

## Lino's Service

### 1. Site Name and Address

Lino's Service  
318 Main Street  
Ferndale, CA 95536

### 2. Name and Address of All Identified RPs

Lino Mogni  
P.O. Box 298  
Ferndale, CA 95536-0298

### 3. Copy of Corrective Action / Cleanup and Abatement Order

See attached correspondence November 2002, December 2002, April 2004, August 2004, July 2005, and January 2006.

### 4. Regulatory Oversight Agency and Contact

Humboldt County Division of Environmental Health  
Mark Verhey  
100 H St Suite 100  
Eureka, Ca 95501  
707.268.2239  
[mverhey@co.humboldt.ca.us](mailto:mverhey@co.humboldt.ca.us)

### 5. Description of Unauthorized Release

Two 1000-gallon gasoline underground storage tanks were excavated and removed in June 1998. The excavation resulted in removal of approximately 30-cubic yards of contaminated soil. Laboratory analyses of soil and groundwater samples from the excavation pit confirmed the presence of petroleum hydrocarbon contamination with gasoline to 1,400,000-ppm, BTEX to 90-ppm, 5,000-ppm, 15,000-ppm, 17,000-ppm (respectively), and MTBE to 430-ppm. As a result of these findings, an *Underground Storage Tank Unauthorized Release Report* was filed in June 1998. Francis Creek is approximately 400-feet northwesterly of the site. Groundwater of the Ferndale Hydrologic Sub Area is impacted. The threat to human health, safety, and the environment has not been defined. There is a threat to human health for a construction worker in the case of soil disturbances.

### 6. Why Recalcitrant or Abandoned Funds are requested

Health, safety, and the environment continue to be threatened by the gasoline release from this site. The Francis Creek is approximately 400-feet west to north of the site. Funding from the EAR Account may help facilitate corrective action at this recalcitrant site.

## **7. Why RP Can Not or Will Not Cleanup Contamination**

RP has been found ineligible for fund reimbursement. The February 2007 Fund decision is attached

## **8. Documentation of Disputes between the Regulatory Agency and the RP**

No disputes have been documented. However the RP has repeatedly failed to comply with deadlines and requests for submittals by the Humboldt County Division of Environmental Health (HCDEH) and the North Coast Regional Water Quality Control Board.

## **9. Previous Cleanup or Abatement Actions**

Five borings were installed and a Sensitive Receptor Survey was conducted in February 2002. Table of soil and groundwater results attached

Additional subsurface investigation was proposed in December 2005 workplan to install four groundwater monitoring wells and three borings. This work has not been conducted.

## **10. Proposed Cleanup or Abatement**

Initial site assessment has not been completed. Based on the results from the February 2002 subsurface investigation, soil and/or groundwater contamination (as TPHg, BTEX, and MTBE) has likely migrated off site. The lateral and vertical extent of this contamination has not been fully characterized and is necessary for determining appropriate and relevant remedial action.

## **11. Amount of Funding Requested**

The extent of soil and groundwater contamination has not been fully delineated. However since groundwater is contaminated, and the site is located in an area with shallow groundwater the amount of funding for cleanup is estimated to be \$175,000 to \$200,000.

## **12. Results if Funding Denied**

The Francis Creek is threatened by the release of gasoline, BTEX, and MTBE from this site. Nearby underground utilities likely to pose a threat as preferential pathways are the sewer and water lines that serve the property from Main Street. If funding is not secured, the threat to surrounding properties utilizing groundwater for domestic supply will remain undefined. The threat to human health will also remain unidentified including any indoor air exposure issues. In addition, any groundwater contaminant plume will continue to migrate and affect a larger area. The site will also remain a non-compliant open case.



**Humboldt County Department of Health and Human Services  
DIVISION OF ENVIRONMENTAL HEALTH**

100 H Street, Suite 100, Eureka, CA 95501

707-445-6215  
Fax 707-441-5699

Toll Free 1-800-963-9241  
envhealth@co.humboldt.ca.us

November 20, 2002

Kasey Ashley  
NCRWQCB-North Coast Region  
5550 Skyline Blvd. Suite A  
Santa Rosa, CA 95403

**Subject: Referral of LOP Site for Regional Board  
Enforcement Assistance**

Dear Ms. Ashley,

The Responsible Party for the following site has received numerous correspondence requesting submittals, with specific deadlines, of information (workplan, implementation schedule, etc.) pertaining to soil and groundwater investigations to be conducted at their site. These letters also notified the Responsible Parties that further failure to meet the deadlines may result in referral of this case to the Regional Board, and that noncompliance with the Regional Board directives may result in fines from \$1,000/day to \$10,000/day for each day of noncompliance.

We have not had any communication regarding the requested information as of this date and refer this site for Regional Board enforcement assistance:

**Lino's Service  
318 Main Street,  
Ferndale, California  
LOP #12675**

Please contact Bob Stone at 707.268.2239 if you have any questions regarding these sites.

Sincerely,

A handwritten signature in cursive script that reads "James W. Clark, R.E.H.S.".

James W. Clark, R.E.H.S.  
Project Director

JWC: swb

12675.012/1496L

California Regional Water Quality Control Board  
North Coast Region  
Interoffice Memo

RECEIVED

NOV 10 2003

HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

TO: Tuck Vath 

Date: December 10, 2002

FROM: Kasey Ashley

SUBJECT: Prioritization of site

FILE: Lino's Service, 318 Main Street, Ferndale, California, Case No. 1THU675

This site was referred to our agency for enforcement on November 20, 2002.

I reviewed the file and determined that this site should be a priority A.

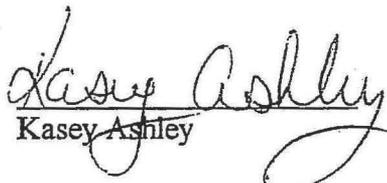
The site was a gasoline service station from 1957 until 1997 operated by Lino Mogni. Two 1,000-gallon single walled gasoline tanks were removed from the site in June of 1998. Soil contamination was noted in the tank pit along with the odor of gasoline in soil. Forty feet of product lines were also removed. The product lines were heavily pitted and the odor of gasoline was prevalent in soils along the dispenser lines. Groundwater was in the excavation. The following is a summary of soil and water samples obtained during tank removals.

- Gasoline up to 1,400 ug/g in soils during tank pull,
- Total BTEX up to 34 ug/g in soils during tank pull,
- Lead ranged from 5 to 49 ug/g in soils during tank pull,
- Gasoline at 4900 ug/L in groundwater during tank pull,
- Total BTEX at 960 ug/L in groundwater during tank pull,
- MTBE at 2800 ug/l in groundwater during tank pull, and
- Frances Creek is less than 500 feet to the north of the site.

A workplan was submitted in November of 2001 and commented on by the Humboldt County Health Department. A revised workplan was submitted on December 2001. The workplan was concurred with on January 2, 2002. The workplan has never been implemented. Mr. Mogni does not respond to calls nor does he pick up registered mail from the County staff.

Recommendation:

Draft a 13267 letter followed by a cleanup and abatement order.

  
Kasey Ashley

(linosmem)



Humboldt County Department of Health and Human Services  
**DIVISION OF ENVIRONMENTAL HEALTH**

100 H Street - Suite 100 - Eureka, CA 95501  
Voice: 707-445-6215 - Fax: 707-441-5699 - Toll Free: 800-963-9241  
envhealth@co.humboldt.ca.us

**Humboldt County Local Oversight Program**  
*Notice of Violation*

April 8, 2004

Lino Mogni  
PO Box 298  
Ferndale CA 95536-0298

CERTIFIED MAIL 7002 3150 0002 1144 8631

**Subject: Lino's Service**  
318 Main Street, Ferndale, California  
LOP #12675

Dear Mr. Mogni,

The following are violations of specified sections of the California Code of Regulations Title 23, Division 3, Chapter 16, Article 11 Corrective Action Requirements of the Underground Storage tank Regulations and Related Health and Safety Code Sections:

Section 2721- General Applicability

- (a) Failure to comply with the requirements of this article.

Section 2722 - Scope of Corrective Action

- (a) (1) Failure to complete the Preliminary Site Assessment Phase of corrective action

Section 2723 - Preliminary Site Assessment Phase

- (a) Failure to complete initial site characterization in accordance Sections 2652, 2653, and 2654 of Article 5

You may avoid additional enforcement action and possible forfeiture of Cleanup Fund eligibility by taking the following actions:

- Submit a report of findings from the February 2002 investigation. Include analysis of the data with conclusions and recommendations for further action as appropriate.
- Conduct a sensitive receptor survey within a 1,000-foot radius of the site,
- Conduct additional subsurface investigation to delineate the extent of soil and groundwater contamination, and
- Continued compliance with the corrective action requirements in this article.

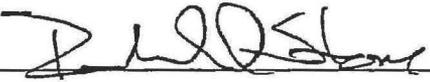
These following shall be completed on or before May 14, 2004:

- Submit a report of findings from the interim remedial action with discussion of the observations and recommendations for further additional subsurface investigations, remedial action, or site closure.

The following shall be completed by June 14, 2004:

- Submit a sensitive receptor survey, within a 1000-foot radius from the site. A map describing the survey results, including utility corridors, wetlands, domestic wells, surface water bodies, etc., must be part of the submitted survey. Evaluate their role as conduits for contaminant transport.

Please contact me at 707.268.2239 in you have any questions.

Signed  Date 4/8/04

Robert Stone, CHMM  
Hazardous Materials Specialist

RS: swb

cc Elizabeth Haven, Chief, UST Program SWRCB  
Alan Patton, Underground Storage Tank Cleanup Fund  
Tuck Vath, NCRWQCB  
Paul Hagen, Humboldt County Deputy District Attorney

126757.014NOV/1496



Humboldt County Department of Health and Human Services  
**DIVISION OF ENVIRONMENTAL HEALTH**

100 H Street - Suite 100 - Eureka, CA 95501  
Voice: 707-445-6215 - Fax: 707-441-5699 - Toll Free: 800-963-9241  
envhealth@co.humboldt.ca.us

August 26, 2004

Paul Hagen, Deputy District Attorney  
District Attorney's Office  
825 5<sup>th</sup> Street  
Eureka, California 95501

**Subject: Corrective Action Enforcement Request Local Oversight Program Case # 12675  
Lino's Service, 318 Main Street, Ferndale, California  
for violation of Health and Safety Code Section 25296.10(c), (1)**

Dear Mr. Hagen:

Pursuant to Sections 25299.01 and/or 25299.02 of the California Health and Safety Code Division 20 Chapter 6.7, I am requesting your assistance in the enforcement of corrective action violations for the subject case.

The site is located at 318 Main Street in Ferndale and was previously a gasoline and service station owned operated by Lino Mogni. An underground storage tank closure and removal permit was filed in October 1997. The permit was approved by HCDEH in May 1998. Two 1000-gallon gasoline underground storage tanks were excavated and removed in June 1998. Laboratory analyses confirmed residual soil and groundwater contamination with gasoline as high as 1,400 parts per million (ppm) in soil and 530 parts per billion (ppb) in groundwater. MTBE was also reported in groundwater as 2,800 ppb. These levels represent a significant source of contamination to the waters of the state. As a result of these findings, an *Underground Storage Tank Unauthorized Release/Contamination Site Report* was filed with HCDEH in September 1998.

In response to an unauthorized release, section 25296.10 (a) and (c)(1 and 2) of the California Health and Safety Code Division 20 Chapter 6.7 and section 13267(b)(1) of the California Water Code Division 7 Chapter 4 Article 4 require the responsible party to undertake corrective action as directed by the local agency. The scope of corrective action includes conducting a preliminary site assessment, preparation of work plans, establishing implementation timelines, and preparing monitoring reports and/or technical reports as required by the local agency and/or regional board.

HCDEH requested a subsurface investigation workplan on several occasions (7) between September 1998 and February 2001. Initially, submittal of the workplan was requested within 60-days of the date of correspondence. However, beginning with June 2000 correspondence submittal was requested within 30 days. After these repeated delays a workplan was finally submitted with the November 19, 2001 *Workplan for Initial Subsurface Investigation at Lino's*

*Service Station* prepared by Pacific Affiliates, Inc. This workplan was revised and approved on January 2, 2002 with HCDEH requesting submittal of a implementation schedule by February 4, 2002. A well and boring permit was filed on February 8, 2002 with a proposed work date(s) of February 18 through 22, 2002. HCDEH was not notified if the fieldwork had been initiated and/or completed.

HCDEH requested a report of findings for the proposed work in July 18, 2002 correspondence by certified mail. This correspondence was returned to HCDEH on August 9, 2002. After confirming the proper address for Mr. Mogni (same address as previous correspondence), a second request for was made on September 4, 2002 wherein HCDEH requested the report of findings within 60-days. This correspondence included notification that further failure to meet HCDEH deadlines will result in referral of this case to the Regional Board. Mr. Mogni failed to respond within the requested deadline.

After further failure to submit the requested report, this case was referred to the North Coast Regional Water Quality Control Board for review and enforcement assistance in November 2002. On January 17, 2003, the NCRWQCB issued an Order under the California Water Code Section 13267(b) requiring Mr. Mogni to submit a report of findings from the field activities identified in the February 28, 2003 workplan. Mr. Mogni was also required to submit a time schedule for submittal of for additional corrective action, including installation of groundwater monitoring wells and investigation to determine an effective remediation strategy. The NCRWQCB was also unsuccessful in gaining Mr. Mogni's cooperation to conduct corrective action. The NCRWQCB referred this case back to the Humboldt County Local Oversight Program in October 2003, noting the constraints on their ability to devote staff time on these cases due to budgetary constraints.

HCDEH continued to encourage corrective action with a phone conversation on March 12, 2004 wherein Mr. Mogni indicated he is contacting LACO Associates Consulting Engineers to contract their services in conducting corrective action. In a subsequent telephone conversation on March 19, 2004, LACO indicated that it was their understanding Mr. Mogni still owed Pacific Affiliates for their prior services (preparation of the workplan and installation of investigative soil borings) consequently they will not take Mr. Mogni on as a client. HCDEH again attempted to contact Mr. Mogni with telephone messages left on March 25, 2004 and March 29, 2004. Mr. Mogni failed to respond to these messages or submit the requested report.

A *Notice of Violation* was issued in March 2004 as a result of repeated failure to comply with the corrective action requirements in Article 11 of the California Code of Regulations Title 23 (Waters), Division 3 (State Water Resources Control Board), Chapter 16 (Underground Tank Regulations). These violations are:

- Section 2721- General Applicability
  - (a) Failure to comply with the requirements of this article.
- Section 2722 - Scope of Corrective Action
  - (a) (1) Failure to complete the Preliminary Site Assessment Phase of corrective action
- Section 2723 - Preliminary Site Assessment Phase
  - (a) Failure to complete initial site characterization in accordance Sections 2652, 2653, and 2654 of Article 5

Pursuant to the Notice of Violation, HCDEH requested the following specific actions:

- Submit a report of findings from the February 2002 investigation. Include analysis of the data with conclusions and recommendations for further action as appropriate.
- Conduct a sensitive receptor survey within a 1,000-foot radius of the site,
- Conduct additional subsurface investigation to delineate the extent of soil and groundwater contamination, and
- Continue to comply with the corrective action requirements of Article 11.

The timelines given for completion of these actions were:

- To be completed on or before May 14, 2004:  
Submit a report of findings from site investigation with discussion of the observations and recommendations for further additional subsurface investigations, remedial action, or site closure.
- To be completed by June 14, 2004:  
Submit a sensitive receptor survey, within a 1000-foot radius from the site. A map describing the survey results, including utility corridors, wetlands, domestic wells, surface water bodies, etc., must be part of the submitted survey. Evaluate their role as conduits for contaminant transport.

After the June 14, 2004 deadline was past due, several attempts were again made to contact Mr. Mogni with phone messages left on June 16, 2004, July 1, 2004, and two messages left on July 13, 2004. Mr. Mogni has not contacted HCDEH or otherwise attempted to return these calls.

Section 25299(a)(6) and (d)(1) of the California Health and Safety Code Division 20 Chapter 6.7 and section 13268(a)(1 and 2), (b)(1 and 2), and/or (d)(1 and 2) provide for civil action and penalties for violations of the corrective action requirements noted above. We believe the repeated failure by Mr. Mogni to pursue corrective action and respond to HCDEH correspondence, requests, and phone calls clearly demonstrates his willful and intentional disregard of state regulatory requirements. HCDEH determines Mr. Mogni continues to be non-compliant with the following corrective action requirements in Article 11 of the California Code of Regulations Title 23 (Waters), Division 3 (State Water Resources Control Board), Chapter 16 (Underground Tank Regulations):

**Section 2721. General Applicability of Article**

(a) Responsible parties for an underground storage tank shall comply with the requirements of this article whenever there is any reportable unauthorized release pursuant to Section 25295 of Chapter 6.7

(b) Responsible parties shall take corrective action in compliance with the following requirements:

- (3) All applicable water quality control plans adopted pursuant to Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code,
- (4) All applicable requirements of Chapter 6.7 (commencing with Section 25280) and the regulations (Chapter 16, Title 23 CCR) promulgated thereto, and
- (5) All applicable requirements of Article 4 of Chapter 6.75 of the Health and Safety Code, the applicable provisions of this Chapter, and the Federal act.

**Section 2722. Scope of Corrective Action.**

(c) The responsible party shall submit a workplan to the regulatory agency responsible for overseeing corrective action at the underground storage tank site, under the conditions listed below. If no regulatory agency has assumed responsibility for overseeing corrective action, the responsible party shall submit the workplan to the regional board with jurisdiction for the site where the underground storage tank is or was located:

- (1) For proposed activities under the Preliminary Site Assessment Phase, if directed by the regulatory agency;

**Section 2723. Preliminary Site Assessment Phase**

(a) The Preliminary Site Assessment Phase includes, at a minimum, initial site investigation, initial abatement actions and initial site characterization in accordance with Sections 2652, 2653, and 2654 of Article 5 and any interim remedial actions taken in accordance with Section 2722(b) of this Article.

**Section 2724. Conditions That Require Soil and Water Investigation**

The responsible party shall conduct investigations of the unauthorized release, the release site, and the surrounding area possibly affected by the unauthorized release, if any of the following conditions exists:

- (1) There is evidence that surface water or ground water has been or may be affected by the unauthorized release;
- (3) There is evidence that contaminated soils are or may be in contact with surface water or ground water, or
- (4) The regulatory agency requests an investigation, based on the actual or potential effects of contaminated soil or ground water on nearby surface water or ground water resources or based on the increased risk of fire or explosion.

We request your assistance issuing appropriate civil action compelling Mr. Mogni to conduct required corrective action.

We look forward to meeting with you and discussing this case in more detail. Please contact me at 268-2212 to set up a meeting at your earliest convenience

Sincerely,



James W. Clark, REHS  
Project Manager  
Humboldt County Local Oversight Program

JWC: swb

12675.015/1496L

## Violation Summary

The following violations of the corrective action requirements in Article 11 of the California Code of Regulations Title 23 (Waters), Division 3 (State Water Resources Control Board), Chapter 16 (Underground Tank Regulations) occurred November 30, 1998, through November 20, 2001 however, Mr. Mogni came into compliance November 20, 2001 through November 4, 2002.

The following violations of the corrective action requirements in Article 11 of the California Code of Regulations Title 23 (Waters), Division 3 (State Water Resources Control Board), Chapter 16 (Underground Tank Regulations) occurred November 4, 2002 to date:

### *Section 2721 - General Applicability*

- (a) Failure to comply with the requirements of this article.*
- (b) Failure to corrective action in compliance with*
- (3) All applicable water quality control plans adopted pursuant to Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code,*
- (4) All applicable requirements of Chapter 6.7 (commencing with Section 25280) and the regulations (Chapter 16, Title 23 CCR) promulgated thereto, and*
- (5) All applicable requirements of Article 4 of Chapter 6.75 of the Health and Safety Code, the applicable provisions of this Chapter, and the Federal act.*

### *Section 2722 - Scope of Corrective Action*

- (c)(1) Failure to submit a workplan requested by the regulatory agency responsible for overseeing corrective action for proposed activities under the Preliminary Site assessment Phase.*

### *Section 2723 - Preliminary Site Assessment Phase*

- (b) Failure to complete initial site characterization in accordance Sections 2652, 2653, and 2654 of Article 5*

### *Section 2724 - Conditions That Require Soil and Water Investigation*

*Failure to conduct investigation of the unauthorized release, the release site and the surrounding area possibly affected by the release when*

- (1) There is evidence that surface water or ground water has been or may be affected by the unauthorized release,*
- (3) There is evidence that contaminated soils are or may be in contact with surface water or ground water,*
- (4) The regulatory agency requests an investigation, based on the actual or potential effects of contaminated soil or ground water on nearby surface water or ground water resources.*

## **Enforcement Goals**

- **Conduct corrective action as requested by HCDEH to include preliminary site assessment, soil and water investigation, corrective action plan preparation and implementation, and verification monitoring.**
- **Submit report of findings for all fieldwork conducted to date.**
- **Conduct a sensitive receptor survey within a 1000-foot radius from the site identifying any utility corridors, wetlands, domestic wells, surface water bodies, etc within the area surveyed.**
- **Conduct additional corrective action including subsurface investigations, installation of groundwater monitoring wells.**
- **Conduct quarterly groundwater sampling and monitoring.**
- **Prepare technical reports as report of findings from investigations and/or groundwater monitoring reports.**
- **Continued compliance with all applicable sections of the California Health and Safety Code Division 20, Chapters 6.7 and 6.75; California Water Code, Division 7, Chapter 4, Article 4: and California Code of Regulations Title 23, Division 3, Chapter 16, Articles 5,11, and 12.**
- **Pursue civil prosecution for all violations.**

Date	Item	Responsible Party	Findings/Action Requested	Due Date	Compliance	Water Code Citation
June 9, 1998	2 - 1,000gal USTs removed	Lino Mogni	600ppm to 1,400ppm TPHg in soil and 120ppb to 530ppb TPHg and 2,400ppb to 2,800ppb MTBE in groundwater			
September 1, 1998	Prop 65 Notification	Lino Mogni				
September 1, 1998	URR	Lino Mogni				
September 23, 1998	NCRWQCB 1st request initial assessment workplan	Lino Mogni	Preliminary Site Assessment	11/30/98	no	Section 2721(a) and (b)(3, 4, & 5), Section 2722 (c) (1), Section 2723(a), and Section 2724(1, 3, and 4)
September 27, 1999	NCRWQCB 2nd request for workplan	Lino Mogni		11/24/99	no	"
February 2, 2000	NCRWQCB 3rd request for workplan	Lino Mogni		4/3/00	no	"
June 20, 2000	NCRWQCB 4th request for workplan	Lino Mogni		7/20/00		
August 10, 2000	HCDEH 5th request for workplan	Lino Mogni		9/11/00	no	"
January 4, 2001	HCDEH 6th request for workplan	Lino Mogni		2/6/01	no	"
February 15, 2001	ph con and extension to April with 7th request for workplan	Lino Mogni		4/16/01		"
November 20, 2001	workplan received	Lino Mogni		11/20/01	yes but late	
December 5, 2001	HCDEH request revise workplan	Lino Mogni		1/10/02	yes	
December 22, 2001	HCDEH receive revised workplan	Lino Mogni				

January 2, 2002	HCDEH request implementation schedule	Lino Mogni		2/4/02	yes	HCDEH received Well and Boring Permit with work proposed to be conducted on 2/18/02
February 8, 2002	HCDEH approve well and boring permit	Lino Mogni		2/18/02	unk	
July 18, 2002	HCDEH request report of findings	Lino Mogni		8/23/02		correspondence returned unclaimed
September 4, 2002	HCDEH request report of findings	Lino Mogni		11/4/02	no	Section 2721(a) and (b)(3, 4, & 5), Section 2722 (c) (1), Section 2723(a), and Section 2724(1, 3, and 4)
November 20, 2002	HCDEH referral to NCRWQCB					
January 17, 2003	NCRWQCB CWC 13267(b) order report of findings	Lino Mogni		2/28/03	no	
October 10, 2003	NCRWQCB referral back to HCDEH					
3/11/04 - 3/29/04	phone conversations and several messages re corrective action progress	Lino Mogni				Mogni attempted to contract LACO. LACO will not work w/ him as he still owes previous consultants (Pacific Affiliates) for work they did for him. Mogni failed to respond to several messages left from 3/19 through 3/29/04
April 8, 2004	HCDEH NOV	Lino Mogni	report of findings	5/14/04	no	
			sensitive receptor s	6/14/04	no	
6/16/04 - 7/13/04	left several messages w/ no response form Mogni				no	



OFFICE OF THE  
DISTRICT ATTORNEY

HUMBOLDT COUNTY RECEIVED

JUL 12 2005

PAUL V. GALLEGOS  
DISTRICT ATTORNEY

July 11, 2005

HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

Lino Mogni  
POB 298  
Ferndale, CA 95536-0298

*Re: Notice of Intent to File Lawsuit*

Dear Mr. Mogni:

The Humboldt County District Attorney's Office investigates and prosecutes violations of California and local laws which place the health and safety of Humboldt County citizens at risk and/or threaten the environment. This letter is to inform you that this office has received reports alleging that you have failed to take corrective action to remediate subsurface petroleum contamination from the sites of two former underground storage tanks located at 318 Main Street in Ferndale.

It is the policy of the District Attorney's Office to attempt to settle certain matters prior to their filing whenever the facts indicate that may be a prudent course of action. This letter is to invite you to enter into negotiations to address the violations alleged. We urge you to contact us if you are inclined to accept this invitation. Please be advised that an absence of communication on your part will be taken as a rejection of this offer to meet and confer prior to filing suit, and that we will proceed thereafter with filing and prosecution of suit.

I will be out of the office until August 1, 2005. Until then, please do not hesitate to contact Mr. Robert Stone of the Humboldt County Division of Environmental Health with any questions or comments about this matter. Mr. Stone and I have conferred on this matter and he is fully prepared to assist you in coming into compliance with the laws applicable to this situation.

Thank you very much.

Sincerely,

Paul Hagen  
Deputy District Attorney

cc: Robert Stone, Humboldt County Division of Environmental Health

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CRIMINAL DIVISION  
825 5th Street  
Eureka, CA 95501  
(707)445-7411  
(707) 445-7416 Fax

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VICTIM WITNESS ASSISTANCE  
712 4th Street  
Eureka, CA 95501  
(707) 445-7417  
(707) 445-7490 Fax



Humboldt County Department of Health and Human Services  
**DIVISION OF ENVIRONMENTAL HEALTH**

100 H Street - Suite 100 - Eureka, CA 95501  
Voice: 707-445-6215 - Fax: 707-441-5699 - Toll Free: 800-963-9241  
envhealth@co.humboldt.ca.us

January 5, 2006

Lino Mogni  
PO Box 298  
Ferndale CA 95536-0298

**Subject: Lino's Service**  
**318 Main Street, Ferndale, California**  
**LOP #12675**

Dear Mr. Mogni,

Thank you for the recent phone conversation with Lee Hurvitz. TransTech and the December 15, 2005 *Sensitive Receptor Survey*, December 15, 2005 *Workplan: Supplemental Site Assessment*, and the December 30, 2005 *Work Plan Addendum: Supplemental Site Assessment*, prepared by TransTech Consultants. I concur with the scope of the subsurface investigation to install three temporary soil borings and four groundwater monitoring wells. In order to adequately delineate the extent of contamination, we recommend a contingency plan to allow for the installation of additional temporary borings, as dictated in the field by the project scientist.

I am encouraged the documents submitted on your behalf by TransTech reflect your commitment for compliance with corrective action requirements of the UST regulations. To assure continued compliance:

**By March 17, 2006:**  
**Implement the work and activities identified in the workplan above**

**By May 19, 2006:**  
**Submit a report of findings from the work conducted above. This report must include a display of site conditions including the distribution of contaminants and relevant geologic and hydrologic features of the site. Include discussion of conclusions and recommendations for further additional subsurface investigations, remedial action, or site closure.**

Please contact me at 707.268.2239 if you have any questions.

Sincerely,

Robert Stone, CHMM  
Hazardous Materials Specialist  
Local Oversight Program

RS: ar

cc: Bill Wiggins, TransTech  
12675.020/1496L

Soil samples were collected from the excavation sidewalls and base, from beneath the former dispenser and from the soil stockpile (SW-1 through SW-4, BS-1, PD-1, and SP-1) were obtained during the UST removal. A groundwater sample (WS-1) was also collected from the tank excavation. A summary of the reported analytical results are presented in Table 1, below. The original laboratory data needs to be reviewed to confirm the units of measure and results.

**Table 1: June 6, 1998 Soil and Groundwater Analytical Results**

Sample Date	Sample ID	TPH as Gasoline	B	T	E	X	MtBE	Lead
		µg/Kg (ppb)						
06/09/98	SW-1	600,000	<500	<500	9,300	17,000	<5000	20,000
	SW-2	1,400,000	<3000	5000	15,000	11,000	<3000	15,000
	SW-3	<1000	26	<5	<5	<5	430	5,000
	SW-4	17,000	90	80	100	60	<100	7,000
	PD-1	<1000	<5	<5	<5	<5	<0.50	42,000
	BS-1	<1000	22	<5	<5	<5	150	7,000
	SP-1	15,000	<30	<30	<30	30	300	49,000
Sample Date	Sample ID	TPH as Gasoline	B	T	E	X	MtBE	Lead
		µg/L (ppb)						
06/09/98	WS-1	4,900	140	120	170	530	2,400	<40
< = Indicates the laboratory test method detection limit. Analytical results obtained from Pacific Affiliates May 17, 2002 Report Of Findings								

On February 22, 2002, five soil borings (B-1 through B-5) were advanced to approximately five feet below grade (bg). A soil and groundwater sample was obtained from each of the borings. Soil and groundwater analytical results are presented in Table 2, page 3.



**Table 2: February 22, 2002 Soil and Groundwater Analytical Results**

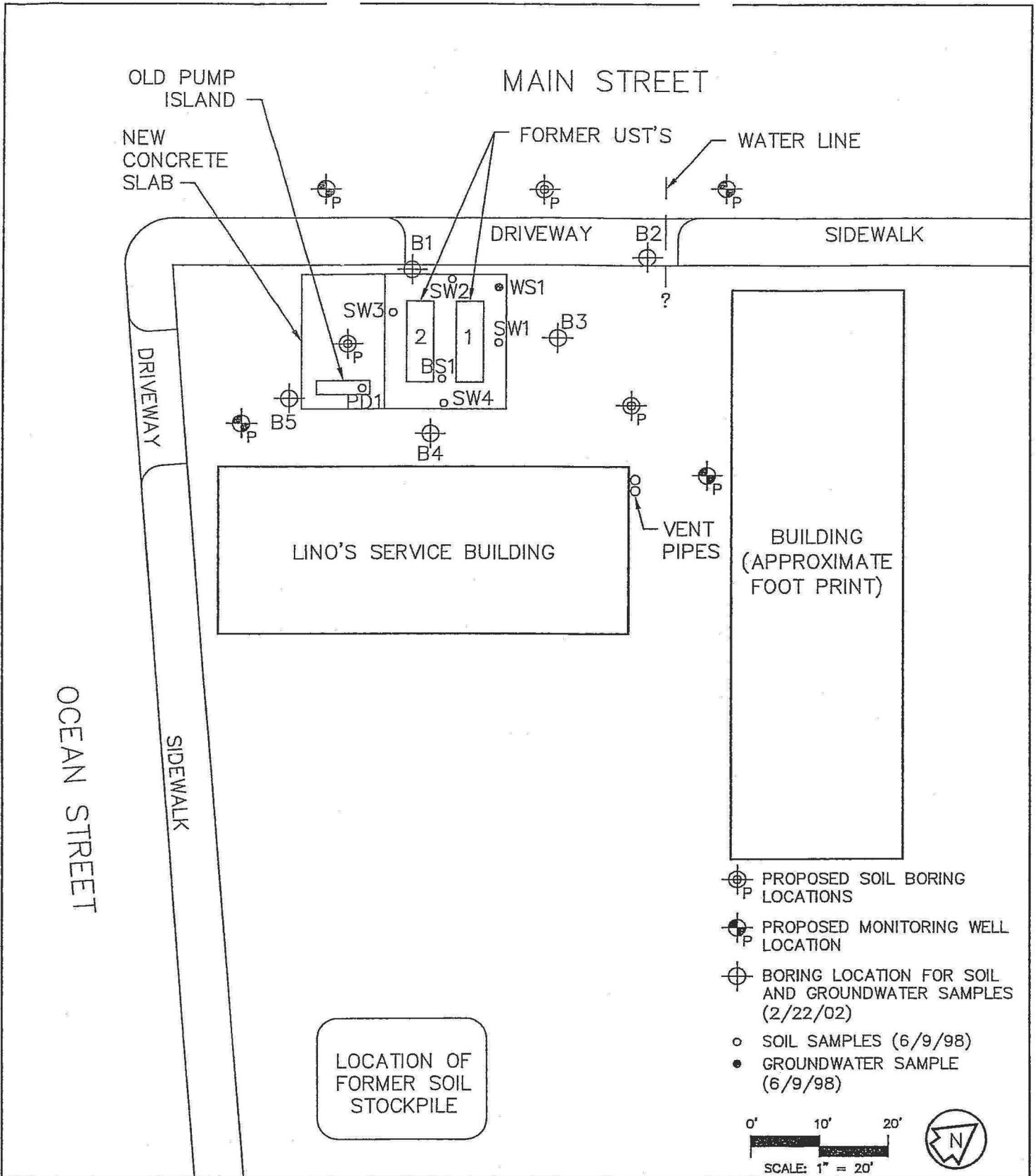
Sample Date	Sample ID	TPH as Gasoline	B	T	E	X (total)	MtBE	Lead
		ppb						
02/22/02	B-1 Soil	13,000	<5	<5	<5	5.1	<50	<500
	B-1 Water	5,800	47	<70	97	109	54	<10
	B-2- Soil	<1000	<5	<15	<5	7.3	<50	<500
	B-2 Water	390	8.2	<7	2.9	2.01	51	N/A*
	B-3 Soil	1,500	<5	<15	<5	<10	<50	<500
	B-3 Water	1,600	<16	<21	<5	<5	96	<10
	B-4 Soil	<1000	<5	<5	<5	<5	<50	00
	B-4 Water	<50	<5	<5	<5	<5	44	<10
	B-5 Soil	<1000	<5	<5	<5	<5	<50	<500
	B-5 Water	<50	<5	<5	<5	<5	26	N/A

< = Indicates the laboratory test method detection limit  
 N/A = Groundwater samples for B-2 and B-5 were broken by the lab that performed the lead analysis  
 Analytical results obtained from Pacific Affiliates May 17, 2002 Report Of Findings

### Site Description

The site is approximately 400 feet east of Francis Creek, which is a tributary to Salt River. The site location is shown on the Site Location Map, Plate 1. The site is located in downtown Ferndale approximately 4.5 miles southwest of State Highway 101 in Humboldt County California. The site is generally flat and is bounded by residential and retail businesses. Removed USTs, subsequent soil borings and general site features are shown on Plate 2. The residences in the area are served by public utilities for drinking water and sewage disposal. Improvements on the site include a single-story building formerly used as an auto repair facility.





**TRANS TECH CONSULTANTS**

930 SHILOH RD., BLDG 44, SUITE J  
WINDSOR, CA 95492  
PHONE: 707-575-8622 FAX: 707-837-7334

**SITE PLAN**

LINO MOGNI  
318 MAIN ST.  
FERNDALE, CA

PLATE:

2

SHEET:

DRAWN BY: PSC	DWG NAME: 1751.01 SP	APPR. BY: A-882	JOB NUMBER: 1751.01	W.O. NUMBER: A-882	REVISIONS:	DATE: 12/29/05
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# State Water Resources Control Board



Linda S. Adams  
Secretary for  
Environmental Protection

**Division of Financial Assistance**  
1001 I Street • Sacramento, California 95814  
P.O. Box 944212 • Sacramento, California • 94244-2120  
(916) 341-5784 • FAX (916) 341-5806 • www.waterboards.ca.gov/cwphome/ustcf

Arnold Schwarzenegger  
Governor  
**RECEIVED**

February 15, 2007

FEB 21 2007

HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

Mr. Lino Mogni  
P O Box 298  
Ferndale, CA 95536

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), STAFF DECISION TO REJECT CLAIM: CLAIM NO. 018800; FOR SITE ADDRESS: 318 MAIN ST, FERNDALE

Your claim has been found to be ineligible for placement on the Priority List for failure to submit the required documents requested by Fund staff.

Section 2811.2(n) of the Regulations state, "any other information or supporting documentation reasonably required by the Division to determine the eligibility, reimbursable amount due, or appropriate priority class of the claim."

NOTE: The sections cited are found in the Petroleum Underground Storage Tank Cleanup Fund Regulations, Title 23, Division 3, Chapter 18, of the California Code of Regulations, or Petroleum Underground Storage Tank Cleanup Fund Statutes, California Health and Safety Code (H&SC), Division 20, Chapter 6.75.

If you disagree with this Staff Decision, you may appeal to the Fund Manager pursuant to Section 2814 of the *Petroleum Underground Storage Tank Cleanup Fund Regulations*. If you would like review of the decision by the Fund Manager, please submit your request along with any additional documentation to:

Ronald M. Duff, Fund Manager, Claim #018800  
Underground Storage Tank Cleanup Fund  
State Water Resources Control Board  
Division of Financial Assistance  
P.O. Box 944212  
Sacramento, CA 94244-2120

A request to the Fund Manager must include, at a minimum: (1) a statement describing how the claimant is damaged by the prior Staff Decision; (2) a description of the remedy or outcome desired; and (3) an explanation of why the claimant believes the Staff Decision is erroneous, inappropriate or improper.

RECEIVED

FEB 21 2007

Mr. Lino Mogni  
February 15, 2007  
Claim No. 18800

-2-

HUMBOLDT CO. DIVISION  
OF ENVIRONMENTAL HEALTH

If you do not request a review by the Fund Manager within thirty (30) calendar days from the date of this letter, the Staff Decision will then become final and conclusive.

If you have any questions, please call me at (916) 341-5784.

Sincerely,



Carolyn Saputo  
Claims Review Unit  
Underground Storage Tank Cleanup Fund

cc: Mr. David Evans  
RWQCB, Region 1  
5550 Skylane Blvd., Ste. A  
Santa Rosa, CA 95403

Mr. Jim Clark  
Humboldt County EHD  
100 H Street, Ste. 100  
Eureka, CA 95501