOILER ROOM INVESTIGATION PLAN
 STONY POINT CLEANERS
 469 STONY POINT ROAD
 SANTA ROSA, CALIFORNIA

DESIGNED BY:
 DRAWN BY: RB
 PROJECT NO:

SCALE:

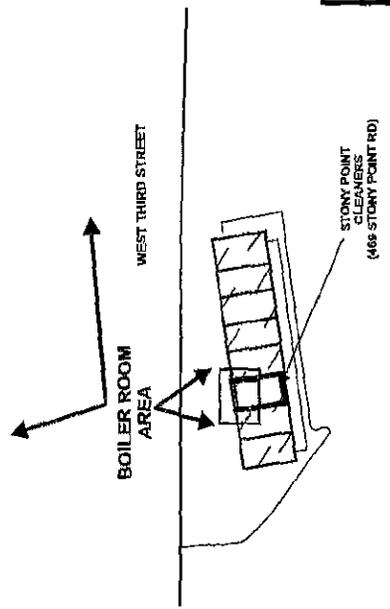
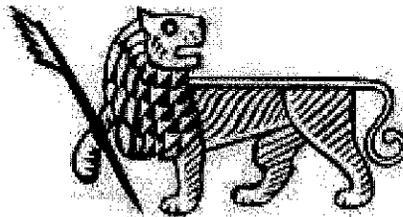


EXHIBIT M

In The Matter Of:
MANAGEMENT AFFILATES v.
KNAPP

TIM HAHN
September 23, 2013

GROSSMAN & COTTER
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650.324.1181
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SONOMA

MANAGEMENT AFFILIATES (ManAff)
& BEN BRETT dba for DAVID
PASLIN, an individual,

Plaintiff(s),

vs.

Case No. SCV 244318

ELMER B. KNAPP, an individual; and
YOUNG P. HAHN, an individual; and
U.L. HAHN aka TIM HAHN, an
Individual; and DAVID J. HOFFMAN; an
individual; and PHILLIP M. STEINBOCH,
an individual; and PETER J. SUK, an
individual; and HELEN SUK, an
individual; and PACIFIC INVESTMENT
GROUP, INC.; and STONY POINT
ASSOCIATES; and Does 1 to 99,

Defendants.

AND ALL RELATED CROSS ACTIONS.

DEPOSITION OF TIM HAHN

Volume I, Pages 1 to 257

September 23, 2013

Reported by: DEBBY CLARY, CSR NO. 9705

Registered Merit Reporter

A P P E A R A N C E S

FOR PLAINTIFFS:

KALFEN LAW CORPORATION

BY: HERMAN I. KALFEN, ESQ.

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FOR DEFENDANTS STONY POINT ASSOCIATES, DAVID J. HOFMANN

(erroneously sued as DAVID J. HOFFMAN) and PHILLIP M.

STEINBOCK (erroneously sued as PHILLIP M. STEINBOCH):

BUTY & CURLIANO, LLP

BY: JESSE A. BOYD, ESQ.

555 12th Street, Suite 1280

Oakland, California 94607

(510) 267-3000

jboyd@butycurliano.com

FOR DEFENDANT PACIFIC INVESTORS GROUP:

PAUL HASTINGS, LLP

BY: CHRISTOPHER MOONEY, ESQ.

55 Second Street, 24th Floor

San Francisco, California 94105-7100

(415) 856-7000

christophermooney@paulhastings.com

1 next to boiler and next to is the compressor. It was
2 kind of a -- but when I was there, the water softener
3 wasn't there.

4 Q. Okay.

5 A. But it was more like boiler was more like water
6 softener area, and then compressor close to, next to the
7 boiler.

8 Q. Okay. So your recollection was that the boiler
9 was where the water softener is located, and then to the
10 right of the boiler, if you're looking at the back wall,
11 the compressor was next to the boiler; is that right?

12 A. Yes.

13 Q. Okay. Then we have a water heater labeled to
14 the right of the boiler where the boiler currently
15 stands. Do you see that?

16 A. Yes.

17 Q. Okay. Was that water heater there when you --

18 A. No.

19 Q. -- when you owned the business?

20 A. No.

21 Q. Okay. Did you have a water heater when you
22 owned the business?

23 A. No.

24 Q. Okay.

25 A. You know, it, that, this diagram confused me.

1 Q. And there were racks for clothes, correct?

2 A. Yes.

3 Q. And there was the dry cleaning machine,
4 correct?

5 A. Yes.

6 Q. And the restroom?

7 A. Yes.

8 Q. In that area behind the counter, aside from
9 this carpeting that was along the west wall, was the
10 rest of the floor concrete?

11 A. Yes.

12 Q. Okay. And when you acquired the business, was
13 that concrete in good condition?

14 A. Yes.

15 Q. And were there any cracks -- putting aside the
16 boiler room -- in the rest of the facility, were there
17 any cracks in the concrete that you remember?

18 A. No.

19 Q. Okay. Now, looking back at what we've marked
20 as Exhibit D, can you see extending from the corner of
21 the floor drain, do you see that?

22 A. Yes.

23 Q. There is a crack that's diagramed there and
24 it's labeled "floor crack" in blue. Do you see that?

25 A. Yes.

1 Q. Stretching from the floor drain to the boiler.

2 Do you see that?

3 A. Yes.

4 Q. Okay. Was that crack there when you owned the
5 business?

6 A. No.

7 Q. Okay. Did you move any of the equipment in the
8 boiler room while you owned the business?

9 A. No.

10 Q. Did you have installed any new equipment in the
11 boiler room when you owned the business?

12 A. No.

13 Q. Okay. Sir, I'm going to give you another --
14 and mark this as next in line.

15 (WHEREUPON, DEFENDANTS' EXHIBIT F
16 WAS MARKED FOR IDENTIFICATION.)

17 BY MR. BOYD:

18 Q. I'm going to give you what is marked as
19 Exhibit F, and it's a series of pictures. It is three
20 pages. Going ahead and looking at photo No. 1 on the
21 first page of that exhibit. And I'll read the bottom,
22 and you just tell me if I'm reading it correctly, okay,
23 Mr. Hahn?

24 A. Yes.

25 Q. "View of three soil borings in boiler room.

1 it gets some kind of mixed up. I don't know for sure,
2 you know, it happened. I assume it happened --

3 Q. Okay.

4 A. -- because....

5 Q. And does it also -- well, strike that. I'll
6 leave that as it is.

7 And counsel is right, I don't want to speak in
8 generalities. Do you, if you have -- well, let's just
9 try this again. Do you have a recollection of the
10 cooker gasket leaking at Stony Point Cleaners while you
11 worked there?

12 A. Like I said, I'm not sure I, the one I'm
13 operating now, I did have a few times it, you know,
14 leaked, so I put the buckets and, you know, so on.

15 Q. But that's at the one in Hercules, correct?

16 A. Yeah, yes.

17 Q. Okay. As you sit here today, can you remember
18 that ever happening at Stony Point Cleaners?

19 A. Like I said, I don't remember for clearly.

20 Q. Okay. Same question as to any other gasket
21 associated with a dry cleaning machine, do you remember
22 any leaks as you sit here today that occurred at Stony
23 Point Cleaners?

24 A. It's just it's so long ago, I don't have a
25 clear memory of that, you know, where it was leaking or

1 not. I mean that's why if I, if somebody can get, you
2 know, the record of that, you know, check, there's some
3 better idea I can say because some reason he come and
4 fix the, you know, machines or whatever.

5 Q. Right. Okay. That makes sense. All right.

6 And you do remember -- but I do recall you
7 testifying to Mr. Kalfen that you remember a service
8 technician coming to the Stony Point Cleaners, correct?

9 A. Yes.

10 Q. Do you remember any of the reasons why the
11 service technicians came to Stony Point Cleaners?

12 A. Yes.

13 Q. Okay. And what were some of the reasons or
14 what were the reasons that you remember a service
15 technician coming to Stony Point Cleaners?

16 A. I do have some problem with the pressing
17 machine. Pressing machine is not working properly, so
18 he had to come in and fix the, you know, some hoses or
19 some few other things. Those things happen quite a bit.
20 Not quite a bit. Yeah, maybe once a year or so.

21 So I had to call the, you know, serviceman and
22 come in, you know, fix it for me. So he can fix that
23 for me or some other, sometimes boiler has some problems
24 sometimes. Then, you know, I have to call, you know,
25 boiler man to come and fix the boiler.

1 Q. Okay. I'm specifically talking about the
2 serviceperson that you would have used for the dry
3 cleaning machine. Was there a serviceperson you used
4 for the dry cleaning machine?

5 A. Most serviceperson usually handle almost
6 everything.

7 Q. Oh, okay. So this was a serviceperson that
8 was, that would do anything that was needed for the
9 business, right?

10 A. Usually, yes.

11 Q. Okay. So do you recall, that's again, right
12 now, do you have any recollection of having to call a
13 serviceperson to work on the dry cleaning machine as
14 opposed to any other equipment in the building?

15 A. I don't remember. But there was serviceman
16 came by four or five -- like I said, I don't remember,
17 but definitely the serviceman came in and fixed the,
18 either pressing machine or either cleaning machine or
19 either, either boiler or something because it, it's
20 normal process, you know, here and there it breaks down.

21 Q. And just to be clear, what I want is do you
22 have any memory specific to the dry cleaning machine of
23 the serviceperson coming in and fixing the dry cleaning
24 machine while you were at Stony Point Cleaners?

25 A. Like I say, it's possible because it's, you

1 know, the wire, some wires, the cleaning machine wires,
2 some mixed up, sometimes wire breaks down, wire burns or
3 the bulb burns out. Those things serviceman come and
4 fix it.

5 Q. And I want to be very clear. I don't want
6 possibilities, and I don't want guesses. I just want if
7 you recall whether or not you ever had a serviceperson
8 come in to work on the dry cleaning machine while you
9 were at Stony Point Cleaners?

10 A. My answer is I don't remember.

11 Q. Okay. Do you still use MBL and Echo as your
12 suppliers?

13 A. No. MBL is out of the business. They went
14 into bankruptcy.

15 Q. Do you still use Echo?

16 A. Echo, probably they closed down, too.

17 Q. When you were at Stony Point Cleaners, did you
18 use anybody other than MBL or Echo?

19 A. I don't remember.

20 MR. BOYD: I think that is all I have, sir.

21 And you may have some followup.

22 MR. KALFEN: Yes. Not much.

23 /

24 /

25 /

1 I, DEBBY CLARY, duly authorized to administer
2 oaths pursuant to Section 2093(b) of the California Code
3 of Civil Procedure, do hereby certify: That the witness
4 in the foregoing deposition was by me duly sworn to
5 testify the truth in the within-entitled cause; that
6 said deposition was taken at the time and place therein
7 cited; that the testimony of the said witness was
8 reported by me and was hereafter transcribed under my
9 direction into typewriting; that the foregoing is a
10 complete and accurate record of said testimony; and that
11 the witness was given an opportunity to read and correct
12 said deposition and to subscribe the same.

13 Should the signature of the witness not be
14 affixed to the deposition, the witness shall not have
15 availed him or herself of the opportunity to sign or the
16 signature has been waived.

17 I further certify that I am not of counsel, nor
18 attorney for any of the parties in the foregoing
19 deposition and caption named, nor in any way interested
20 in the outcome of the cause named in said caption.

21 DATED: October 1, 2013

22

23

24

25

DEBBY CLARY, CSR. NO. 9705



EXHIBIT N

1 MADELINE L. BUTY [SBN 157186]
2 JESSE A. BOYD [SBN 254894]
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4 555 - 12th Street, Suite 1280
5 Oakland, CA 94607
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10 Attorneys for Defendants
11 **STONY POINT ASSOCIATES**
12 **DAVID J. HOFMANN**
13 **PHILLIP M. STEINBOCK**

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF SONOMA**

16 MANAGEMENT AFFILIATES (ManAff) &
17 BEN BRETT dba for DAVID PASLIN, an
18 individual,

19 Plaintiff(s),

20 v.

21 ELMER B. KNAPP, *et al.*,

22 Defendants.

No. SCV 244318

**DECLARATION OF MURRAY
EINARSON IN SUPPORT OF STONY
POINT ASSOCIATES, DAVID J.
HOFMANN, AND PHILLIP M.
STEINBOCK'S MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY
ADJUCIATION**

Date: November 27, 2013

Time: 3:30 pm

Dept: 18

Judge: Hon. Nancy Case Shaffer

Trial: January 3, 2014

23 All related Cross-Claims

24 I, MURRAY EINARSON, hereby declare as follows:

25 1. I am a senior hydrogeologist and environmental consultant at Haley & Aldrich in
26 Oakland, California. I have more than 30 years of experience as a consultant and hydrogeologist,
27 and I specialize in environmental site characterization and remediation. I make this declaration
28 based upon my own personal knowledge, training, and experience, and if called to testify, I would
be able to testify truthfully to the facts contained herein.

1 2. I have reviewed data and reports generated by Gribi & Associates ("Gribi") related
2 to environmental investigations at Stony Point Shopping Center, located at 469 Stony Point Road
3 in Santa Rosa, California ("Property"), including the November 19, 2011 Report of Monitoring
4 Well Installation and Results of Third Quarter 2011 Groundwater Monitoring, the April 25, 2012
5 First Quarter 2012 Groundwater Monitoring Report, the October 26, 2012 Second Quarter 2012
6 Groundwater Monitoring Report, the April 26, 2013 Report of Monitoring Well Installation and
7 Soil Boring Investigation, and the September 4, 2013 Report of PCE Source Area Investigation.

8 3. The lateral and vertical extent of the contamination plume at the Property, combined
9 with the calculated groundwater velocity in the area and the relatively low levels of
10 perchloroethylene, trichloroethylene, dichloroethylene, and vinyl chloride, show that the plume is
11 the result of one or more relatively recent releases from Stony Point Cleaners, i.e. within the last 20
12 years. While there is no data indicating contamination related to releases prior to 20 years ago, to
13 the extent any such releases occurred, their contribution to the contamination currently seen at the
14 Property is either non-existent or negligible.

15 I declare, under penalty of perjury under the laws of the State of California, that the
16 foregoing is true and correct. Executed this 29th day of October, 2013, in
17 Oakland, California.

18
19
20 
21 _____
22 MURRAY EINARSON
23
24
25
26
27
28

EXHIBIT O

Haley & Aldrich, Inc.
1953 Webster Street
Suite 450
Oakland, CA 94612

Tel: 510.879.4544
Fax: 510.251.1304
HaleyAldrich.com

**HALEY &
ALDRICH**

10 January 2014
File No. 38913-000

North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, California 95403

Transmitted via email

Attention: Ms. Beth Lamb

Subject: Review of Draft Cleanup and Abatement Order
Stony Point Cleaners
Santa Rosa, California

Dear Ms. Lamb:

On behalf of counsel for Stony Point Associates, I have reviewed the Draft Cleanup and Abatement Order (CAO) provided to the various parties affiliated with the Stony Point Cleaners (469 Stony Point Road, Santa Rosa, California) on 6 December 2013. The Draft CAO was issued by the North Coast Regional Water Quality Control Board for the parties for review prior to issuance of a final version of the CAO on or about 31 January 2014.

For your information, I was retained by counsel for Stony Point Associates, owners of the Stony Point shopping center in 1984 and 1985,¹ in support of litigation between Stony Point Associates and current and past owners of the shopping center and current and past operators of Stony Point Cleaners.

I have carefully reviewed the Draft CAO. While the technical requests in the Draft CAO appear reasonable, it does not seem appropriate to require Stony Point Associates to be a party to future characterization and cleanup efforts. I have reviewed existing site characterization data in detail as part of my work on this project. All existing subsurface characterization data indicate that the dissolved plume of chlorinated solvent compounds has not migrated very far downgradient from the Stony Point Cleaners. For example, plume maps included in a recent Gribi & Associates technical report show the leading edge of the PCE plume (defined at a concentration of 10 ug/L) less than 300 feet from the source of the contamination at the Stony Point Cleaners.² The limited transport distance of dissolved PCE compared to the likely range of groundwater velocities in the subsurface near the site indicates that the release of PCE from Stony Point Cleaners occurred relatively recently, not nearly 30 years ago when Stony Point Associates owned the property.

¹ Stony Point Associates owned the shopping center for 16 months from February 1, 1984 to May 31, 1985

² Gribi & Associates, Report of PCE Source Area Investigation. September 4, 2013

North Coast Regional Water Quality Control Board
10 January 2014
Page 2

Consequently, on behalf of Stony Point Associates, I respectfully request that Stony Point Associates not be listed as a Discharger in the Draft CAO. Please contact me if you would like to discuss this further.

Sincerely yours,
Haley & Aldrich, Inc.

A handwritten signature in black ink, appearing to read "Murray Einarson". The signature is fluid and cursive, with a large initial "M" and "E".

Murray D. Einarson,
Principal Hydrogeologist

EXHIBIT P

Santa Rosa Fire Dept.

INSPECTION FORM

Address 469 STONY MT. RD. Occupancy STONY MOUNT CLEANERS
 Owner/Mgr. _____ Phone (Bus.) _____ (Home) _____
 Alternate _____ Phone (Bus.) _____ (Home) _____
 Bldg. Owner & Address _____
 Conditions Discussed with _____ Type of Business DRY CLEANING

AN INSPECTION OF YOUR FACILITY REVEALED THE FOLLOWING VIOLATIONS:

1- SECONDARILY CONTAIN PERCHLOROETHYLENE CONTAINERS. (NOU) AND WASTE

Completed 9/30/87 J. Ganz

YOU ARE HEREBY NOTIFIED THAT THE ABOVE CONDITIONS MUST BE CORRECTED AS SOON AS POSSIBLE.

A REINSPECTION WILL BE CONDUCTED ON OR ABOUT AUG 30 1987

Date 7-28 1987 Inspecting Officer J. Ganz Received By _____

SHIFT A B C FP COMPANY _____ OFFICE CODE _____
 Reinspection _____ 19 _____ Insp. Officer _____ Items Corrected Yes No
 Refer to F.P. _____ 19 _____ Refer to other _____ 19 _____

BUILDING:	Authority	
Address Numbers	U.F.C.	SEC. 10.208
Exits & Signs	U.F.C.	SEC. 12.101
Fire Doors	U.F.C.	SEC. 10.402
Attic Access Covers	U.F.C.	SEC. 11.406
Attic Separations	U.F.C.	SEC. 10.401
Aisles	U.F.C.	SEC. 12.103
Fire Wall Separations	U.F.C.	SEC. 10.402
Enclosed Stairwells	U.F.C.	SEC. 12.104
Elevators	U.B.C.	CHPT. 51
Open Stairways	U.F.C.	SEC. 12.106
Vertical Openings	U.B.C.	SEC. 4306
Emergency Lighting	U.F.C.	SEC. 12.113

FIRE EQUIPMENT:	Authority	
Alarm Systems	U.F.C.	SEC. 10.307
Dry Standpipes	U.F.C.	SEC. 10.302
Sprinkler System	U.F.C.	SEC. 10.302
Fire Dept. Connection	U.F.C.	SEC. 10.302
Wet Standpipes/Hose	U.F.C.	SEC. 10.302
Fixed Systems	U.F.C.	SEC. 10.315
Fire Extinguishers	U.F.C.	SEC. 10.302
Control Valves - Signs	U.F.C.	SEC. 10.302
Tests	U.F.C.	SEC. 10.302

ELECTRICAL:	Authority	
Wiring	U.F.C.	SEC. 05.101
Pictures	U.F.C.	SEC. 05.101
Appliances	U.F.C.	SEC. 05.101
Extension Cords	U.F.C.	SEC. 05.101
Cover Plates	U.F.C.	SEC. 05.101
Fuses/Breakers	U.F.C.	SEC. 05.101
Clearances	U.F.C.	SEC. 05.101

FLAMMABLE LIQUIDS:	Authority	
Containers	U.F.C.	ART. 79
Dispensing	U.F.C.	ART. 79
Handling	U.F.C.	ART. 79
Spray Painting	U.F.C.	ART. 46
Storage Areas	U.F.C.	ART. 79
Quantity	U.F.C.	ART. 79

HOUSEKEEPING:	Authority	
Storage	U.F.C.	SEC. 11.203
Waste Grass/Shrubs	U.F.C.	SEC. 11.201
Kitchen Hoods	U.F.C.	SEC. 11.406
Rubbish & Debris	U.F.C.	SEC. 11.201

HEATING EQUIPMENT:	Authority	
Appliances	U.F.C.	SEC. 11.404
Pipes & Valves	U.F.C.	SEC. 11.404
Vents	U.F.C.	SEC. 11.404
Clearances	U.F.C.	SEC. 11.404

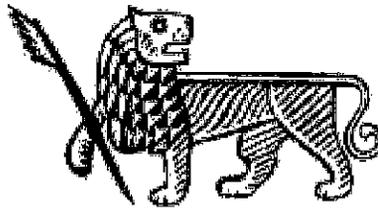
CHEMICALS:	Authority	
Storage	U.F.C.	ART. 80

EXHIBIT Q

In The Matter Of:
MANAGEMENT AFFILIATES v.
KNAPP

STANLEY KIM
November 20, 2013

GROSSMAN & COTTER
117 S CALIFORNIA AVE, SUITE D201
PALO ALTO, CA 94306
650.324.1181
www.gandc.com



GROSSMAN & COTTER
CERTIFIED COURT REPORTERS

COMP-U-SCRIPTS

Original File KIMSTA112013.txt

WEBER & WILZING

Min-U-Script® with Word Index

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1 this in around April 29th or early May 2002?
2 A. I don't remember.
3 Q. You don't remember this document at all?
4 A. No.
5 Q. Okay. Go ahead and take a look at it and read
6 it and have the translator help you if you have anything
7 that you don't understand.
8 (Interpreter translation.)
9 A. Oh, okay, I think I remember this one, yeah.
10 I see the time frame was wrong, other than my memory.
11 Yes, I know, yeah.
12 Q. That's why I wanted you to look at it.
13 A. Yeah. Now, I remember. Chris Murray, he also
14 a -- mention about this.
15 Q. Okay. And Chris Murray is mentioned here as
16 the inspector in --
17 A. Right, right, right.
18 Q. -- in paragraph 3(b); right?
19 A. Yes, yes.
20 Q. And you've actually dealt with Mr. Murray a
21 few times during your ownership of Stony Point Cleaners;
22 right?
23 A. Yes.
24 Q. Is this 2002 time the first time you ever
25 dealt with Mr. Murray?

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1 A. Yes.
2 Q. And as a result of this, this looks like --
3 this cease and desist order.
4 A. Yes.
5 Q. Did you understand this order to instruct you
6 no longer to put any wastewater into the sewer; is that
7 right?
8 A. Yes, yes.
9 Q. Okay. Is this --
10 A. Not in the sewer, but the toilet, he mention.
11 Q. In the toilet?
12 A. Yeah, yeah.
13 Q. Okay. And do you -- after this cease and
14 desist order, is this when you put in the mister?
15 A. This is the point -- the time period, when I
16 change the mist machine because I realize I can't use
17 that filtration system anymore, and also I got this --
18 actually I was -- I totally forgot about this letter,
19 but all I can remember is clearly a conversation with
20 Mr. Murray, which is the inspector. Yeah.
21 Q. And --
22 A. Probably, yeah, this is the time period that I
23 changed that mist machine.
24 Q. Okay. And how much did the mist machine -- I
25 mean, how much did the mist machine cost?

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1 A. It was originally like -- the selling price
2 was 900 something, but I got special deal with the 700
3 or something. Special deal with 700.
4 Q. Okay. So am I correct that between 1996 when
5 you purchased the business and having this visit from
6 Mr. Murray in 2002 that you never changed the filter on
7 the filter in the bathroom?
8 A. No.
9 Q. Is that right?
10 A. Yes.
11 Q. That's correct?
12 A. Um-hum.
13 Q. You have to say "yes."
14 A. Yes, yes.
15 MR. KALFEN: He doesn't have to say "yes." If
16 "yes" is your response, then "yes" would be the
17 appropriate response.
18 MR. BOYD: Well, to make the record clear, I
19 was only letting the witness know that he was saying
20 "um-hum" and nodding his head and I was just letting him
21 know that he had to say "yes."
22 MR. KALFEN: Fair enough. And I knew you were
23 doing that, too; just to make sure there wasn't any
24 other implication.
25 MR. BOYD: Thank you, Counsel.

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1 MR. KALFEN: You're welcome.
2 BY MR. BOYD:
3 Q. Okay. So now after the mister was installed,
4 tell me how the wastewater was dealt with from the
5 machine.
6 A. Mist machine.
7 Q. Okay. Did it have to go into the filter in
8 the bathroom still and then into the mist machine?
9 A. No, no, no.
10 Q. Okay. So how does it go from the machine into
11 the mist machine? Strike that.
12 Before you answer: How does the wastewater
13 travel -- strike that. I want to make sure we're at the
14 right time.
15 So in around 2002 when you got the mist
16 machine -- are we on the same page?
17 A. Yes.
18 Q. -- the way the wastewater was treated from the
19 dry cleaning machine changed; right?
20 A. Yes.
21 Q. Okay. How did it change? What was the new
22 way of dealing with wastewater from the dry cleaning
23 machine after you got the mist machine?
24 (Interpreter translation.)
25 A. I using a mist machine, which is after collect

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1 wastewater out of the machine, dry cleaning machine, I
2 pour into the mist machine. That top contains --
3 contains 2.5 gallons at a time, and then it misting by
4 air pressure to the roof.
5 Q. Okay. I'm going to --
6 A. That's what I did.
7 Q. Okay. I'm going to take you back to Exhibit
8 D, which is the pictures. Okay. And you remember you
9 circled the mist machine before?
10 A. Yeah, yeah.
11 Q. Okay. Tell me how you would pour the -- well,
12 strike that.
13 Looking at the bucket with the blue label.
14 A. Yes.
15 Q. That's where the water would collect; correct?
16 A. Yes.
17 Q. And then you would pour it where in the mist
18 machine?
19 A. The top of -- top of mist machine. There's no
20 lid right now on the picture, and after opening the lid,
21 I pour it right on top of it.
22 Q. It looks like there's a handle inside the mist
23 machine?
24 A. Yeah, handle, which is access nozzle. This is
25 the closing plug -- actually called plug. When I pour

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1 it, I have to open it and then pour it, and then wait
2 until it goes down, and then lock it -- lock the bell
3 top part and bottom part bell has to be open to mist.
4 Q. Okay.
5 A. Pushing out by air.
6 Q. Okay. How long does the process of
7 transferring the bucket of water into the mist machine
8 take, say, two-and-a-half gallons?
9 A. Oh, probably two, three minutes.
10 Q. Okay. So it's a much faster process --
11 A. Of course, yes.
12 Q. -- than the filter was?
13 A. Yes.
14 Q. Is that right?
15 A. Yes.
16 Q. And then once the water from the machine is in
17 the mist machine, then compressed air comes in from the
18 compressor; correct?
19 A. Yes.
20 Q. And then the water is sent through a tube
21 outside -- away from the mist machine up onto the roof
22 and spread out over in the air --
23 A. In the air.
24 Q. -- to evaporate?
25 A. Yes.

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1 Q. Is that right?
2 A. Yes.
3 Q. Does that happen all year round, including
4 middle of winter?
5 A. Yes.
6 Q. And the pipe that -- or the tube that comes
7 from the mist machine outside to the exterior runs along
8 the inside of the building; correct?
9 A. I'm sorry.
10 Q. It runs along -- strike that.
11 The tube that goes from the misting machine
12 runs along the wall above the door of the bathroom;
13 correct?
14 A. Yes.
15 Q. In your business?
16 A. Yes.
17 Q. And then it goes out the wall and then up to
18 the roof?
19 A. Out to the fan, the fan space, because the
20 tube is quarter inch.
21 Q. Okay. There's still two extra -- we have the
22 mist machine here.
23 Did you still collect extra wastewater in five
24 gallon buckets even after you got the mist machine?
25 A. After I got the mist machine, I don't really

Page 108

1 have to use this one, yeah.
2 Q. Okay. So do you --
3 A. Not often as before, I used the mist machine.
4 Q. Not as often?
5 A. Yeah, not as often.
6 Q. But sometimes?
7 A. Sometimes.
8 MR. BOYD: I'm just going to march through
9 these. This is J.
10 (Whereupon, Deposition Exhibit J was
11 marked for identification.)
12 BY MR. BOYD:
13 Q. Okay. I'll represent to you that I received
14 documents in date order or semi-date order from
15 Mr. Kelleher. That's where I got these documents.
16 The J here was in a folder called 1998. It
17 looks like the very first page is a cancellation notice.
18 It looks to be from 1997.
19 Do you believe that that cancellation notice
20 on the cover there is the cancellation notice that Mr.
21 Brett was sending a letter to you about that we
22 discussed earlier?
23 (Interpreter translation.)
24 A. Yes.
25 Q. Okay. Turning to a letter or a document dated

1 Q. Okay.

2 A. All I know is -- you know, 'cause they've been

3 around -- found several customers in Santa Rosa, you

4 know, not just me.

5 Q. Okay. But is it your understanding that their

6 problems came from one of the customers that -- was that

7 a facility they were servicing, or was it their facility

8 if you know?

9 A. Their facility.

10 Q. Moving on: We've marked Exhibit R. Okay. We

11 were previously reviewing that. There has been some

12 reference in the pictures to PCE barrels.

13 Did you ever have any PCE stored on-site for

14 the machine during the time you've owned it?

15 A. There's one drum, which is 50-gallon drum, and

16 there's a 30-gallon drum inside, which is a double

17 container required by AQMD, if I'm using it, which is

18 about waterproofing processing.

19 Q. Okay.

20 A. Yeah.

21 Q. So you had -- did you have a waterproofing

22 process during the time you owned Stony Point Cleaners?

23 A. Some period of time.

24 Q. Do you still have --

25 A. Until the AQMD stop proceeding. They want me

1 performing it?

2 A. No.

3 Q. Okay. Why don't you go ahead and tell me what

4 the process was to waterproof a piece of clothing?

5 A. Processing is, for example, raincoat, if they

6 want to waterproof, there's about -- about ten --

7 between 10 to 15 gallons always, one-third of drum lower

8 level. That's the limitation. You can't go for, you

9 know, more than 15 gallons of PCE solvent, and I had to

10 mix with clear crystal, which is waterproofing solution,

11 gallons of it, and mix with it.

12 When I do the waterproofing of the garments, I

13 have to soak in once all the way in with chemical gloves

14 and then -- before I put it in, there's a basket between

15 liquid and garment. There's a basket, metal basket, so

16 that the basket cannot exit out of the drum because

17 leakage -- concerning over leakage.

18 Q. Okay.

19 A. So after soak it, lift that basket out and

20 hang it on the side of drum and the top off and set it

21 overnight.

22 Q. Set it --

23 A. Set it overnight. That -- all the PCE and

24 liquid is --

25 Q. Dripping back into the drum?

1 to stop it.

2 Q. Okay.

3 A. Not just me, all the cleaners.

4 Q. Right. Do you remember about when that

5 happened?

6 A. It's hard to remember.

7 Q. Was it after --

8 A. Many years ago.

9 Q. Was it after 2002 when you got the cease and

10 desist order?

11 A. Could be or not. I'm not sure.

12 Q. Would you say it's around the same time frame?

13 A. I'm not sure.

14 Q. Okay. Am I correct that you did waterproofing

15 process during the time that you owned Stony Point

16 Cleaners at Stony Point Cleaners?

17 A. Yes.

18 Q. And you started doing that right from the time

19 you opened in 1996; correct?

20 A. Yes, I believe so. Yeah.

21 Q. And you did it for a number of years

22 afterward; correct?

23 A. Few years.

24 Q. Okay. Why don't you tell me -- did the

25 process change at all during the time you were

1 A. Dripping back into the drum.

2 Q. Okay.

3 A. Like semi dry.

4 Q. Got it. And then you take it -- take the

5 garment out the next day and hang it up?

6 A. Put it in the dryer. No, not to hang it up.

7 That's illegal.

8 Q. Oh, okay. Put it in the dryer?

9 A. Put it in the dryer and dry cycle.

10 Q. Okay. And the dryer is where?

11 A. In the dry cleaning machine.

12 Q. So you put it back in the dry cleaning

13 machine?

14 A. That's right.

15 Q. And turn it on for the drying cycle?

16 A. Right.

17 Q. And how did you move the garment from the --

18 well, strike that.

19 Where was the waterproofing station at Stony

20 Point Cleaners?

21 A. Right by the bathroom door.

22 Q. Okay.

23 A. Next to the bathroom door, which is now --

24 there's one drum in there. It's empty. BF 2000,

25 hydrocarbon, yeah.

EXHIBIT R

RECEIVED

MAY 01 2002

SANTA ROSA FIRE DEPT

H1 ✓



CITY OF SANTA ROSA

April 29, 2002

File

UTILITIES DEPARTMENT
SUBREGIONAL WATER RECLAMATION SYSTEM
4300 Llano Road
Santa Rosa, CA 95407
707-543-3350
Fax: 707-543-3399

STANLEY KIM
STONY POINT CLEANERS
469 STONY POINT ROAD
SANTA ROSA CA 95401

*
* CEASE AND DESIST ORDER
*

LEGAL AUTHORITY

The following findings are made and Order issued pursuant to the authority vested in the City of Santa Rosa's Environmental Services Superintendent under the Santa Rosa City Code Title 15-Sewers, Chapter 15-08.090 B(3). This Order is based on findings of violation under the Santa Rosa City Code Title 15 - Chapter 15-24.040 G.

FINDINGS

1. STONY POINT CLEANERS discharges non-domestic wastewater containing pollutants into the Laguna Subregional Reclamation Facility.
2. STONY POINT CLEANERS was issued a Wastewater Discharge Permit #SR-NR2078 on May 8, 1998 which contains prohibitions, restrictions, limitations, and special requirements related to the discharge of wastewater to the sanitary sewer.
3. During an inspection on April 26, 2002, STONY POINT CLEANERS was found to be in violation of the Sewer Use Ordinance and Wastewater Discharge Permit #SR-NR2078 in the following manner:
 - a. Samples taken by this office on April 24, 2002 found wastewater containing Perchloroethylene (PCE) in a private sewer lateral connected to STONY POINT CLEANERS.
 - b. An inspection by City of Santa Rosa Industrial Inspector, Chris Murray confirmed the Perchloroethylene (PCE) source to be a Vic Hydrosorb Carbon Filter used to treat condensate at STONY POINT CLEANERS.
 - c. It appears the Vic Hydrosorb Carbon Filter is not being replaced on a consistent basis and resulting in Perchloroethylene (PCE) to break through and discharge to the sanitary sewer.
 - d. PART 1, PAGE 3, PROVISION #7 of STONY POINT CLEANERS Wastewater Discharge Permit states Perchloroethylene, PCE is prohibited from being discharged to the sanitary sewer. Any water separator condensate or any other waste containing Perchloroethylene (PCE) shall be collected, stored and disposed of as hazardous waste.

CEASE AND DESIST
STONY POINT CLEANERS
April 29, 2002
Page 2

NOTICE

THEREFORE, BASED ON THE ABOVE FINDINGS, STONY POINT CLEANERS IS HEREBY NOTIFIED THAT:

1. It is in violation of City of Santa Rosa City Code Title 15-Sewers, and Wastewater Discharge Permit #SR- NR2078.
2. Due to the serious nature of this illegal discharge, the City of Santa Rosa has ordered you to cease any discharge of treated condensate water or any other Perchloroethylene (PCE) related compounds to the sanitary sewer.
3. STONY POINT CLEANERS is hereby required to start collecting condensate water for off-site disposal by a licensed hauler.
4. STONY POINT CLEANERS shall obtain prior approval from this office before resumption of any condensate treatment.
5. Failure to comply with this order will constitute a further violation of the Santa Rosa City Codes Chapter 15 Sewers and may subject STONY POINT CLEANERS to civil or criminal penalties or such other enforcement response as may be appropriate up to and including immediate termination of services.
6. This Notice, entered this the 29th day of April, 2002 will be effective upon receipt by STONY POINT CLEANERS Pending further investigation, additional enforcement action may be initiated by the City of Santa Rosa.

Your cooperation is greatly appreciated. If you have any questions or comments please call me or Chris Murray at (707)543-3369.

Chris Murray
For

LYNN M. SMALL
Environmental Services Superintendent

LMS:td

cc: Scott Stinebaugh, Deputy Director Utilities Operations
Joan Fleck, North Coast Regional Water Quality Control Board
Jim Frank, Santa Rosa Fire Department
Mark Mahre, Santa Rosa Police Department

(Sue Warner)

EXHIBIT S

Murray, Chris

From: Murray, Chris
Sent: Tuesday, June 05, 2007 8:58 AM
To: 'jfleck@waterboards.ca.gov'; Vincent, Corey
Subject: FW: Stony Point Cleaners

Hi Joan, and Corey,

I thought you might be interested in the latest issue with this dry cleaning plant since there has been recent complaints and on-going groundwater issues.

Thanks,

Chris

-----Original Message-----

From: Jeremy Kimball [mailto:JKimball@baaqmd.gov]
Sent: Wednesday, May 30, 2007 7:19 AM
To: Murray, Chris
Subject: RE: Stony Point Cleaners

Hi Chris:

The "mister" or evaporation/carbon filter device is an acceptable method when operated properly, though given the shop you are talking about, I question if much of anything is done "properly."

That machine is on its last legs, and the owner has little money to do repairs or buy a new machine. I cited him for perc vapor leaks about a year ago, and gave him a Notice to Comply more recently.

Definitely a shop to keep an eye on. Thank you for the heads up.

Jeremy W. Kimball
Senior Air Quality Inspector
Bay Area Air Quality
939 Ellis Street
San Francisco, CA 94109
415-749-5023

-----Original Message-----

From: Murray, Chris [mailto:CMurray@ci.santa-rosa.ca.us]
Sent: Tue 5/29/2007 11:32 AM
To: Jeremy Kimball
Cc: Taylor, Bruce
Subject: Stony Point Cleaners

Hi Jeremy,

I am alerting you to a condition that I found last week at Stony Point Cleaners. I performed the inspection at this dry cleaning plant with our new inspector and we found that there is an on-going leak in a steam line that serves the VIC dry to dry unit. The leak is causing water to accumulate within their containment and the owner has been getting rid of the water on-site by evaporating it with a mister. He further told us that someone from BAAQMD told him this disposal method is okay. Let me know if that is any different. Also, we found the carbon filter serving the mister has never been changed for 3 years and required the owner to replace it with a new filter by June 5, 2007.

Thanks,

Chris Murray
Industrial Waste Inspector
City of Santa Rosa
(707) 543-3393

Murray, Chris

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Chris Murray
Industrial Waste Inspector
City of Santa Rosa
(707) 543-3393

EXHIBIT T

NOV #:	A10368
Issue Site:	A4905 Stony Point Cleaners 469 Stony Point Road, Santa Rosa, CA 95401 707 544-2536
Contact:	S.P. Kim/D.W. Lee 469 Stony Point Road, Santa Rosa, CA 95401
Issuance:	Jun 14, 2002 Jorge Franco 451
Violation #:	A10368A Comments: 1100 PPM Vapor Leak On Lint Trap Gasket
Violated:	11-16-309.2
Final disposition:	Resolution, Mutual Settlement, Mar 19, 2003

NOV #:	A46620
Issue Site:	A4905 Stony Point Cleaners 469 Stony Point Road, Santa Rosa, CA 95401 707 544-2536
Contact:	S.P. Kim/D.W. Lee 469 Stony Point Road, Santa Rosa, CA 95401
Issuance:	Jun 21, 2006 Jeremy Kimball 606
Violation #:	A46620A Comments: 2 baks > 1000 ppm - door & cylinder back
Violated:	11-16-309.2.4
Final disposition:	Resolution, Mutual Settlement, Oct 11, 2006

EXHIBIT U

The following is an anonymous letter received by Terry Meckwith sometime between Dec 2 + Dec 4th & faxed to me Dec 4, 2006.

As a previous customer of the Stony Point Cleaners I must admit that I was very dissatisfied with their so called "quality services." Here is a list of my complaints:

1. The store hours are never precise and many times I had to forgo with clean clothing on my business trips.
2. I've also noticed that many of my clothing have been returned smelling distinctively of their cleaning chemical perc. I have noted this to them and they had failed to fix the problem.
3. I take regular walks around the local neighborhood and every time I pass the shopping center I see that there is not back door for the cleaners and as I walk by I am hit by the strong smell of chemicals.
4. The biggest problem I have noticed is that on one of my walks I saw the owner carrying in a can of perc. I heard that the owner had obtained the can in an illegal way. I have also heard they had spilled perc many times around the cleaning machines. I emphasize this point because the chemical is highly dangerous. If spilt its fumes are toxic to humans, and a contamination to the environment.

With all of these negative attributes I do not think that this dry cleaner's services is not acceptable in this shopping center. I am not the only one in my complaints, many of the local people have complained and we all agree that this store should not be in this shopping center.

Thank you for your time and patience

478 Stony Point Road
Santa Rosa, CA 95401
(707) 575-9200
Fax: (707) 575-4546



Fax

To: David Pashin	From: Terry Meckstroth
Fax: (510)852-5156	Pages: 2
Phone: (650) 522-8806	Date: November 7, 2006
Re: Letter Re: Cleaners	CC:

Urgent
 For Review
 Please Comment
 Please Reply
 Please Recycle

• **Comments:**

Dear Mr. Jones,

This letter is about the chemical smells. I have thought about this matter for a good amount of time and I think this is a good time to bring it up. I believe, you as the manager, are the right person to talk to about this problem. I hope to discuss this problem with the landlord directly, maybe. I have used this facility for a long time and whenever I walk into the area, I am able to smell chemicals. To my discovery, I found the ground contaminated with cleaning solution. The smell was too strong to bear. I am sure that the ground is contaminated with a great amount of solution. Having worked with many chemicals in the cleaning business, I have heard that this chemical causes many health problems including cancer. This will not only be a big problem for the landlord, but also for me. Right now, I care about not only the smell, but also for my health and also the health of my employees and neighbors. As the manager, I am confident that you can do something about this matter. Thank you

Sincerely,