

1 DONALD C. NANNEY  
State Bar No. 62235  
2 GILCHRIST & RUTTER  
Professional Corporation  
3 1299 Ocean Avenue, Suite 900  
Santa Monica, California 90401-1000  
4 Telephone: (310) 393-4000  
Facsimile: (310) 394-4700  
5 Email: [dnanney@gilchristutter.com](mailto:dnanney@gilchristutter.com)  
6 Attorneys for Petitioner  
Northridge Properties, LLC  
7  
8

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

9  
10  
11 In the Matter of Los Angeles Regional Water  
12 Quality Control Board 13267 Order –  
Northridge Properties, LLC, former Zero  
13 Corporation Facility, 777 North Front Street,  
Burbank, California  
14  
15

NO.

SECOND PETITION FOR REVIEW,  
REQUEST FOR HEARING AND REQUEST  
FOR STAY

16  
17 Pursuant to Water Code Section 13320(a) and California Code of Regulations, Title 23,  
18 Section 2050 *et seq.*, Northridge Properties, LLC (“Petitioner” or “Northridge Properties”),  
19 respectfully petitions the State Water Resources Control Board (“State Board”) for review and for  
20 stay of the Requirement for Technical Reports Pursuant to California Water Code Section 13267  
21 Order, Former ZERO Corporation Facility, dated August 6, 2014, issued by the Los Angeles  
22 Regional Water Quality Control Board (“RWQCB” or “Regional Board”) (Regional Board File  
23 No. 109.6162) to Petitioner (the “Second Order”), a true and correct copy of which is attached as  
24 Exhibit 2 to the Declaration on Donald C. Nanney in Support of Second Petition for Review  
25 (“Nanney Dec. #1”) submitted herewith.

26 This Second Petition also serves to supplement the Petition for Review, Request for  
27 Hearing and Request for Stay, In the Matter of Los Angeles Regional Water Quality Control  
28 Board 13267 Order – Northridge Properties, LLC, former Zero Corporation Facility, 777 North

1 Front Street, Burbank, California, dated June 9, 2011, Petition No. A2167 (the “Initial Petition”),  
2 with respect to the Requirement for Technical Reports Pursuant to California Water Code Section  
3 13267 Order, Former ZERO Corporation Facility, dated May 10, 2011, issued by the Regional  
4 Board to Petitioner (the “Initial Order”). No stay was granted by the State Board; no notice was  
5 issued to the Regional Board and other interested persons to file a response to the Initial Petition;  
6 no hearing has been held; and the Initial Petition remains pending at the State Board. In the Initial  
7 Petition, Northridge Properties reserved the right to submit additional reasons and additional  
8 supporting material and exhibits, and since there has been no hearing or action by the State Board  
9 on the Initial Petition, Northridge Properties hereby supplements the Initial Petition with the  
10 additional evidence and contentions set forth in this Second Petition and supporting declarations.

11 This Second Petition will largely avoid reiteration of the evidence and grounds stated in  
12 the Initial Petition, which are reconfirmed, as supplemented by this Second Petition and  
13 supporting declarations.

14 **REQUEST FOR REVIEW**

15 **I. Name and Address of Petitioner.**

16 The Petitioner is Northridge Properties, LLC, a California corporation, 15505 Roscoe  
17 Boulevard, North Hills, CA 91343. Petitioner may be contacted through counsel of record:  
18 Donald C. Nanney, Gilchrist & Rutter Professional Corporation, 1299 Ocean Avenue, Suite 900,  
19 Santa Monica, California 90401; (310) 393-4000; [dnanney@gilchrstrutter.com](mailto:dnanney@gilchrstrutter.com).

20 **II. Specific Action or Inaction for Which this Second Petition is Sought.**

21 The Regional Board action or inaction for which this Second Petition is filed concerns the  
22 issuance of the Second Order, as follows:

23 A. Improper issuance of the Second Order (as well as the Initial Order) in  
24 wrongful participation with the U.S. Environmental Protection Agency (“EPA”) in pursuit of a  
25 scheme to breach, and deprive Northridge Properties of the benefits of, the Agreement and  
26 Covenant Not to Sue, Docket No. 2000-03, dated March 16, 2000 (the “Covenant”), between the  
27 EPA and Ford Leasing Development Company. A copy of the Covenant is attached as Exhibit 3  
28 to Nanney Dec. #1. The Covenant was subsequently transferred to Northridge Properties when it

- 1 acquired the property as an innocent purchaser in 2005 (see Exhibit 4 to Nanney Dec. #1).
- 2           B.       Improper issuance of the Second Order in continued wrongful pursuit of
- 3 investigations improperly commenced with the Initial Order.
- 4           C.       The implicit refusal, by virtue of issuance of the Second Order (as well as
- 5 the Initial Order) to accept Petitioner’s offers of access to the Former Zero Facility for the
- 6 Regional Board and/or EPA to conduct the desired investigations at agency expense.
- 7           D.       Improper issuance of the Second Order (and the Initial Order) in pursuit of
- 8 claims barred by the contribution protection accorded by the Covenant.
- 9           E.       Improper issuance of the Second Order based on finding of barely detectible
- 10 level of hexavalent chromium (“Cr6”) in soil, well below state screening levels even for
- 11 residential property and not justifying further investigation or action.
- 12           F.       Improper issuance of the Second Order based on the EPA Regional
- 13 Screening Level (RSL) for Cr6 in soil (as threat to groundwater) that cannot be measured, illegally
- 14 applying federal “guidance” as a “de facto” rule to compel action, resulting in arbitrary and
- 15 capricious administrative action.
- 16           G.       Issuance of the Second Order (as well as the Initial Order) and pursuit of the
- 17 asserted requirements without timely opportunity for hearing and administrative due process.
- 18           H.       Issuance of the Second Order (as well as the Initial Order), notwithstanding
- 19 the Certificate of Completion, on the contention that the Certificate applies only to VOCs and does
- 20 not apply to preclude environmental enforcement action as to chromium.
- 21           I.       Petitioner reserves the right at or before the requested hearing to state
- 22 additional specific actions or inactions for which review is sought.

23           **III.    Date the Regional Board Acted or Failed to Act.**

24           The date of the Regional Board’s most recent action or inaction that is subject to review is

25 August 6, 2011, the date of issuance of the Second Order by the Executive Officer of the Regional

26 Board, without benefit of a public hearing. Earlier actions described in the Initial Petition remain

27 subject to review as well.

28

1           **IV.    Statement of Reasons the Action is Inappropriate and Improper.**

2           The following items correspond to the actions listed in Section II of this Petition, and are  
3 supplemental to the reasons stated in the Initial Petition.

4           A.       Even though the title of the Covenant says “not to Sue,” the Covenant also  
5 applies to administrative action. Paragraph 42, at page 18 of the Covenant (at Exhibit 3 to Nanney  
6 Dec. #1), provides that:

7                     ...the United States covenants not to sue or take any other civil or administrative  
8 action against any Settling Respondent for any and all civil liability for injunctive  
9 relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of  
10 CERCLA, 42 U.S.C. §§ 9606 or 9607(a), or Section 7003 of RCRA, 42 U.S.C. §  
11 6973, with respect to Existing Contamination.

12                    Paragraph 46, at page 20 of the Covenant, provides that:

13                     ...nothing in this Agreement is intended to limit the right of EPA to undertake  
14 future response actions at the Site or to seek to compel parties other than Settling  
15 Respondents to perform or pay for response actions at the Site.

16                    Those provisions preclude the EPA from compelling Northridge Properties (as a  
17 Settling Respondent), by either judicial or administrative means, to perform or pay for response  
18 actions at the site. That is, of course, the fundamental intent of the Covenant sought and obtained  
19 by Ford Leasing as initial Settling Respondent and by Northridge Properties as transferee.

20                    The scheme between the Regional Board and the EPA involved using the Regional  
21 Board’s apparent authority to order investigations by Northridge Properties under pretense of  
22 independent state action, in order to accomplish indirectly what the EPA could not do directly  
23 with respect to Northridge Properties due to the Covenant. The presently available evidence of  
24 this wrongful conduct and conspiracy by the Regional Board and EPA, compiled without the  
25 benefit of formal discovery procedures, is outlined in Nanney Dec. #1 and supporting exhibits.

26                    The evidence shows that the scheme was pursued in coordination with EPA  
27 personnel, including Lisa Hanusiak, the EPA Project Manager for the Glendale Chromium  
28 Operable Unit (GCOU) of the San Fernando Valley (“SFV”) Area 2 Superfund Site, and with the  
front line assistance of Alex Lapostol, an EPA Contractor attached to the Regional Board. The  
*Second Five-Year Review Report for San Fernando Valley — Area 2 Superfund Site, Glendale,*

1 *Los Angeles County, California*, dated September 30, 2013, contains an Interview Record with  
2 Mr. Lapostol and Larry Moore, a Regional Board Staff Environmental Scientist (see Exhibit 20 to  
3 Nanney Dec. #1). According to that Interview Record, Mr. Lapostol functions as the EPA’s “eyes  
4 and ears” at the Regional Board to provide “support on behalf of EPA to identify chromium PRPs  
5 (though in some cases VOCs and chromium overlap), fulfill EPA information needs, and assist the  
6 state in enforcing the water code,” which is exactly what he has been doing in this case.

7                   Indeed, as shown in Paragraph 44 of Nanney Dec. #1, Mr. Lapostol admitted that  
8 he actually drafted the Second Order!

9                   Moreover, according to the Interview Record, the EPA must concur in all cleanup  
10 levels, implicitly including all investigation levels, also administered by Mr. Lapostol at the  
11 Regional Board on behalf of the EPA.

12                   **The eyes and ears and fingerprints of EPA are all over the Regional Board**  
13 **action in this matter, destroying the pretense of independent state action.**

14                   When confronted with the breach of the Covenant, Mr. Lapostol has attempted to  
15 maintain the pretense by saying that the investigation “is strictly a Regional Board investigation.”  
16 See Paragraph 46 and Exhibit 22 to Nanney Dec. #1. This shows Mr. Lapostol’s understanding  
17 that Northridge Properties is protected by the Covenant that would be breached by EPA action,  
18 hence the necessity for the pretense.

19                   When confronted by the unwarranted and unreasonable nature of the insistence on  
20 additional investigation in view of the minuscule finding of Cr6, Mr. Lapostol has said that the  
21 EPA is pressuring the Regional Board and more investigation is needed to “appease” the EPA.  
22 See Paragraph 48 to Nanney Dec. #1.

23                   Mr. Lapostol tries to have it both ways. The consciousness of guilt is palpable.

24                   The Regional Board has wrongfully participated in the scheme, in effect as an agent  
25 and co-conspirator with EPA, enabling the EPA to deny to Northridge Properties, an innocent  
26 purchaser, its rightful expectation of protection under the Covenant against exactly what has been  
27 taking place in this case.

28                   B.       The Initial Order was also improper for the reasons stated in the Initial

1 Petition. Issuance of the Second Order continues the wrongful pursuit of investigations  
2 commenced with the Initial Order.

3 C. It was and is Northridge Properties' obligation under the Covenant to  
4 provide access for environmental investigation or other response action deemed necessary by EPA  
5 or state authorities. Consistent with its obligations under the Covenant, Northridge Properties has  
6 offered access on a number of occasions as stated in Paragraph 8 of Nanney Dec. #1 , including as  
7 recently as May 14, 2014, in the meeting with Regional Board staff and Mr. Lapostol, EPA  
8 Contractor. Instead of accepting that offer, the Regional Board proceeded to issue the Second  
9 Order on August 6, 2014, thereby implicitly refusing the offer of access.

10 Naturally, the agencies would wish to avoid incurring the cost of investigations and  
11 would rather have such work done at private party expense. The EPA and Regional Board had a  
12 two-pronged strategy to achieve that objective in this case.

13 First, the EPA entered into an Administrative Settlement Agreement and Order on  
14 Consent for Remedial Investigation (the "AOC") with several responsible parties (see Paragraph  
15 14 of Nanney Dec. #1). The AOC required the AOC Respondents to install monitoring wells at  
16 the northwesterly (later changed to northeasterly), upgradient end of the Former Zero Facility and  
17 at the southeasterly, downgradient end of the Former Zero Facility, for off-site data to assess the  
18 potential contribution to the groundwater contamination plume from the Former Zero Facility.

19 Second, the agencies desired on-site data to assess potential on-site sources of Cr6  
20 releases to soil. This prong of the scheme was to require Northridge Properties to conduct the  
21 investigation at its expense. To accomplish that, the EPA and Regional Board had to ignore the  
22 Covenant, bust the Certificate of Completion and reopen the site, with the Regional Board to issue  
23 directives under color and cover of independent state action by the Regional Board.

24 While Northridge Properties has no objection to the first prong of the strategy, the  
25 second prong was not legally and rightfully available to the agencies because Northridge  
26 Properties was an innocent purchaser protected by the Covenant, as detailed in this Second  
27 Petition, and by the Certificate of Completion as detailed in the Initial Petition.

28 D. The purportedly independent action by the Regional Board was and is

1 barred by the contribution protection accorded to Northridge Properties by the Covenant. See  
2 Paragraph 60 at page 31 of the Covenant (at Exhibit 3 to Nanney Dec. #1), which provides:

3 “...protection from contribution actions or claims as provided by CERCLA Section  
4 113(f)(2), 42 U.S.C. § 8613(f)(2), for matters addressed in this Agreement. The  
5 matters addressed in this Agreement are all response actions taken or to be taken  
6 and response costs incurred or to be incurred by the United States or any other  
7 person for the Site with respect to the Existing Contamination.”

8 The definition of “Existing Contamination” (set forth in Paragraph 11 at page 5 of the Covenant”)  
9 is broad and certainly encompasses chromium in all its forms. No allegation has been made in this  
10 case that the minuscule Cr6 findings include anything other than Existing Contamination from the  
11 standpoint of time and manner of origination. If the Regional Board undertook investigation itself  
12 and sought cost recovery from Northridge Properties, such a claim would be barred clearly. So  
13 too is any “response action” related to Existing Contamination under the terms of the Covenant. A  
14 directive to undertake environmental investigation is a “response action” with respect to which the  
15 protection applies just as well, and by virtue of contribution protection against response actions,  
16 the Regional Board is barred.

17 Accordingly, both the Initial Order and the Second Order are barred by the  
18 Covenant as a matter of federal law, even if the actions of the Regional Board were otherwise  
19 independent and proper under state law.

20 E. The finding that the Regional Board uses as justification for the ordered  
21 additional boring was 0.41 mg/kg Cr6 in soil, barely above the method detection limit of 0.40  
22 mg/kg. The state Office of Environmental Health Hazard Assessment (OEHHA) has issued soil  
23 screening numbers. The screening level for Cr6 in soil is 17 mg/kg for residential property and 37  
24 mg/kg for commercial/industrial property. See the OEHHA Soil Screening Numbers Table 1  
25 (Updated September 23, 2010), available at [oehha.ca.gov/chhsttable.html](http://oehha.ca.gov/chhsttable.html). Thus, the finding that  
26 has kept this investigation open is well below state guidelines for Cr6 in soil, even for residential  
27 property, and does not justify further investigation.

28 F. Faced with no justification for further action under state guidelines, Mr.  
Lapostol has pointed to EPA guidelines as justification, specifically the Regional Screening Level  
 (“RSL”) for Cr6 as threat to groundwater, which was 0.00059 mg/kg when Mr. Lapostol first

1 resorted to it in discussions, and is currently 0.00067 mg/kg. As shown in Paragraph 12 of the  
2 Declaration of Eric Smalstig in Support of Second Petition for Review (the “Smalstig  
3 Declaration”), that RSL for Cr6 is three orders of magnitude (a factor of one thousand times)  
4 below the ability of chemical laboratories to detect and quantify the presence of that chemical. As  
5 discussed more fully below, such an application of “guidance” to support regulatory enforcement  
6 action treats the “guidance” as an illegal “de facto” rule to compel action, resulting in arbitrary and  
7 capricious regulatory action.

8 G. As detailed in the Declaration of Donald C. Nanney in Support of Second  
9 Petition for Review (“Nanney Dec. #2”), the system is rigged to coerce compliance with regional  
10 board orders of this nature on peril of substantial penalties for noncompliance without benefit of  
11 either prior hearing or timely and effective post-order administrative remedies. The State Board  
12 should step in to remedy this situation in this case by granting a stay and proceeding to hearing on  
13 the merits.

14 H. Some time after the issuance of the Initial Order, agency staff contended  
15 informally that the Certificate of Completion applied only to VOCs and provided no protection  
16 with respect to chromium. The Initial Order was said to be valid for that reason, insofar as the  
17 Certificate was concerned, and presumably the same contention would be made respecting the  
18 Second Order. That contention is unavailing for the reasons set forth in the Declaration of Donald  
19 C. Nanney in Support of Second Petition for Review (“Nanney Dec. #3”). The contention is based  
20 on the absurd notion that the site designation of the Regional Board for the Former Zero Facility  
21 somehow limited its jurisdiction to VOC’s, which is clearly incorrect. Moreover, the contention is  
22 contrary to the formal action of the Regional Board in the Initial Order in treating the Certificate  
23 of Completion as fully applicable in the context of chromium but with one or two of the statutory  
24 exceptions to the protection also applicable. Petitioner disputes that any exception applies.  
25 Finally, the mention of VOC’s in the Certificate does not limit its scope where the matters  
26 investigated were in fact broader, as shown in the Initial Petition.

27 I. Petitioner reserves the right at or before the requested hearing to state  
28 additional reasons why the Regional Board’s action or inaction is inappropriate and improper.

1           **V. How Petitioner is Aggrieved.**

2           Petitioner is aggrieved for the reasons set forth in Paragraph IV above, in addition to the  
3 reasons set forth in the Initial Petition. Petitioner is aggrieved by the ongoing requirement to incur  
4 environmental investigation costs, when Petitioner was only supposed to have to allow access for  
5 federal or state authorities to conduct such investigations. Petitioner is aggrieved by the ongoing  
6 cloud over its property due to the unwarranted and improper orders of the Regional Board.  
7 Petitioner reserves the right at or before the requested hearing to state additional ways in which it  
8 is aggrieved by the Regional Board’s inappropriate and improper action.

9           **VI. Petitioner’s Requested Action by the State Board [See Below for Request to**  
10           **Stay the Order].**

11           Petitioner respectfully requests the State Board to determine that the Regional Board’s  
12 actions in issuing the Initial Order and the Second Order were inappropriate and improper, to  
13 vacate the Initial Order and Second Order and to clarify the Regional Board’s letter of May 10,  
14 2011, as requested in the Initial Petition.

15           **VII. Statement of Points and Authorities.**

16           Petitioner reserves the right at or before the requested hearing to submit additional  
17 supporting materials and exhibits. Meanwhile, Petitioner submits the following statement of  
18 points and authorities focusing on certain additional issues raised in this Second Petition. The  
19 Initial Petition remains pending and in full effect awaiting review and hearing by the State Board,  
20 as supplemented by this Second Petition and supporting declarations and exhibits.

21           **The Covenant Not to Sue Has Been Breached**

22           A “covenant of good faith and fair dealing is implied in every contract. It requires each  
23 party not to do anything which will deprive the other parties thereto of the benefits of the contract .  
24 . . (and) to do everything that the contract presupposes that he will do to accomplish its purpose”  
25 (internal quotation marks omitted). Vale v. Union Bank (1979) 88 Cal.App. 3d 330, 151 Cal. Rptr.  
26 784, 787. See also, Pasadena Live, LLC v. City Of Pasadena (2004) 114 Cal.App.4<sup>th</sup> 1089, 1090,  
27 1093, 8 Cal. Rptr. 3d 23

28           Under the circumstances and evidence reviewed in this Second Petition and supporting

1 declarations, it is clear that the implied covenant has been breached by EPA with the Regional  
2 Board’s cooperation and assistance.

3 Both the Covenant and implied covenant are in full force and effect, without any good  
4 grounds for the EPA to require anything of Northridge Properties other than to provide access  
5 upon request for any environmental studies or response actions deemed necessary by the EPA or  
6 state. But, instead of keeping faith with the Covenant, EPA personnel and contractors have  
7 engineered, together with the Regional Board, a scheme to defeat the purpose of the Covenant and  
8 deprive Northridge Properties of its protections, in flagrant breach of the implied covenant of good  
9 faith and fair dealing. That scheme has already forced Northridge Properties to incur expenses  
10 unjustly as a result of the Initial Order, and threatens to repeat that injury by virtue of the Second  
11 Order. Other damages are also incurred by Northridge Properties while its property remains under  
12 the cloud of pending regulatory enforcement action, which complicates and compromises the  
13 ability of Northridge Properties to make use of the vacant property and enter into transactions for  
14 its development.

15 **The Covenant Not to Sue Has Been Breached Indirectly and Directly**

16 Perhaps as a corollary of the implied covenant of good faith and fair dealing: “It is an old  
17 maxim of the law that a person will not be permitted to do indirectly what he cannot do directly.”  
18 Stadia Oil & Uranium Company V. Wheelis, 251 F.2d 269, 275 (10<sup>th</sup> Cir. 1957). See also, J. L.  
19 Hunter v. The Superior Court of Riverside County (1939) 36 Cal.App.2d 100, 109, 97 P.2d 492.

20 As discussed above, the EPA itself is not in a position directly to compel response action  
21 by Northridge Properties without breaching the Covenant. Hence the need to act indirectly  
22 through the Regional Board under pretense of independent state action. The EPA may not  
23 lawfully act indirectly in that way, and the enabling participation in the scheme by the Regional  
24 Board is improper.

25 Moreover, the EPA has – through the actions of Mr. Lapostol (EPA Contractor) and Ms.  
26 Hanusiak (EPA Project Manager) – directly breached the Covenant by virtue of its direct oversight  
27 of the Regional Board’s activities regarding the Former Zero Facility and its direct participation in  
28 connection with the Initial Order and Second Order issued by the Regional Board to Northridge

1 Properties.

2 **The Regional Board’s Orders are Barred by the Covenant’s Contribution Protection**

3 See the discussion under item IV.D. above.

4 **The Second Order is Arbitrary and Capricious and Illegal**

5 As shown on Figure 3 at Exhibit 1 to Nanney Dec. #1, the investigation compelled by the  
6 Initial Order yielded a finding of Cr6 at 20 feet below ground surface at boring SS-4 at a  
7 concentration of 0.41 mg/kg. All other borings at depth were non-detect for Cr6. It is the single  
8 finding at SS-4 that led to the Second Order, notwithstanding the fact that the method detection  
9 limit was 0.40 mg/kg, so that the finding was barely above the ability to detect and, as noted  
10 above, well below state guidelines for Cr6 in soil, even for residential property!

11 As noted in Paragraphs 48 and 54 of Nanney Dec. #1 and in the Smalstig Declaration,  
12 when confronted with the unwarranted nature of additional investigation based on such a  
13 minuscule finding of Cr6, Mr. Lapostol – obviously realizing the unreasonableness of his demands  
14 – said that it was necessary to “appease” the EPA in light of the EPA RSL for Cr6 in soil as threat  
15 to groundwater. As mentioned above, that RSL (0.00067 mg/kg) is one thousand times below the  
16 ability of laboratories to detect and quantify. Another boring to get to non-detect, below 0.40  
17 mg/kg – with data at 0.41 mg/kg, very nearly non-detect already – would accomplish nothing of  
18 use given the ridiculously low EPA RSL.

19 Moreover, the EPA RSL is mere “guidance,” not based on any rule setting process, and as  
20 such is not law or regulation and is unenforceable. Applying the EPA RSL as justification for  
21 compelling additional response action by formal order amounts to improper enforcement action  
22 based on a “de facto” rule asserted illegally in violation of the Administrative Procedure Act (in  
23 this case both the federal and California Administrative Procedure Acts).

24 There has been a string of cases slapping down the EPA for regulating through use of mere  
25 “guidance” and “management practices and procedures” in the field by EPA personnel as a basis  
26 for various enforcement and permitting actions, as violating the Administrative Procedure Act.  
27 That is what Mr. Lapastol, with assistance of the Regional Board, has been doing improperly in  
28 this case.

1 That string of cases includes the following (we reserve the right to supplement this list with  
2 additional research):

3 Alt v. EPA, 979 F. Supp.2d 701 (N.D. W.Va., 2013).

4 Alt v. EPA, 2013 WL 4520030 (N.D. W.Va., 2013).

5 National Mining Association v. Jackson, 880 F. Supp. 2d 119 (D.D.C., 2012).

6 National Mining Association v. Jackson, 768 F. Supp. 2d 34 (D.D.C., 2011).

7 National Mining Association v. McCarthy, \_\_\_ F.3d \_\_\_, 2014 WL 3377245 (C.A.D.C.,  
8 2014) (“McCarthy”)

9 While McCarthy reversed and remanded the National Mining Association case to the  
10 District Court, it was on other grounds, because the challenge to “guidance” was premature in that  
11 case. McCarthy confirmed that “guidance” and “policy” is not a proper basis for regulatory  
12 enforcement action. Once action is taken based on “guidance” or “policy” it can be challenged at  
13 that time, and the agency must be prepared to support the action as if the “guidance” or “policy”  
14 had never been issued.

15 Here, the enforcement action – the Second Order – has been taken, so that the claim of “de  
16 facto” rule in violation of the Administrative Procedure Act is not premature.

17 Analogously, the U.S. Court of Appeal for the Ninth Circuit has chided agencies for using  
18 consent decrees to circumvent rulemaking. See Conservation Northwest v. Sherman, 715 F.3d  
19 1181 (9<sup>th</sup> Cir., 2013).

20 Agency action in violation of the APA is deemed arbitrary and capricious and is illegal.

21 The Second Order, based as it is on “guidance” applied as a “de facto” rule, is arbitrary and  
22 capricious and should be voided for illegality.

23 Petitioner strongly objects to the Second Order as compounding the error of the Initial  
24 Order. Petitioner, as current owner of the Former Zero Facility, is entitled to the protection  
25 accorded by the Covenant and the Certificate of Completion, especially as an innocent party  
26 having acquired the Former Zero Facility in reliance on the Covenant and the Certificate.  
27 Petitioner appeals the Second Order (as well as the Initial Order) as improper.  
28

1 **VIII. Statement of Transmittal of Petition to the Regional Board and the**  
2 **Discharger.**

3 Copies of this Second Petition have been or are being transmitted on September 4, 2014,  
4 to the Regional Board, including to Samuel L. Unger, Executive Officer, as well as to certain  
5 members of the staff of the Regional Board (including Dr. Arthur Heath and Larry Moore), and  
6 the EPA Contractor attached to the Regional Board (Alex Lapostol). A copy of this Second  
7 Petition has not been transmitted as yet to the discharger and responsible party, APW North  
8 America (as successor to Zero Corporation), because Petitioner is not aware of the current  
9 whereabouts of APW North America or a successor. In the event that the Regional Board  
10 completes an adequate investigation and identifies the whereabouts of APW North America or a  
11 successor, or Petitioner otherwise obtains such information, Petitioner will provide a copy of this  
12 Second Petition promptly upon receipt of the contact information.

13 **IX. Substantive Issues Raised Before the Regional Board.**

14 As summarized in Paragraph 53 of Nanney Dec. #1, an informal meeting took place at the  
15 Regional Board offices on May 14, 2014, attended by Dr. Authur Heath (RWQCB), Lawrence  
16 Moore (RWQCB), Alex Lapostol (EPA Contractor), Alan Skobin (Northridge Properties), Eric  
17 Smalstig (Geosyntec Consultants, for Northridge Properties) and Donald Nanney (Gilchrist &  
18 Rutter, counsel for Northridge Properties). Northridge Properties' objections to the proposed  
19 requirement for additional environmental investigation, including the new substantive issues  
20 raised in this Second Petition, were discussed in concept at length. There was no public hearing  
21 prior to issuance of the Second Order. While Mr. Nanney had requested it in subsequent  
22 telephone discussions with Mr. Lapostol, no opportunity was provided to review and discuss a  
23 draft of the Second Order, which was issued in final on August 6, 2014 as a fait accompli. There  
24 is no post-order process available at the Regional Board to contest an order of the kind involved in  
25 this matter or to have a public hearing. As noted in Paragraph 8 of Nanney Dec. #2, in a telephone  
26 discussion on August 11, 2014, soon after the issuance of the Second Order, Mr. Lapostol  
27 informed Mr. Nanney in no uncertain terms that the required additional investigation is "non-  
28 negotiable." Thus, Petitioner has not been afforded a meaningful opportunity to be heard on the

1 substantive issues set forth in the Second Order (or the Initial Order), and the only available  
2 administrative remedy is the petition process under 23 CCR §§ 2050 *et seq.*

3 **X. A Hearing is Needed for Due Process in this Matter.**

4 To this point, Petitioner has been denied due process, to Petitioner’s substantial injury. A  
5 hearing is needed in order to provide due process and give full and fair review to the serious  
6 substantive matters raised in this Second Petition (and in the Initial Petition). Moreover, without  
7 available discovery procedures, Petitioner’s ability to get to the bottom of the wrongful conduct by  
8 the Regional Board and EPA has been compromised. A hearing process whereby the Regional  
9 Board must produce its administrative record of this matter would, we think, provide much  
10 additional evidence of wrongdoing that was not previously available to us by way of a normal file  
11 review at the Regional Board’s offices or by searches of records publically available on line. A  
12 hearing would require the Regional Board to be more careful and complete in its assembly of the  
13 administrative record for review. In addition, a hearing is needed in order to obtain witness  
14 testimony that would also, we think, provide additional evidence of wrongdoing and support for  
15 the relief requested in the Initial Petition and the Second Petition. A more complete record and  
16 witness testimony would provide more complete grounds for judicial review, if necessary.

17 Once a hearing date has been set, Northridge Properties reserves the right to provide a list  
18 of EPA and Regional Board personnel whom Northridge Properties demands be made available  
19 for examination at the hearing under oath (formal discovery not being part of this administrative  
20 appeal process).

21 **REQUEST FOR STAY**

22 In accordance with Water Code Section 13321(a) and Section 2053 of Title 23 of the  
23 California Code of Regulations, Petitioner hereby requests a stay of the Order. The grounds for  
24 stay are set forth below in light of the circumstances discussed in the foregoing request for review  
25 and are set forth in more detail in the supporting Nanney Dec. #2 filed herewith. Because of the  
26 imminent deadline contained in the Second Order, Petitioner requests that the State Board issue  
27 the requested stay and conduct a hearing on this matter as soon as possible.

28 Under Section 2053 of the State Board’s regulations (23 CCR § 2053), a stay of the effect

1 of an order shall be granted if Petitioner shows:

- 2 (1) substantial harm to petitioner or to the public interest if a stay is not granted.  
3 (2) a lack of substantial harm to other interested parties and to the public if a stay is  
4 granted; and  
5 (3) substantial questions of fact or law regarding the disputed action exist.

6 Here, the requirements for issuance of the stay are clearly met.

7 A. **Petitioner Will Suffer Substantial Harm if a Stay is Not Granted**

8 As happened in connection with the Initial Order, without the requested stay, Petitioner  
9 will be put in a position where it will have to comply with the requirements contained in the  
10 Second Order or face the possibility of administrative sanctions. Petitioner would thus be required  
11 to engage consultants, draft and submit a workplan, perform the work specified in the workplan,  
12 and prepare a report for submission to the Regional Board for unknown agency action that may  
13 follow. This would involve substantial costs that would have to be incurred prior to resolution of  
14 the requested review and the anticipated vacation of the Second Order. Petitioner would suffer,  
15 once again, irreparable injury that would not be cured by a subsequent hearing and grant of relief  
16 without a stay in the interim. Faced with Mr. Lapostol's statement that the additional investigation  
17 is "non-negotiable," and faced with the costs that would have to be incurred right away to meet the  
18 compliance deadline of October 15, 2014, Petitioner has no choice but to request that the State  
19 Board stay the Second Order pending hearing on the merits.

20 B. **The Public Will Not Be Substantially Harmed if a Stay is Granted**

21 The requested stay will pose no substantial harm to the public or water quality, but instead  
22 will simply maintain the status quo pending a decision on the merits. As shown in this Second  
23 Petition and in the Declaration of Eric Smalstig in Support of Second Petition for Review, the  
24 status quo is quite benign, indeed from all the available data – including the 2009 CalTrans report  
25 and the subsequent study by Geosyntec Corporation – the property meets applicable industrial  
26 standards and even residential standards regarding chromium and Cr6, the subject of the Second  
27 Order. Therefore, there would clearly be no substantial harm to the public or water quality by  
28 maintaining the status quo pending review.



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

Declaration of Donald C. Nanney in Support of Second Petition for Review, Request for Hearing and Request for Stay (“Nanney Dec. #2) [With primary focus on request for stay]

Declaration of Donald C. Nanney in Support of Second Petition for Review, , Request for Hearing and Request for Stay (“Nanney Dec. #3) [With primary focus on response to agency contention]

Declaration of Eric Smalstig in Support of Second Petition for Review, Request for Hearing and Request for Stay

1 DONALD C. NANNEY  
State Bar No. 62235  
2 GILCHRIST & RUTTER  
Professional Corporation  
3 1299 Ocean Avenue, Suite 900  
Santa Monica, California 90401-1000  
4 Telephone: (310) 393-4000  
Facsimile: (310) 394-4700  
5 Dnanney@gilchristutter.com  
6 Attorneys for Petitioner  
Northridge Properties, LLC  
7  
8

STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

9  
10  
11 In the Matter of Los Angeles Regional Water  
12 Quality Control Board 13267 Order –  
Northridge Properties, LLC, former Zero  
13 Corporation Facility, 777 North Front Street,  
Burbank, California

No.

**DECLARATION OF DONALD C.  
NANNEY IN SUPPORT OF SECOND  
PETITION FOR REVIEW, REQUEST  
FOR HEARING AND REQUEST FOR  
STAY (“NANNEY DEC. #1”)**

14  
15  
16 I, Donald C. Nanney, declare as follows:

17 1. I am an attorney at law licensed to practice before all courts of the State of  
18 California and a Partner of Gilchrist & Rutter Professional Corporation, counsel for Petitioner  
19 Northridge Properties, LLC (“Northridge Properties”). I have personal knowledge of the facts set  
20 forth herein and if called upon as a witness could and would testify competently thereto. I file this  
21 declaration in support of the Petition for Review, Request for Hearing and Request for Stay (the  
22 “Second Petition”) submitted herewith.

23 2. The site that is the subject of the Second Petition is depicted on the Site Map and  
24 Boring Locations, Former Zero Corporation, 777 North Front Street, Burbank, California, dated  
25 September 2012, prepared by Geosyntec Consultants, a true and correct copy of which is attached  
26 hereto as Exhibit 1. The borings shown on Exhibit 1 were done by Geosyntec on behalf of  
27 Northridge Properties in response to the Initial Order (defined below) after the State Water  
28

1 Resources Control Board (“State Board”) failed to act on the request for stay included in the Initial  
2 Petition (defined below). The Second Order, which is the subject of the Second Petition, would  
3 require an additional, deeper boring near to Boring No. SS-4 shown on Exhibit 1.

4         3. This declaration will focus on the improper federal motivation for, and improper  
5 federal participation in connection with, the Requirement for Technical Reports Pursuant to  
6 California Water Code Section 13267 Order, Former ZERO Corporation Facility (the “Second  
7 Order”), dated August 6, 2014, issued by the Los Angeles Regional Water Quality Control Board  
8 (“RWQCB” or “Regional Board”) to Northridge Properties, a true and correct copy of which is  
9 attached hereto as Exhibit 2. Other issues or contentions will be covered in separate supporting  
10 declarations.

11         4. The Second Order is improper, among other reasons, because it is in breach of the  
12 Agreement and Covenant Not to Sue, Docket No. 2000-03, dated March 16, 2000 (the  
13 “Covenant”), between the U.S. Environmental Protection Agency (“EPA”) and Ford Leasing  
14 Development Company, a true and correct copy of which is attached hereto as Exhibit 3. The  
15 Covenant was subsequently transferred to Northridge Properties with the consent of the EPA,  
16 pursuant to the Approval of Transfer, dated May 3, 2005, a true and correct copy of which is  
17 attached hereto (together with the accompanying letter from the EPA also dated May 3, 2005) as  
18 Exhibit 4. Northridge Properties would not have purchased the Former Zero Facility without such  
19 protection, and the EPA saw fit to allow assignment of the Covenant to Northridge Properties,  
20 inducing Northridge Properties to complete the purchase.

21         5. Equally improper for the same reason was the Requirement for Technical Reports  
22 Pursuant to California Water Code Section 13267 Order, Former ZERO Corporation Facility (the  
23 “Initial Order”), dated May 10, 2011, issued by the Regional Board to Northridge Properties. The  
24 Initial Order was the subject of the Petition for Review, Request for Hearing and Request for Stay,  
25 In the Matter of Los Angeles Regional Water Quality Control Board 13267 Order – Northridge  
26 Properties, LLC, former Zero Corporation Facility, 777 North Front Street, Burbank, California,  
27 dated June 9, 2011, Petition No. A2167 (the “Initial Petition”). In order to reduce the volume and  
28 burden of this submission, we will not include copies of Initial Order and Initial Petition as

1 exhibits. Copies of the Initial Order and Initial Petition are on file at the State Board and readily  
2 available for electronic download from the State Board’s webpage at this link.

3 [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality/docs/petitions/a2167petition](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/docs/petitions/a2167petition.pdf)  
4 [n.pdf](http://www.waterboards.ca.gov/public_notices/petitions/water_quality/docs/petitions/a2167petition.pdf)

5 6. The breach of the Covenant was not mentioned in the Initial Petition because the  
6 improper connection to the EPA was not known to Northridge Properties at that time. Only later  
7 did evidence of the improper federal motivation and breach come to the attention of Northridge  
8 Properties, including the evidence presented in this declaration and exhibits.

9 7. Northridge Properties was an innocent purchaser of the Former Zero Facility,  
10 protected by the Covenant against any administrative or judicial action by the EPA with respect to  
11 Existing Contamination, as that term was broadly defined in the Covenant. The chief obligation of  
12 Northridge Properties was to provide access to the Former Zero Facility in the event that any  
13 federal or state regulatory agency wished to undertake – at agency expense – any environmental  
14 response action.

15 8. Prior to the issuance of the Second Order, Northridge Properties (including by me)  
16 has consistently offered access for any environmental study or response that the Regional Board or  
17 the EPA views as necessary. That offer was made again by the undersigned on behalf of  
18 Northridge Properties to Dr. Arthur Heath, Mr. Lawrence Moore and Mr. Alex Lapostol at a  
19 meeting at the Regional Board’s offices on May 14, 2014. That offer was again reiterated, after  
20 the issuance of the Second Order, in my email dated August 14, 2014, to Mr. Moore and Mr.  
21 Lapostol, a true and correct copy of which is attached hereto as Exhibit 5.

22 9. Nevertheless, the Second Order (like the Initial Order) was issued requiring  
23 Northridge Properties to undertake environmental response action and expense, exactly the kind of  
24 requirement that was to be protected against by the Covenant.

25 10. It is now abundantly clear that the Regional Board issued the Initial Order and the  
26 Second Order pursuant to its cooperative role in connection with the San Fernando Valley (Area 2  
27 Glendale) federal Superfund Site under management of the EPA. The Regional Board has been  
28 acting, in effect, as the agent of, and co-conspirator with, the EPA, in an obvious effort to achieve

1 indirectly that which the EPA may not rightfully do directly due to the Covenant. The EPA and  
2 Regional Board have acted jointly to breach the Covenant in derogation of the rights and valid  
3 expectations of Northridge Properties as an innocent purchaser of the Former Zero Facility with  
4 the protection of the Covenant. Even if the Regional Board could, as a general proposition,  
5 conduct a truly independent investigation under state law, that is clearly not what has happened in  
6 this case.

7 11. There is evidence of a long history of cooperation between the federal and state  
8 authorities in connection with the San Fernando Valley (“SFV”) Superfund Site. More than  
9 cooperation, I understand that the Regional Board has actually been engaged under contract by the  
10 EPA to assist the EPA in the investigation and management of the SFV Superfund Site. In  
11 general, and consistent with common knowledge in the environmental industry, the EPA handles  
12 the environmental response to the regional groundwater contamination plume, and the Regional  
13 Board (and in some cases other state or local agencies) takes the lead regarding source areas and  
14 responsible parties, all under the management of the EPA for the SFV Superfund Site. Northridge  
15 Properties does not have copies of the actual agreements or memoranda of understanding between  
16 EPA and the Regional Board (or the State Board), which do not appear to be readily available in  
17 publicly accessible databases. However, we do have evidence of the relationship, including with  
18 specific reference to the Former Zero Facility, which we review here. Northridge Properties  
19 reserves the right to provide supplemental evidence at the hearing of this matter.

20 12. Geosyntec Consultants conducted a review of the file at the Regional Board’s  
21 offices relating to the Former Zero Facility and obtained a copy of the Memorandum, dated  
22 January 5, 1998, to Kim J. Ward, ES III, DCW, SWRCB, from Hank H. Yacoub, Cleanup Section  
23 Chief, RWQCB/LA, a true and correct copy of which is attached hereto as Exhibit 6. That  
24 Memorandum contains the Regional Board’s concurrence in the request of counsel for Zero  
25 Corporation to have the Regional Board designated as the administering agency for the Former  
26 Zero Site under California’s Unified Agency Review of Hazardous Materials Release Sites law  
27 (also known as the Site Designation Law, California Health and Safety Code Sections 25260 et  
28 seq.). In that Memorandum, Mr. Yacoub stated as follows:

1 The site is in our Well Investigation Program (file No. 109.6162) and in the Burbank  
2 Operable Unit of the San Fernando Valley ground water superfund area which is  
3 administered by USEPA Region IX in San Francisco. Under contract to USEPA, Board  
4 staff have been overseeing assessment and cleanup at the site since 1987. [yellow  
5 highlight added]

6 13. The EPA maintains a webpage with respect to the more recently established  
7 Glendale Chromium Operable Unit (GCOU) of the SFV Superfund Site, at the following link:

8 [http://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/vwsoalphabetic/San+Ferna  
10 ndo+Valley+\(Area+2+Glendale\)](http://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/vwsoalphabetic/San+Ferna<br/>9 ndo+Valley+(Area+2+Glendale))

11 That webpage includes the following statement (downloaded from the webpage on August 19,  
12 2014, yellow highlights added):

13 Initial Actions

14 **Glendale Chromium Operable Unit:** In 2007, EPA established the Glendale Chromium Operable  
15 Unit (GCOU) to characterize emerging chromium contamination in ground water within SFV  
16 Area 2 and determine an appropriate remedial action. The Technical Documents under  
17 Documents and Reports below include a summary of the history of actions taken to investigate  
18 and address chromium contamination, titled "Actions to Address Chromium Contamination."

19 EPA is working with the California Department of Toxic Substances Control and the California  
20 Regional Water Quality Control Board–Los Angeles Region to identify and clean up sources of  
21 chromium contamination. The State of California leads oversight of the cleanups for all known  
22 or suspected chromium sources, with the exception of two presently under EPA's oversight.  
23 Since 2003, EPA has assisted the State with contamination source investigations by providing  
24 contractor support.

25 EPA initiated the remedial investigation of chromium contamination in ground water in the  
26 GCOU in 2011. While EPA is leading the investigation, a group of four PRPs is assisting by  
27 performing a portion of the investigation work. During the past two years, EPA and PRPs have  
28 installed 29 new ground water monitoring wells to help evaluate the location and extent of  
chromium contamination. A third phase of investigation is planned for Spring 2014.

EPA will use the investigation data to assess the risks to human health and the environment  
posed by potential exposure to chromium contamination in ground water. Following the  
remedial investigation, a feasibility study will evaluate cleanup options to address chromium  
contamination.

The Glendale Area treatment facility treats more than seven million gallons of contaminated  
water daily. The treatment plant prevents further migration of the groundwater plume of VOCs  
and has removed more than 20,000 pounds of VOCs from groundwater since the system  
began operating in 2000.

The potentially responsible parties will continue to conduct site cleanup under EPA oversight.  
In the next years, EPA will work with responsible parties and others to address ongoing  
concerns related to plume capture.

14. Consistent with that historical statement by the EPA, the GCOU investigation was

1 advanced with the Administrative Settlement Agreement and Order on Consent for Remedial  
2 Investigation, U.S. EPA Region IX, CERCLA Docket No. 2011-09, In the Matter of Glendale  
3 Chromium Operable Unit, Glendale, Los Angeles County, California, dated February 28, 2011,  
4 between the EPA and Goodrich Corporation, ITT Corporation, Lockheed Martin Corporation, and  
5 PRC DeSoto International, Inc., Respondents (the “AOC”). In order to reduce the volume of this  
6 submission, we will not include a copy of the entire AOC as an exhibit. It is readily available for  
7 electronic download from the EPA webpage from the link noted in the preceding paragraph, from  
8 the list of “Legal Documents.”

9 15. The AOC, at p. 26, identified Lisa Hanusiak as the EPA Remedial Project Manager  
10 for the GCOU. Keep her name in mind, as it comes up in further evidence below.

11 16. Appendix B to the AOC sets forth a Statement of Work to be conducted by the  
12 Respondents. Attachment A to Appendix B is a map of the GCOU showing the proposed work,  
13 well and boring areas. The map attached to the AOC available on-line is not very legible. A  
14 better copy is available on a subsequent document that will be referred to in Paragraph 27 below  
15 (see Exhibit 11).

16 17. AOC Appendix B also has an Attachment B, which is a table entitled: Specified  
17 Work – Groundwater Data Collection Areas and Borings. A true and correct copy of that  
18 Attachment B is attached hereto as Exhibit 7. It identifies the Data Collection Areas on the map  
19 and the rationale for each area. Of particular relevance are these two study areas:

20 CRI-2P, which is located near the northwesterly end of the Former Zero Facility. The  
21 stated rationale for this location was follows: “Downgradient of BOU [Burbank Operable  
22 Unit], evaluate potential local sources, including from the Burbank Western Channel.”

23 and

24 CRI-3P, which is located near the southeasterly end of the Former Zero Facility. The  
25 stated rationale for this location was as follows: “Evaluate eastern extent and whether  
26 there are upgradient sources (e.g., potential Scott Road Landfill, Burbank Western  
27 Channel).”

28 The Former Zero Facility is in between, downgradient of the CRI-2P study area and upgradient of

1 CRI-3P study area, so that those areas were obviously strategically designed in order to study  
2 whether the Former Zero Facility had contributed any measurable hexavalent chromium (Cr6) to  
3 the groundwater contamination plume, as might be inferred if Cr6 were to be found at higher  
4 concentrations in the CRI-3P (southeasterly, downgradient) area as compared to the CRI-2P  
5 (northwesterly, upgradient) area. By virtue of the AOC, the EPA and the Regional Board would  
6 obtain that information at the expense of the AOC Respondents, from sampling locations off-site  
7 but very close to the Former Zero Facility.

8 18. Next – in the EPA/RWQCB strategy – was additional on-site investigation from  
9 locations on the Former Zero Facility considered suspect for origination of Cr6 releases to soil and  
10 potentially to groundwater (which, according to Mr. Lapostol in discussions with me, were the  
11 locations of former clarifier units that were closed in place in the ground on-site, as shown on  
12 Exhibit 1). For that, it was necessary to ignore the Covenant, reopen the Certificate of Completion  
13 and issue an order to Northridge Properties in order to obtain the additional on-site data at private  
14 party expense!

15 19. Note that, even if investigation were to show the Former Zero Facility had been a  
16 significant contributor of Cr6 to soil and groundwater in the GCOU, the protection of the  
17 Covenant would still apply, protection that was bought and paid for by Northridge Properties’  
18 predecessor in interest and assigned to Northridge Properties, which would not have purchased the  
19 Former Zero Facility without that protection.

20 20. The investigation continued with the Initial Order, issued in May 2011 (see Exhibit  
21 A to the Initial Petition). The Initial Order recited in the first few substantive paragraphs that the  
22 regional investigation for Cr6 was started by the discovery of Cr6 in groundwater supply wells  
23 during the EPA’s investigation of the Superfund Site in 1998, which initially led the Regional  
24 Board to re-evaluate 112 facilities identified in the previous Superfund Site investigations. The  
25 recitals go on to say that, while the Former Zero Corporation site was not among those initial 112  
26 facilities, the site was reopened for this investigation due to the finding of Cr6 by the California  
27 Department of Transportation in 2009 at the Former Zero Facility.

28 21. Moreover, the Regional Board’s cover letter, dated May 10, 2011, forwarding the

1 Initial Order to Northridge Properties, named as the first “cc” Ms. Lisa Hanusiak, USEPA Region  
2 IX, along with several other agency officials.

3 22. In its file review, Geosyntec found another document that is further indicative of  
4 the close coordination between the EPA and the Regional Board close in time to the Initial Order.  
5 See the Regional Board’s Meeting Attendance Sheet, dated June 6, 2011, listing Larry Moore  
6 (RWQCB – LA Region), Ayubur Rahman (CalTrans-LA), Jeffrey Hu (RWQCB-LA), Alex  
7 Lapostol (E2 Consult. EPA Contractor), and Lisa Hanusiak (USEPA). A true and correct copy of  
8 said Meeting Attendance Sheet is attached hereto as Exhibit 8.

9 23. The foregoing items of evidence clearly reflect that the Cr6 investigation and  
10 reopener of the Former Zero Facility was part of the federal Superfund Site investigation,  
11 specifically for the GCOU, coordinated and conducted jointly by the EPA and the Regional Board.

12 24. Environmental Resources Management (ERM), a consulting firm engaged by the  
13 AOC Respondents, performed extensive historical reviews for data gaps, information needs and  
14 target sites for the Cr6 investigation in the GCOU. Their research is summarized in the Data  
15 Compilation & Evaluation Report, Glendale Chromium Operable Unit, San Fernando Valley  
16 Superfund Site – Area 2, dated November 2011, by ERM. Again, in order to reduce the volume of  
17 this submission, we will not include a copy of the entire Data Compilation & Evaluation Report as  
18 an exhibit. It is readily available for electronic download from the EPA webpage from the link  
19 noted in Paragraph 13 above, from the list of “Technical Documents.” Table 7 of that Report is  
20 entitled *Sites with Known or Suspected Chromium Use Glendale Chromium Operable Unit*, which  
21 lists on the last page (p. 5 of 5) “Zero Corp/Enclosures” at 777 Front St. Burbank 90502 as Site ID  
22 No. 93, and the Status was RWQCB Suspected Chromium Use - Investigation Pending. A true  
23 and correct copy of page 5 of 5 from said Table 7 is attached hereto as Exhibit 9.

24 25. Appendix C to ERM’s Data Compilation & Evaluation Report is a table entitled  
25 *Historical Operations at Potential Chromium Source Sites, Glendale Chromium Operable Unit*,  
26 which lists on the last page (p. 12 of 12) “Zero Corp/Enclosures” at 777 Front St. Burbank 90502:  
27 A true and correct copy of page 12 of 12 from said Appendix C is attached hereto as Exhibit 10.

28 26. ERM also developed on behalf of the AOC Respondents the *Specified Work Plan*,

1 *Glendale Chromium Operable Unit, San Fernando Valley Superfund Site – Area 2, dated*  
2 *November 2011.* Again, in order to reduce the volume of this submission, we will not include a  
3 copy of the entire Specified Work Plan as an exhibit. It is readily available for electronic  
4 download from the EPA webpage from the link noted in Paragraph 13 above, from the list of  
5 “Technical Documents.”

6  
7 27. Attachment A to the Specified Work Plan is a map entitled: *Attachment A,*  
8 *Glendale Chromium Operable Unit, Proposed Specified Work, RI Borings and Well Areas and*  
9 *FFS Well Areas* (the cover page for that map is entitled “Preliminary Groundwater Data Collection  
10 Area”). A true and correct copy of that map is attached hereto as Exhibit 11. This map is the  
11 same as (or an updated version of) Attachment A to Appendix B to the AOC as mentioned in  
12 Paragraph 16 above. It legibly shows study areas CRI-2P and CRI-3P that are discussed above,  
13 still targeting the Former Zero Facility.

14 28. Figure 6 to the Specified Work Plan is another map showing the *Proposed Wells*  
15 *and Drilling Locations – Northern, GCOU, SFV Superfund Site, Los Angeles County, California,*  
16 and includes a list of the target sites, including Zero Corp/Enclosures as Site ID No. 93. A true  
17 and correct copy of Figure 6 is attached hereto as Exhibit 12. As shown in Figure 6, Site ID No.  
18 93 (the Former Zero Facility), is located between study areas CRI-2P and CRI-3P and the  
19 proposed monitoring wells in those areas.

20 29. Attached hereto as Exhibit 13 is a “zoom in” portion of Figure 6 showing more  
21 legibly and highlighting said reference to Zero Corp/Enclosures.

22 30. Attached hereto as Exhibit 14 is a “zoom in” portion of said Figure 6,  
23 focusing on the northerly portion of the GCOU and study areas CRI-2P and CRI-3P, the proposed  
24 monitoring wells in those areas, including the location of Site ID No. 93. The Former Zero  
25 Facility is shown in the aerial photograph base figure, in between study areas CRI-2P and CRI-3P.

26 31. Thus, the Specified Work Plan carried through on targeting the Former Zero  
27 Facility as part of the EPA-compelled GCOU investigation under the AOC.

28 32. Subsequently, the EPA’s own contractor, i.e., CH2MHILL, prepared the *Field*

1 *Sampling Plan, Remedial Investigation at San Fernando Valley Area 2 Superfund Site, Glendale*  
2 *Chromium Operable Unit*, dated April 2012. Again, in order to reduce the volume of this  
3 submission, we will not include a copy of the entire Field Sampling Plan as an exhibit. It is  
4 readily available for electronic download from the EPA webpage from the link noted in Paragraph  
5 13 above, from the list of “Technical Documents.” Of relevance from the Field Sampling Plan are  
6 the following items.

7       33. The cover page of the Field Sampling Plan clearly recites that CH2MHILL  
8 prepared it for the EPA. Immediately after the cover page there is a sheet identifying the project,  
9 showing the Site Name as the Glendale Chromium Operable Unit, and the EPA Project Manager  
10 as Lisa Hanusiak. True and correct copies of the cover page and the project identifying sheet are  
11 attached hereto as Exhibit 15.

12       34. Table 3-2 (*Facilities Within Area 2 Being Investigated as Potential Sources of*  
13 *Chromium Contamination to Ground Water, San Fernando Valley Area 2 Superfund Site,*  
14 *Glendale Chromium Operable Unit*) of the Field Sampling Plan includes, as one of the facilities  
15 being investigated, a “Former metal finishing facility,” as Site Number 16 and with Status  
16 “Planning underway of initial soil investigation” (which was obviously the investigation that  
17 Northridge Properties was being compelled to perform). A true and correct copy of Table 3-2 is  
18 attached hereto as Exhibit 16.

19       35. The location of Site Number 16 is shown on Figure 3-2 of the Field Sampling Plan,  
20 and a true and correct copy of Figure 3-2 is attached hereto as Exhibit 17. Site Number 16 is  
21 shown by a red star at the location of the Former Zero Facility. The legend defines the red star as  
22 meaning that the Regional Board is the Potential Source Facility Lead Oversight Agency. Certain  
23 other sites within the GCOU have the Department of Toxic Substances Control or the EPA itself  
24 as Potential Source Facility Lead Oversight Agency, all in connection with the coordinated federal  
25 investigation of the GCOU, as shown by the fact that the EPA’s own contractor prepared the Field  
26 Sampling Plan.

27       36. Figure 3-1 (*Locations of Planned Monitoring Wells for the Remedial Investigation,*  
28 *Glendale Chromium Operable Unit, San Fernando Valley Superfund Sites*) of the Field Sampling

1 Plan shows the EPA contractor's updated depiction of the study areas and monitoring well  
2 locations. Study Area A appears to encompass the study areas previously identified as CRI-2P  
3 and CRI-3P, and monitoring wells 2P and 3P correspond to the well locations planned in the  
4 previous study areas, still near to the northwesterly and southeasterly ends of the Former Zero  
5 Facility. A true and correct copy of Figure 3-1 is attached hereto as Exhibit 18.

6 37. The study called for by the Field Sampling Plan was apparently conducted by  
7 ERM, the consultant for the AOC Respondents. At the meeting mentioned above at the Regional  
8 Board's offices on May 14, 2014, Mr. Lapostol gave me a draft copy of *Figure 6, Chromium in*  
9 *Groundwater, GCOU Monitoring Wells, Glendale Chromium Operable Unit, San Fernando*  
10 *Valley Superfund Site, Los Angeles County, California*, dated March 2013 by ERM. A true and  
11 correct copy of said Figure 6 is attached hereto as Exhibit 19.

12 38. As shown on Exhibit 19, monitoring wells PWA-2 and PWA-3 were installed  
13 consistent with the locations previously identified as 2P and 3P, except that PWA-2 was installed  
14 on the northeasterly side of the Former Zero Facility in Old Front Street . Significantly, Exhibit  
15 19 includes the data from those wells, showing that Cr6 was found in PWA-2 (the northeasterly,  
16 upgradient well) at a concentration of 8.3 micrograms per liter (ug/L), and in PWA-3 (the  
17 southeasterly, downgradient well) at the lower concentration of 1.6 ug/L. As detailed in the  
18 supporting declaration of Eric Smalstig of Geosyntec Consultants submitted herewith, that offsite  
19 data from upgradient and downgradient locations shows a decreasing level of impact beneath the  
20 Former Zero Facility in the direction of groundwater flow, with the inference that there was no  
21 measurable contribution from the Former Zero Facility to the Cr6 groundwater contamination  
22 plume. Moreover, both northeasterly and southeasterly findings are below California's recently  
23 established drinking water standard for Cr6, i.e., the Maximum Contaminant Level of 10 ug/L

24 39. In 2013, the EPA conducted its regular Five Year Review (FYR) of the SFV  
25 Superfund Site culminating in the *Second Five-Year Review Report for San Fernando Valley —*  
26 *Area 2 Superfund Site, Glendale, Los Angeles County, California*, dated September 30, 2013,  
27 Prepared by United States Army Corps of Engineers, Seattle District, and Approved by EPA  
28 Region IX. Again, in order to reduce the volume of this submission, we will not include a copy of

1 the entire Second Five-Year Review Report as an exhibit. It is readily available for electronic  
2 download from the EPA webpage from the link noted in Paragraph 13 above, from the list of  
3 “Technical Documents.”

4 40. Of particular relevance from Appendix C of the Second Five-Year Review Report  
5 is the Five-Year Review Interview Record regarding Larry Moore and Alex Lapostol, a true and  
6 correct copy of which is attached hereto as Exhibit 20. Significant passages include the following  
7 (yellow highlights added):

8 2) What is your current role and your agency's role with respect to the site?

9  
10 RWQCB works to identify PRPs, and make sure PRPs are in compliance and  
11 responsible. Mr. Moore works as a state employee on site cleanup with an emphasis  
12 on chromium, but is still involved with VOCs. Mr. Lapostol provides support on  
13 behalf of EPA to identify chromium PRPs (though in some cases VOCs and  
14 chromium overlap), fulfill EPA information needs, and assist the state in enforcing  
15 the water code.

16 3) Have there been routine communications or activities (site visits, inspections,  
17 reporting activities, etc.) conducted by your office regarding the site? If so, please  
18 give the purpose and results.

19 RWQCB conducts site inspections, reviews work plans, completes chemical use  
20 questionnaires from PRPs, and oversees the cleanup process. EPA provides  
21 concurrence with cleanup levels. Mr. Lapostol is the "eyes and ears" of EPA so  
22 that EPA isn't surprised by what the RWQCB is doing.

23 \*\*\*

24 15) Do you feel well informed about the site's activities and progress?

25 Yes. The updates and contact with EPA are sufficient.

26 41. Also relevant is the Five-Year Review Interview Record regarding Tedd Yargeau, a  
27 true and correct copy of which is attached hereto as Exhibit 21. Mr. Yargeau concluded his  
28 interview with this exchange (yellow highlights added):

17) Do you have any comments, suggestions, or recommendations regarding the  
site's management, operation, or any other aspects of the site?

No. EPA has done a very good job at managing a complex project, and DTSC  
certainly appreciates it.

Mr. Yargeau obviously understands that the SFV Superfund Site (which includes the GCOU), is a

1 federal operation of the EPA and that the state agencies involved are assisting under the  
2 management of the EPA.

3 42. Further with respect to Mr. Lapostol's role, he is an EPA contractor attached to the  
4 Regional Board, although that was not apparent at the beginning of this matter. On numerous  
5 emails to me since before the Initial Order, Mr. Lapostol's contact information has been variously  
6 reflected. On the earliest email from him in my database, dated November 4, 2010, Mr.  
7 Lapostol's signature block was as follows:

8           Regards,  
9           Alex Lapostol, P.G.  
10           Senior Technical Consultant  
11           E2 Consulting Engineers  
12           213-576-6801 (Regional Board office)  
13           510-590-6218 (cell)

14 That format continued until his role as an EPA contractor was finally revealed in his signature  
15 block on his email dated September 28, 2011:

16           Regards,  
17           Alex Lapostol, P.G.  
18           Senior Technical Consultant  
19           E2 Consulting Engineers - USEPA Contractor  
20           213-576-6801 (Regional Board office)  
21           510-590-6218 (cell)

22 That was over three months after the Initial Petition had been filed on June 9, 2011. Notably, the  
23 Meeting Attendance Sheet of June 6, 2011 (see Exhibit 8, found by Geosyntec in its file review  
24 last year), reflects that Mr. Lapostol was an EPA contractor all along.

25 43. The responses in the Five-Year Review Interview Record regarding Larry Moore  
26 and Alex Lapostol, quoted above, clearly admit the close relationship between the EPA and the  
27 Regional Board on the GCOU investigation. They work hand in glove, with Mr. Lapostol as the  
28 EPA's "eyes and ears" on staff at the Regional Board actually handling much of the work for the  
GCOU. He has been the front line person at the Regional Board interfacing with me (as counsel  
for Northridge Properties), ever since the Initial Order (and even before). He has admitted to me  
on more than one occasion that his position at the Regional Board is funded by the EPA (which is  
consistent with the references above to the EPA providing contractor support to state agencies  
assisting with the SFV Superfund Site). Most recently, at the meeting on May 14, 2014,

1 mentioned above, Dr. Heath, Mr. Moore and Mr. Lapostol acknowledged that the Regional  
2 Board’s work on the GCOU has been funded by the EPA and that there has been, in particular, no  
3 compensation for the staff time of others besides Mr. Lapostol regarding their investigation of the  
4 Former Zero Facility. During that meeting, Mr. Moore said that he will want his staff time  
5 compensated by Northridge Properties in order to provide further oversight. Hence, the Regional  
6 Board’s correspondence to Northridge Properties, subject: “Site Cleanup Program Oversight Cost  
7 Reimbursement Account – Former Zero Corporation Facility, 777 North Front Street, Burbank,  
8 California, RWQCB File No. 109.6162, “ dated July 15, 2014, with request for execution and  
9 return of an “Acknowledgement of Receipt of Oversight Cost Reimbursement Account Letter,”  
10 which Northridge Properties has so far declined to do as noted in my email to Mr. Moore and Mr.  
11 Lapostol, dated August 14, 2014 (see Exhibit 5).

12 44. In a telephone discussion on August 4, 2014, Mr. Lapostol told me that he had  
13 drafted a letter directing Northridge Properties to continue the investigation of the Former Zero  
14 Facility with the installation of an additional boring and that the letter was under review by  
15 Regional Board staff. He did not know at that time when the directive would be finalized and  
16 issued. I requested further discussion with Mr. Lapostol and Mr. Moore regarding the pending  
17 letter and what it would say, and Mr. Lapostol was agreeable to that. Over the next several days,  
18 we had communications seeking to set a time for a conference call, and a time for a call was set at  
19 least tentatively for August 11, 2014. Nevertheless, without such discussions, the Second Order  
20 was issued, dated August 6, 2014.

21 45. As with the Initial Order, the Regional Board’s Second Order included a “cc” list  
22 starting with Lisa Hanusiak, USEPA Region 9, along with other agency representatives, again  
23 showing the close coordination of the Second Order with the EPA and other agencies involved  
24 with the GCOU investigation. Indeed, the Second Order was drafted by EPA contractor Alex  
25 Lapostol whose compensation comes from the EPA!

26 46. Long ago, when I raised the Covenant in discussions with Mr. Lapostol, he  
27 indicated that he was aware of the Covenant but he has taken the position that the investigation  
28 and requirements of Northridge Properties were under state authority independent of the EPA. For

1 instance, attached as Exhibit 22 is a true and correct copy of an email exchange that I had with Mr.  
2 Lapostol on February 27, 2013, regarding my discussions with Thomas Butler, counsel at EPA  
3 Region 9. Mr. Lapostol wrote: “Interesting about EPA. However, I want to say respectfully,  
4 that is not relevant what EPA counsel opines about the situation....since this is strictly a  
5 Regional Board investigation.”

6 47. Mr. Lapostol’s position flies in the face of the evidence and is completely  
7 unbelievable. Mr. Lapostol is himself a EPA Contractor pursuing Northridge Properties in breach  
8 of the Covenant. He cannot so blithely separate his roles for the EPA and for the Regional Board  
9 as if one has nothing to do with the other. He is the embodiment of the EPA’s improper actions in  
10 this matter. And he was not acting as a rogue consultant. Every step of the way Lisa Hanusiak,  
11 the EPA Project Manager for the GCOU, was also closely involved with the coordinated  
12 investigation as shown in the available documentation.

13 48. Mr. Lapostol has also taken a different posture in discussions with me.

14 • He has acknowledged that the data from Northridge Properties’ investigation  
15 pursuant to the Initial Order falls well below California’s own stringent guideline for Cr6 in soil,  
16 and that the site would not be of concern to the Regional Board except for the far more stringent  
17 EPA Soil Screening Level (SSL) for Cr6 as threat to groundwater as set forth in the EPA Regional  
18 Screening Levels (RSLs). And Mr. Lapostol has acknowledged that the EPA SSL for Cr6 is  
19 ridiculously low and problematic because it is well below detection limits. (See the Declaration of  
20 Eric Smalstig submitted herewith confirming that the EPA SSL for Cr6 is 0.00067 mg/kg, some  
21 three orders of magnitude (i.e., a factor of 1000x) below the ability of laboratories to detect.)

22 • As if to explain the bind he is in having to use such a ridiculous screening level that  
23 cannot be measured, Mr. Lapostol has said that the EPA is pressuring the Regional Board for  
24 action, and that the directives to Northridge Properties are necessary to “appease” the EPA.  
25 Apparently, Mr. Lapostol is pressuring himself to appease himself! He wears both hats.

26 • Mr. Lapostol has also commented to me that the EPA should not have given the  
27 Covenant Not to Sue. Well, it did! And no matter how much Mr. Lapostol and others may now  
28 regret it, Mr. Laspostol and other EPA personnel and consultants and Regional Board staff are

1 obligated to comply and keep faith with the Covenant.

2 49. There has never been any suggestion that the minuscule findings of Cr6 at the  
3 Former Zero Facility are anything other than “Existing Contamination” within the broad definition  
4 of that term in the Covenant. Northridge Properties was supposed to be protected by the Covenant  
5 against exactly what has been happening in this case.

6 50. Rather than keeping faith with the Covenant, the EPA has pursued the investigation  
7 and directives to Northridge Properties utilizing the EPA’s own contractor as well as assistance  
8 from the Regional Board, action that has been both directly and indirectly in breach of the  
9 Covenant.

10 51. The evidence shows that the Regional Board has been acting under EPA  
11 management in concert with the EPA, not truly independently. The Regional Board’s  
12 participation in this matter and pursuit of Northridge Properties is unalterably tainted with the  
13 impropriety of events to this point.

14 52. To be clear, consistent with the Covenant, the EPA and state agencies may, at their  
15 own expense, pursue environmental investigation of the Former Zero Facility as they deem  
16 necessary (and Northridge Properties has offered and again offers to allow access consistent with  
17 its obligations under the Covenant), but they are not free to require Northridge Properties to  
18 undertake environmental response action at its expense without good grounds consistent with the  
19 Covenant. Nevertheless, the Initial Order and the Second Order were issued with no justification  
20 consistent with the Covenant and in breach of it.

21 53. In attendance at the meeting at the Regional Board offices on May 14, 2014, were  
22 Dr. Authur Heath (RWQCB), Lawrence Moore (RWQCB), Alex Lapostol (EPA Contractor), Alan  
23 Skobin (Northridge Properties), Eric Smalstig (Geosyntec Consultants, for Northridge Properties)  
24 and Donald Nanney (Gilchrist & Rutter, counsel for Northridge Properties). It was a lengthy  
25 meeting and all the relevant issues regarding the alleged grounds for further investigation and  
26 Northridge Properties’ objections were discussed, including:

- 27 ▪ Northridge Properties’ offer of access to the Former Zero Facility.
- 28 ▪ The Covenant and its breach by EPA and by RWQCB in effect as agent of the EPA

1 in the manner detailed in this declaration.

2       ▪ The investigation by the Regional Board of the Former Zero Facility and action  
3 against Northridge Properties as federally motivated, not truly independent of the EPA.

4       ▪ Mr. Lapostol’s role as EPA contractor pursuing Northridge Properties, funded by  
5 EPA.

6       ▪ The minuscule, barely detectible finding of Cr6 in the data from boring SS-4 as  
7 well below state screening levels and not justifying further investigation or action.

8       ▪ The justification previously posited to Mr. Smalstig and me by Mr. Lapostol, i.e.,  
9 the EPA RSLs (specifically the EPA SSL for Cr6 as threat to groundwater), which is  
10 particularly problematic because that level is orders of magnitude below the ability to  
11 detect and the existing data is already barely detectible. And since the EPA RSLs are mere  
12 guidelines, its application to support an order or directive means that the “guidance,” as  
13 applied, is a “de facto” rule in violation of the Administrative Procedure Act (both federal  
14 and state acts), so that such an order or directive would be illegal, arbitrary and capricious.

15       ▪ The fact that chromium and certain other then-emerging chemicals of concern were  
16 included in the investigation leading to the Regional Board’s Certificate of Completion,  
17 which should not have been reopened. And the inappropriate scope of the reopener to  
18 encompass VOCs when the only chemical of concern that is the subject of required action  
19 is Cr6.

20       [Note: Some of these items are discussed in more detail in separate supporting  
21 declarations and/or in the Second Petition or Initial Petition.]

22 Nevertheless, the Second Order was issued, implicitly rejecting Northridge Properties’ objections.

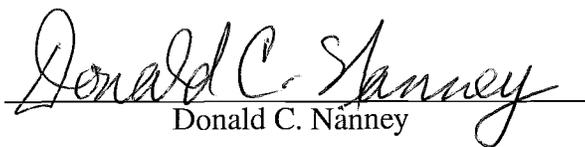
23 In a subsequent telephone discussion with Mr. Lapostol on August 11, 2014, I again briefly  
24 mentioned the issues and strenuously objected to the Second Order. Mr. Lapostol’s response was  
25 again to reject Northridge Properties’ objections, and he said that the ordered work is “non-  
26 negotiable” and that pursuing a Petition would be a waste of time.

27       54. There is no formal appeal process within the Regional Board for matters of this  
28 kind. We have raised all the issues in informal discussions and/or written communications with

1 Regional Board Staff and with the EPA Contractor attached to the Regional Board and handling  
2 this matter. Petitioning to the State Board is the only avenue available to us now for  
3 administrative relief.

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

6 Executed this 26 day of August, 2014, at Santa Monica, California.

7  
8   
9 Donald C. Nanney

10 **Exhibit List**

- 11 1. Site Map and Boring Locations, Former Zero Corporation, 777 North Front Street,  
12 Burbank, California, dated September 2012, by Geosyntec Consultants.
- 13 2. Requirement for Technical Reports Pursuant to California Water Code Section 13267  
14 Order, Former ZERO Corporation Facility, dated August 6, 2014, issued by the Los  
15 Angeles Regional Water Quality Control Board to Northridge Properties, LLC.
- 16 3. Agreement and Covenant Not to Sue, Docket No. 2000-03, dated March 16, 2000, between  
17 the U.S. Environmental Protection Agency and Ford Leasing Development Company,  
18 recorded in the Official Records of Los Angeles County, California, on July 12, 2000, as  
19 Instrument No. 00-1062454.
- 20 4. Approval of Transfer, dated May 3, 2005, by Keith Takata, Director, Superfund Division,  
21 and letter, dated May 3, 2005, from Frederick K. Schauffler, Chief, Site Cleanup Section 4,  
22 Superfund Division, U.S. Environmental Protection Agency, to Donald C. Nanney.
- 23 5. Email, dated August 14, 2014, from Donald C. Nanney to Lawrence Moore and Alex  
24 Lapostol, with copy of Certification Declaration, dated August 13, 2014, by Northridge  
25 Properties, LLC.
- 26 6. Memorandum, dated January 5, 1997 [with a handwritten correction to reflect 1998] to  
27 Kim J. Ward, ES III, DCW, SWRCB, from Hank H. Yacoub, Cleanup Section Chief,  
28 RWQCB/LA. [yellow highlights added]
7. Table entitled: Specified Work – Groundwater Data Collection Areas and Borings,  
Attachment B to Appendix B (Statement of Work) to the February 28, 2011  
Administrative Order on Consent. [yellow highlights added]
8. Meeting Attendance Sheet, at Los Angeles Regional Water Quality Control Board, dated  
June 6, 2011. [yellow highlights added]

- 1 9. Page 5 of 5 of Table 7 (*Sites with Known or Suspected Chromium Use*), from the Data  
2 Compilation & Evaluation Report, Glendale Chromium Operable Unit, San Fernando  
3 Valley Superfund Site – Area 2, dated November 2011, by Environmental Resources  
4 Management (ERM). [yellow highlights added]
- 5 10. Page 12 of 12 of Appendix C (*Historical Operations at Potential Chromium Source Sites,*  
6 *Glendale Chromium Operable Unit*), from the Data Compilation & Evaluation Report,  
7 Glendale Chromium Operable Unit, San Fernando Valley Superfund Site – Area 2, dated  
8 November 2011, by Environmental Resources Management (ERM). [yellow highlights  
9 added]
- 10 11. Attachment A (*Glendale Chromium Operable Unit, Proposed Specified Work, RI Borings*  
11 *and Well Areas and FFS Well Areas*), Specified Work Plan, Glendale Chromium Operable  
12 Unit, San Fernando Valley Superfund Site – Area 2, dated November 2011.
- 13 12. Figure 6 (*Proposed Wells and Drilling Locations – Northern, Glendale Chromium*  
14 *Operable Unit, San Fernando Valley Superfund Site, Los Angeles County, California*),  
15 Specified Work Plan, Glendale Chromium Operable Unit, San Fernando Valley Superfund  
16 Site – Area 2, dated November 2011.
- 17 13. A “zoom in” portion of said Figure 6, focusing near the right bottom of the figure and the  
18 bottom of the list of target sites. [yellow highlights added]
- 19 14. A “zoom in portion of said Figure 6, focusing on the northerly portion of the GCOU.
- 20 15. Cover page and project identification sheet, Field Sampling Plan, Remedial Investigation  
21 at San Fernando Valley Area 2 Superfund Site, Glendale Chromium Operable Unit, dated  
22 April 2012, by CH2MHILL. [yellow highlights added]
- 23 16. Table 3-2 (*Facilities Within Area 2 Being Investigated as Potential Sources of Chromium*  
24 *Contamination to Ground Water, San Fernando Valley Area 2 Superfund Site, Glendale*  
25 *Chromium Operable Unit*), Field Sampling Plan, Remedial Investigation at San Fernando  
26 Valley Area 2 Superfund Site, Glendale Chromium Operable Unit, dated April 2012, by  
27 CH2MHILL. [yellow highlights added]
- 28 17. FIGURE 3-2, *Location of Monitoring Wells, And Facilities Identified as Potential*  
*Chromium Sources, Glendale Chromium Operable Unit, San Fernando Valley Superfund*  
*Site, Field Sampling Plan, Remedial Investigation at San Fernando Valley Area 2*  
*Superfund Site, Glendale Chromium Operable Unit, dated April 2012, by CH2MHILL.*
18. Figure 3-1, *Locations of Planned Monitoring Wells for the Remedial Investigation,*  
*Glendale Chromium Operable Unit, San Fernando Valley Superfund Sites, Field Sampling*  
*Plan, Remedial Investigation at San Fernando Valley Area 2 Superfund Site, Glendale*  
*Chromium Operable Unit, dated April 2012, by CH2MHILL.*
19. Draft Figure 6, *Chromium in Groundwater, GCOU Monitoring Wells, Glendale Chromium*  
*Operable Unit, San Fernando Valley Superfund Site, Los Angeles County, California,*  
dated March 2013, by ERM.

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

- 20. Five-Year Review Interview Record regarding Larry Moore and Alex Lapostol, Appendix C (Interview Forms), *Second Five-Year Review Report for San Fernando Valley — Area 2 Superfund Site, Glendale, Los Angeles County, California*, dated September 30, 2013, Prepared by United States Army Corps of Engineers, Seattle District, and Approved by U.S. EPA Region IX. [yellow highlights added]
- 21. Five-Year Review Interview Record regarding Tedd Yargeau, Appendix C (Interview Forms), *Second Five-Year Review Report for San Fernando Valley — Area 2 Superfund Site, Glendale, Los Angeles County, California*, dated September 30, 2013, Prepared by United States Army Corps of Engineers, Seattle District, and Approved by U.S. EPA Region IX. [yellow highlights added]
- 22. Emails, dated February 27, 2013, between Alex Lapostol and Donald C. Nanney. [yellow highlights added] [The jpeg of an anodized aluminum brief case (that was attached to Mr. Lapostol’s email) is omitted as irrelevant.]

**EXHIBIT 1**

Site Map and Boring Locations, Former Zero Corporation,  
777 North Front Street, Burbank, California,  
dated September 2012, by Geosyntec Consultants



S:\GIS\HR1305\Projects\SitePlan\_20110804.mxd, v. 10/28/2011

**Legend**

- SS-3 Geosyntec Soil Boring
- Former Clarifier (Based on Site Plan provided by Northridge Properties, LLC and field observations)
- Former Building Location
- Site Boundary

**Site Map and Boring Locations**  
**Former Zero Corporation**  
**777 North Front Street**  
 Burbank, California

200 100 0 200 400  
 Feet

**Geosyntec**   
 consultants

Figure  
2

HR1305      September 2012



Boring	Depth (ft bgs)	Conc. Cr <sup>6</sup> (mg/kg)
SS-1	5	ND<0.4
	10	ND<0.4
	15	ND<0.4
	20	ND<0.4

Boring	Depth (ft bgs)	Conc. Cr <sup>6</sup> (mg/kg)
SS-2	5	1.10
	10	0.96
	15	ND<0.4
	20	ND<0.4

Boring	Depth (ft bgs)	Conc. Cr <sup>6</sup> (mg/kg)
SS-4	5	ND<0.4
	10	ND<0.4
	15	ND<0.4
	20	0.41

Boring	Depth (ft bgs)	Conc. Cr <sup>6</sup> (mg/kg)
SS-3	5	ND<0.4
	10 <sup>(1)</sup>	ND<0.4/ND<0.4
	15	ND<0.4
	20	ND<0.4

Boring	Depth (ft bgs)	Conc. Cr <sup>6</sup> (mg/kg)
SS-5	5	1.30
	10	ND<0.4
	15	ND<0.4
	20 <sup>(1)</sup>	ND<0.4/ND<0.4

Notes:  
 (1) Field duplicate samples were collected for these primary samples. Results are reported as (primary sample results)/(duplicate sample results).  
 ND - Not Detected  
 Cr<sup>6</sup> - Hexavalent chromium  
 ft bgs - feet below ground surface

**Legend**

- SS-3 Geosyntec Soil Boring
- Former Clarifier (Based on Site Plan provided by Northridge Properties, LLC and field observations)
- Former Building Location
- Site Boundary

**Hexavalent Chromium Analytical Results**  
 Former Zero Corporation  
 777 North Front Street  
 Burbank, California

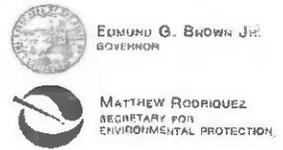


Figure  
3

S:\GIS\HR1305\Projects\SitePlan\_20110804.mxd, v. 10/28/2011

## **EXHIBIT 2**

Requirement for Technical Reports Pursuant to California Water Code Section 13267 Order,  
Former ZERO Corporation Facility, dated August 6, 2014, issued by the  
Los Angeles Regional Water Quality Control Board to Northridge Properties, LLC.



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Los Angeles Regional Water Quality Control Board

August 6, 2014

Mr. Alan Skobin  
Northridge Properties, LLC  
15505 Roscoe Blvd.  
North Hills, California 91343

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
7008 0150 0003 7881 0398

**SUBJECT: REQUIREMENT FOR TECHNICAL REPORTS PURSUANT TO CALIFORNIA WATER CODE SECTION 13267 ORDER**

**SITE: FORMER ZERO CORPORATION FACILITY, 777 NORTH FRONT STREET, BURBANK, CALIFORNIA RWQCB FILE NO. 109.6162**

Dear Mr. Skobin:

On May 10, 2011, the California Regional Water Quality Control Board, Los Angeles (Regional Board) directed Northridge Properties, LLC to submit a technical soil investigation work plan. On August 15, 2011 the Regional Board received the technical document titled "Soil Assessment Work Plan." A revision to the Work Plan was received by the Regional Board on November 23, 2011 and the Work Plan was then implemented. A final report was received by the Regional Board on October 3, 2012.

### SUMMARY OF FINAL REPORT

The final report summarized the onsite investigation and based on a review of the report, Regional Board staff determined that additional onsite soil assessment was warranted. The reasons for the additional onsite soil investigation is to prevent a significant risk to human health and safety or to the environment; and to characterize the potential for hexavalent chromium (CrVI) groundwater contamination beneath the former Zero Corporation facility (Site). Regional Board files on the Site indicate the past use of chromic acid in onsite plating operations may have had the potential to contribute to the regional groundwater contamination.

### REGIONAL BOARD COMMENTS AND ADDITIONS

CHARLES STININGER, CHAIR | SAMUEL UNGER, EXECUTIVE OFFICER

320 West 4th St., Suite 200, Los Angeles, CA 90013 | [www.waterboards.ca.gov/losangeles](http://www.waterboards.ca.gov/losangeles)

The additional onsite soil assessment scope-of-work (SOW) shall be presented in a new work Plan (Report) and must address the following goals:

1. Completion of the onsite subsurface soil assessment work of the previous soil investigation; and
2. Determine the vertical extent of CrVI in former soil boring SS-4 which is located within the area of a particular three-stage clarifier.

Specifically the Report shall be developed to evaluate the CrVI contamination in subsurface soils in the area of the above referenced 3-stage clarifier and submitted to the Regional Board by **October 15, 2014**. The work plan shall include, but not be limited to:

1. Completion of one soil boring in the area of the 3-stage clarifier. The location of the boring will be determined in the field with Regional Board staff present.
2. The soil boring will be completed to a depth of at least 50-feet below ground surface (bgs). A determination will be made in the field by Regional Board staff whether the boring should be advanced to a deeper depth. The determination will be based on field observations and professional judgment.
3. Soil samples will be collected at 1-foot, 5-foot, and then every 5-feet until the desired depth is attained.
4. The soils samples will be analyzed for hexavalent chromium by EPA Method 7196.
5. Field log sheets will be generated during the completion of the boring.
6. The soil boring activities and sample results will be provided to the Regional Board in a final report within 60 calendar days of the completion of field work.

The above requirement for submittal of a technical report constitutes an amendment to the requirements of the California Water Code section 13267 Order originally dated May 10, 2011. All other aspects of the Order originally dated May 10, 2011, and the amendments thereto, remain in full force and effect. The required technical report is necessary to investigate the characteristics of and extend of the discharges of waste at the site and to evaluate cleanup alternatives. Therefore, the burden, including costs, of the report bear a reasonable relationship to the need for the report and benefits to be obtained. Pursuant to section 13268 of the California Water Code, failure to submit the required technical report by the specified due date may result in civil liability administratively imposed by the Regional Board in an amount up to one thousand dollars (\$1000) for each day each technical report is not received.

If you have any questions, please contact Mr. Larry Moore, Project Manager, at (213-576-6730 number) (Lawrence.Moore@waterboards.ca.govf).

Sincerely,

*for Paul Rasmussen*

Samuel Unger, P.E.  
Executive Officer

cc: Ms. Lisa Hanusiak, USEPA Region 9  
Mr. Leo Chan, City of Glendale  
Mr. Bill Mace, City of Burbank Water Supply Department  
Mr. Vahe Dabbaghian, Los Angeles Department of Water & Power  
Mr. Jonathan Leung, Los Angeles Department of Water & Power  
Mr. Richard Slade, ULARA Watermaster  
Mr. Donald Nanney, Esq. Gilchrist & Rutter  
Mr. Eric Smalstig, Geosyntec Consultants

**EXHIBIT 3**

Agreement and Covenant Not to Sue, Docket No. 2000-03, dated March 16, 2000,  
between the U.S. Environmental Protection Agency and Ford Leasing Development Company,  
recorded in the Official Records of Los Angeles County, California,  
on July 12, 2000, as Instrument No. 00-1062454



LEAD SHEET

00 1062454

RECORDED/FILED IN OFFICIAL RECORDS  
 RECORDER'S OFFICE  
 LOS ANGELES COUNTY  
 CALIFORNIA  
 JUL 12 2000 AT 8 A.M.

SPACE ABOVE THIS LINE FOR RECORDERS USE



TITLE(S)

FEE

D.T.T.

FEE \$208 1 *68*

CODE 20

D.A FEE Code 20 \$ 2.00

CODE 19

CODE 9

Assessor's Identification Number (AIN)

To Be Completed By Examiner OR Title Company In Black Ink

Number of Parcels Shown



THIS FORM IS NOT TO BE DUPLICATED

Recording requested by: )  
 )  
 Chicago Title Company )  
 )  
 And when recorded mail to: )  
 )  
 Ford Leasing Development Company )  
 c/o Donald C. Nanney, Esq. )  
 Gilchrist & Rutter )  
 355 South Grand Avenue, Suite 4100 )  
 Los Angeles, California 90071 )

---

**NOTICE OF AGREEMENT AND COVENANT NOT TO SUE,  
 BETWEEN U.S. ENVIRONMENTAL PROTECTION AGENCY  
 AND FORD LEASING DEVELOPMENT COMPANY,  
 INCLUDING ACCESS RIGHTS TO REAL PROPERTY**

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, this Notice of Agreement and Covenant Not to Sue, dated as of June 29, 2000 (“**Notice**”), is made and given by the undersigned, Ford Leasing Development Company, a Delaware corporation (“**Ford Leasing**”), which is the owner of that certain real property commonly known as 777 North Front Street, in the City of Burbank, County of Los Angeles, California, and more particularly described on Exhibit A attached hereto and incorporated herein by reference (the “**Property**”).

Ford Leasing and an affiliated entity, Ford Front Realty Corp. (“**Ford Front**”), have entered into that certain “Agreement and Covenant Not to Sue Ford Leasing Development Company and Ford Front Realty Corp.”(the “**Agreement**”) with the U.S. Environmental Protection Agency (“**EPA**”), dated March 16, 2000, In the Matter of: San Fernando Valley Area 2 (Crystal Springs) Glendale Operable Units UNDER THE AUTHORITY OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, 42 U.S.C. § 9601, et seq. (“**CERCLA**”), EPA Docket No. 2000-03. A certified copy of the Agreement is attached hereto as Exhibit B and incorporated herein by reference.

This Notice is made pursuant to paragraph 38 of the Agreement, which contains the EPA’s requirement that Ford Leasing record a certified copy of the Agreement in the Recorder’s Office for Los Angeles County, California, after Ford Leasing has received notice from the EPA that the public comment period for the Agreement has expired and that the United States has

determined not to withdraw its consent to the Agreement. Such notice was received by Ford Leasing pursuant to the EPA's notice letter dated June 7, 2000, a true and correct copy of which is attached hereto as Exhibit C and incorporated herein by reference.

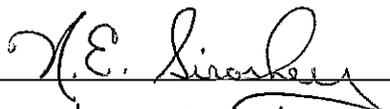
Among other things, the Agreement obligates Ford Leasing and successors-in-interest to provide to EPA an irrevocable right of access at all reasonable times to the Property for the purpose of performing and overseeing response actions at the Site (as defined in the Agreement) under state and federal law, including but not limited to CERCLA. Ford Leasing hereby provides to EPA the irrevocable right of access so described and more particularly set forth in paragraph 37 of the Agreement.

The Agreement relates to the Property, which has been initially acquired by Ford Leasing and is the subject of this Notice. The Agreement also relates to certain adjoining real property, which is the subject of a purchase or option agreement in favor of Ford Front but which has not yet been acquired by Ford Front and is not the subject of this Notice. A separate notice will be recorded by Ford Front upon the initial acquisition of such adjoining property.

Finally, while the Property is presently known as 777 North Front Street, the street address will eventually be changed to an even number due to the relocation of Front Street so that the Property, which was formerly located southwest of the intersection of Front Street and Burbank Boulevard, is located southeast of the relocated intersection of those streets.

IN WITNESS WHEREOF, the undersigned has executed this Notice as of the day and year first set forth above.

FORD LEASING DEVELOPMENT COMPANY,  
a Delaware corporation,

By:   
Its:   Vice President



5

**EXHIBIT A**

**Legal description of the Property**

Parcel 1:

Lots 14 and 15 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County.

Parcel 2:

Lots 3, 4, 5, 6, 7, 8 and 9 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County.

EXCEPT therefrom those portions thereof described as a whole as follows:

Beginning at the most Northerly corner of said Lot 9; thence Southeasterly along the Northeasterly lines of said Lots 9, 8, 7, 6, 5, 4, 3, to the most Easterly corner of said Lot 3; thence Southwesterly along the Southeasterly line of said Lot 3 or the most Southerly corner thereof; thence Northwesterly along the Southwesterly line of said Lot 3; a distance of 15.28 feet to a point on a curve concave Southwesterly, and having a radius of 1,746 feet; thence Northwesterly along said curve, through an angle of  $11^{\circ} 31' 17''$  an arc distance of 351.07 feet to a point on the Northwesterly line of said Lot 9, distant thereon 24.16 feet Southwesterly from said most Northerly corner thereof; thence Northeasterly along said Northwesterly line of said Lot 9, a distance of 24.16 feet to the point of beginning.

Parcel 3:

Lots 10, 11, 12 and 13 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County.

EXCEPT from said land that portion of thereof, described as follows:

Beginning at the most Easterly corner of said Lot 10; thence Southwesterly along the Southeasterly line of said Lot 10; a distance of 24.16 feet; thence Northwesterly along a curve concave Southwesterly and having a radius of 1,746 feet, an arc distance of 198.08 feet to a point on the Northeasterly line of said Lot 13, distant thereon 1.44 feet Southeasterly from the most Northerly corner of Lot 13, thence Southeasterly along the Northeasterly lines of said Lots 13, 12, 11 and 10 to the point of beginning.

00 1062454

Parcel 4:

Those portions of Lots 16 and 18 in Block 64 of Town of Burbank, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 17, Page 19 of Miscellaneous Records, in the office of the County Recorder of said County, described as a whole as follows:

Beginning at the most Westerly corner of said Lot 18; thence Southeasterly along the Southwesterly line of said lot to the intersection thereof with the Northwesterly line of San Jose Avenue, 60 feet wide, as described in deed recorded in Book 3034, Page 316, Official Records, thence Northeasterly along said Northwesterly line of San Jose Avenue, a distance of 7.52 feet to the Northeasterly line of the land described in deed recorded in Book 33012, Page 309, Official Records, as Parcel 2; thence Northwesterly along said last mentioned Northeasterly line to a point on the Northwesterly line of said Lot 16, distant along the Northwesterly lines of said Lots 18 and 16, 120.02 feet Northeasterly from said most Westerly corner of said Lot 18; thence Southwesterly along said Northwesterly lines of said Lots 16 and 18; a distance of 120.02 feet to the point of beginning.

Parcel 5:

Those portions of Cypress Avenue and Front Street, in the City of Burbank, County of Los Angeles, State of California, as shown on said map of Tract No. of Burbank, as per map recorded in Book 17, Pages 19 et seq. of Miscellaneous Records, in the office of the County Recorder of said County, vacated by Resolution No. 6190, passed by the Council of said City of Burbank, on May 19, 1950, a certified copy thereof having been recorded in Book 33185, Page 116 of Official Records, of said County, and described as a whole as follows:

Beginning at the most Westerly corner of Lot 18 in Block 64 of said Town of Burbank, thence North 41° 16' 39" East along the Northwesterly lines of said Lots 18 and 16 in said Block 64, a distance of 120.02 feet to the most Northerly corner of the land described as Parcel 2 in said deed to the State of California, recorded in Book 33012, Page 909, Official Records of said County; thence North 24° 52' 30" West along the Northwesterly prolongation of the Northeasterly line of said Parcel so described in said last mentioned deed, a distance of 65.60 feet to a point in the Northwesterly line of said Cypress Avenue, 60 feet wide, distant thereon 49.66 feet Southwesterly from the most Southerly corner of Lot 1 of Tract No. 5617, as per map recorded in Book 85, Page 77 of Maps; records of said County; thence Southwesterly, along said Northwesterly line of Cypress Avenue, to the intersection thereof with the Southwesterly line of said Front Street, 66 feet wide; thence South 43° 33' 18" East along said Southwesterly line of Front Street, a distance of 381.53 feet, more or less, to the Southwesterly prolongation of the Northwesterly line of said San Jose Avenue, 60 feet wide; thence along said Southwesterly prolongation, North 41° 15' 35" East a distance of 65.27 feet to the Southwesterly line of said Lot 18; thence North 43° 33' 18" West along said Southwesterly line of said Lot 18, a distance of 321.34 feet to the point of beginning.

00 1062454

Parcel 6:

That portion of Bonnywood Place, as shown on map of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County, vacated by Resolution No. 6190, passed by the Council of said City of Burbank, on May 16, 1950, a certified copy thereof having been recorded in Book 33185, Page 116, Official Records, of said County, and described as follows:

Beginning at the most Northerly corner of Lot 14 in said Tract No. 5617; thence Southeasterly along the Northeasterly lines of Lots 14 and 13 of said Tract, to a point distant thereon 1.44 feet Southeasterly from the most Northerly corner of said Lot 13, said last mentioned point being a point on a curve concave Southwesterly and having a radius of 1,746 feet; thence Northwesterly along said curve, through an angle of  $1^{\circ} 14' 24''$  an arc distance of 51.50 feet, to a point on the Northeasterly prolongation of the Northwesterly line of said Lot 14; said last mentioned point being distant along said Northeasterly prolongation 2.55 feet Northeasterly from said most Northerly corner of Lot 14; thence Southwesterly along said Northeasterly prolongation, a distance of 2.55 feet to the point of beginning.

Parcel 7:

Those portions of Lots 3 and 4 in Block 91 of the Rancho Providencia and Scott Tract, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 43, Page 47 et seq. of Miscellaneous Records, of said County, lying Southwesterly of the Southwesterly line of Tract No. 5617, recorded in Book 85, Page 77 of Maps.

EXCEPT therefrom the Southwesterly 67 feet (measured at right angles) of said Lots 3 and 4.

ALSO EXCEPT from said Lot 4 that portion thereof described as follows:

Beginning at the most Southerly corner of Lot 1 of Tract No. 5617, as per map recorded in Book 85, Page 77 of Maps; thence South  $41^{\circ} 16' 39''$  West along the Southwesterly prolongation of the Southeasterly line of said Lot 1, a distance of 49.66 feet; thence North  $24^{\circ} 62' 30''$  West a distance of 58.54 feet; thence Northwesterly along a curve concave Southwesterly tangent to said last described line and having a radius of 1,746 feet, an arc distance of 66.96 feet to a point on the Southwesterly line of Lot 3, of said Tract 5617, said point being distant along the Southwesterly lines of Lots 1, 2 and 3, Tract No. 5617, a distance of 115.28 feet from said most Southerly corner of Lot 1, thence Southeasterly along the said Southwesterly line of said Lots 3, 2 and 1, a distance of 115.28 feet to the point of beginning.

00 1062454

Parcel 8:

Those portions of Lots 6, 7 and 8 of Tract No. 2792, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 28, Page 15 of Maps, in the office of the County Recorder of said County, lying Southeasterly of a line parallel with and distant Northwesterly 85 feet at right angles from the Southeasterly line of said Lots 6, 7 and 8.

EXCEPT from said Lots 7 and 8 those portions lying Southwesterly of the Northeasterly line of the land conveyed to the Southern Pacific Railway Company, by deed recorded in Book 4681, Page 111, Official Records, in the office of the County Recorder of said County.

ALSO EXCEPT from said Lot 6 that portion thereof, described as follows:

Beginning at the intersection of the Easterly line of said Lot 6 with a line parallel with and distant 85 feet Northwesterly measured at right angles from the Southeasterly line of said lot; thence Southwesterly along said parallel line a distance of 6.50 feet to a point on a curve concave Southwesterly and having a radius of 1,746 feet; thence Southeasterly along said curve, through an angle of 0° 22' 51" an arc distance of 11.61 feet to a point on said Easterly line of said lot, distant thereon 12.98 feet Southerly from said point of beginning; thence Northerly along said Easterly line a distance of 12.98 feet to the point of beginning.

Parcel 9:

Those portions of Lots 6, 7 and 8 of Tract No. 2792, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 28, Page 15 of Maps, in the office of the County Recorder of said County, lying Northwesterly of a line parallel with and distant Northwesterly 85 feet at right angles from the Southeasterly line of said Lots 6, 7 and 8.

EXCEPT from Lots 7 and 8, those portions lying Westerly of the Easterly lines of Parcels 1 and 2 as described in the deed to Southern Pacific Railroad Company, recorded in Book 4681, Page 111, Official Records.

ALSO EXCEPT that portion of said Lot 8, which lies Westerly of the Easterly line of the land condemned for flood control purposes by Final Decree of Condemnation, entered in Case No. 474741, Los Angeles County Superior Court, a certified copy of said Decree being recorded in Book 19995, Page 375, Official Records.

ALSO EXCEPT for said land that portion thereof described as follows:

Those portions of Lots 6, 7 and 8 of Tract No. 2792, described as follows:

Beginning at the most Northerly corner of said Lot 6; thence South 68° 02' 26" West along the Northwesterly lines of said Lots 6, 7 and 8 to a point distant thereon 19.81 feet

00 1062454

Southwesterly from the most Northerly corner of said Lot 8; thence South 60° 27' 30" East, a distance of 179.12 feet; thence Southeasterly along a curve concave Southwesterly tangent to the last described line and having a radius of 1,746 feet, an arc distance of 254.95 feet to a point on a line parallel with and distant 85 feet Northwesterly, measured at right angles from the Southeasterly line of said Lot 6; thence North 41° 16' 51" East, along said last mentioned parallel line, a distance of 6.50 feet to the Northeasterly line of Lot 6; thence Northwesterly along said Northeasterly line of Lot 6; a distance of 347.67 feet to the point of beginning.

ALSO EXCEPT from the remainder of said Lots 7 and 8, those portions thereof lying Northwesterly of a line parallel with and distant Southeasterly 60 feet, measured at right angles from, the Northwesterly lines of said Lots 7 and 8.

Parcel 10:

That portion of Lot 5 of Tract No. 2792, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 28, Page 15 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the most Southerly corner of said lot; thence along the Southeasterly line of said Lot 5, North 41° 15' 50" East 40.10 feet to a non-tangent curve concave Southwesterly and having a radius of 1,746.00 feet; thence from a tangent bearing North 49° 20' 21" West, Northwesterly along said curve through an angle of 2° 27' 19", an arc distance of 74.82 feet to a point in the Westerly line of said Lot 5, distant along said Westerly line, 83.75 feet from said most Southerly corner; thence Southerly along said Westerly line 83.75 feet to the point of beginning.

EXCEPT therefrom all minerals, oils, gases and other hydrocarbons by whatsoever name known that may be within or under the parcel of land hereinabove described without, however the right to drill, dig or mine through the surface thereof as disclosed in deed from the State of California recorded June 9, 1965 as Instrument No. 4355 of Official Records.

Parcel 11:

That portion of Bonnywood Place, lying Northeasterly of Lot 15 and within the Northeasterly prolongations of the Northwesterly and Southeasterly lines of said Lot 15 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County, as vacated by the City Council of said City in Resolution No. 6190 recorded May 19, 1950 in Book 33185, Page 116 of Official Records of said County, described as follows:

Beginning at the most Northerly corner of said Lot 15 in said Tract No. 5617; thence Southeasterly along the Northeasterly lines of Lots 15, 14 and 13 of said Tract, to a point in the Northeasterly line of said Lot 13, distant 1.44 feet Southeasterly from the most Northerly corner of said Lot 13; said point being on curve in the Southwesterly line of the

00 1062454

land conveyed to the State of California for highway purposes October 19, 1945 by Superior Court Case No. 506667 as shown on Clerk's Field Map No. 2295 in the office of the County Surveyor of said County, said curve being concave Southwesterly, having a radius of 1,746.00 feet: thence Northwesterly along said Southwesterly line, through an angle of  $4^{\circ} 13' 59''$  an arc distance of 129.00 feet to a point in the Northeasterly prolongation of the Northwesterly line of said Lot 15, distant Northeasterly thereon 3.50 feet from the most Northerly corner thereof; thence Southwesterly along said prolongation 3.50 feet to the point of beginning.

00 1062454



**EXHIBIT B**

**Certified Copy of Agreement**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105-3901

ATTESTATION OF CUSTODIAN

I, Marie Rongone, Senior Counsel, attest that I have shown an original of the official agency record listed below to the Freedom of Information Officer for EPA Region 9 and that the copy attached is a true and correct copy of the listed record for the San Fernando Valley Area 2, Glendale Operable Unit.

- 1. AGREEMENT AND COVENANT NOT TO SUE FORD LEASING DEVELOPMENT COMPANY AND FORD FRONT REALTY CORP., Docket No. 2000-03. (51 pgs)

Date 6/28/2000 Marie Rongone  
 Marie Rongone  
 Senior Counsel

Attachment

\*\*\*\*\*

CERTIFICATION OF AUTHENTICITY

I, Sharon A. Jang, Freedom of Information Officer, United States Environmental Protection Agency, Region 9, attest that the attached copies of the documents listed above is a true and correct copy of the official agency document held in my custody.

SUBSCRIBED UNDER PENALTY THIS 28<sup>th</sup> DAY OF JUNE 2000.

Sharon A. Jang  
 Sharon A. Jang  
 Freedom of Information Officer

00 1062454

CERTIFICATION

I, Nancy J. Marvel, Regional Counsel, United States Environmental Protection Agency, Region 9, certify that the official whose signature appears above has the legal custody pursuant to 40 C.F.R. Section 2.406 of the original documents of which a copy is attached, as witnessed by my signature and the official seal of the United States Environmental Protection Agency which appears below.

DATED: June 28, 2000

Nancy J. Marvel  
Nancy J. Marvel  
Regional Counsel



00 1062454

Marie M. Rongone  
Assistant Regional Counsel  
United States Environmental  
Protection Agency  
75 Hawthorne St., ORC-3  
San Francisco, CA 94105  
(415) 744-1313

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

IN THE MATTER OF:	)	
San Fernando Valley	)	Docket No. 2000-03
Area 2 (Crystal Springs)	)	
Glendale Operable Units	)	
UNDER THE AUTHORITY OF THE	)	AGREEMENT AND COVENANT
COMPREHENSIVE ENVIRONMENTAL	)	NOT TO SUE FORD LEASING
RESPONSE, COMPENSATION, AND	)	DEVELOPMENT COMPANY AND
LIABILITY ACT OF 1980, 42 U.S.C.	)	FORD FRONT REALTY CORP.
§ 9601, <u>et seq.</u> , as amended.	)	
	)	

I. INTRODUCTION

1. This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States, on behalf of the Environmental Protection Agency ("EPA"), on the one hand, and Ford Leasing Development Company, a Delaware corporation ("Ford Leasing"), and Ford Front Realty Corp., a Delaware corporation ("Ford Front"), on the other hand.

2. This Agreement is entered into pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, et seq., and the authority of the Attorney General of the United States to compromise and settle claims of the United States.

3. Ford Leasing and Ford Front (each individually referred to as a "Settling Respondent" and jointly as the "Initial Settling Respondents") are wholly owned subsidiaries of Ford Motor Company and are principally officed at One Parklane Boulevard, Suite 1500 East, Dearborn, Michigan, 48126. On or about June 27, 1997, Herbert F. Boeckmann, II, entered into an option agreement with ZERO Corporation ("ZERO"), and later assigned the option agreement to Settling Respondent Ford Leasing. Settling Respondent Ford Leasing has exercised the option under the option agreement and has purchased certain improved real property

located in the City of Burbank, County of Los Angeles, State of California, which is located at the southwest corner of Burbank Boulevard and Front Street as the intersection of those streets is presently configured (following planned relocation of Front Street, the location of the property will be at the southeast corner), and which is more particularly described in Exhibit 1 to this Agreement. Settling Respondent Ford Front has entered into an agreement or option to purchase two other separate parcels of real property, which are adjacent to the real property described in Exhibit 1, and which are currently owned by the City of Burbank and more particularly described in Exhibit 2 to this Agreement. The Initial Settling Respondents intend to develop the Property into a retail automobile dealership sales and service facility with related amenities (the "Project").

4. Portions of the Property currently include certain improvements, including approximately six buildings that from approximately 1962 through 1991 housed certain manufacturing operations. Since 1991, portions of the Property have been rented for filming of motion picture or television productions and other marginal uses.

5. The Property consists of a total of approximately 12.1 acres. A portion of the Property was previously owned and operated by ZERO (see Exhibit 1). A portion of the Property

currently is owned and operated by the City of Burbank (see Exhibit 2).

6. The Property is located within the San Fernando Valley Area 2 Crystal Springs Superfund Site.

7. The Parties agree to undertake all actions required by the terms and conditions of this Agreement. The purpose of this Agreement is to settle and resolve, subject to the reservations and limitations contained herein, the potential liability of the Settling Respondents for the Existing Contamination (as defined below) at the Property that otherwise would arise under Sections 106 and/or 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and/or Section 7003 of RCRA, 42 U.S.C. § 6973.

8. The Parties agree that each Settling Respondent's entry into this Agreement or consent to be bound by the terms of this Agreement, and the actions undertaken by any of the Settling Respondents in accordance with this Agreement, do not constitute an admission of any liability by any of the Settling Respondents.

The resolution of this potential liability, in exchange for provision by the Settling Respondents to EPA of a substantial benefit, is in the public interest.

II. DEFINITIONS

9. Unless otherwise expressly provided herein, terms used in this Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

10. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies.

11. "Existing Contamination" shall mean, with respect to each Settling Respondent:

a. Any hazardous substances, pollutants or contaminants, present or existing on or under the Property as of the effective date of this Agreement applicable to that Settling Respondent and for which that Settling Respondent was not liable in any way prior to that effective date.

b. Any hazardous substances, pollutants or contaminants that (1) migrated from the Property, or the portion thereof acquired by that Settling Respondent, prior to the effective date of this Agreement applicable to that Settling Respondent; or (2) migrate from the Property, or the portion thereof acquired by that Settling Respondent, after the effective date of this Agreement applicable to that Settling Respondent, provided that such Settling Respondent was not liable in any way prior to that

effective date for such hazardous substances, pollutants or contaminants and does not cause or contribute to the migration of such hazardous substances, pollutants or contaminants from the Property or the portion thereof acquired by that Settling Respondent.

c. Any hazardous substances, pollutants or contaminants that migrate onto or under the Property or any portion thereof after the effective date of this Agreement applicable to that Settling Respondent, provided that such Settling Respondent was not liable in any way prior to that effective date for such hazardous substances, pollutants or contaminants and does not cause or contribute to the migration of such hazardous substances, pollutants or contaminants onto or under the Property or any portion thereof.

12. "Parties" shall mean EPA and the Settling Respondents collectively. Individual parties are sometimes referred to individually as a "Party."

13. "Property" shall mean that certain real property that is described in Exhibits 1 and 2 of this Agreement.

14. "Settling Respondent" shall mean, individually and as applicable to the context, Ford Leasing, Ford Front or any assignee or transferee that has consented to be bound by the terms of this Agreement pursuant to paragraphs 49, 50 and 52.

"Initial Settling Respondents" shall mean Ford Leasing and Ford Front. "Settling Respondents" shall mean, collectively, Ford Leasing, Ford Front and any and all assignees or transferees that have consented to be bound by the terms of this Agreement pursuant to paragraphs 49, 50, and 52.

15. "Site" shall mean the San Fernando Valley Area 2 Crystal Springs Superfund Site generally encompassing the cities of Burbank and Glendale in the State of California. The Site is depicted generally on the map attached as Exhibit 3. The Site shall include the Property and all areas to which hazardous substances and/or pollutants or contaminants from the Site have come to be located.

16. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

17. Settling Respondent Ford Leasing is in the business of acquiring, developing and building automobile dealerships and related amenities for sale or lease to dealerships. Settling Respondent Ford Front was formed for the purpose of acquiring, developing and building facilities for automobile dealership(s) and related amenities at the Property for sale or lease to dealerships.

18. Settling Respondent Ford Leasing has acquired a portion of

the Property; Settling Respondent Ford Front has entered into an agreement or option to acquire other portions of the Property; and the Initial Settling Respondents plan to construct an automobile dealership sales and service facility and related amenities on the Property.

19. The Property consists of approximately 12.1 acres that were, in part, formerly used and zoned for industrial use and have been owned and operated by ZERO (see Exhibit 1) or the City of Burbank (see Exhibit 2). The Property is within the San Fernando Valley Area 2, Crystal Springs Superfund Site. The Site includes the Glendale North and South Operable Units. The Site includes contamination to regional groundwater as the result of volatile organic compounds ("VOCs") including, but not limited to, trichloroethylene ("TCE") and tetrachloroethylene ("PCE"), as well as areas to which the contamination has migrated.

20. Based on subsurface contamination at portions of the Property, ZERO has been included in EPA's enforcement actions at the Site.

21. The Property is within a City of Burbank redevelopment plan area. Such area includes blighted properties. The goal of the redevelopment plan is to revitalize said blighted properties in the redevelopment area by putting them to a more productive and beneficial use.

22. The City of Burbank considers the Project to be in the best interests of the public.

23. The City of Burbank supports the Project and has so notified EPA.

24. The Project will convert the Property into a more productive and beneficial retail use.

25. The Project will generate substantial benefits for the City of Burbank and the public at large. These benefits include long term economic benefits from the retail sales tax revenues generated by the Project. In addition, the Project will result in sales tax revenue on construction. Other income will be derived from property tax revenues, business license taxes, and other government fees.

26. The City of Burbank stands to benefit further from the Project, not only due to the sales tax revenues, but also because the Project is expected to encourage further redevelopment in the area.

27. The Property is located within the Site. EPA has collected information and conducted its own investigation of the Site. A portion of the Property has been known to EPA and referred to in certain EPA documents as the ZERO facility.

28. The Initial Settling Respondents do not operate a facility within the Site and are not, and have never been, named or

identified as responsible parties for or at the Site.

29. The Project will create a substantial number of construction-related jobs and an estimated 125-150 employment positions.

30. The Project will provide substantial and meaningful employment opportunities. The workforce will be engaged in jobs requiring varying degrees of training, and many of the workers will be highly skilled at their positions.

31. As a part of the Project, the Initial Settling Respondents will contribute to public art in the City of Burbank.

32. The Project is located immediately adjacent to the "Metrolink" station, thereby promoting the use of mass transport for employees, service department customers, and/or prospective automobile purchasers.

33. The Initial Settling Respondents represent, and for the purposes of this Agreement EPA relies on said representations, that the Initial Settling Respondents' involvement with the Property has been limited to inspecting and performing environmental and other due diligence with respect to the Property in connection with Settling Respondent Ford Front's proposed acquisition of the City portions of the Property, and in connection with Settling Respondent Ford Leasing's completing its acquisition of the ZERO portion of the Property.

IV. PAYMENT

34. In consideration of and in exchange for the United States' Covenant Not to Sue in Section VIII herein, the Initial Settling Respondents agree to pay to EPA the sum of \$ 150,000, within thirty (30) days of the date that the Initial Settling Respondents receive notice from the EPA that the public comment period for this Agreement has expired and that the United States has determined not to withdraw its consent to this Agreement. The Initial Settling Respondents shall make all payments required by this Agreement in the form of a certified check or checks made payable to "EPA Hazardous Substance Superfund," referencing the EPA Region IX, EPA Docket number, and Site/Spill ID # 091G, 091H, and 09N2, DOJ case number 90-11-2-442A, if applicable, and the name and address of Initial Settling Respondents. The obligation of the Initial Settling Respondents to make this payment shall be joint and several. The Initial Settling Respondents shall send such payments to the following address:

U.S. EPA  
 Region IX, Attn: Superfund Accounting  
 P.O. Box 360863M  
 Pittsburgh, PA 15251

Notice of payment shall be sent to those persons listed in Section XV (Notices and Submissions) and to EPA Region IX Financial Management Officer:

Catherine Shen  
Financial Management Specialist (PMD-6)  
USEPA Region IX  
75 Hawthorne St.  
San Francisco, CA 94105

The total amount to be paid to EPA shall be placed in the Glendale Special Account and used to conduct or finance the response action at or in connection with the Glendale North and South Operable Units. Any balance remaining in the Glendale Special Account at the completion of the response at or in connection with the Glendale North and South Operable Units shall be deposited in the EPA Hazardous Substance Superfund.

35. Amounts due and owing pursuant to the terms of this Agreement but not paid in accordance with the terms of this Agreement shall accrue interest at the rate established pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), compounded on an annual basis.

36. If the Initial Settling Respondents do not perform pursuant to paragraphs 34 and 35 of this Agreement, they shall be deemed to be in material default of this Agreement.

V. ACCESS/NOTICE TO SUCCESSORS-IN-INTEREST

37. Commencing upon the date that any Settling Respondent acquires title to any part of the Property, such Settling Respondent agrees to provide to EPA, its authorized officers, employees, representatives, and all other persons performing

response actions under EPA or state oversight, an irrevocable right of access at all reasonable times to the portions of the Property it has acquired and to any other property to which access is required for the implementation of response actions at the Site, to the extent access to such other property is controlled by such Settling Respondent, for the purposes of performing and overseeing response actions at the Site under federal and state law. EPA agrees to provide reasonable notice to then existing Settling Respondents, to the extent practicable, of the timing of response actions to be undertaken at the Property if such actions are undertaken by EPA and will use reasonable efforts to minimize interference with the use of the Property; provided, however, that nothing herein shall provide any Settling Respondent with a claim or cause of action against EPA including, without limitation, any claim or cause of action for injunctive relief. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by RCRA, 42 U.S.C. § 6901 et seq., and any other applicable statute or regulation, including any amendments thereto.

38. With respect to each portion of the Property that is initially acquired by a Settling Respondent, within thirty (30)

days after the later of either (a) the effective date of this Agreement applicable to that initially acquired portion of the Property, or (b) the date that the Initial Settling Respondents receive notice from the EPA that the public comment period for this Agreement has expired and that the United States has determined not to withdraw its consent to this Agreement, the initially acquiring Settling Respondent shall record a certified copy of this Agreement, as against the portion of the Property that has been initially acquired by that Settling Respondent, with the Recorder's Office or Registry of Deeds for Los Angeles County, State of California. That Settling Respondent shall include with the copy of this Agreement to be recorded a statement identifying the portion of the Property that has been initially acquired by that Settling Respondent and with respect to which the recordation of this Agreement applies. Thereafter, each deed, title, or other instrument conveying an interest in the portions of the Property that any Settling Respondent has acquired shall contain a notice stating that the Property is subject to this Agreement. A copy of these documents should be sent to the persons listed in Section XV (Notices and Submissions).

39. Each Settling Respondent shall ensure that assignees, successors-in-interest, lessees, and sublessees of the portions

of the Property such Settling Respondent has acquired shall provide the same access and cooperation as required of all Settling Respondents under the terms of this Agreement. Each Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the portions of the Property such Settling Respondent has acquired as of the applicable effective date of this Agreement and shall ensure that any subsequent leases, subleases, assignments or transfers of the Property or an interest in the Property are consistent with this Section, and Section XI (Parties Bound/Transfer of Covenant), of this Agreement.

VI. DUE CARE/COOPERATION

40. Each Settling Respondent that acquires any portion of the Property shall exercise due care at the Site with respect to the Existing Contamination and shall comply with all applicable local, State, and federal laws and regulations. Settling Respondents recognize that the implementation of response actions at the Site may interfere with Settling Respondents' use of the Property and may require closure of their operations or a part thereof. Each Settling Respondent that acquires any portion of the Property agrees to cooperate fully with EPA in the implementation of response actions at the Site and further agrees not to interfere with such response actions. EPA agrees,

31

consistent with its responsibilities under applicable law, to use reasonable efforts to minimize interference with any Settling Respondent's operations by such entry and response; provided, however, that nothing herein shall provide any Settling Respondent with a claim or cause of action against EPA including, without limitation, any claim or cause of action for injunctive relief. In the event any Settling Respondent that acquires any portion of the Property becomes aware of any action or occurrence that causes or threatens a release of hazardous substances, pollutants or contaminants at or from the Property that constitutes an emergency situation or that may present an immediate threat to the public health or welfare or the environment, such Settling Respondent shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release, and shall, in addition to complying with any applicable notification requirements under Section 103 of CERCLA, 42 U.S.C. § 9603, or any other law, immediately notify EPA of such release or threatened release.

#### VII. CERTIFICATION

41. Upon entering into this Agreement, each of the Initial Settling Respondents certifies, and upon subsequently consenting to be bound by the terms of this Agreement, each subsequent Settling Respondent certifies, that to the best of its knowledge

and belief it has fully and accurately disclosed to EPA all information known to such Settling Respondent and all information in the possession or control of its officers, directors, employees, contractors and agents that relates in any way to any Existing Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Property or otherwise relates in any way to its qualification for this Agreement; provided, however, that no Settling Respondent shall be obligated to produce any privileged or confidential communications with the exception of any data that may be contained therein. Each Settling Respondent also certifies that, to the best of its knowledge and belief, it has not caused or contributed to a release or threat of release of hazardous substances or pollutants or contaminants at the Site. If the United States determines that information provided by the Initial Settling Respondents is not materially accurate and complete, this Agreement, at the sole discretion of the United States, shall be voidable and the United States reserves all rights it may have in the event of such occurrence. If the United States determines that information provided by any subsequent Settling Respondent is not materially accurate and complete, this Agreement, at the sole discretion of the United States, shall be voidable as to that Settling Respondent and the United States

reserves all rights it may have in the event of such occurrence.

VIII. UNITED STATES' COVENANT NOT TO SUE

42. Subject to the Reservation of Rights in Section IX of this Agreement, upon payment of the amount specified in Section IV (Payment) of this Agreement, the United States covenants not to sue or take any other civil or administrative action against any Settling Respondent for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a), or Section 7003 of RCRA, 42 U.S.C. § 6973, with respect to the Existing Contamination.

IX. RESERVATION OF RIGHTS

43. The covenant not to sue set forth in Section VIII, above (United States' Covenant Not to Sue), does not pertain to any matters other than those expressly specified therein. The United States reserves, and this Agreement is without prejudice to, all rights against each Settling Respondent with respect to all other matters including, but not limited to, the following:

- a. claims based on a failure by that Settling Respondent to meet a requirement of this Agreement including, but not limited to, Section IV (Payment), Section V (Access/Notice to Successors-in-Interest), Section VI (Due Care/Cooperation), Section VII (Certification), and Section XIV (Payment of Costs);

b. any liability resulting from past or future releases of hazardous substances, pollutants or contaminants at or from the Site caused or contributed to by that Settling Respondent, its ~~successors, assignees, lessees or sublessees;~~

c. any liability resulting from exacerbation by that Settling Respondent, its successors, assignees, lessees or sublessees, of Existing Contamination;

d. any liability of that Settling Respondent resulting from the release or threat of release of hazardous substances, pollutants or contaminants at or from the Site after the effective date of this Agreement applicable to such Settling Respondent, not within the definition of Existing Contamination;

e. criminal liability;

f. liability for damages for injury to, destruction of, or loss of natural resources and for the costs of any natural resource damage assessment incurred by federal agencies other than EPA; and

g. liability for violations by that Settling Respondent of local, state or federal law or regulations.

44. With respect to any claim or cause of action asserted by the United States, the applicable Settling Respondent(s) shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing

Contamination.

45. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, ~~administrative or judicial, civil or criminal, past or future, in~~ law or in equity, that the United States may have against any person, firm, corporation or other entity not a Party to this Agreement.

46. Except as provided in paragraphs 50 and 52 of this Agreement, nothing in this Agreement is intended to limit the right of EPA to undertake future response actions at the Site or to seek to compel parties other than Settling Respondents to perform or pay for response actions at the Site. Nothing in this Agreement shall in any way restrict or limit the nature or scope of the response actions that may be taken or be required by EPA, in exercising its authority under federal law. Each Settling Respondent acknowledges that it is purchasing or acquiring an interest in property where response actions may be required.

X. SETTLING RESPONDENTS' COVENANT NOT TO SUE

47. In consideration of the United States' Covenant Not To Sue in Section VIII of this Agreement, each Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, including any department, agency or instrumentality of the United States, or

its authorized officers, employees, or representatives, with respect to the Site or this Agreement, including, but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, 42 U.S.C. §§ 9606(b)(2), 9611, 9612, 9613, or any other provision of law; any claim under CERCLA Sections 107 or 113, 42 U.S.C. §§ 9607, 9613, related to the Site; any claim under the Equal Access to Justice Act, 28 U.S.C. § 2412, or any claim under common law, related to the Site; or any other claims arising out of response activities at the Site, including claims based on EPA's oversight of such activities or approval of plans for such activities.

48. Each Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of that Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA.

Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XI. PARTIES BOUND/TRANSFER OF COVENANT

49. This Agreement shall apply to and be binding upon the United States and shall apply to and be binding on Settling Respondents, their officers, directors, employees, and agents.

Each signatory of a Party to this Agreement represents that he or she is fully authorized to enter into, or to consent to be bound by, the terms and conditions of this Agreement and to legally bind such Party.

50.

a. Notwithstanding any other provisions of this Agreement, all of the rights, benefits and obligations conferred upon each Settling Respondent under this Agreement may be assigned or transferred in whole or in part with the prior written consent of EPA at its sole discretion, to any person to whom such Settling Respondent may sell, lease, assign or transfer all or portions of the Property or this Agreement, and this Agreement shall apply to the purchaser, lessee, assignee or transferee with respect to this Agreement or the Property or the portion thereof transferred.

b. No transferee of all or a portion of the Property or this Agreement shall have any right under this Agreement (except to the extent that paragraph 50.c applies), including any right under Section VIII (United States' Covenant Not to Sue) or

Section XVIII (Contribution Protection), unless:

(1) At least thirty (30) days before the transfer, the transferee shall have submitted to EPA an affidavit that identifies the transferee and the property to be transferred, describes the proposed transfer, and certifies that:

(A) the transferee has not caused or contributed to the release or threat of release of any amount of the Existing Contamination;

(B) the transferee's use of the Property will not result in a release or threat of release of any hazardous substance;

(C) the transferee's use of the Property will not cause or contribute to the migration or release of any Existing Contamination or any threat to human health or the environment caused by any such release or threat of release; and

(D) the person signing the affidavit is fully authorized to make the foregoing certifications and to legally bind the transferee;

(2) EPA has consented in writing to the transfer of the rights, benefits and obligations conferred under this Agreement to the person acquiring or taking possession of all or a portion of the Property. EPA will provide the transferring Settling Respondent with its determination within thirty (30)

days of receipt of the transferee's affidavit. Any failure by EPA to render a decision within thirty (30) days shall be construed as a denial, but denial shall not preclude later approval by EPA; and

(3) Prior to or simultaneous with the transfer of all or a portion of the Property or this Agreement, the transferee shall consent in writing to be bound by and perform, from the date of transfer, all of the terms and obligations of the Agreement applicable to it as a Settling Respondent. These terms and obligations include, but are not limited to, those set forth in paragraphs 37, 38, 39 (Access/Notice to Successors in Interest), 40 (Due Care/Cooperation), 43, 44, 45, 46, (Reservation of Rights), 47 (Settling Respondent's Covenant Not to Sue), 49, 50, 51, 52 (Parties Bound/Transfer of Covenant), 53 (Disclaimer), 54 (Document Retention), 55 (Payment of Costs), 56 (Notices), 61 and 62 (Notice of Contribution Suits) of this Agreement.

c. Any lessee or sublessee (collectively "lessee") of the Property or any portion thereof may obtain the rights and benefits established by this Agreement, including any right under Section VIII (United States' Covenant Not to Sue) or Section XVIII (Contribution Protection), by providing to EPA, prior to the date of tenancy, the written certification set forth in

Exhibit 4. However, if at any time EPA determines that the lessee's certification is not materially accurate or complete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to the lessee, and the United States reserves all rights it may have against the lessee. Any lessee that is unable to provide the written certification set forth in Exhibit 4 may obtain the rights and benefits of this Agreement only by complying with the transfer requirements of paragraph 50.b. Whenever a lessee that has obtained the rights and benefits of this Agreement pursuant to this paragraph or paragraph 50.b vacates the Property, the Settling Respondent that was the lessor or sublessor shall provide EPA written notice of the vacancy within thirty (30) days of the date upon which the lessee vacates.

51. Any Settling Respondent that requests the EPA's consent to a sale, lease, assignment, or other transfer of the Property, or portion thereof, or this Agreement agrees to pay the reasonable costs incurred by EPA to review the request for consent. The Settling Respondent agrees to pay such costs within thirty (30) days of Settling Respondent's receipt of a bill from EPA for such costs. Payments shall be made in the manner provided for payments under paragraphs 34 and 35 of this Agreement.

52. In the event of an assignment or transfer of the Property,

or of this Agreement, the assignor or transferor shall continue to be bound by all the terms and conditions, and be subject to all the benefits, of this Agreement, except to the extent that EPA and the assignor or transferor otherwise agree and accordingly modify this Agreement, in writing.

XII. DISCLAIMER

53. This Agreement in no way constitutes a finding by EPA as to the risks to human health and the environment that may be posed by contamination at the Property or the Site, nor constitutes any representation by EPA that the Property or the Site is fit for any particular purpose.

XIII. DOCUMENT RETENTION

54. Settling Respondents agree to retain and make available to EPA all business and operating records, contracts, site studies and investigations, and documents relating to operations at the Property, for at least ten years following the initial effective date of this Agreement (i.e., March 25, 1998), unless otherwise agreed to in writing by the Parties. At the end of ten years, Settling Respondents shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at EPA's expense.

XIV. PAYMENT OF COSTS

55. If any Settling Respondent fails to comply with the terms of this Agreement including, but not limited to, the provisions of Section IV (Payment) of this Agreement, such Settling Respondent shall be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement or otherwise obtain compliance as a result of such failure.

XV. NOTICES AND SUBMISSIONS

56. Notices to the Initial Settling Respondents shall be sent to:

Ford Leasing Development Company  
One Parklane Boulevard  
Suite 1500 East  
Dearborn, MI 48126  
attention: N.E. Siroskey

and/or to

Ford Front Realty Corp.  
One Parklane Boulevard  
Suite 1500 East  
Dearborn, MI 48126  
attention: N.E. Siroskey

as applicable, with a copy to

Michael Laber, Esq.  
Office of the General Counsel  
Ford Motor Company  
Parklane Towers East, Suite 728  
One Parklane Boulevard  
Dearborn, MI 78126-2493

Notices to any subsequent Settling Respondent shall be sent to the address for notices provided by each such Settling

Respondent, upon becoming a Settling Respondent, to the other Parties. Each Settling Respondent may change its address for notices by giving written notice of such change to the other Parties.

57. Notices to EPA shall be sent to:

Marie M. Rongone  
Senior Counsel  
U.S. EPA Region IX, ORC-3  
75 Hawthorne Street  
San Francisco, CA 94105

with copies to:

Remedial Project Manager  
Glendale Operable Unit  
SFD-7-4  
U.S. EPA Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

and

David Glazer  
Trial Attorney  
U.S. Department of Justice  
301 Howard Street, Suite 870  
San Francisco, CA 94105  
Ref. DOJ #90-11-2-442A

and

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
Box 7611, Ben Franklin Station  
Washington, D.C. 20044-7611  
Ref. DOJ #90-11-2-442A

The EPA may change its address for notices by giving written

notice of such change to the Settling Respondents.

XVI. EFFECTIVE DATE

58. On March 25, 1998, Settling Respondent Ford Leasing acquired title and took possession or control of a portion of the Property, at its own risk, before EPA completed its review of the public comments pursuant to paragraph 67 of this Agreement, and before the Superfund Division Director and the Assistant Attorney General consented to and executed this Agreement. Settling Respondent Ford Front, which has an agreement with the City of Burbank to acquire title or an interest in two separate portions of the Property, may or may not have acquired and taken possession or control of such other portions of the Property before those events. If the Superfund Division Director and the Assistant Attorney General execute this Agreement and the United States does not withdraw its consent to this Agreement after reviewing public comments, then the effective date of this Agreement shall be March 25, 1998, as to Settling Respondent Ford Leasing, and the effective date of this Agreement as to each other Settling Respondent, with respect to the portion of the Property for which such other Settling Respondent has acquired title or an interest and has taken possession or control, shall be the date upon which that other Settling Respondent acquired title or an interest in and took possession or control of that

portion of the Property. Hence, for example, if on date "X" Settling Respondent Ford Front (or its successor or assign under this Agreement) acquires title or an interest in and takes possession and control of one of the separate portions of the Property that is the subject of the agreement with the City of Burbank, then this Agreement shall become effective on date "X" for that Settling Respondent for that portion of the Property; and, likewise, if on date "Y" Settling Respondent Ford Front (or its successor or assign under this Agreement) acquires title or an interest in and takes possession and control of another portion of the Property that is the subject of the agreement with the City of Burbank, then this Agreement shall become effective on date "Y" for that Settling Respondent for that portion of the Property. If the Superfund Division Director or the Attorney General does not execute this Agreement, or if the United States withdraws or modifies its consent to this Agreement after reviewing public comments, then there is no Agreement and no effective date.

XVII. TERMINATION

59. If any Party believes that any or all of the obligations under Section V (Access/Notice to Successors-in-Interest) are no longer necessary to ensure compliance with the requirements of this Agreement, that Party may request in writing that the other

Party agree to terminate the provision(s) establishing such obligations; provided, however, that the provision(s) in question shall continue in force unless and until the party requesting such termination receives written agreement from the other party to terminate such provision(s).

XVIII. CONTRIBUTION PROTECTION

60. With regard to claims for contribution against any Settling Respondent, the Parties hereto agree that such Settling Respondent is entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), for matters addressed in this Agreement. The matters addressed in this Agreement are all response actions taken or to be taken and response costs incurred or to be incurred by the United States or any other person for the Site with respect to the Existing Contamination.

61. Each Settling Respondent agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Agreement, it will notify the United States in writing no later than sixty (60) days prior to the initiation of such suit or claim.

62. Each Settling Respondent also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Agreement, it will notify in writing the United

States within ten (10) days of service of the complaint on it.

XIX. EXHIBITS

63. Exhibit 1 shall mean the description of certain real property that is the subject of this Agreement.

64. Exhibit 2 shall mean the description of certain additional real property that is also the subject of this Agreement.

65. Exhibit 3 shall mean the map depicting the Site.

66. Exhibit 4 shall mean the form for Lessee's Certification of Compliance With Agreement and Covenant Not to Sue.

XXI. PUBLIC COMMENT

67. This Agreement shall be subject to a thirty-day public comment period, after which the United States may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations that indicate that this Agreement is inappropriate, improper or inadequate.

48

AGREEMENT AND COVENANT NOT TO SUE FORD LEASING DEVELOPMENT  
COMPANY AND FORD FRONT REALTY CORP.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: Keith Takata  
Keith Takata  
Chief, Superfund Division  
Region IX

1-25-00  
Date

IT IS SO AGREED:

BY: \_\_\_\_\_  
Lois J. Schiffer  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

\_\_\_\_\_  
Date

AGREEMENT AND COVENANT NOT TO SUE FORD LEASING DEVELOPMENT COMPANY AND FORD FRONT REALTY CORP.

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY: Keith Takata  
Keith Takata  
Chief, Superfund Division  
Region IX

1-25-00  
Date

IT IS SO AGREED:

BY: Lois J. Schiffer  
Lois J. Schiffer  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

3/16/00  
Date

AGREEMENT AND COVENANT NOT TO SUE FORD LEASING DEVELOPMENT COMPANY AND FORD FRONT REALTY CORP.

IT IS SO AGREED:

FORD LEASING DEVELOPMENT COMPANY

BY: \_\_\_\_\_ 12/2/99  
 Name Date  
 \_\_\_\_\_  
*N. E. Siroskey*  
 N. E. Siroskey  
 Vice President  
 \_\_\_\_\_  
 Title

IT IS SO AGREED:

FORD FRONT REALTY CORP.

BY: \_\_\_\_\_ 12/2/99  
 Name Date  
 \_\_\_\_\_  
*N. E. Siroskey*  
 N. E. Siroskey  
 Vice President  
 \_\_\_\_\_  
 Title

EXHIBIT 1

Parcel 1:

Lots 14 and 15 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County.

Parcel 2:

Lots 3, 4, 5, 6, 7, 8 and 9 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County.

EXCEPT therefrom those portions thereof described as a whole as follows:

Beginning at the most Northerly corner of said Lot 9; thence Southeasterly along the Northeasterly lines of said Lots 9, 8, 7, 6, 5, 4, 3, to the most Easterly corner of said Lot 3; thence Southwesterly along the Southeasterly line of said Lot 3 or the most Southerly corner thereof; thence Northwesterly along the Southwesterly line of said Lot 3; a distance of 15.28 feet to a point on a curve concave Southwesterly, and having a radius of 1,746 feet; thence Northwesterly along said curve, through an angle of 11° 31' 17" an arc distance of 351.07 feet to a point on the Northwesterly line of said Lot 9, distant thereon 24.16 feet Southwesterly from said most Northerly corner thereof; thence Northeasterly along said Northwesterly line of said Lot 9, a distance of 24.16 feet to the point of beginning.

Parcel 3:

Lots 10, 11, 12 and 13 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County.

EXCEPT from said land that portion of thereof, described as follows:

Beginning at the most Easterly corner of said Lot 10; thence Southwesterly along the Southeasterly line of said Lot 10; a distance of 24.16 feet; thence Northwesterly along a curve concave Southwesterly and having a radius of 1,746 feet, an arc distance of 198.08 feet to a point on the Northeasterly line of said Lot 13, distant thereon 1.44 feet Southeasterly from the most Northerly corner of Lot 13, thence Southeasterly along the Northeasterly lines of said Lots 13, 12, 11 and 10 to the point of beginning.

00 1062454

Parcel 4:

Those portions of Lots 16 and 18 in Block 64 of Town of Burbank, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 17, Page 19 of Miscellaneous Records, in the office of the County Recorder of said County, described as a whole as follows:

Beginning at the most Westerly corner of said Lot 18; thence Southeasterly along the Southwesterly line of said lot to the intersection thereof with the Northwesterly line of San Jose Avenue, 60 feet wide, as described in deed recorded in Book 3034, Page 316, Official Records, thence Northeasterly along said Northwesterly line of San Jose Avenue, a distance of 7.52 feet to the Northeasterly line of the land described in deed recorded in Book 33012, Page 309, Official Records, as Parcel 2; thence Northwesterly along said last mentioned Northeasterly line to a point on the Northwesterly line of said Lot 16, distant along the Northwesterly lines of said Lots 18 and 16, 120.02 feet Northeasterly from said most Westerly corner of said Lot 18; thence Southwesterly along said Northwesterly lines of said Lots 16 and 18; a distance of 120.02 feet to the point of beginning.

Parcel 5:

Those portions of Cypress Avenue and Front Street, in the City of Burbank, County of Los Angeles, State of California, as shown on said map of Tract No. of Burbank, as per map recorded in Book 17, Pages 19 et seq. of Miscellaneous Records, in the office of the County Recorder of said County, vacated by Resolution No. 6190, passed by the Council of said City of Burbank, on May 19, 1950, a certified copy thereof having been recorded in Book 33185, Page 116 of Official Records, of said County, and described as a whole as follows:

Beginning at the most Westerly corner of Lot 18 in Block 64 of said Town of Burbank, thence North 41° 16' 39" East along the Northwesterly lines of said Lots 18 and 16 in said Block 64, a distance of 120.02 feet to the most Northerly corner of the land described as Parcel 2 in said deed to the State of California, recorded in Book 33012, Page 909, Official Records of said County; thence North 24° 52' 30" West along the Northwesterly prolongation of the Northeasterly line of said Parcel so described in said last mentioned deed, a distance of 65.60 feet to a point in the Northwesterly line of said Cypress Avenue, 60 feet wide, distant thereon 49.66 feet Southwesterly from the most Southerly corner of Lot 1 of Tract No. 5617, as per map recorded in Book 85, Page 77 of Maps; records of said County; thence Southwesterly, along said Northwesterly line of Cypress Avenue, to the intersection thereof with the Southwesterly line of said Front Street, 66 feet wide; thence South 43° 33' 18" East along said Southwesterly line of Front Street, a distance of 381.53 feet, more or less, to the Southwesterly prolongation of the Northwesterly line of said San Jose Avenue, 60 feet wide; thence along said Southwesterly prolongation, North 41° 15' 35" East a distance of 65.27 feet to the Southwesterly line of said Lot 18; thence North 43° 33' 18" West along said Southwesterly line of said Lot 18, a distance of 321.34 feet to the point of beginning.

00 1062454

Parcel 6:

That portion of Bonnywood Place, as shown on map of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County, vacated by Resolution No. 6190, passed by the Council of said City of Burbank, on May 16, 1950, a certified copy thereof having been recorded in Book 33185, Page 116, Official Records, of said County, and described as follows:

Beginning at the most Northerly corner of Lot 14 in said Tract No. 5617; thence Southeasterly along the Northeasterly lines of Lots 14 and 13 of said Tract, to a point distant thereon 1.44 feet Southeasterly from the most Northerly corner of said Lot 13, said last mentioned point being a point on a curve concave Southwesterly and having a radius of 1,746 feet; thence Northwesterly along said curve, through an angle of 1° 14' 24" an arc distance of 51.50 feet, to a point on the Northeasterly prolongation of the Northwesterly line of said Lot 14; said last mentioned point being distant along said Northeasterly prolongation 2.55 feet Northeasterly from said most Northerly corner of Lot 14; thence Southwesterly along said Northeasterly prolongation, a distance of 2.55 feet to the point of beginning.

Parcel 7:

Those portions of Lots 3 and 4 in Block 91 of the Rancho Providencia and Scott Tract, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 43, Page 47 et seq. of Miscellaneous Records, of said County, lying Southwesterly of the Southwesterly line of Tract No. 5617, recorded in Book 85, Page 77 of Maps.

EXCEPT therefrom the Southwesterly 67 feet (measured at right angles) of said Lots 3 and 4.

ALSO EXCEPT from said Lot 4 that portion thereof described as follows:

Beginning at the most Southerly corner of Lot 1 of Tract No. 5617, as per map recorded in Book 85, Page 77 of Maps; thence South 41° 16' 39" West along the Southwesterly prolongation of the Southeasterly line of said Lot 1, a distance of 49.66 feet; thence North 24° 62' 30" West a distance of 58.54 feet; thence Northwesterly along a curve concave Southwesterly tangent to said last described line and having a radius of 1,746 feet, an arc distance of 66.96 feet to a point on the Southwesterly line of Lot 3, of said Tract 5617, said point being distant along the Southwesterly lines of Lots 1, 2 and 3, Tract No. 5617, a distance of 115.28 feet from said most Southerly corner of Lot 1, thence Southeasterly along the said Southwesterly line of said Lots 3, 2 and 1, a distance of 115.28 feet to the point of beginning.

00 1062454

Parcel 8:

Those portions of Lots 6, 7 and 8 of Tract No. 2792, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 28, Page 15 of Maps, in the office of the County Recorder of said County, lying Southeasterly of a line parallel with and distant Northwesterly 85 feet at right angles from the Southeasterly line of said Lots 6, 7 and 8.

EXCEPT from said Lots 7 and 8 those portions lying Southwesterly of the Northeasterly line of the land conveyed to the Southern Pacific Railway Company, by deed recorded in Book 4681, Page 111, Official Records, in the office of the County Recorder of said County.

ALSO EXCEPT from said Lot 6 that portion thereof, described as follows:

Beginning at the intersection of the Easterly line of said Lot 6 with a line parallel with and distant 85 feet Northwesterly measured at right angles from the Southeasterly line of said lot; thence Southwesterly along said parallel line a distance of 6.50 feet to a point on a curve concave Southwesterly and having a radius of 1,746 feet; thence Southeasterly along said curve, through an angle of 0° 22' 51" an arc distance of 11.61 feet to a point on said Easterly line of said lot, distant thereon 12.98 feet Southerly from said point of beginning; thence Northerly along said Easterly line a distance of 12.98 feet to the point of beginning.

Parcel 9:

Those portions of Lots 6, 7 and 8 of Tract No. 2792, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 28, Page 15 of Maps, in the office of the County Recorder of said County, lying Northwesterly of a line parallel with and distant Northwesterly 85 feet at right angles from the Southeasterly line of said Lots 6, 7 and 8.

EXCEPT from Lots 7 and 8, those portions lying Westerly of the Easterly lines of Parcels 1 and 2 as described in the deed to Southern Pacific Railroad Company, recorded in Book 4681, Page 111, Official Records.

ALSO EXCEPT that portion of said Lot 8, which lies Westerly of the Easterly line of the land condemned for flood control purposes by Final Decree of Condemnation, entered in Case No. 474741, Los Angeles County Superior Court, a certified copy of said Decree being recorded in Book 19995, Page 375, Official Records.

ALSO EXCEPT for said land that portion thereof described as follows:

Those portions of Lots 6, 7 and 8 of Tract No. 2792, described as follows:

Beginning at the most Northerly corner of said Lot 6; thence South 68° 02' 26" West along the Northwesterly lines of said Lots 6, 7 and 8 to a point distant thereon 19.81 feet

00 1062454

Southwesterly from the most Northerly corner of said Lot 8; thence South 60° 27' 30" East, a distance of 179.12 feet; thence Southeasterly along a curve concave Southwesterly tangent to the last described line and having a radius of 1,746 feet, an arc distance of 254.95 feet to a point on a line parallel with and distant 85 feet Northwesterly, measured at right angles from the Southeasterly line of said Lot 6; thence North 41° 16' 51" East, along said last mentioned parallel line, a distance of 6.50 feet to the Northeasterly line of Lot 6; thence Northwesterly along said Northeasterly line of Lot 6; a distance of 347.67 feet to the point of beginning.

ALSO EXCEPT from the remainder of said Lots 7 and 8, those portions thereof lying Northwesterly of a line parallel with and distant Southeasterly 60 feet, measured at right angles from, the Northwesterly lines of said Lots 7 and 8.

Parcel 10:

That portion of Lot 5 of Tract No. 2792, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 28, Page 15 of Maps, in the office of the County Recorder of said County, described as follows:

Beginning at the most Southerly corner of said lot; thence along the Southeasterly line of said Lot 5, North 41° 15' 50" East 40.10 feet to a non-tangent curve concave Southwesterly and having a radius of 1,746.00 feet; thence from a tangent bearing North 49° 20' 21" West, Northwesterly along said curve through an angle of 2° 27' 19", an arc distance of 74.82 feet to a point in the Westerly line of said Lot 5, distant along said Westerly line, 83.75 feet from said most Southerly corner; thence Southerly along said Westerly line 83.75 feet to the point of beginning.

EXCEPT therefrom all minerals, oils, gases and other hydrocarbons by whatsoever name known that may be within or under the parcel of land hereinabove described without, however the right to drill, dig or mine through the surface thereof as disclosed in deed from the State of California recorded June 9, 1965 as Instrument No. 4355 of Official Records.

Parcel 11:

That portion of Bonnywood Place, lying Northeasterly of Lot 15 and within the Northeasterly prolongations of the Northwesterly and Southeasterly lines of said Lot 15 of Tract No. 5617, in the City of Burbank, County of Los Angeles, State of California, as per map recorded in Book 85, Page 77 of Maps, in the office of the County Recorder of said County, as vacated by the City Council of said City in Resolution No. 6190 recorded May 19, 1950 in Book 33185, Page 116 of Official Records of said County, described as follows:

Beginning at the most Northerly corner of said Lot 15 in said Tract No. 5617; thence Southeasterly along the Northeasterly lines of Lots 15, 14 and 13 of said Tract, to a point in the Northeasterly line of said Lot 13, distant 1.44 feet Southeasterly from the most Northerly corner of said Lot 13; said point being on curve in the Southwesterly line of the

land conveyed to the State of California for highway purposes October 19, 1945 by Superior Court Case No. 506667 as shown on Clerk's Field Map No. 2295 in the office of the County Surveyor of said County, said curve being concave Southwesterly, having a radius of 1,746.00 feet; thence Northwesterly along said Southwesterly line, through an angle of 4° 13' 59" an arc distance of 129.00 feet to a point in the Northeasterly prolongation of the Northwesterly line of said Lot 15, distant Northeasterly thereon 3.50 feet from the most Northerly corner thereof; thence Southwesterly along said prolongation 3.50 feet to the point of beginning.

00 1062454

2449 37 1998

SCALE 1" = 100'

BK. 2461

BK. 2460

BK. 2461

38

36

GOLDEN STATE FRONT

GOLDEN STATE FREEWAY APPROACHES

FRONT

BURBANK

S. P.

FRONT

IDENTICAL

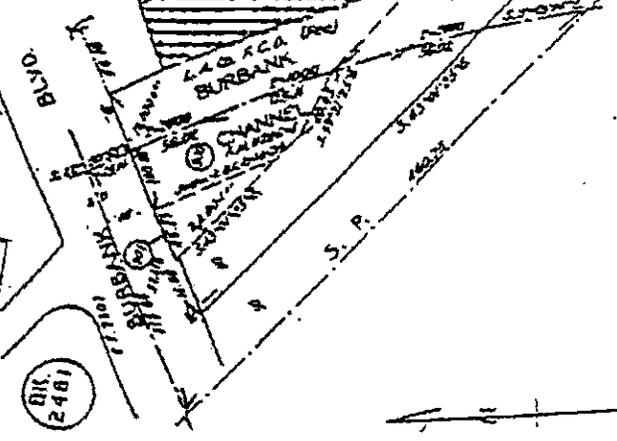
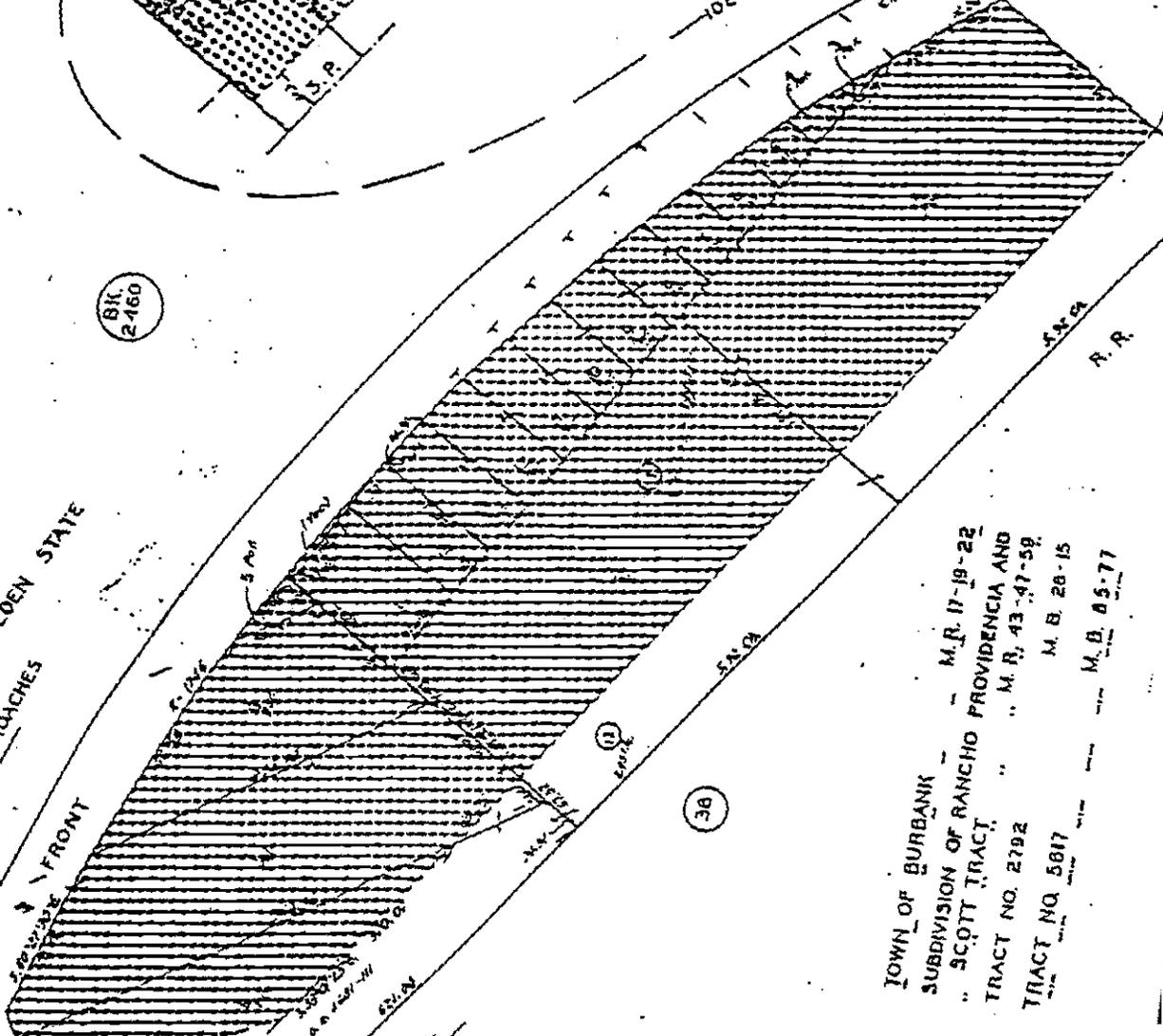
Corrected Map of M.R. 43-47-49 and M.R. 43-47-59  
for the purpose of showing the right of way of the  
freeway approaches to the Golden State Freeway  
at the intersection of the Golden State Freeway  
with the Golden State Freeway.

TOWN OF BURBANK - M.R. 17-19-22  
SUBDIVISION OF RANCHO PROVIDENCIA AND  
SCOTT TRACT - " M.R. 43-47-59  
TRACT NO. 2792 - " M.R. 43-47-59  
TRACT NO. 5817 - " M.B. 28-15  
M.B. 05-77

CORE 9871

FOR ANY AMOUNT, SEE  
1071 - 18  
2416 - 36

00 1062454



## EXHIBIT 2

THAT CERTAIN STRIP OF LAND IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING THOSE PORTIONS OF FRONT STREET DESCRIBED IN THOSE CERTAIN DOCUMENTS ENTITLED "RELINQUISHMENT OF HIGHWAY RIGHT OF WAY IN THE CITY OF BURBANK, ROAD VII.L.A.-4-BRB" AND RECORDED ON MARCH 17, 1960 IN DOCUMENT NO. 3976 AS PARCEL 4 AND ON JUNE 3, 1963 IN DOCUMENT NO. 3993 AS PARCELS 6 AND 7 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING THOSE PORTIONS OF LOTS 14, 16, 17 AND 18, BLOCK 64, TOGETHER WITH THOSE PORTIONS OF FRONT STREET, SAN JOSE AVENUE AND CYPRESS AVENUE, ALL AS SHOWN ON THE MAP OF THE TOWN OF BURBANK RECORDED IN BOOK 17, PAGES 19 ET SEQ., OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THAT PORTION OF LOT 4, BLOCK 91 OF THE SUBDIVISION OF RANCHO PROVIDENCIA AND SCOTT TRACT, IN SAID CITY, COUNTY AND STATE, AS PER MAP RECORDED IN BOOK 43, PAGES 47 ET SEQ., OF SAID MISCELLANEOUS RECORDS, PORTIONS OF LOTS 1 THROUGH 14, 16, 17 AND THAT PORTION OF BONNYWOOD PLACE ALL AS SHOWN ON MAP OF TRACT NO. 5617, IN SAID CITY, COUNTY AND STATE AS PER MAP RECORDED IN BOOK 85 PAGE 77 OF MAPS IN THE OFFICE OF SAID COUNTY RECORDER, AND THOSE PORTIONS OF LOTS 5, 6, 7 AND 8 OF TRACT NO. 2792, IN SAID CITY, COUNTY AND STATE AS PER MAP RECORDED IN BOOK 28, PAGE 15, OF SAID MAPS DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 17, BLOCK 64 OF SAID TOWN OF BURBANK; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID LOT 17, BEING THE NORTHEASTERLY LINE OF SAID FRONT STREET, NORTH 43°34'19" WEST 29.58 FEET TO A POINT IN THE NORTHWESTERLY LINE OF THE MAGNOLIA BOULEVARD BRIDGE CROSSING STATE HIGHWAY I-5, SAID POINT BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE ALONG SAID BRIDGE, NORTH 41°16'10" EAST 23.17 FEET TO A POINT IN THE NORTHEASTERLY LINE OF SAID SECOND ABOVE MENTIONED RELINQUISHMENT, SAID POINT BEING IN A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 3102.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH 52°14'05" WEST; THENCE NORTHERLY ALONG SAID LINE AND ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°42'02", AN ARC DISTANCE OF 308.62 FEET TO A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1992.00 FEET, A RADIAL LINE TO SAID CURVE BEARS SOUTH 57°48'30" WEST, AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 7°17'55", AN ARC DISTANCE OF 253.75 FEET, NORTH 24°53'34" WEST 254.09 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1804.00 FEET AND NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°34'02" AN ARC DISTANCE OF 1119.86 FEET, NORTH 64°02'20" WEST 80.10 FEET, NORTH 65°12'56" WEST 36.19 FEET AND NORTH 37°26'37" WEST 9.22 FEET TO THE SOUTHERLY LINE OF BURBANK BOULEVARD (80.00 FEET WIDE); THENCE ALONG SAID SOUTHERLY LINE, SOUTH 68°01'25" WEST 81.25 FEET TO A LINE DRAWN TANGENT TO A CURVE CONCENTRIC WITH AND DISTANT SOUTHEASTERLY 68.00 FEET FROM THE ABOVE MENTIONED CURVE HAVING A RADIUS OF 1804.00 FEET; THENCE ALONG SAID TANGENT LINE, SOUTH 60°27'30" EAST TO AND ALONG THE SOUTHWESTERLY LINE OF PARCEL 7 OF THE SECOND ABOVE-MENTIONED RELINQUISHMENT DEED, 175.05 FEET TO THE BEGINNING OF SAID CONCENTRIC CURVE, AND SOUTHEASTERLY ALONG SAID CURVE, HAVING A RADIUS OF 1736.00 FEET, THROUGH A CENTRAL ANGLE OF 7°13'03" AN ARC DISTANCE OF 218.68 FEET, NORTH 36°45'27" EAST 10.00 FEET TO A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 1746.00 FEET, A RADIAL LINE BEARS NORTH 36°45'27" EAST, SAID CURVE BEING ALSO CONCENTRIC WITH SAID ABOVE MENTIONED CURVE HAVING A RADIUS OF 1804.00 FEET, AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 28°20'59" AN ARC DISTANCE OF 863.91 FEET, SOUTH 24°53'34" EAST 58.48 FEET, SOUTH 22°57'17" EAST 66.63 FEET AND SOUTH 24°54'48" EAST 350.21 FEET, SOUTH 41°14'30" WEST 72.79 FEET, SOUTH 43°34'19" EAST 360.97 FEET TO SAID NORTHWESTERLY LINE OF THE MAGNOLIA BOULEVARD BRIDGE; THENCE NORTH 41°16'10" EAST 65.26 FEET TO SAID TRUE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION OF FRONT STREET DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY TERMINUS OF THAT CERTAIN COURSE DESCRIBED ABOVE AS HAVING A BEARING AND DISTANCE OF "SOUTH 43°34'19" EAST 360.97 FEET"; THENCE ALONG SAID COURSE, NORTH 43°34'19" WEST 360.97 FEET TO THE NORTHWESTERLY TERMINUS OF SAID COURSE; THENCE SOUTH 44°58'54" EAST 360.28 FEET TO SAID NORTHWESTERLY LINE OF THE MAGNOLIA BOULEVARD BRIDGE; THENCE SOUTH 41°16'10" WEST 8.90 FEET TO THE POINT OF BEGINNING.

CONTAINING 143,473 SQUARE FEET/3.2937 ACRES.



DUBRON AND ASSOCIATES  
16760 STAGG ST., SUITE 201  
VAN NUYS, CA 91406  
(818) 787-0676  
JOB NO. 1615-1628 1/26/98

00 1062454

59

THAT CERTAIN STRIP OF LAND IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, BEING THAT PORTION OF THAT CERTAIN DOCUMENT ENTITLED "RELINQUISHMENT OF HIGHWAY RIGHT OF WAY IN THE CITY OF BURBANK, ROAD VII-A-4-BRB" AND RECORDED ON JUNE 3, 1963 IN DOCUMENT NO. 3993 AS PARCEL 7 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING THAT PORTION OF LOTS 7 AND 8 OF TRACT NO. 2792 IN SAID CITY, COUNTY AND STATE AS PER MAP RECORDED IN BOOK 28 PAGE 15 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF BURBANK BOULEVARD (80.00 FEET WIDE) WITH THE NORTHEASTERLY LINE OF SAID PARCEL 7; THENCE ALONG SAID BURBANK BOULEVARD, SOUTH  $68^{\circ}01'25''$  WEST 81.25 FEET TO A POINT IN THE NORTHWESTERLY PROLONGATION OF THAT CERTAIN COURSE IN THE SOUTHWESTERLY LINE OF SAID PARCEL 7, DESCRIBED AS HAVING A BEARING AND LENGTH OF "NORTH  $60^{\circ}27'36''$  WEST 98.39 FEET", SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE SOUTH  $60^{\circ}27'36''$  EAST 76.66 FEET TO SAID COURSE; THENCE CONTINUING ALONG SAID SOUTHWESTERLY LINE OF PARCEL 7, SOUTH  $68^{\circ}01'25''$  WEST 77.00 FEET TO A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 2050.00 FEET, A TANGENT TO SAID CURVE BEING NORTH  $21^{\circ}17'50''$  WEST AND NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF  $1^{\circ}33'17''$  AN ARC DISTANCE OF 55.63 FEET AND NORTH  $22^{\circ}51'07''$  WEST 4.38 FEET TO THE SOUTHEAST LINE OF SAID BURBANK BOULEVARD; THENCE ALONG SAID BURBANK BOULEVARD, NORTH  $68^{\circ}01'25''$  EAST 29.46 FEET TO SAID TRUE POINT OF BEGINNING.

CONTAINING 3185 SQUARE FEET.

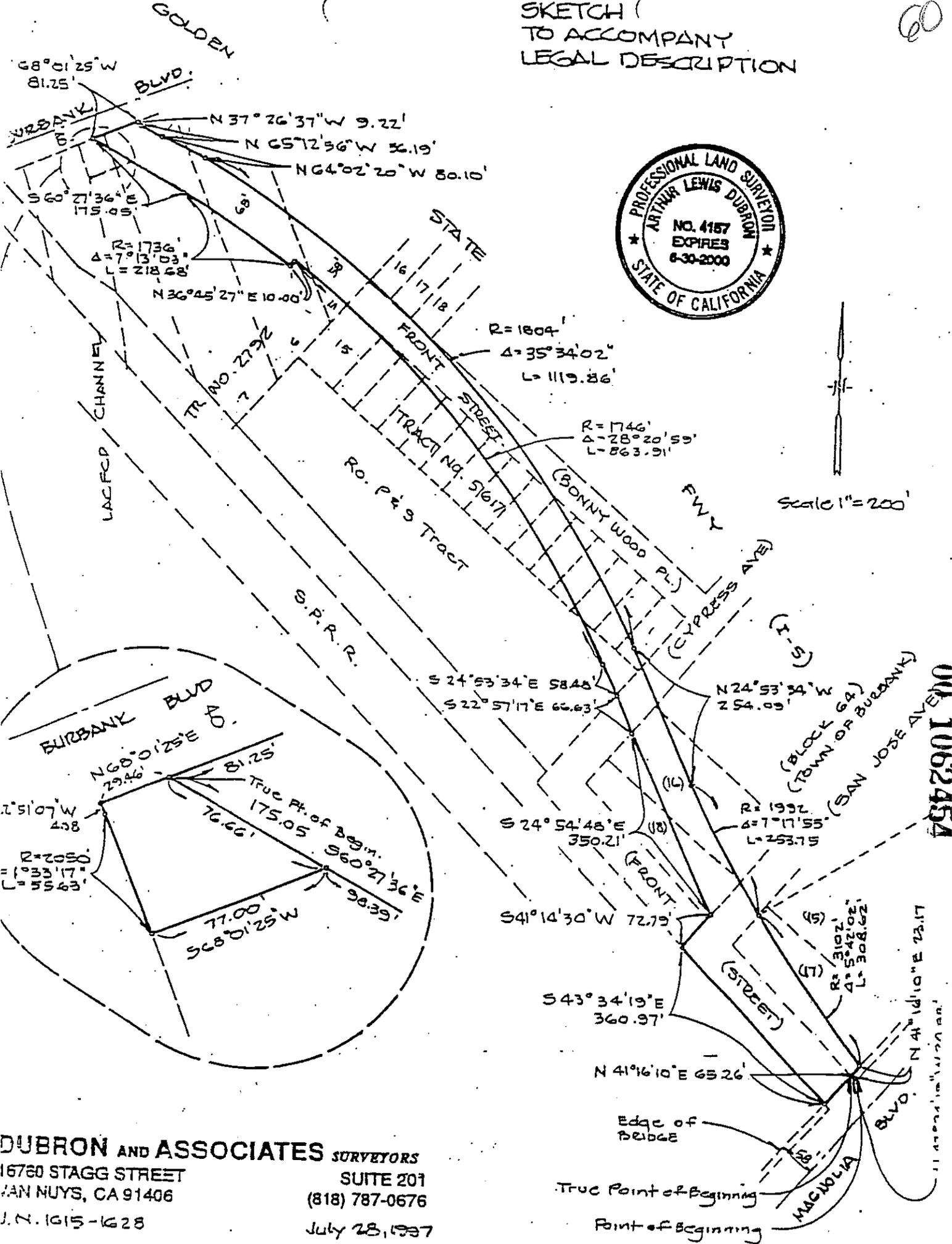


DUBRON AND ASSOCIATES  
SURVEYORS  
16760 STAGG ST., SUITE 201  
VAN NUYS, CA 91406  
(818) 787-0676  
JOB NO. 1615-1623 JULY 23, 1997

00 1062454

SKETCH  
TO ACCOMPANY  
LEGAL DESCRIPTION

60



**DUBRON AND ASSOCIATES SURVEYORS**  
 16760 STAGG STREET SUITE 201  
 SAN NUYS, CA 91406 (818) 787-0676  
 J.N. 1615-1628 July 28, 1997

001062454

69

EXHIBIT 2  
CONTINUED

LEGAL DESCRIPTION  
COMBINED FEE PARCEL

THOSE PORTIONS OF THE SOUTHWESTERLY 67.00 FEET (MEASURED AT RIGHT ANGLES) OF LOTS 3 AND 4 OF BLOCK 91 OF THE SUBDIVISION OF RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 43, PAGE 47 ET SEQ. OF MISCELLANEOUS RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THE SOUTHWESTERLY 67.00 FEET OF LOT 8 OF TRACT NO. 2792 AS MEASURED AT RIGHT ANGLES FROM THE SOUTHWESTERLY LINE OF SAID LOT 8 AND THAT PORTION OF LOT 7 OF SAID TRACT NO. 2792 LYING SOUTHWESTERLY OF THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID SOUTHWESTERLY 67.00 FEET OF LOT 8, SAID TRACT BEING IN SAID CITY, COUNTY AND STATE AS PER MAP RECORDED IN BOOK 28, PAGE 15 OF MAPS IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS A WHOLE AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF THE SOUTHWESTERLY 67.00 FEET OF LOT 4 OF SAID BLOCK 91 WITH THE NORTHWESTERLY LINE OF VACATED CYPRESS STREET (60.00 FEET WIDE); THENCE ALONG SAID NORTHEASTERLY LINE AND ITS NORTHWESTERLY PROLONGATION, NORTH 43°01'18" WEST 742.71 FEET TO A LINE DRAWN AT RIGHT ANGLES FROM ENGINEER'S STATION 16+55.14 AS SHOWN ON PLAN NO. 2259 ENTITLED "FRONT STREET IMPROVEMENTS" DATED 11/22/96 ON FILE IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF BURBANK; THENCE CONTINUING ALONG SAID LINE, NORTH 43°01'18" WEST 367.79 FEET TO THE EASTERLY FACE OF A PROPOSED RETAINING WALL SHOWN ON THE EASTERLY SIDE OF PROPOSED FRONT STREET AS SHOWN ON SAID PLAN NO. 2259; THENCE SOUTHEASTERLY ALONG SAID WALL BEING IN A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 393.00 FEET, FROM A RADIAL LINE TO SAID CURVE THAT BEARS SOUTH 59°16'21" WEST, THROUGH A CENTRAL ANGLE OF 11°25'51", AN ARC DISTANCE OF 78.40 FEET; THENCE CONTINUING ALONG SAID WALL, SOUTH 42°09'30" EAST 289.86 FEET TO SAID LINE DRAWN AT RIGHT ANGLES FROM ENGINEER'S STATION 16+55.14 OF SAID PLAN; THENCE ALONG SAID LINE SOUTH 47°50'30" WEST 1.00 FEET TO THE NORTHEASTERLY EDGE OF THE 6.00 FOOT CONCRETE SIDEWALK AS SHOWN ON SAID PLAN; THENCE ALONG SAID NORTHEASTERLY EDGE, SOUTH 42°09'30" EAST 705.70 FEET TO AN ANGLE POINT THERE-IN; THENCE CONTINUING ALONG THE NORTHEASTERLY EDGE OF A VARIABLE WIDTH SIDEWALK, SOUTH 38°53'46" EAST 40.02 FEET; THENCE NORTH 51°06'14" EAST 0.72 FEET TO SAID NORTHWESTERLY LINE OF VACATED CYPRESS STREET; THENCE ALONG SAID NORTHWESTERLY LINE, NORTH 41°21'48" EAST 27.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 18,568 SQUARE FEET (0.4263 ACRES).

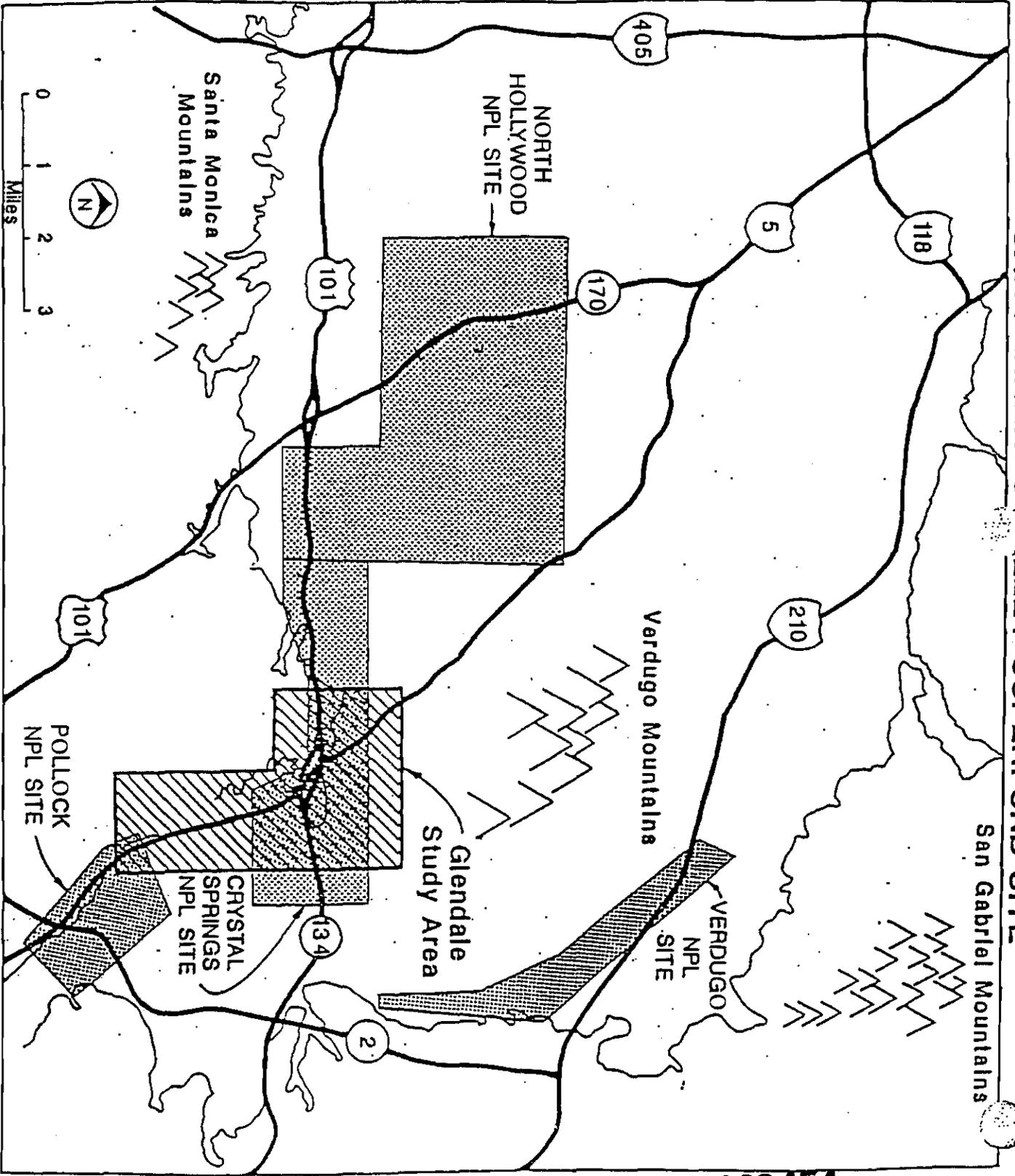


DUBRON AND ASSOCIATES  
16760 STAGG ST., SUITE 201  
VAN NUYS, CA 91406  
(818) 787-0676  
JOB NO. 1615-1628 1/12/98

00 1062454



# SAN FERNANDO VALLEY SUPERFUND SITE



00 1062454

64

Exhibit 4

**LESSEE'S CERTIFICATION OF COMPLIANCE  
WITH AGREEMENT AND COVENANT NOT TO SUE**

CERTIFIED MAIL

Marie M. Rongone  
Senior Counsel (ORC-3)  
U.S. EPA  
75 Hawthorne Street  
San Francisco, California 94105

Re: Lessee's Certification of Compliance with Agreement and  
Covenant Not to Sue, Docket No. 2000-03  
Glendale North and South Operable Units, San Fernando  
Valley Area 2 Crystal Springs Superfund Site

In accordance with paragraph 50 of the Agreement and  
Covenant Not to Sue, Docket No. 2000-03 ("Agreement"), the  
undersigned party ("Lessee") hereby notifies the U.S.  
Environmental Protection Agency ("EPA") that it intends to lease  
all or a portion of the real property that is the subject of the  
Agreement. The Agreement was originally entered into by and  
between EPA, Ford Leasing Development Company and Ford Front  
Realty Corp. and concerns the real property located at the  
southwest corner of Burbank Boulevard and Front Street (or the  
southeast corner after the relocation of Front Street) in the  
City of Burbank, California, as more particularly described in  
the Agreement (the "Property").

[Insert a paragraph which identifies: (1) the parties to the  
lease; (2) a description of the portion of the property to be  
leased; and (3) the effective date and term of the lease.]

Lessee acknowledges that it has reviewed the Agreement and  
any modifications and notices thereto. Pursuant to paragraph 50  
of Section XI of the Agreement (Parties Bound/Transfer of  
Covenant), Lessee hereby agrees and certifies that:

(1) Lessee has not caused or contributed to the release or  
threat of release of any amount of the Existing  
Contamination;

(2) Lessee will not, over the course of any 12 month period, generate, use or store any extremely hazardous substance, as defined in 42 U.S.C. § 11002(a), in an amount equal to or exceeding its threshold planning quantity as established by 42 U.S.C. § 11002(a) at the Property;

(3) Lessee will not use the Property in any manner that could cause or contribute to the migration or release of any Existing Contamination;

(4) Lessee will permit access to the Property as set forth in paragraph 37 of the Agreement;

(5) Lessee will exercise due care at the Site and cooperate with EPA as set forth in paragraph 40 of the Agreement; and

(6) Lessee will not interfere with response actions taken on or around the Property;

(7) Lessee will be bound by and subject to the terms of the Agreement, and will act consistently with the terms of the Agreement.

Upon submission of this letter to EPA, Lessee shall have the rights and benefits set forth in Sections VIII (United States' Covenant Not to Sue) and XVIII (Contribution Protection) of the Agreement with respect to the leased portion of the Property. However, if at any time EPA determines that Lessee's certification is materially inaccurate or incomplete, the Covenant Not to Sue and Contribution Protection shall be null and void with respect to Lessee, and the United States reserves all rights it may have against Lessee.

Notices and submissions required under the Agreement that affect Lessee's interest in the Property shall be sent to the following contact persons for Lessee:

[Insert Contact Information]

64

So Acknowledged and Agreed:

---

---

Name and Title

---

Name of Business

---

Date

67

**EXHIBIT C**

**Copy of EPA Notice Letter dated June 7, 2000**

DCN:dcn/48615.2/063000  
3380.001

C-1  
**00 1062454**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

June 7, 2000

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ford Leasing Development Company  
Ford Front Realty Corp.  
One Parklane Blvd.  
Suite 1500 East  
Dearborn, MI 48126  
attn: N.E. Siroskey

Michael Laber, Esq.  
Office of General Counsel  
Ford Motor Company  
Parklane Towers East, Suite 728  
One Parklane Blvd.  
Dearborn, MI 78126-2493

**Subject: Agreement & Covenant Not to Sue Ford Leasing  
Development Company and Ford Front Realty Corp.**

Dear Sir or Madam:

As you may know, the above-referenced Agreement and Covenant Not to Sue Ford Leasing Development Company and Ford Front Realty Corp. (collectively "Ford") ("Agreement") was published in the Federal Register on April 27, 2000. The Environmental Protection Agency, Region IX ("EPA") has received no comments on the Agreement. Accordingly, the public comment period expired on May 27, 2000, and I have been authorized to inform you that the United States has determined not to withdraw its consent to the Agreement. This notice is made pursuant to Section XV of the Agreement (Notices and Submissions).

00 1062454

Ford Leasing Development Company

p. 2

June 7, 2000

In accordance with Section IV of the Agreement, Ford's payment to EPA shall be made within thirty (30) days of Ford's receipt of this notice. A copy of the fully executed Agreement is enclosed for your records. Please do not hesitate to contact the undersigned at (415) 744-1313 if there are any questions at this time.

Sincerely,



Marie M. Rongone  
Senior Counsel

enc: (1)

cc: Donald C. Nanney, Esq. (Via Facsimile (letter only) and U.S. Mail (letter and enclosure)

David Glazer, Esq. (Vic Facsimile (letter only))

Bob Fitzgerald, SFD-7-4 (Letter only)

Judith Winchell, SFD-7 (Letter and enclosure)

Catherine Shen, PMD-6 (Letter and enclosure)

Bill Keener, Esq. (Letter only)

00 1062454

**EXHIBIT 4**

Approval of Transfer, dated May 3, 2005, by Keith Takata, Director, Superfund Division,  
and letter, dated May 3, 2005, from Frederick K. Schauffler,  
Chief, Site Cleanup Section 4, Superfund Division,  
U.S. Environmental Protection Agency, to Donald C. Nanney.

Approval of Transfer

On the basis of the Affidavit of Proposed Transferee Herbert F. Boeckmann, II, on behalf of Northridge Properties, LLC, the Environmental Protection Agency ("EPA") hereby consents to the transfer of the property described therein to Northridge Properties, LLC, and to the transfer of the rights, benefits and obligations conferred under the Agreement and Covenant Not to Sue Ford Leasing Development Company and Ford Front Realty Corp., EPA Docket No. 2000-03, to Northridge Properties, LLC, with respect to such property.

Dated: May 3, HAT  
April, 2005

Keith Takata  
Keith Takata, Director, Superfund Division

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN FRANCISCO KK )

On this 3rd day of MAY in the year 2005,

before me Kathleen L. Kawakami, personally appeared  
Keith Takata

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is /are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Signature Kathleen L. Kawakami





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

May 3, 2005

Donald C. Nanney  
Gilchrist & Rutter  
1299 Ocean Avenue, Suite 900  
Santa Monica, CA 90401-1000

Re: San Fernando Valley Crystal Springs (Area 2) Superfund Site, Glendale Operable Units – Request for Transfer of Agreement and Covenant Not to Sue Ford Leasing Development Company and Ford Front Realty Corp. to Northridge Properties, LLC.

Dear Mr. Nanney:

The Environmental Protection Agency, Region IX ("EPA") has received your letter of April 7, 2005, requesting the transfer of the Agreement and Covenant Not to Sue Ford Leasing Development Company and Ford Front Realty Corp., EPA Docket No. 2000-03 ("Agreement") to Northridge Properties, LLC ("Proposed Transferee"). In your letter, and in subsequent correspondence, you have requested clarification of EPA's intent towards Ford Leasing Development Company ("Ford Leasing") and Ford Front Realty Corp. ("Ford Front") with respect to certain provisions of the Agreement, after the Agreement is transferred to the Proposed Transferee. Specifically, you requested clarification with respect to the obligations under Sections V (Access/Notice to Successors-in-Interest), VI (Due Care/Cooperation), and IX (Reservations of Rights).

The Agreement applies to two properties, described respectively in Exhibits 1 and 2 of the Agreement. As set forth in the Agreement, Ford Leasing had purchased the property described in Exhibit 1, and Ford Front was planning to purchase the property described in Exhibit 2. I understand from our correspondence that Ford Front never purchased the property described in Exhibit 2.

The proposed transfer of the Agreement applies to the property described in Exhibit 1 only. For the property described in Exhibit 2, EPA would still look to Ford Front, should it acquire that property, for all obligations of the Agreement as to that property. For the property described in Exhibit 1, after the transfer, EPA would as a practical matter look to the party in control of the property for the obligations of access, notice to subsequent successors in interest, if

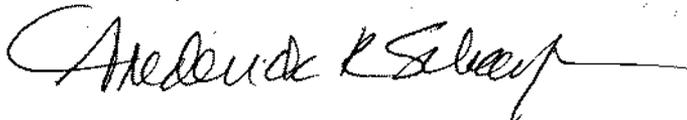
Donald C. Nanney  
May 3, 2005  
page 2

any, and due care and cooperation. To the extent that Ford Leasing was no longer in control of that property, EPA would not look to Ford Leasing to fulfill those obligations.

The Reservations of Rights apply to liability resulting from releases of contaminants or exacerbation of contamination caused or contributed to by "that Settling Respondent." If it should become necessary to address releases at the property after the transfer of the property to a new owner, EPA would look to the Settling Respondent who caused, contributed to or exacerbated the subject contamination.

Please let us know if you have any additional questions or concerns.

Sincerely,



Frederick K. Schauffler  
Chief, Site Cleanup Section 4  
Superfund Division

cc: David Stensby, Remedial Project Manager  
Marie Rongone, Office of Regional Counsel  
Bill Keener, Esq., Office of Regional Counsel  
Herbert F. Boeckmann, III (Northridge Properties, LLC)

**EXHIBIT 5**

Email, dated August 14, 2014, from Donald C. Nanney to Lawrence Moore and Alex Lapostol,  
with copy of Certification Declaration, dated August 13, 2014, by Northridge Properties, LLC.

**From:** Don Nanney  
**Sent:** Thursday, August 14, 2014 2:11 PM  
**To:** 'lawrence.moore@waterboards.ca.gov'  
**Cc:** Alex Lapostol  
**Subject:** 777 N. Front Street, Burbank, CA - Former Zero Corporation Facility - Certification Declaration - LARWQCB File No. 109.6162

To Lawrence Moore, Case Manager:

This responds to the letter, dated July 15, 2014, from the Los Angeles Regional Water Quality Control Board (LARWQCB), subject: "Site Cleanup Program Oversight Cost Reimbursement Account – Former Zero Corporation Facility, 777 North Front Street, Burbank, California, RWQCB File No. 109.6162."

Attached please find the completed Attachment 3 to that letter, i.e., the "Certification Declaration for Compliance with Fee Title Holder Notification Requirements."

Please note the following with respect to the completed Certification Declaration:

- The certification language at the bottom of the Certification Declaration form refers to attachments to the document. This will confirm that there are no attachments to the completed Certification Declaration.
- Attachment 3 at Page 2 (not copied here) contains instructions as to who must sign the form on behalf of a corporation, a partnership, a sole proprietorship or a governmental entity. Not included is the situation that applies in this case, where the responding entity is a limited liability company. As appropriate in connection with a limited liability company, Alan Skobin has signed the Certification Declaration as "Authorized Representative/Member."
- As stated on the completed Certification Declaration, the identified Site is owned by Northridge Properties, LLC. However, as you already know, a portion of the Site is subject to a permanent easement, and an additional portion is subject to a temporary construction easement, in favor of California Department of Transportation in connection with a road widening project in Burbank involving Interstate Highway #5.

Attachment 4 to the July 15 letter (i.e., the "Acknowledgement of Receipt of Oversight Cost Reimbursement Account Letter") is not being completed and submitted at this time because:

- (1) Northridge Properties is an innocent purchaser, not a responsible party for the conditions at the Site that are the subject of requirements asserted by LARWQCB;
- (2) Northridge Properties did not request issuance of the "Requirement for Technical Reports Pursuant to California Water Code Section 13267 Order, Former Zero Corporation Facility, etc.," dated August 6, 2014 (the "Order") and associated oversight; and

(3) The Order as well as previously issued requirements referred to in the Order are in violation of:

(a) The Agreement and Covenant Not To Sue, Docket No. 2000-03, dated March 16, 2000 (the "Covenant"), between the U.S. Environmental Protection Agency and Ford Leasing Development Company (which was subsequently assigned to Northridge Properties with the consent of U.S. EPA); and

(b) The Certificate of Completion - APW North America, Inc. (former Zero Corporation) 777 Front Street, Burbank, CA (File No. 109.6162; PCA No. 2046J), dated June 30, 2002, issued by LARWQCB.

As mentioned on previous occasions, and consistent with its obligations under the Covenant, Northridge Properties again offers to provide access to the U.S. EPA and/or LARWQCB for any environmental studies or other response actions at the Site that they deem necessary.

Northridge Properties reserves all of its rights and remedies, including but not limited to further response to the Order in due course.

Best regards,

Don



**Donald C. Nanney, Esq.**  
**Gilchrist & Rutter Prof. Corp.**  
1299 Ocean Avenue, Suite 900  
Santa Monica, CA 90401  
Tel: (310) 393-4000  
Fax: (310) 394-4700

**Attorneys for Northridge Properties, LLC**

THIS DOCUMENT WAS NOT INTENDED OR WRITTEN TO BE USED, AND IT CANNOT BE USED, FOR THE PURPOSE OF AVOIDING TAX PENALTIES THAT MAY BE IMPOSED ON THE TAXPAYER.



**Privileged/Confidential information may be contained in this message.**

If you are not the addressee indicated in this message (or responsible for delivery of the message to such person), you may not copy or deliver this message to anyone. In such case you should destroy this message, and notify us immediately. If you or your employer do not consent to Internet e-mail messages of this kind, please advise us immediately. Opinions, conclusions and other information expressed in this message are not given or endorsed by my firm or employer unless otherwise indicated by an authorized representative independent of this message.



Los Angeles Regional Water Quality Control Board

ATTACHMENT 3

CERTIFICATION DECLARATION FOR COMPLIANCE WITH FEE TITLE HOLDER NOTIFICATION REQUIREMENTS (California Water Code Section 13307.1)

Please Print or Type

Fee Title Holder(s): Northridge Properties, LLC

Mailing Address: 15505 Roscoe Boulevard, North Hills, CA 91343

Contact Person: Alan Skobin

Telephone Number / E-mail: 818-778-2970 / askobin@galpin.com

Site Name: Former Zero Corporation Facility

Address: 777 N. Front Street, Burbank, CA 91502

County Assessor Parcel Number (APN): 2449-037-011

Contact Person: Alan Skobin

Telephone Number / E-mail: See Above

File Number: 109.6162 SCP No.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (See attached page for who shall sign the Certification Declaration).

Northridge Properties, LLC
by Alan Skobin
Printed Name of Person Signing

Authorized Representative / Member
Official Title

Signature

8/13/14
Date Signed



**EXHIBIT 6**

Memorandum, dated January 5, 1998 to Kim J. Ward, ES III, DCW, SWRCB,  
from Hank H. Yacoub, Cleanup Section Chief, RWQCB/LA.  
[yellow highlights added]



Pete Wilson  
Governor

# MEMORANDUM

January 5, 1997<sup>8</sup>



**Cal/EPA**

Los Angeles  
Regional Water  
Quality Control  
Board

101 Centre Plaza Drive  
Monterey Park, CA  
91754-2156  
(213) 266-7500  
FAX (213) 266-7600

**TO:** Kim G. Ward, ES III, DCW, SWRCB  
**FROM:** Hank H. Yacoub, Cleanup Section Chief, RWQCB/LA  
*Hank H. Yacoub*  
**SUBJECT:** SITE DESIGNATION FOR 777 GRONT STREET, BURBANK

As requested in your letter of December 23, 1997, to Dennis Dickerson, following are the interested parties for the subject site according to our records:

Michael Francis, Esq. (representing Zero Corp.)  
Demetriou, Del Guercio, Springer & Moyer  
801 South Grand Avenue, 10th Floor  
Los Angeles, CA 90017-4613

Gino Gaudino  
City of Burbank Redevelopment Division  
275 East Olive Ave.  
Burbank, CA 91502

Paul Minault (representing So. Pacific Transportation Co.)  
Karl R. Morthole Law Offices  
100 Broadway, Third Floor  
San Francisco, CA 94111

We concur that RWQCB-LA should be the designated agency for the subject site. The site is in our Well Investigation Program (file No. 109.6162) and in the Burbank Operable Unit of the San Fernando Valley ground water superfund area which is administered by USEPA Region IX in San Francisco. **Under contract to USEPA, Board staff have been overseeing assessment and cleanup at the site since 1987.** Soil impacted with volatile organic compounds (VOCs) has concentrations as high as 16,000 µg/kg PCE and 31,000 µg/kg 1,1,1-TCA and represents a continuing threat to ground water quality that must be remediated. Staff is currently overseeing soil remediation at the site using soil vapor extraction (SVE) technology which will probably take years to complete.

Please contact me at (213)266-7522 if your have any further questions regarding this matter.

**EXHIBIT 7**

Table entitled: Specified Work – Groundwater Data Collection Areas and Borings,  
Attachment B to Appendix B (Statement of Work) to the February 28, 2011  
Administrative Order on Consent, [yellow highlights added]

ATTACHMENT B

SPECIFIED WORK – GROUNDWATER DATA COLLECTION AREAS AND BORINGS

GCOU Data Collection Area— Category 1	Potential Existing Wells in Data Collection Area	Rationale
CRI-1P	None	Evaluate groundwater concentrations. Evaluate whether Spence Electro Plating and other nearby facilities are a source, Downgradient of BOU.
CRI-2P	None	Downgradient of BOU, evaluate potential local sources, including from the Burbank Western Channel.
CRI-3P	None	Evaluate eastern extent and whether there are upgradient sources (e.g., potential Scott Road Landfill, Burbank Western Channel).
CRI-4P	2	Evaluate whether KBC (Alert) Plating is a source, downgradient of BOU, additional information of other potential sources, assess eastern extent.
CRI-5P	2	Downgradient of BOU, assess extent.
CRI-6P	3	Evaluate extent, evaluate potential sources from Drilube-Wilson and Zoe Fashion Design (Lanco Metals)
CRI-7P	4	Evaluate whether J&M is a source and assess extent
CRI-8P	1	Evaluate lateral extent.
CRI-9P	None	Evaluate whether upgradient sites are sources and assess lateral extent.
CRI-10P	5	Evaluate extent and potential impacts migrating from the west.
CRI-11P	16	Evaluate extent.
CRI-12P	None	Evaluate extent, evaluate potential sources from Drilube-Wilson and Zoe Fashion Design (Lanco

**EXHIBIT 8**

Meeting Attendance Sheet, at  
Los Angeles Regional Water Quality Control Board,  
dated June 6, 2011. [yellow highlights added]



## EXHIBIT 9

Page 5 of 5 of Table 7 (*Sites with Known or Suspected Chromium Use*), from the Data Compilation & Evaluation Report, Glendale Chromium Operable Unit, San Fernando Valley Superfund Site – Area 2, dated November 2011, by Environmental Resources Management (ERM). [yellow highlights added]

**Table 7 Sites with Known or Suspected Chromium Use  
Glendale Chromium Operable Unit**

Site ID	Grid ID	Site Name	Address	City	Zip	Northing	Easting	Dates of Operation	Status
83	K-8	Tech-Graphics	315 S. Flower St.	Burbank	90502	3782482	379224	1952-?	Confirmed Chromium in Soil - Further Investigation Pending
84	L-8	Technibilt, Whittaker Controls (Former)	1 W. Alameda Ave.	Burbank	91502	3782048	379873	?	RWQCB Suspected Chromium Use - Investigation Pending
85	T-11	Texon Service Center	249 Glenoaks Blvd.	Glendale	91202	3780597	383963	?	RWQCB Suspected Chromium Use - Investigation Pending
86	L-14	Toyon Service Center, Toyon Canyon Landfill (Former)	5050 Mt. Hollywood Dr.	Los Angeles	90027	3779131	379693	1957-Present	RWQCB Suspected Chromium Use - Investigation Pending
13	R-14	Unicell Rubber Company (Former), now American Metaseal Company	701 W. Broadway	Glendale	91204	3779164	382884	1953-Present	Confirmed Chromium in Soil
87	L-6	Uniplate Inc.	6 W. Burbank Blvd.	Burbank	91502	3783410	378367	1967-Present (?)	Confirmed Chromium in Soil
88	H-12	Walt Disney Company-Buena Vista	500 S. Buena Vista St.	Burbank	91521	3780294	377654	?	RWQCB Suspected Chromium Use - Investigation Pending
62	O-10	Walt Disney Company, Lockheed Librascope/Loral (Former)	833 Sonora Ave. (also listed as 727/811 Sonora Ave.)	Glendale	91201	3781179	381135	?	RWQCB Suspected Chromium Use - Investigation Pending
89	M-8	Weldcraft	119, 124, & 126 E. Graham Pl.	Burbank	91502	3782030	380240	?	Confirmed Chromium in Soil
90	N-10	Western Magnetics Incorporated	1733 S. Flower St.	Glendale	91201	3781369	380524	Grand Central Industrial Co. 1955-1960s, Western Magnetics 1960s-1985	RWQCB Suspected Chromium Use - Investigation Pending
91	R-15	Westform Industries	4552 W. Colorado Blvd.	Los Angeles	90039	3778556	382717		RWQCB Suspected Chromium Use - Investigation Pending
92	H-6	Westland Graphics	1400 W. Burbank Blvd.	Burbank	91506	3783187	377740	?	RWQCB Suspected Chromium Use - Investigation Pending
2	J-7	World Wide Digital Services, Access Controls (Former)	171 W. Magnolia Blvd.	Burbank	91502	3782700	378635	2006-?	RWQCB Suspected Chromium Use - Investigation Pending
93	I-6	Zero Corp/Enclosures	777 Front St.	Burbank	90502	3783335	378527	? - 1990	RWQCB Suspected Chromium Use - Investigation Pending
33	R-14	Zoe Fashion Design (Former), See Dilute - 747 Site/Ken's Broaching/Lanco Metals	747 W. Wilson Ave. (also listed as 747 Salem St.)	Glendale	91203	3779295	382781	?	RWQCB Suspected Chromium Use - Investigation Pending

Note

Grid ID corresponds to Figure 11

Abbreviation:

RWQCB = Regional Water Quality Control Board

## EXHIBIT 10

Page 12 of 12 of Appendix C (*Historical Operations at Potential Chromium Source Sites, Glendale Chromium Operable Unit*), from the Data Compilation & Evaluation Report, Glendale Chromium Operable Unit, San Fernando Valley Superfund Site – Area 2, dated November 2011, by Environmental Resources Management (ERM). [yellow highlights added]

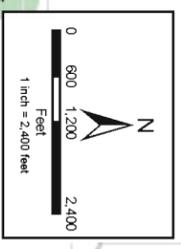
**Appendix C - Historical Operations at Potential Chromium Source Sites  
Glendale Chromium Operable Unit**

Site Name	Address	City	Zip	Historical Site Operations and Previous Investigations	Potential Contaminant Sources and Rationale for Selection
Technibilt, Whitaker Controls (Former)	1 W. Alameda Ave.	Burbank	91502	Used to be a shopping cart manufacturing company. Used Cr plating methods. Upgrade of ITT Aerospace/Home Depot. Past owner was General Controls. RWQCB pursuing Whitaker now for cleanup. An existing building remains onsite.	
Texon Service Center	249 Glenoaks Blvd.	Glendale	91202	No Additional Information	
Toyon Service Center, Toyon Canyon Landfill (Former)	5050 Mt. Hollywood Dr.	Los Angeles	90027	No Additional Information	
Walt Disney Company-Buena Vista	500 S. Buena Vista St.	Burbank	91521	Not a Cr site. Late 1930s operated biggest cooling unit in the city. Pumped 1.7 million gallons/day from 3 wells at 5,000 gpm.	
Weldcraft	119, 124, & 126 E. Graham Pl.	Burbank	91502	Cr-VI in soil that ranged from 3.2 to 55 mg/kg. Findings from the Phase II Subsurface Investigation dated 5-2-01: chromium present in all soil borings ranging from 2.83 to 22.4 mg/kg. Limited Phase II Investigation (6-7-06) Chromium 6.77 to 27.5 mg/kg. Excavation and Disposal of Contaminated Soil (6-22-98)-Cr-VI in soil that ranged from 3.2 to 55 mg/kg. July 22, 2010 internal email from RWQCB listing Weldcraft (3 sites) as a potential Cr-VI site for further investigation. Excavation and Disposal of Contaminated Soil (6-22-98)-Cr-VI in soil that ranged from 3.2 to 55 mg/kg. Findings from the Phase II Subsurface Investigation dated 5-2-01: chromium present in all soil borings ranging from 2.83 to 22.4 mg/kg. Limited Phase II Investigation (6-7-06) Chromium 6.77 to 27.5 mg/kg. VOC case. The RWQCB will issue an NFR soon.	
Western Magnetics Incorporated	1733 S. Flower St.	Glendale	91201	VOC files only.	
Western Industries	4552 W. Colorado Blvd.	Los Angeles	90039	VOC files only.	
Westland Graphics	1400 W. Burbank Blvd.	Burbank	91506	No Additional Information	
World Wide Digital Services, Access Controls (Former)	171 W. Magnolia Blvd.	Burbank	91502	Soil investigations performed from 1989 to 1996. Soil and soil vapor work performed. VOCs detected. No records of heavy metals being investigated. Groundwater investigations performed from 1989 to 1996. VOCs detected. No records of heavy metals being investigated. Soil and groundwater investigations performed from 1989 to 1996. NFR issued on 9-5-96, on 10-17-01 a chemical use questionnaire. Letter was issued based on presence of chromium related compounds in the soil and groundwater. Soil, groundwater, and soil vapor work performed. VOCs detected. No records of heavy metals being investigated.	
Uniplate Inc.	6 W. Burbank Blvd.	Burbank	91502	Has occupied this site since 1967 as a plating facility. Information regarding the previous business is unknown. The Uni-Plate site was closed in 2006 and chromium was found in soil at concentrations of 574 mg/kg (LARWQCB, 2002).	Based on the historical use as a plating facility and confirmed concentrations of chromium in soil, there is potential for groundwater contamination at this site.
Zero Corp/Enclosures	777 Front St	Burbank	90602	Manufacturing facility comprising ~ 8 acres. Property listed as currently inactive. VOC data on record. NFR issued 12-23-03. Facility used as chemical storage. VOCs found in soil (no data) VOC file, no Cr information. Cal/Ttrans did investigation at this site. Groundwater Monitoring Report on file dated 4-15-99. Had wells onsite but have since been destroyed. VOC case only per the RWQCB.	

Notes: Information contained in this Appendix was obtained from RWQCB investigations and other publicly available sources. This information summarizes previous investigations or reported activities prepared by others. ERM has not verified, certified or comprehensively reviewed the investigations for these sites and makes no assurances as to the representativeness of this information.

**EXHIBIT 11**

Attachment A (*Glendale Chromium Operable Unit, Proposed Specified Work, RI Borings and Well Areas and FFS Well Areas*), Specified Work Plan, Glendale Chromium Operable Unit, San Fernando Valley Superfund Site – Area 2, dated November 2011.



**NORTH HOLLYWOOD  
OPERABLE UNIT**

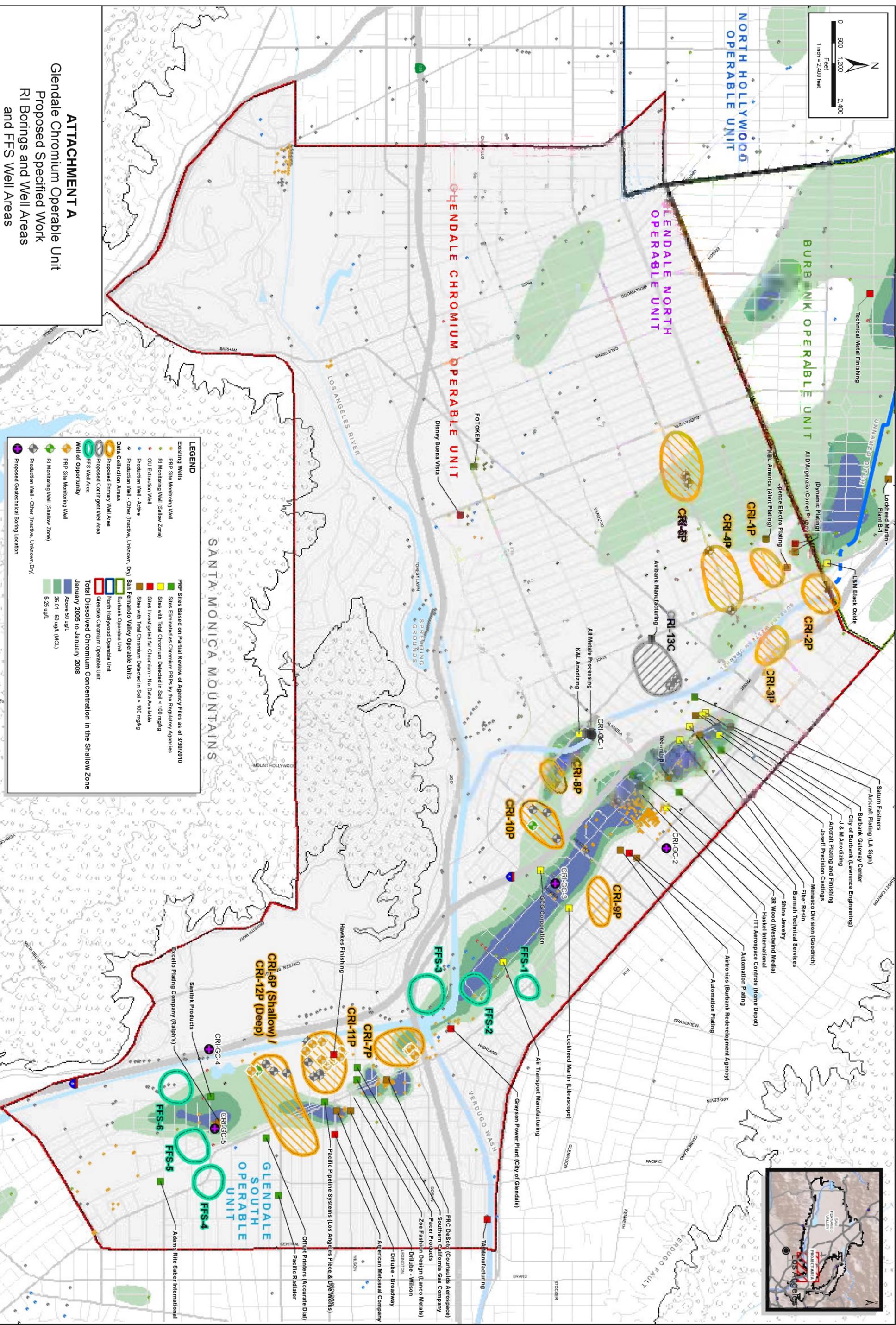
**GLENDALE NORTH  
OPERABLE UNIT**

**BURBANK OPERABLE UNIT**

**GLENDALE CHROMIUM OPERABLE UNIT**

**SANTA MONICA MOUNTAINS**

**ATTACHMENT A**  
Glendale Chromium Operable Unit  
Proposed Specified Work  
RI Borings and Well Areas  
and FFS Well Areas



**LEGEND**

Existing Wells

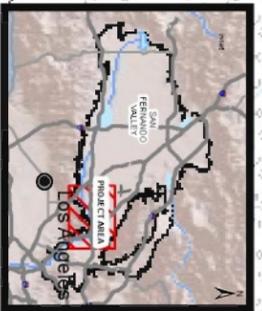
- PPP Site Monitoring Well
- RI Monitoring Well (Shallow Zone)
- RI Monitoring Well (Deep Zone)
- OU Extraction Well
- Production Well - Active
- Production Well - Other (Inactive, Unknown, Dry)
- Data Collection Areas
- Proposed Primary Well Area
- Proposed Contingent Well Area
- FFS Well Area
- Well of Opportunity
- PPP Site Monitoring Well
- RI Monitoring Well (Shallow Zone)
- Production Well - Other (Inactive, Unknown, Dry)
- Proposed Geotechnical Boring Location

PPP Sites Based on Partial Review of Agency Files as of 3/30/2010

- Sites Eliminated as Chromium PPPs by the Regulatory Agencies
- Sites with Total Chromium Detected in Soil < 100 mg/kg
- Sites Investigated for Chromium - No Data Available
- Sites with Total Chromium Detected in Soil > 100 mg/kg
- San Fernando Valley Operable Units
- North Hollywood Operable Unit
- Glendale Chromium Operable Unit

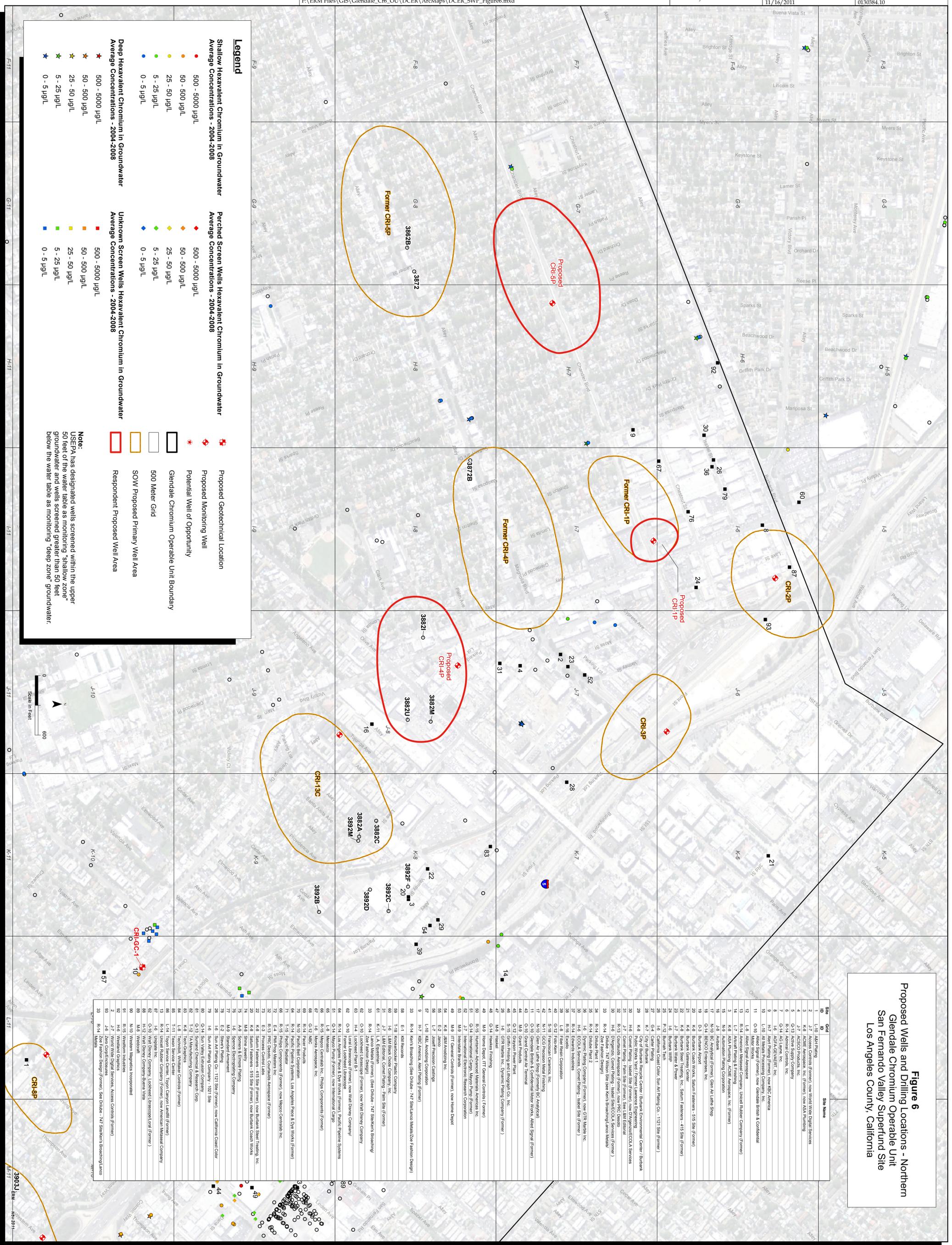
Total Dissolved Chromium Concentration in the Shallow Zone

- January 2005 to January 2008
- Above 50 ug/L
- 25.01 - 50 ug/L (MCL)
- 5-25 ug/L



**EXHIBIT 12**

Figure 6 (*Proposed Wells and Drilling Locations – Northern, Glendale Chromium Operable Unit, San Fernando Valley Superfund Site, Los Angeles County, California*),  
Specified Work Plan, Glendale Chromium Operable Unit,  
San Fernando Valley Superfund Site – Area 2, dated November 2011.



**Legend**

<b>Shallow Hexavalent Chromium in Groundwater Average Concentrations - 2004-2008</b>	<b>Perched Screen Wells Hexavalent Chromium in Groundwater Average Concentrations - 2004-2008</b>
500 - 5000 µg/L	500 - 5000 µg/L
50 - 500 µg/L	50 - 500 µg/L
25 - 50 µg/L	25 - 50 µg/L
5 - 25 µg/L	5 - 25 µg/L
0 - 5 µg/L	0 - 5 µg/L
<b>Deep Hexavalent Chromium in Groundwater Average Concentrations - 2004-2008</b>	<b>Unknown Screen Wells Hexavalent Chromium in Groundwater Average Concentrations - 2004-2008</b>
500 - 5000 µg/L	500 - 5000 µg/L
50 - 500 µg/L	50 - 500 µg/L
25 - 50 µg/L	25 - 50 µg/L
5 - 25 µg/L	5 - 25 µg/L
0 - 5 µg/L	0 - 5 µg/L

+	Proposed Geotechnical Location
+	Proposed Monitoring Well
*	Potential Well of Opportunity
□	Glendale Chromium Operable Unit Boundary
□	500 Meter Grid
□	SOW Proposed Primary Well Area
□	Respondent Proposed Well Area

**Note:**  
USEPA has designated wells screened within the upper 50 feet of the water table as monitoring "shallow zone" groundwater and wells screened greater than 50 feet below the water table as monitoring "deep zone" groundwater.



**Figure 6**  
Proposed Wells and Drilling Locations - Northern  
Glendale Chromium Operable Unit  
San Fernando Valley Superfund Site  
Los Angeles County, California

Site No.	Grid	Site Name
1	L-10	AXM Parking
2	J-7	Access Control (Former), now World Wide Digital Services
3	K-8	ACME Aerospace, Inc. (Former), now ASA Plumbing
4	J-7	ACSCCO Products, Inc.
5	V-2	Adair's
6	R-14	Aerotech Spinal Company
7	Q-14	AGI Lamin, Inc.
8	H-6	AGEA-EVENT, Inc.
9	H-7	Aherl Parking (Former), now RBC America
10	L-7	Almer Signal (Former), now Glendale British & Confidential
11	Q-10	Almer Signal (Former), now Glendale British & Confidential
12	L-8	Almer Signal Aerospace
13	L-7	Almer Signal Aerospace
14	L-7	Almer Signal Aerospace
15	N-9	Almer Signal Aerospace
16	J-8	Almer Signal Aerospace
17	K-6	Almer Signal Aerospace
18	Q-14	ALMCO Enterprises, Inc.
19	D-3	Burbank Airport
20	K-8	Burbank Coach Works, Salum Fasteners, 515 Site (Former)
21	K-8	Burbank Gateway Center
22	K-8	Burbank Steel Treating, Inc., Salum Fasteners, 415 Site (Former)
23	L-6	Burbank Tech
24	P-12	Burbank VWP
25	P-12	Burbank VWP
26	L-6	California Coast Chalk, Sun Air Parking Co., 1121 Site (Former)
27	K-7	Cardinal Bank
28	K-7	Cardinal Bank
29	K-8	City of Burbank Storage Center / Burbank Environmental Center / Burbank
30	H-5	City of Burbank Storage Center / Burbank Environmental Center / Burbank
31	J-7	City of Burbank Storage Center / Burbank Environmental Center / Burbank
32	R-13	City of Burbank Storage Center / Burbank Environmental Center / Burbank
33	R-14	City of Burbank Storage Center / Burbank Environmental Center / Burbank
34	R-14	City of Burbank Storage Center / Burbank Environmental Center / Burbank
35	R-14	City of Burbank Storage Center / Burbank Environmental Center / Burbank
36	L-6	Dynmic Parking Company (Former), now GTR Marble, Inc.
37	L-6	ECOLA Structures, Crane Parking, Shalee Site (Former)
38	R-16	Excelsio
39	L-6	Fiber Rain Corporation
40	G-12	Fiber Rain Corporation
41	N-11	General Contractors, Inc.
42	N-10	General Contractors, Inc.
43	Q-10	General Contractors, Inc.
44	Q-10	General Contractors, Inc.
45	Q-12	General Contractors, Inc.
46	S-15	General Contractors, Inc.
47	M-8	General Contractors, Inc.
48	M-9	General Contractors, Inc.
49	R-15	General Contractors, Inc.
50	Q-14	General Contractors, Inc.
51	J-7	General Contractors, Inc.
52	J-7	General Contractors, Inc.
53	M-9	General Contractors, Inc.
54	M-9	General Contractors, Inc.
55	K-8	General Contractors, Inc.
56	L-7	General Contractors, Inc.
57	H-7	General Contractors, Inc.
58	E-4	General Contractors, Inc.
59	E-4	General Contractors, Inc.
60	L-6	General Contractors, Inc.
61	J-7	General Contractors, Inc.
62	R-14	General Contractors, Inc.
63	R-14	General Contractors, Inc.
64	Q-10	General Contractors, Inc.
65	R-14	General Contractors, Inc.
66	L-8	General Contractors, Inc.
67	L-8	General Contractors, Inc.
68	G-12	General Contractors, Inc.
69	R-14	General Contractors, Inc.
70	N-10	General Contractors, Inc.
71	T-15	General Contractors, Inc.
72	E-4	General Contractors, Inc.
73	R-15	General Contractors, Inc.
74	R-15	General Contractors, Inc.
75	R-15	General Contractors, Inc.
76	K-8	General Contractors, Inc.
77	E-2	General Contractors, Inc.
78	E-2	General Contractors, Inc.
79	L-6	General Contractors, Inc.
80	Q-14	General Contractors, Inc.
81	Q-10	General Contractors, Inc.
82	T-12	General Contractors, Inc.
83	K-8	General Contractors, Inc.
84	L-8	General Contractors, Inc.
85	L-8	General Contractors, Inc.
86	L-8	General Contractors, Inc.
87	L-8	General Contractors, Inc.
88	L-8	General Contractors, Inc.
89	L-8	General Contractors, Inc.
90	N-10	General Contractors, Inc.
91	R-15	General Contractors, Inc.
92	H-6	General Contractors, Inc.
93	J-6	General Contractors, Inc.
94	R-14	General Contractors, Inc.