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9 Attorneys for Designated Party
10 TBS Petroleum, LLC

11 STATE OF CALIFORNIA
12 REGIONAL WATER QUALITY CONTROL BOARD
13 CENTRAL VALLEY REGION

14 In Re:

15 HEARING PROCEDURE FOR
16 CLEANUP AND ABATEMENT ORDER
17 RG-2011-0713, TBS PETROLEUM, LLC,
18 ANTLER'S SHELL/SUBWAY, 20884
19 ANTLERS ROAD, LAKEHEAD,
20 SHASTA COUNTY

21 **CAO No. R5-2011-0713**

22 **TBS PETROLEUM, LLC**
23 **SUMMARY AND**
24 **RESPONSE TO COMMENTS**

25 Hearing Date: June 7-8, 2012
26 Time: unk

27 The Petitioner/Designated Party TBS Petroleum, LLC ("TBS"), through its counsel,
28 responds to the comments by Designated Party Bob G. Davis ("Davis") as follows.

29 **1. The Board's Conclusion That Davis is the Actual Discharger Should Not be**
30 **Disturbed and He Should be Included on the Cleanup and Abatement Order.**

31 The administrative record includes substantial evidence supporting the Board's conclusion
32 that the initial MTBE release occurred while Davis was the owner and operator of the pre-1997
33 USTs at the Antler's Shell-Subway gas station. The evidence is in:

34 (a) March 4, 2009 Report of Findings: Initial Subsurface Investigation, Antlers Shell
35 Subway, LACO Associates, Cleanup Team ("CT") Exhibit 27;

36 (b) April 27, 2009 Supplemental Information: Initial Subsurface Investigation, Antlers

1 Shell Subway, LACO Associates, CT Exhibit 30;

2 (c) April 27, 2010 Case File Review, Antlers Shell, 20884 Lakehead, Shasta County, Case
3 #450336, Regional Board, CT Exhibit 39.

4 The administrative record also includes substantial evidence refuting Davis' claims that he
5 did not "create" or "cause" the pollution of the MTBE into the potable water well on the property.
6 May 19, 2010 letter, LACO Associates to Calif. Reg. Water Quality Control Bd., CT Exhibit 43.

7 In fact, Davis knew the soils had MTBE on the property when he removed his USTs in
8 1997. (A copy of Davis' workplan and the reports from his contractor showing the MTBE in the
9 soils is attached for reference, from CT Exhibit 8, as Reference Attachment A.)

10 Davis actively concealed this information about the MTBE that had been discovered
11 during his removal and replacement of his USTs in 1997, when he completed a Limited
12 Environmental Site Assessment Questionnaire on February 22, 2005 by not responding to
13 questions as to

- 14 (a) Contamination Discovered,
- 15 (b) Testing Performed at Excavation Limits,
- 16 (c) Test Results Provided.

17 CT Exhibit 43. (A copy of the Questionnaire is attached as Reference Attachment B).

18 The law this Board is to apply is Section 13304 of the Porter-Cologne Water Quality Act
19 (Water Code). Section 13304 authorizes this Board to issue Orders to any person compelling
20 cleanups,

21 "[W]ho has caused
22 or permitted,
23 causes
24 or permits
25 or threatens to cause or permit
26 any waste to be discharged
27 or deposited
28

1 where it is, or probably will be,
2 discharged into the waters of the state
3 and creates
4 or threatens to create,
5 a condition of pollution or nuisance. ..."

6 The State Board's policy is clear; a "responsible party" should not be left to clean up
7 contamination attributable to a release for which another part is responsible. *In re*
8 *Mohammadian*, Order WQO 2002-0021 (Nov. 19, 2002).

9 Section 13304 and the State Board's policy support this Board in naming Davis as a
10 "responsible party." Of course, Davis argues in his May 10 filing that he did not "cause" the
11 pollution of the drinking water well by MTBE. But, the law in California is clear. It is enough
12 that Davis "created or assisted in creating" the condition of nuisance -- namely, the pollution of
13 the drinking water well.

14 The common law principles of "nuisance" are used to define "cause" in Section 13304.
15 *City of Modesto Redevelopment Agency v. Superior Court*, 119 Cal. App. 4th 28, 37. And, the
16 common law of nuisance in California is that

17
18 "...not only is the party who maintains the nuisance liable but also the party or parties
19 who create or assist in its creation are responsible for the ensuing damages."¹

20 There is substantial evidence in the Board's record that Davis created or assisted in the
21 creation of the pollution of the property by MTBE. And, as explained in the Watt Declaration,
22 filed herein May 10, 2012 (paragraph 7, pp. 2-3), the MTBE was in the soils of the 1997 UST pit
23 excavation, and because of the nature of the soils, it moved very slowly over a period of 10 years,
24 and wound up in the well.²

25 ¹ *City of Modesto Redevelopment Agency v. Superior Court*, 119 Cal. App. 4th 28, 38 (2004), citing *Mangini v.*
26 *Aerojet-General Corp.*, 230 Cal.App.3d 1125, 1137 (1991).

27 ² The "water line discharge" argument is similarly addressed; Mr. Watt explains (Watt Declaration, para. 8, p. 3) that
28 the line is simply too small in diameter to have produced enough water to move the MTBE through the soils in the
short period of time now argued by Davis' consultant, Mr. Foget, of SHN. Mr. Ackernecht testifies (Ackernecht
Declaration, para. 16, p. 3, that there is simply no evidence that the water line had any leaks.

1 Davis clearly "assisted" in the creation of the pollution in the well. It is irrelevant whether
2 Davis did or did not had knowledge when the leak occurred from the old USTs which he operated
3 (from 1989, when he and his wife Cheryl bought the station, to 2005, when he sold the station to
4 TBS).

5 The State Board evaluates such "operator" cases simply in terms of causation. It does not
6 consider whether an "operator" such as Davis had any knowledge of the discharge of the MTBE
7 when it occurred, or even whether Davis had any "fault" in relation to the discharge.³ Davis was
8 involved -- for 16 years -- in the activity which caused the pollution. This Board should name
9 Davis as a responsible party.

- 10 • *In re Petition of Harold & Joyce Logsdon*, SWRCB Order No. WQ 84-6 (Harold
11 Logsdon, while individually the site owner, was the president of the company which
12 polluted the site);
- 13 • *In re Petition of Stinnes-Western Chemical Corp.*, SWRCB 86-16 (Predecessor in interest
14 of petitioner was past owner, who actively engaged in chemical packaging at the site, and
15 there was "credible and reasonable evidence that spills did occur while the prior
16 landowner both owned and occupied the site." *Id.*, at p. 13).
- 17 • *In re Petition of BOC Group, Inc.*, SWRCB WQ 89-13 (former manufacturing company
18 left UST in ground which was causing pollution).

19 **2. The Court's Ruling Interpreting the Contract Applies Only to TBS and Davis.**

20 The decision of the Court of Appeal (Davis Exhibit J) states that the "as is" clause of
21 the sales contract between Davis and TBS bars TBS' claims against Davis for contractual and
22 equitable indemnity. The State of California and the Regional Board were not parties to the
23 lawsuit; the Court had no jurisdiction over the State and the Regional Board. The State and the
24 Regional Board did not seek to intervene; and they undoubtedly would strenuously argue that any
25

26 ³ The legislature expressly created strict liability for anyone who causes or permits -- with or without negligence --
27 waste to be deposited where it creates a condition of pollution or nuisance. See AB 2700, 1980 Stats. ch. 808. This
28 was a change from the original language of Section 13304 of the Porter-Cologne Act, which placed liability on
polluters who did not have a permit only if their discharge was intentional or negligent. The Board does not have to
prove the state of mind of Davis to include him in the Order.

1 decision of the Court of Appeal that was adverse to their authority in Section 13304 of the Porter-
2 Cologne Act would not apply. If Davis believed the Regional Board had a mandatory duty --
3 based on Davis' contract with TBS -- to eliminate Davis from the Order, he could have brought
4 the State (i.e., the Regional Board) into court on a petition for writ of mandate.

5 **3. Davis May Have a Claim on the UST Cleanup Fund That is Assignable to TBS or**
6 **Another Party for Reimbursement of Cleanup Costs.**

7 Davis refers to the State Board's "*Lake Publishing*" decision of 12 years ago. *In re Lake*
8 *Publishing Company*, Order WQ 2000-06-UST (April 26, 2010). He also refers to the State
9 Board's decision, *In re Hollis Rodgers*, Order No. WQ 99-02-UST.

10 First, the *Lake Publishing Company* decision involved a seller of property that received a
11 reduced price because its property was contaminated. The question was whether the buyer, which
12 had paid the reduced price, could be assigned the seller's reimbursement rights to the UST
13 Cleanup Fund. The *Lake Publishing* decision is not relevant to the current situation because there
14 is no evidence in the administrative record that the MTBE contamination was known by the
15 buyer, TBS, at the time of sale. There is also no evidence that the price was reduced in any way
16 because of the MTBE contamination. The *Lake Publishing* decision is not relevant because of its
17 facts. In addition, the State Board has now published extensive guidance, including forms, by
18 which the Division of Financial Assurance and the UST Cleanup Fund determine eligibility. See
19 [http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/assignment_of_claims/assignment](http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/assignment_of_claims/assignment_guide.pdf)
20 [aim_guide.pdf](http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/assignment_of_claims/assignment_guide.pdf) for information as to how the Fund determines eligibility.

21 Second, the *Hollis Rodgers* decision was by the State Board on a review of a decision of
22 the Underground Storage Tank Cleanup Fund -- not a Regional Board. Whether or not the Fund
23 would or would not allow Davis or TBS access to the Fund depends on what application is made
24 to the Fund. This Regional Board really doesn't have reason to guess what decision the Fund may
25 make at some future time. Nor should the Regional Board in any way pre-determine eligibility
26 for the Fund, as between Davis, TBS, or any other party involved in the Antlers Shell site.
27
28

1 CONCLUSION

2 Davis invites the Board to rule that Davis is not liable under the Porter-Cologne Act
3 because although MTBE got into the soil during his 14 years of operating the Antlers Shell
4 station, the MTBE was not a threat to the groundwater of the State. He also invites this Board to
5 adopt as its own a decision of the Court of Appeal. But the Court of Appeal decision did not
6 address Davis' liability to the State under Section 13304 of the Porter-Cologne Act. The State
7 was not mentioned, nor was it invited to submit to the Court's jurisdiction. Finally, Davis invites
8 the Board to interpret eligibility for reimbursements by the UST Cleanup Fund.

9 The Board should decline these invitations from Davis and should include Davis in the
10 Cleanup and Abatement Order. Section 13304 of the Porter-Cologne Act makes Davis liable,
11 even on the facts he now asserts. There is substantial supporting evidence in the administrative
12 record for including Davis. The Board should not set the precedent of interpreting contracts,
13 court decisions, possible eligibility decisions by the UST Cleanup Fund, and the like in deciding
14 whether to include or not include Section 13304 "dischargers" on Cleanup and Abatement Orders.
15 The State cannot afford, in these difficult times, such costs -- nor can the public interest in
16 cleanups.

17
18 Dated: May 16, 2012

19 By: 
20 JAMES R. ARNOLD
21 THE ARNOLD LAW PRACTICE
22 Attorneys for Petitioner
23 TBS PETROLEUM, LLC
24
25
26
27
28

**REFERENCE ATTACHMENT A
(CT EXHIBIT 8)**

WORKPLAN FOR UNDERGROUND STORAGE TANK CLOSURE

This form is to be attached to the Underground Storage Tank Application. Approval to begin the tank removal operation will not be granted without a completed workplan.

1. Site Name ANTLERS SHELL
Owner's Name BOB DAVIS

2. Site Address HWY 5 LAKEHEAD, CA.
Nearest Cross Street _____

3. Provide a plot plan of the site and describe surrounding land uses, location of drainages and water wells. SITE PLAN PROVIDED

4. Will the tank(s) be reused? If yes, explain. NO

5. What is the name and location of the State licensed facility that will accept and dispose of the UGT and piping? (Check with the facility first to make sure they have the proper license and permits to accept hazardous waste. ERICKSON INC.

6. Who will transport the UGT once removed from the ground? ERICKSON INC.

7. Explain how the tank(s) will be inerted safely to prevent a fire or explosion hazard. TRIPLE RINSE AND DRY ICE

8. Where will UGT rinsate, sludges, and residual liquids from the UGT be disposed of? EVERGREEN ENVIRO

9. What is the name and phone number of the State-accredited laboratory who will perform the soil/water sample analysis? BASIC LABS

10. Describe how the site and tank excavation pit will be secured to prevent public access to the excavation. FENCING AND BARRICADES

11. Describe how excavated soil from the UGT excavation will be stored onsite to prevent run-off during rain periods. SOILS STOCKPILED ON PLASTIC AND COVERED DURING RAIN.



C) BO DAVIS - SOIL SAMPLE RESULTS

RECEIVED
DEC 12 1997

Report To:	I.M.E. STATION MAINTENANCE P.O. BOX 255 GAZELLE, CA 96034	Department of Resource Mgt Environmental Health Division	Lab Number:	8711271
Attention:	TOM SHERIDAN		Date:	11/25/97
Project Name:	ANTLERS SHELL		Phone:	435-2434
Sample Description:	SOIL TESTING		Date Sampled:	10/21/97
			Date Received:	11/12/97

Test:	TPH - Gas	Benzene	Toluene	Ethyl Benzene	Total Xylenes	Methyl-t-butylether	TPH - Diesel
Method:	EPA 8015M	EPA 8020	EPA 8020	EPA 8020	EPA 8020	EPA 8020	EPA 8015M
Units:	mg/kgW	mg/kgW	mg/kgW	mg/kgW	mg/kgW	mg/kgW	mg/kgW
Reporting Limit:	1.0	0.005	0.005	0.005	0.010	0.020	10
Date Analyzed:	11/19/97	11/19/97	11/19/97	11/19/97	11/19/97	11/19/97	11/21/97

Sample ID

Dispenser 1-2	n	n	0.009	n	n	n	n
Dispenser 3-4	n	n	0.009	n	n	n	n
Dispenser 5-8	n	n	0.013	n	0.010	0.030	n
Dispenser 7-8	n	n	n	n	n	n	n

Comments: Testing Subcontracted to Lab Cert. #2200.
n - Not detected at the reporting limit.

Reported by: *James E. Hawley*



RECEIVED

NOV 20 1997

Department of Resource Mgt.
Environmental Health Division

Report To: I.M.E. STATION MAINTENANCE, INC.
P.O. BOX 255
GAZELLE, CA 96034

Lab Number: 9710226
Date: 11/03/97
Phone: 435-2434
Date Sampled: 10/10/97
Date Received: 10/10/97

Attention: TOM SHERIDAN

Project Name: ANTLERS

Sample Description: SOIL TESTING

Test:	TPH - Gas EPA 8015M	Benzene EPA 8020	Toluene EPA 8020	Ethyl Benzene EPA 8020	Total Xylenes EPA 8020	Methyl-t- butylether EPA 8020	TPH - Diesel EPA 8015M
Method:	mg/kgW	mg/kgW	mg/kgW	mg/kgW	mg/kgW	mg/kgW	mg/kgW
Units:	1	0.005	0.005	0.005	0.01	0.02	10
Reporting Limit:	10/22/97	10/22/97	10/22/97	10/22/97	10/22/97	10/22/97	10/23/97
Date Analyzed:							

Sample ID	TPH - Gas	Benzene	Toluene	Ethyl Benzene	Total Xylenes	Methyl-t-butylether	TPH - Diesel
Stock Pile #1	n	n	n	n	0.018	n	n
Stock Pile #2	n	n	n	n	n	0.033	n
Tank Hole S.E.	n	n	n	n	n	n	n
Tank Hole, Middle South	n	n	n	n	n	n	n
Tank Hole 3, S.W.	n	n	n	n	n	0.085	n
Tank Hole 4, N.E.	n	n	n	n	n	n	n
Tank Hole 5, Middle North	n	n	n	n	n	n	n
Tank Hole 6, N.W.	n	n	n	n	n	n	n

Disperser results 3.

Comments: Testing Subcontracted to Lab Cert. #1186.
n - Not detected at the reporting limit.

Reported by: *James E. Hawley*

Purgeable Aromatics
and
Total Petroleum Hydrocarbons

██████████
2218 RAILROAD AVE.
REDDING, CA 96001
Attn: JAMES E. HAWLEY 916-243-7234

Date Reported: 11/01/97
Date Received: 10/16/97
Laboratory No.: 97-11176-7

Sample Description: 9710226-7 (TANK HOLE 5, MIDDLE N.)

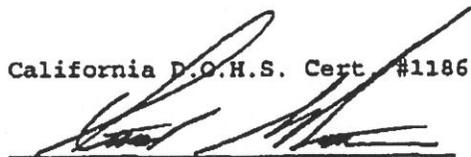
Sample Matrix: Soil

Date Collected: 10/10/97 @ 12:00PM
Date Extracted-8020: ██████████
Date Analyzed-8020: ██████████
Date Extracted-8015M(d): 10/20/97
Date Analyzed-8015M(d): 10/23/97
Dilution Used-8015M(d): 1

<u>Constituents</u>	<u>Analysis Results</u>	<u>Reporting Units</u>	<u>Practical Quantitation Limit</u>
Benzene	None Detected	mg/kg	0.005
Toluene	None Detected	mg/kg	0.005
Ethyl Benzene	None Detected	mg/kg	0.005
Methyl-t-butylether	0.085	mg/kg	0.02
Total Xylenes	None Detected	mg/kg	0.01
Total Petroleum Hydrocarbons (gas)	None Detected	mg/kg	1.
Surrogate & Recovery	92.	%	70-130
Total Petroleum Hydrocarbons (diesel)	None Detected	mg/kg	10.
Surrogate & Recovery	106.	%	64-128

TEST METHOD: TPH by D.O.H.S. / L.U.F.T. Manual Method - Modified EPA 8015
Individual constituents by EPA Method 5030/8020.

California D.O.H.S. Cert. #1186


Stuart G. Buttram
Department Supervisor

Purgeable Aromatics
and
Total Petroleum Hydrocarbons

BASIC LABORATORY
2218 RAILROAD AVE.
REDDING, CA 96001
Attn: JAMES E. HAWLEY 916-243-7234

Date Reported: 10/28/97
Date Received: 10/16/97
Laboratory No.: 97-11176-3

Sample Description: 9710226-3 (TANK HOLE, S.E.)

Sample Matrix: Soil

Date Collected: 10/10/97 @ 12:00PM
Date Extracted-8020: 10/22/97
Date Analyzed-8020: 10/22/97
Date Extracted-8015M(d): 10/20/97
Date Analyzed-8015M(d): 10/23/97
Dilution Used-8015M(d): 1

<u>Constituents</u>	<u>Analysis Results</u>	<u>Reporting Units</u>	<u>Practical Quantitation Limit</u>
Benzene	None Detected	mg/kg	0.005
Toluene	None Detected	mg/kg	0.005
Ethyl Benzene	None Detected	mg/kg	0.005
Methyl-t-butylether	0.033	mg/kg	0.02
Total Xylenes	None Detected	mg/kg	0.01
Total Petroleum Hydrocarbons (gas)	None Detected	mg/kg	1.
Surrogate % Recovery	92.	%	70-130
Total Petroleum Hydrocarbons (diesel)	None Detected	mg/kg	10.
Surrogate % Recovery	111.	%	64-128



TEST METHOD: TPH by D.O.H.S. / L.U.F.T. Manual Method - Modified EPA 8015
Individual constituents by EPA Method 5030/8020.

California D.O.H.S. Cert. #1186

Stuart G. Buttram
Department Supervisor

**REFERENCE ATTACHMENT B
(CT EXHIBIT 43)**

LIMITED ENVIRONMENTAL SITE ASSESSMENT QUESTIONNAIRE

GENERAL INFORMATION

Property Name: ANTLER SHELL Miami MART
Store Number: SUBWAY 23874
Address: 20884 ANTLER Rd. LAKEHEAD, CA 96051

Franchise Group Name:
Owner/Operator Name: BOB DAVIS Home Telephone Number: 530-238-2258
Site Contact Name: BOB DAVIS STORE Telephone Number: 530-238-2331
Acreage (Lot Size):
Building Size: 52' X 52' Number of Bays: NA
Years of Operation: 15 Leased/Owned: OWNED

Name of Person Completing Questionnaire BOB DAVIS
Title: OWNER
Date: 2-22-05
Signature: [Handwritten Signature]

CURRENT ONSITE UST INFORMATION

Are any registered UST's currently located on the property?
If yes, please complete the following table.

	UST #1	UST #2	UST #3	UST #4
Tank Capacity	8000	12000	6000	
Tank Age	9-23-97	9-23-97	10-15-90	
Tank Contents	PRESN	UNLEADED	DIESEL	
Fiberglass Or Steel	BOTH	BOTH	BOTH	
Single Or Double Wall	DOUBLE	DOUBLE	DOUBLE	
Cathodic Protection				
Spill Protection	YES	YES	YES	
Overfill Protection	YES	YES	YES	
Leak Monitoring	YES	YES	YES	
Stick/Gauge Inventory	NA	NA	NA	
Documented Inventory	YES	YES	YES	
Date of Last Integrity Test	12/7/02	12/7/02	12/7/02	
Integrity Test Results	PASS	PASS	PASS	
Registration Confirmed	YES	YES	YES	
Covered by State UST fund	YES	YES	YES	

PREVIOUS USTs

Have any USTs been closed in place or removed from this property?
If yes, please complete the following.

Number of Former USTs Removed: 3
 Number of Former USTs Abandoned In Place: _____
 Date of Removal/Abandonment: 10/97
 Size of Former USTs: 8K, 8K AND 5K
 No Further Action Letter Issued: YES
 Closure Documentation Provided: _____
 Closure Documentation Available: _____
 Contamination Discovered: _____
 Volume of Contamination Disposed off-site: _____
 Testing Performed At Excavations Limits: _____
 Test Results Provided: _____

SUMPS, FLOOR DRAINS, AND OIL/WATER SEPARATORS

Are floor drains, sumps and/or oil/water separators located on-site?
If yes, please complete the following.

	Floor Drains	Sumps	Oil/water separators
Number <i>NA</i>			
Location			
Point of Discharge			
Permit Status			
Sealed/Closed			
Bermed			

Sump Purpose (water removal vs. lower bay collector): _____

Sump Operation (automatic or manual): _____

Oil/water separators Maintenance Frequency and Method: _____

WASTE STREAMS

Used Oil

Is used oil stored in a UST or AST? _____

Disposition of used oil (i.e. recycled, burned, disposed of off-site)? _____

Hauler/Recycler Firm: _____

Address: _____

Quantity Generated (monthly): _____

Used Filters

Disposal Method: _____

Used Filter Processing (punctured, drained 48 hours, crushed, double-bagged...): _____

Storage Method: _____

Quantity Generated (monthly): _____

Hauler/Recycler Firm: _____

Address: _____

Used Oily Rags

NA

Disposal Method: (Recycled by.../Discarded by...) _____

Storage Method: _____

Used Anti-Freeze

NA

Disposal Method: (Recycled on-site by.../Recycled off-site by.../Mixed with used oil...) _____

Storage Method: _____

Quantity Generated (monthly): _____

Hauler/Recycler Firm: _____

Address: _____

Solvents

Are chemical solvents used on-site? _____

If yes, please answer the following.

NA

Is a parts washing station used on-site? _____

How many gallons are stored in the parts washing station? _____

What is the brands name of the solvent? _____

Is the solvent recycled? _____ How often? _____

Recycler Information:

Name: _____

Address: _____ Phone Number: _____

NA

SPILL PREVENTION CONTROL AND COUNTERMEASURES (SPCC) PLAN

Does the facility utilize a Spill Prevention Control And Countermeasure (SPCC) Plan? Yes/No

If yes, when was it last updated? _____

Stamped by Registered Engineer: Yes/No

Name of Engineer: _____

HISTORICAL

Describe knowledge of site history: BUILT IN 1972 (GAS STATION & MINI MART); RENOVATED IN 2002



REQUIRED DOCUMENTS

ADR will require one photo copy of each of the following applicable documents to be available in advance of our facility inspection or available on-site at the time of the facility inspection: ADR reserves the right to obtain additional documents on-site as may be required during the facility inspection. A minimum of two months documentation of item 5 below may be deemed acceptable, if record of the previous six months cannot be produced.

1. Underground Storage Tank Permit(s)
2. UST annual Tank Tightness Testing Results
3. Oil/water separator permit(s)
4. Waste water discharge Permit(s)
5. Hazardous Waste, Used Oil, Used filters, and Oil Rags Manifest(s) or Load Tickets for the previous six months
6. Material Safety Data Sheets (MSDS)
7. Any federal, state, or local Regulatory Agency Notices of Violation
8. Spill Prevention Control and Countermeasures (SPCC) Plan
9. Any previously conducted environmental investigation reports of the facility
10. Lead government agency "No Further Action" letters regarding former on-site USTs

1 PROOF OF SERVICE

2 I am employed in the County of Contra Costa, State of California. I am over the age of
3 18 am not a party to the within action. My business address is 3685 Mt. Diablo Boulevard,
4 Suite 331, Lafayette, California 94549.

5 On May 16, 2012, I served the following document described as:

6 **TBS PETROLEUM, LLC – SUMMARY AND RESPONSE TO COMMENTS**

7 on all interested parties in this action by placing a true copy thereof enclosed in sealed
8 envelopes addressed as stated on the attached service list.

9 **BY MAIL** – I deposited such envelope in the mail at Lafayette, California. The
10 envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s
11 practice of collection and processing correspondence for mailing. Under the practice it would
12 be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at
13 Lafayette, California in the ordinary course of business.

14 **BY PERSONAL SERVICE** – I caused said document to be hand delivered to the
15 offices of the addressee(s) shown on the attached service list.

16 **VIA FACSIMILE** – I faxed said document, to the office(s) of the addressee(s) on the
17 attached service list, and the transmission was reported as complete and without error.

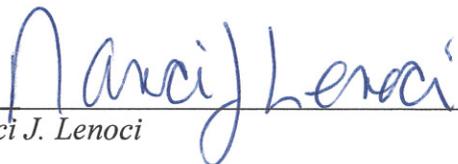
18 **BY ELECTRONIC TRANSMISSION** – I transmitted a PDF version of this document
19 by electronic mail to the party(s) identified on the attached service list using the e-mail
20 address(es) indicated.

21 **BY OVERNIGHT DELIVERY** - I deposited such envelope for collection and
22 delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary
23 business practices. I am “readily familiar” with the firm’s practice of collection and processing
24 packages for overnight delivery by Federal Express. They are deposited with a facility
25 regularly maintained by Federal Express for receipt on the same day in the ordinary course of
26 business.

27 (State) I declare under penalty of perjury under the laws of the State of
28 California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this
Court at whose direction the service was made.

Executed on May 16, 2012, at Lafayette, California.



Nanci J. Lenoci

SERVICE LIST

ADVISORY TEAM: pdf and FedEx	CLEANUP TEAM: pdf
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OTHER INTERESTED PARTIES
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