

# Appendix D

## Response to Comments

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**

**SAN FRANCISCO BAY REGION**

**Cleanup Staff’s Response to Comments on Tentative Order for  
625 Jackson Street, Fairfield, Solano County**

This document provides Regional Water Board cleanup staff’s response to comments received on the Tentative Order (TO) for final Site Cleanup Requirements (SCR) for the subject Site. On April 13, 2012, cleanup staff distributed the TO to the appropriate parties for comment. We received comments on the TO from the following parties:

Date	Commenter
05/15/12	Regional Water Board Advisory Team
05/16/12	Ann Lewczyk, as personal representative of the Michael McInnis Revocable Trust, and Robert Dittmer (current owners of the property at 625 Jackson Street, Fairfield) – submitted by Doyle Graham, Esq., of Isola Law Group
05/16/12	Obie Goins, Ray Johnson, (former owners of Fairfield Cleaners, located at 625 Jackson Street), Lucilla Hazard, and Judy Lawing – submitted by Jeremy Price, Esq., of Hunt & Jeppson
05/16/12	Jewel Hirsch (dba Fairfield Cleaners, located at 625 Jackson Street) – submitted by Allison McAdam, Esq., of Hunsucker Goodstein & Nelson

The comments are summarized below together with our responses.

**Regional Water Board Advisory Team**

1. **Comment:** The reference to “Appleby-Stewart” in Findings 2 and 3 is unclear.

**Response:** We agree. The Tentative Order has been revised to eliminate the reference to “Appleby-Stewart.”

2. **Comment:** Tasks 1 and 2 state that delineation of sources has been completed but Finding 6 states that the extent of the contaminant plume is unknown and that data gaps remain. These statements appear to be inconsistent and should be clarified.

**Response:** We disagree. These statements are consistent because the source area and the contaminant plume are different components of the contamination at this Site. The source area is the location where the contaminants were discharged. That location has been identified. The plume is the result of contaminants moving away from the source

area through transport in groundwater and soil gas. The distance that the contaminants have moved away from the source area is unknown and requires delineation.

3. **Comment:** The identification of 712 Madison in the TO and on Figure 1 is inconsistent.

**Response:** We agree. The Tentative Order has been revised to eliminate this inconsistency.

**Ann Lewczyk, as personal representative of the Michael McInnis Revocable Trust, and Robert Dittmer**

1. **Comment:** According to information contained in her deposition the time period that Ms. Hirsch conducted dry cleaning at 625 Jackson Street as described in the Tentative Order is incorrect.

**Response:** We agree. The Tentative Order has been revised to reflect this new information.

2. **Comment:** The Tentative Order should name Ms. Appleby-Stewart, Ms. Hazard and/or Ms. Lawing as dischargers.

**Response:** We disagree. There is insufficient information in the record to justify naming any of these parties at this time. Mr. Blue and Mr. Goins have indicated that Blue, Goins, and Johnson were the sole partners in the business. There is insufficient information about Ms. Appelby Stewart's connection to and involvement with the Blue, Goins, and Johnson dry cleaning business. If additional information comes to light showing that she caused and permitted a discharge, the cleanup order can be revised to include her. As for Ms. Hazard and Ms. Lawing, they are not named because they did not cause or permit waste to be discharged by virtue of having once been married to Goins and Johnson, respectively, and there is no legal basis to name them (see Attachment 1, Technical Report from Hazard and Lawing).

3. **Comment:** It is unclear if a statement in the Tentative Order regarding discontinuities in sanitary sewer lines is a general statement or if it refers to sewer lines in the vicinity of this Site. The Tentative Order should clarify this statement and identify the source of the information for this statement.

**Response:** We agree. The Tentative Order has been revised to indicate that this statement is directed at the sewer lines in the vicinity of the Site. Genesis Engineering and Redevelopment, on behalf of the current owners of the 625 Jackson Street property, conducted a video survey of the sewers in this area and documented several discontinuities of the piping in Alley C adjacent to this property (Genesis, November 8, 2009). That information provides the basis for this statement. Additional information about the sewer lines has been included in the Tentative Order.

4. **Comment:** The Tentative Order (TO) presents an incomplete picture of the PCE distribution at and downgradient of the Site. The TO cites PCE concentrations in groundwater samples from monitoring wells MW-12 and MW-12I, but does not state that wells MW-16I and MW-18I, which are upgradient of well MW-12I and downgradient of the Site, have lower concentrations of PCE. These data indicate another source of contaminants to the east-southeast of 625 Jackson Street.

**Response:** We generally disagree. The Tentative Order states that delineation of the PCE plume downgradient of the Site is incomplete and requires further work to provide a complete picture of groundwater contamination. We conclude that PCE concentration differences between the two well pairs cited are due to hydrogeological complexities and not necessarily to another PCE source to the east-southeast of 625 Jackson Street. Our current interpretation of the differences between the contaminant concentrations in wells MW-12I and MW-16I and MW-18I is that these wells reflect the concentrations present in different geologic strata. Geologic cross-sections prepared for this Site by the current owners of the 625 Jackson Street property suggest these different wells may intersect different contaminant migration pathways (i.e., buried stream channels), and therefore the contaminant concentrations would be expected to be dissimilar. Because of the subsurface geologic complexity in this area, we disagree that the limited data available for what the property owners have described as the intermediate water-bearing zone indicates another source of contaminants to the east-southeast of the Site.

5. **Comment:** The Regional Water Board should not use wells MW-12 and MW-12I to assess the downgradient extent of the contamination from the Site because these wells are not downgradient of the Site.

**Response:** We disagree. The commenter's own technical reports show this well pair to be down-gradient of the Site (based on nine years of groundwater monitoring data; Genesis Engineering and Redevelopment report dated March 28, 2012). Figures 4 and 5 included in this report show both current and historical groundwater gradient directions for the shallow and intermediate groundwater zones. These figures indicate that these wells are downgradient of 625 Jackson Street and that, based on the concentrations of contaminants reported in groundwater at this location, the groundwater contaminant plume extends past these wells

6. **Comment:** The Order adopted by the RWQCB should require dischargers at 712 Madison and 622-630 Jackson to begin to analyze all samples for EPA analytical method 8015 and EPA analytical method 8260 and to submit all chromatograms with the lab sheets at the time they submit their reports to the RWQCB.

**Response:** We generally agree. The Tentative Orders for the sites referenced and for 625 Jackson Street have been revised to require that groundwater samples for all new wells be

analyzed using EPA Method 8015 for the full range of compounds. The Tentative Orders have also been revised to require that shallow soil samples also be analyzed using EPA Method 8015 and to require submittal of chromatograms with all reports of laboratory results.

7. **Comment:** The RWQCB should clarify what additional work is contemplated under the “Risk Evaluation and Remedial Investigation Workplan” task included in the Tentative Order. This information is contained in the site conceptual model (SCM) previously submitted for this Site.

**Response:** We agree. The previously submitted SCM included a general discussion of threats to human health and the environment, but did not quantify either human health risk or ecological risk. We disagree that the SCM delineated and described the lateral and vertical extent of soil and groundwater pollution downgradient of the Site, or that the SCM adequately defined potential contaminant migration pathways. The Tentative Order has been revised to provide more specific guidance for the work required in Task 3. Further, the equivalent task is very similar for the other two sites.

8. **Comment:** In the “Self-Monitoring Program” there is an inconsistency between the text and the table with respect to which groundwater samples are required to be analyzed by EPA Method 8015. Well MW-14 does not exist and should be removed from the table of monitoring wells.

**Response:** We agree. The table in the Tentative Order has been revised to eliminate this inconsistency and omit well MW-14.

### **Obie Goins, Lucilla Hazard, Ray Johnson, and Judy Lawing**

1. **Comment:** Concluding that Obie Goins, Lucilla Hazard, Ray Johnson, and Judy Lawing followed common industry practice by disposing of PCE onsite is speculative.

**Response:** We disagree. The Blue, Goins, and Johnson partnership did in fact follow the common industry practice of disposing of PCE onsite, because they purchased the cleaners from Hirsch, who employed common industry practices that resulted in onsite disposal of PCE (see Response to Comment 2 on p. 5 below), and she has stated in her deposition that she trained Goins’ step-daughter, an employee, to operate the facility (Attachment 2 - Jewel Hirsch Deposition Transcript, dated April 18, p. 371). In addition, when the partnership purchased Fairfield Cleaners in 1980, it used the wet-to-dry transfer dry cleaner system, which lacked any secondary containment, and this likely resulted in PCE discharges on-site. The system also entailed collecting separator water and dumping it into floor drains. The Tentative Order does not name Lucilla Hazard or Judy Lawing for the reason set forth in Response to Lewczyk Comment 2 on p.2 above.

2. **Comment:** Obie Goins, Lucilla Hazard, Ray Johnson, and Judy Lawing were passive investors and not involved in the operations of Fairfield Cleaners.

**Response:** We disagree. Blue, Goins, and Johnson operated Fairfield Cleaners as a partnership from sometime in 1980 to 1981. Hirsch has testified in a deposition that about four or five months after she sold the business to the partnership, the partnership failed to make payments to her and that she took the cleaners back from the partnership two or three months thereafter. Goins and Johnson have stated they owned the dry cleaners from about August 1980 to sometime in 1981 (possibly December). It appears the partnership operated the dry cleaners as little as six to eight months or as much as sixteen months.

During their ownership and operation, Goins and Johnson were not passive investors. Johnson stated in a sworn submission to the Board that he, along with Goins and Blue, was an owner-partner in the business and his role was to market the business and find new customers (see Attachment 1, Technical Report from Johnson). Goins stated in a sworn submission to the Board that he was an owner-partner in the business, along with Johnson and Blue, and his role was as business consultant (see Attachment 1, Technical Report from Goins). Both claim that Blue (who is deceased and therefore not named to the Tentative Order) conducted the day-to-day operations of the dry cleaners. In any event, as set forth in the Tentative Order, each general partner is an agent of the partnership and an act of a partner in carrying on the ordinary course of the partnership business binds the partnership. (Corp. Code § 16301.) Further, each partner is jointly and severally liable for the obligations of the partnership. (Corp. Code § 16306.) Blue acted in the ordinary course of the business of the partnership in operating the dry cleaners and discharged PCE because it was an industry-wide practice to use and dispose of PCE during the time of his operations. The partnership is, therefore, liable for the injury caused by his acts, and Goins and Johnson are liable for the obligations of the partnership.

This business assumed an ongoing operation from Hirsch. It is unlikely, due to the short time the business was in operation, that substantial changes in operating procedures were made. Hirsch has also stated she trained an employee of the partnership when it first acquired the business. See Response to Goins et al. Comment 1 on p. 4 above.

With respect to Hazard and Lawing, they are not named in the Tentative Order for the reason set forth in Response to Lewczyk Comment 2 on p. 2 above.

3. **Comment:** Equitable consideration requires that our clients not be named as dischargers, or at the very least require that the Regional Water Board limit our clients' liability, because they owned this business for only a short time, and are elderly and have limited financial resources.

**Response:** We disagree. As the State Water Board held, “generally speaking it is appropriate and responsible” for the Regional Water Board to name all persons who have caused or permitted a discharge (State Water Board Orders WQ 85-7 (Exxon)). While cleanup staff understand that the general partnership did not operate Fairfield Cleaners for a very long time and the surviving members are elderly, there is substantial evidence that the partnership caused and permitted a discharge, and, therefore, the surviving members should be named.

### **Jewel Hirsch**

1. **Comment:** The Tentative Order does not provide substantial evidence that Jewel Hirsch caused or permitted waste to be discharged into the waters of the State.

**Response:** We disagree. Substantial evidence supports naming Hirsch as a responsible party. Under the State Water Resources Control Board’s Resolution 92-49 (“Cleanup Policy”), in naming parties under Water Code section 13304, the regional water boards are to use any relevant evidence, whether direct or circumstantial, including but not limited to, evidence in the following categories:

- a. Documentation of historical or current activities, waste characteristics, chemical use, storage or disposal information, as documented by public records, responses to questionnaires, or other sources of information;
- b. Site characteristics and location in relation to other potential sources of a discharge;
- c. Hydrologic and hydrogeological information, such as differences in upgradient and downgradient water quality;
- d. Industry-wide operational practices that historically have led to discharges, such as leakage of pollutants from wastewater collection and conveyance systems, sumps, storage tanks, landfills, and clarifiers;
- e. Evidence of poor management of materials or wastes, such as improper storage practices or inability to reconcile inventories;
- f. Lack of documentation of responsible management of materials or wastes, such as lack of manifests or lack of documentation of proper disposal;
- g. Physical evidence, such as analytical data, soil or pavement staining, distressed vegetation, or unusual odor or appearance;
- h. Reports and complaints;
- i. Other agencies' records of possible or known discharge; and
- j. Refusal or failure to respond to Regional Water Board inquiries.

Hirsch operated Fairfield Cleaners, a dry cleaning business, at the property from 1975 to 1980 and from 1981 to around 2003. According to a transcript of her recent deposition, she used PCE in her operations during this period, except around 1993 to 1996 when dry cleaning was performed offsite. Thus, she has operated Fairfield Cleaners as a dry cleaner

for more than 20 years. Shallow soil and groundwater at the property are contaminated with PCE and related volatile organic compounds, indicating that there was a discharge of PCE at the property. Even if groundwater contamination is partly due to offsite sources, those sources would not produce such high soil concentrations because PCE does not preferentially move from a lower concentration in groundwater to a higher concentration in soil.

Hirsch caused and permitted PCE discharges consistent with the industry-wide practice of dry cleaners to use and dispose of PCE on-site. The cleanup staff's experience is that historically, dry cleaners routinely discharged high levels of PCE in separator water into the sanitary sewer system, which then contaminated surrounding soil and groundwater (in this case, a video survey of the sanitary sewer serving Fairfield Cleaners conducted by the current property owners shows discontinuities in the sewer line allowing for releases). Among older dry cleaning facilities, discharges from PCE water separators were a common cause of soil and groundwater contamination. Other potential discharge mechanisms include directly plumbing the dry cleaning machine to the sanitary sewer, surface spillage during clothes transfer to the dryer, and incidental spillage from the transfer hose during delivery of dry cleaning solvent.

Hirsch's deposition and associated exhibits support that she discharged PCE consistent with the prevailing industry practices. Starting in 1975, she operated a wet-to-dry transfer dry cleaning system where she manually transferred clothes from the washer to the dryer. Around 1986, she replaced the wet-to-dry transfer system with a Marvel dry-to-dry cleaning system. In 1998, she replaced this machine with a closed-system dry cleaning machine. She discharged separator water from both the wet-to-dry and dry-to-dry systems into a bucket and dumped the contents of the bucket down one of two floor drains connected to the sanitary sewer (see, e.g., Attachment 2 - Jewel Hirsch Deposition Transcript, dated April 18, 2012, pp. 155-156). She testified in her deposition that the bucket capacity was 5 gallons and that she would dump it into the floor drain when it was half full, which occurred more than once a week (Attachment 2 - Jewel Hirsch Deposition Transcript, dated April 18, 2012, p. 355). The separator water contained PCE because there was no mechanism available to an operator to remove PCE from the separator water; and, as stated above, the sanitary sewer serving Fairfield Cleaners has discontinuities, which allow for releases into soil and groundwater.

Furthermore, since the start of her operations as a dry cleaner, Hirsch also used no secondary containment devices for her dry cleaning machines until 1998 when she purchased a closed-system dry cleaning system with secondary containment. During such time, as she testified in her deposition, the dry cleaning machines rested on cement (which was not sealed) that "probably had cracks" (Attachment 2 - Jewel Hirsch Deposition Transcript dated April 18, 2012, p. 49).

Hirsch also likely discharged PCE onto the floor and into the subsurface and sewer system in connection with her garment waterproofing practice, which consisted of soaking a garment in a PCE and water repellent solution in a drum, then hanging the garment to “let it drain out” and finally transferring by hand the wet garment into the dry cleaning machine to fully extract the liquid (Attachment 2 - Jewel Hirsch Deposition Transcript dated April 18, 2012, pp. 105, 347). She testified in her deposition that this did not result in drops of PCE on the floor, but cleanup staff do not believe this testimony. For example, Gerald Duensing, the dry cleaning operator at 712 Madison Street, testified in his deposition that he stopped this very practice because of the spillage, explaining he did not like the system because “[y]ou took the garment out of the bucket, wrung it out as best as possible into the bucket, and – but as you were returning it to the dry cleaner to go ahead and extract, there was a trail of solvent that went across the floor” (Attachment 2 - Gerald Duensing Deposition Transcript dated June 10, 2011, p. 198).

Finally, there are official inspection records concerning Hirsch’s hazardous waste handling practices. In 1999, the Fairfield-Suisun Sewer District noted in an inspection report that she was in violation of pollution control requirements (see Attachment 3). Among other violations, the report states that she did not have hazardous waste manifests available; spill cleanup kits; a spill response plan; and employee training in spill cleanup, proper waste disposal, storm drain protection, and sanitary sewer protection. In addition, the inspector noted floor drains were not free of stains. In September 2002, Solano County Department of Environmental Management issued her a warning notice for similar violations (see Attachment 3). The County inspector concluded, among other violations, that hazardous waste was not managed properly, the facility was not designed to minimize release of hazardous waste, and there was unauthorized disposal of hazardous waste. He also stated, “Lots of staining on the shop floor and floor drain within 5 feet of PERC machine (and work area) make spill recognition and response ineffective.” In December 2002, the County issued Hirsch another warning notice for, among other things, failing to have hazardous waste manifests, not plugging the floor drain, not labeling a hazardous waste drum, and not storing waste to prevent spills from entering the sanitary and storm sewers (see Attachment 3). In April 2003, the County inspector noted improvements in her facility, but still issued her a warning notice, noting that a corner of the facility was “wet, making it hard to identify unwanted spills and to respond appropriately” and a “leaking washing machine in the area creates a need for the floor drain” (see Attachment 3).

Thus, there is substantial evidence that Hirsch, as a long-time operator of Fairfield Cleaners, caused and permitted a discharge of PCE. Moreover, precedential State Water Resource Control Board orders have routinely held operators liable for discharges. (See, e.g., State Water Board Order No. WQ 86-16 (*Stinnes-Western Chemical Corporation*) (operator is a responsible party where soil contamination of chemicals known to be stored

in underground tanks has been found adjacent to the tanks, aboveground small spills occurred, and the historical standard practices of the chemical industry in question have generally been insufficient to protect the environment from chemical pollutions); State Water Board Order No. WQ 87-1 (*Spencer Rental Service*) (operator liable where he leased the site, stored petroleum products there, and gas was found directly under the gas tank used by operator); and State Water Board Order No. WQ 91-7 (*Bacharach and Borsuk*) (operator is a responsible party if he used gas tanks when leaks occurred).)

Contrary to the commenter's assertion, Hirsch did engage in active and affirmative conduct in discharging waste. She operated a dry cleaner and discharged PCE from her operations. She is unlike the railroad that owned a French drain that passed contamination in *Redevelopment Agency of City of Stockton v. BNSF Railway*, (9<sup>th</sup> Cir. 2011) 643 F.3d 668.

2. **Comment:** The Tentative Order incorrectly states when Jewel Hirsh began operating Fairfield Cleaners.

**Response:** We agree. The Tentative Order has been revised to reflect new information.

3. **Comment:** The Tentative Order misstates the number of times that Fairfield Cleaners changed ownership.

**Response:** We agree. The Tentative Order has been revised to reflect new information.

4. **Comment:** The Tentative Order incorrectly states when Jewel Hirsch first purchased Fairfield Cleaners.

**Response:** We agree. The Tentative Order has been revised to reflect new information.

5. **Comment:** The Tentative Order does not provide any evidence or facts in support of the allegation that pollutants were discharged at Fairfield Cleaners during Jewel Hirsch's operations.

**Response:** We disagree. See response to Jewel Hirsch Comment # 1.

6. **Comment:** Well MW-12 is not downgradient of 625 Jackson Street, and instead is immediately downgradient of 622-630 Jackson Street. (See Figures 1 and 2.) The levels of contaminants detected in well MW-12 are indicative of a release from the 622-630 Jackson Street property, and not from 625 Jackson Street.

**Response:** We disagree. PCE contamination in the vicinity of well MW-12 is attributable to a release at 625 Jackson (and not 622-630 Jackson) for three reasons: (1) there is no compelling evidence that PCE was used or released at 622-630 Jackson, (2) hydro-

geological conditions at the site do not produce simple PCE migration, and (3) groundwater monitoring reports for 625 Jackson clearly show well MW-12 as being down-gradient from 625 Jackson. We elaborate on each reason below.

We disagree that PCE reported in groundwater samples from well MW-12 indicate that PCE was discharged at the 622-630 Jackson Street property. Shallow soil and groundwater samples collected adjacent to the building at 622-630 Jackson Street do not contain reportable concentrations of PCE or PCE breakdown products. This is consistent with information obtained from the City of Fairfield's business records and other sources that it is unlikely that PCE was used or discharged to soil and groundwater at this Site.

The subsurface materials in this area are highly heterogeneous; therefore permeability is not uniform. The interpretations depicted in Figures 2, 3, and 5 that were included with your comments do not adequately consider some of the variables that are likely to influence subsurface contaminant transport in the downtown Fairfield area. Factors that need to be further considered include: 1) the contaminant release mechanism(s); 2) the spacing and locations of the monitoring wells; 3) the depth of the well screens and the permeability of the material they are screened in; 4) the relative degree of hydraulic communication between wells; 5) the presence of preferred contaminant migration pathways; 6) the rate of contaminant discharge; 7) the time over which the contaminant discharge occurred; and 8) the amount of time since the contaminant discharge ceased.

We know from hydrogeological reports prepared by Genesis Engineering and Redevelopment for the current owners of 625 Jackson Street that the subsurface material in this area is highly variable and that the monitoring wells that they have installed are screened at different depths in materials of varying permeability. Genesis noted in their site conceptual model (November 4, 2011, p.4), "...most lenses [of coarser grained sediment – i.e., more permeable] cannot be traced to adjacent borings..." This statement indicates that contaminant concentrations in groundwater samples from one well may not be directly comparable to those from another well, even one in fairly close proximity, because groundwater typically does not flow directly from one well to another. It is also unclear if the concentrations of contaminants in groundwater samples from the wells nearest 625 Jackson Street are actually representative of the contaminants discharged at this property because it is uncertain what their relationship is to the contaminant release mechanism(s) and whether data from these wells is representative of actual subsurface conditions because of where the wells are located, the material in which the wells are screened, or the depth and length of the screened interval. The conclusions implied in this comment and the interpretations shown in Figures 2, 3, and 5 omit important considerations and are based upon assumptions that are incomplete or incorrect.

Groundwater elevation data shown on Figures 4 and 5 included in the first quarter 2012 groundwater monitoring report prepared by Genesis Engineering and Redevelopment (dated March 28, 2012) submitted on behalf of the current owners of the 625 Jackson Street property indicate that well MW-12 is downgradient of the 625 Jackson Street, 622-630 Jackson Street, and 712 Madison Street properties. These latest data are consistent with nine years of groundwater monitoring data for this area reported by Genesis.

7. **Comment:** As Figure 2 (attached to these comments) shows, the Tentative Order would require Mrs. Hirsch to investigate up-gradient and cross-gradient groundwater conditions and clean up groundwater which was impacted by sources other than Fairfield Cleaners.

**Response:** We disagree with the premise underlying this comment: that VOCs released at 625 Jackson have had only small or localized impacts to soil and groundwater and that most VOCs found in groundwater at and downgradient from 625 Jackson Street are attributable to other offsite sources. The discharger has used data selectively to support this premise, as described in the paragraph below. When all relevant data are considered, we conclude that the VOCs released at 625 Jackson Street have impacted a considerably larger area, extending more than 300 feet downgradient from this site.

Our view of Figure 2 (Ground Zero Analysis, Inc., 05/11/12) is that it provides an overly simplified interpretation of groundwater monitoring results because important hydrogeological characteristics are overlooked or omitted. For example, nine years of groundwater monitoring data submitted to the Regional Water Board by the current owners of 625 Jackson Street, shows that well MW-16 is directly downgradient from 625 Jackson Street and cross-gradient from 622-630 Jackson Street. In Figure 2 the laboratory results for samples from MW-16 are erroneously included within a contaminant plume presumably associated only with 622-630 Jackson Street. This interpretation essentially minimizes the VOC plume associated with 625 Jackson Street while maximizing the extent of the plume associated with 622-630 Jackson Street. The complex subsurface geology in this area and monitoring data developed by the current owners of the 625 Jackson Street property indicate that contaminant transport as depicted in Figure 2 is improbable.

Further investigation is needed at 625 Jackson Street, 712 Madison Street, and 622-630 Jackson Street, and the Tentative Orders require these investigations. The results of this further investigation will reduce uncertainty over the extent of pollution attributable to each site. The Regional Water Board will not require dischargers to clean up groundwater plumes that they did not contribute to.

8. **Comment:** The sanitary sewer line under Alley C that serves the 625 Jackson Street property empties into the main sewer under Jackson Street and does not flow across Jackson Street as stated in the Tentative Order.

**Response:** We agree, but this statement does not absolve the 625 Jackson Street dischargers of responsibility for PCE contamination in groundwater extending across Jackson Street. A map of the sanitary sewer along Alley C near Jackson Street shows that the sewer lines in Alley C connect with the sewer main near the centerline of Jackson Street. The Tentative Order has been revised to discount the importance of the condition of the sewer pipe and to reflect that the granular material used for sewer trench bedding and backfill, which is more permeable than the surrounding native soil, is likely to serve as a preferential pathway for contaminants. Similarly, the large excavation used to install a manhole (e.g., along the sewer line in Jackson Street) is also backfilled with permeable material. Based on groundwater elevation data collected since 2003, the sewer pipe is below the water table.

9. **Comment:** The concentration of PCE and related contaminants in wells MW-12 and MW-15 is lower than in wells directly downgradient of 625 Jackson Street. This distribution of contaminants together with the construction of the Alley C sewer suggests that the 622-630 Jackson Street property is the source of the contaminants, rather than the 625 Jackson Street property. Figures 2, 3, and 5 (Ground Zero Analysis) demonstrate the contribution of contaminants from the 622-630 Jackson Street property based on currently available data.

**Response:** We disagree. This comment incorrectly presumes that the subsurface materials in the area of these properties are uniform and that the permeability of these materials is uniform throughout. The interpretations depicted in Figures 2, 3, and 5 do not appear to consider most variables that influence contaminant transport in groundwater in this area. Based on information currently available, the apparent distribution of contaminants in groundwater here is based on a number of factors, including: 1) the contaminant release mechanism(s); 2) the spacing and locations of the monitoring wells; 3) the depth of the well screens and the permeability of the material they are screened in; 4) the relative degree of hydraulic communication between wells; 5) the presence of preferred contaminant migration pathways; 6) the rate of contaminant discharge; 7) the time over which the contaminant discharge occurred; and 8) the amount of time since the contaminant discharge ceased.

Because PCE and related contaminants are transported away from the source of the discharge by groundwater flow and other mechanisms, it would be expected that after a period of years the concentration of contaminants at a given point downgradient of the source would increase (e.g., a location that is “clean” begins to show effects of contaminant migration as the plume approaches and passes this location). We know from hydrogeological reports submitted by Genesis Engineering and Redevelopment that the subsurface material in this area is highly variable and that the monitoring wells that they have installed are screened at different depths in materials of varying permeability. Genesis noted in their site conceptual model (November 4, 2011, p.4), “...most lenses [of

coarser grained sediment – i.e., more permeable] cannot be traced to adjacent borings... .” Such inability to trace lenses from one well to the next is not uncommon in settings such as described in Finding 5 of the Tentative Order. It is unclear if the concentrations of contaminants in groundwater samples from the wells nearest 625 Jackson Street are actually representative of the contaminants discharged at this property because it is uncertain what their relationship is to the contaminant release mechanism(s). It is also unclear if data from these wells are representative of actual subsurface conditions because of where the wells are located, the material in which the wells are screened, or the depth and length of the screened interval. The conclusions implied in this comment and the interpretations shown in Figures 2, 3, and 5 omit important considerations, and are based upon assumptions that are incomplete or incorrect.

10. **Comment:** Contamination detected in wells MW-8, 11, 12, 13, 15, 16, 19, and 21 should be associated with the 622-630 Jackson Street property rather than with 625 Jackson Street.

**Response:** We disagree. As stated in the Tentative Order, multiple lines of evidence suggest that PCE was not used at the 622-630 Jackson Street property. VOCs have been reported in shallow soil and groundwater near the sanitary sewer line in Alley C, but were not detected in shallow soil and groundwater adjacent to the building at 622-630 Jackson Street. Monitoring data submitted by the current owners of the 625 Jackson Street property indicate that the wells enumerated in the comment are downgradient of the 625 Jackson Street property, as shown on Figure 4 of the Genesis first quarter 2012 monitoring report, dated March 28, 2012. The low concentrations of VOCs reported in groundwater samples from well MW-8 appear to represent the northern margin of a contaminant plume that, based on nine years of groundwater monitoring data for this area developed by Genesis, is downgradient of 625 Jackson Street. VOC contamination has not been reported in groundwater samples collected from well MW-13.

11. **Comment:** It appears very likely that there is another source of PCE upgradient from 625 Jackson Street. Figures 3 and 4 (attached to this comment) indicate that there is another source impacting well MW-2.

**Response:** We agree that contaminants reported in groundwater samples from well MW-2 may not have originated at Fairfield Cleaners, and there may be other upgradient sources. A Tentative Order has been prepared for former Fairfield One Hour Cleaners at 712 Madison Street. We anticipate that data developed during the investigation at the Madison Street property will help answer questions about potential upgradient source(s). However, we disagree with the interpretations shown in Figures 3 and 4 because the chemical isoconcentration contours shown on these figures are largely unsupported by data and cannot be verified because these contours are drawn through areas where there are no monitoring wells and no groundwater analytical data. They also appear to be

oversimplified and do not reflect the complex subsurface geology in this area or potential additional subsurface contaminant migration pathways such as utility corridors. The contaminant isoconcentration contours depicted on these figures are based on few data points, are speculative, and do not accurately reflect the complex subsurface hydrostratigraphy found in this area.

12. **Comment:** The PRPs for the Tentative Order should not be responsible for sampling well MW-2, nor should they be required to perform further investigation or any cleanup upgradient or cross-gradient of the 625 Jackson Street property.

**Response:** We agree, but note that the Tentative Order does not require the 625 Jackson Street dischargers to do additional work in areas they have not impacted. Well MW-2 was installed by the current owners of the 625 Jackson Street property to evaluate the upgradient extent of contamination at their property and monitor upgradient groundwater quality, allowing them to assess the quality of groundwater that may flow beneath their property. As additional groundwater characterization is conducted in this area monitoring data from this well will provide a valuable record of groundwater quality at this location.

13. **Comment:** Figure 5 attached to this comment shows that Fairfield Cleaners has had little or no impact on the intermediate groundwater zone. It appears, as shown on Figure 3 (attached) that only a relatively small plume in the shallow groundwater zone could possibly be associated with the 625 Jackson Street property.

**Response:** We disagree that the concentrations of contaminants in groundwater downgradient of the 625 Jackson Street property are lower than those upgradient and cross-gradient of this Site and that Fairfield Cleaners has had minimal impact on the intermediate groundwater zone. The comment is contrary to nine years of groundwater monitoring data that show high contaminant concentrations in monitoring wells MW-12, MW-15, MW-16, MW-21, MW-11I, MW-12I, and other wells that are downgradient of this property. Concentrations of contaminants in groundwater samples collected from the various monitoring wells around the 625 Jackson Street property are not directly comparable with each other because these wells are not completed in the same geologic strata. The degree to which these different strata may or may not be in hydraulic communication is uncertain, requiring a more comprehensive analysis than the simplistic two-dimensional model depicted in Figures 3 and 5. Additionally, we disagree with the interpretation of groundwater analytical data shown on Figure 3 (Ground Zero Analysis, 05/11/12) for the reasons outlined in our response to Comment 9, above. The contaminant isoconcentration contours depicted on these figures are based on limited data points, appear speculative, and do not accurately reflect the complex subsurface hydrostratigraphy found in this area.

14. **Comment:** The contaminant plumes that extend farthest downgradient and the high contaminant concentrations in the wells farthest downgradient from the 625 Jackson Street property should be associated with the 622-630 Jackson Street property.

**Response:** We disagree. The statements in the Tentative Order associating the contaminant plume and the high contaminant concentrations farthest downgradient from 625 Jackson Street with that property are based on nine years of groundwater monitoring data submitted to the Regional Water Board by Genesis Engineering and Redevelopment. These monitoring data clearly show that the farthest downgradient wells, MW-12 and MW12I, are directly downgradient of the 625 Jackson Street property. The nearly forty year period since dry cleaning began at this location is ample time for PCE and other contaminants to have reached these wells.

15. **Comment:** The groundwater contaminant plume downgradient of 625 Jackson Street has been adequately defined to remediate any contribution from Fairfield Cleaners.

**Response:** We disagree that the vertical and lateral extent of the groundwater contaminant plume downgradient of 625 Jackson Street has been adequately delineated. The extent of this contamination must be characterized in order to develop an effective approach to clean up groundwater. The first quarter 2012 groundwater monitoring report submitted to the Regional Water Board by Genesis Engineering and Redevelopment (March 28, 2012) on behalf of the current owners of the 625 Jackson Street property shows that monitoring wells MW-12 and MW-12I are the farthest downgradient wells from this property. Groundwater samples collected in February 2012 from shallow zone well MW-12 were reported to contain 140 micrograms per liter (ug/L) perchloroethylene (PCE) and 63.4 ug/L trichloroethylene (TCE). Groundwater samples collected during the same sampling event from intermediate zone well were reported to contain 1,550 ug/L PCE and 96.2 ug/L TCE. The high contaminant concentrations reported at the farthest downgradient wells indicate that the contaminants have been transported well past these well locations, documenting that the lateral extent of the contamination has not been characterized. There is no well in the deep groundwater zone near wells MW-12 and MW-12I, verifying that the vertical extent of contamination has not been characterized.

16. **Comment:** Based on the available Site data, there currently is no indication of a contribution from Fairfield Cleaners of PCE to the intermediate groundwater zone. Figure 5 demonstrates the distribution of PCE in the intermediate zone as indicated by current data. Further, the extent of PCE in shallow groundwater down-gradient of the 625 Jackson property has been adequately characterized, as evidenced by the fact that concentrations of PCE at MW-7 are at or below drinking water standards. This is reflected in Figure 2.

**Response:** We disagree with the interpretation of groundwater sample analytical data depicted on Figure 5 (Ground Zero Analysis, 05/14/12) for the reasons noted in several of our responses above, including our response to comment #13. Based on groundwater data provided in successive quarterly groundwater monitoring reports submitted by Genesis Engineering and Redevelopment, together with data from boring logs and cross-sections included in the Genesis site conceptual model report (November 4, 2011) we conclude that well MW-7 is not directly downgradient of the 625 Jackson Street property. Therefore, groundwater analytical data from this well would be expected to provide information regarding the lateral limits of the contaminant plume in the shallow zone at that location, rather than the downgradient extent of the contaminant plume. Genesis has never reported PCE or its breakdown products in groundwater samples collected from well MW-7, indicating that groundwater at this specific location is outside the contaminant plume and has not been impacted.

17. **Comment:** The PRPs for 625 Jackson Street should not be required to monitor wells which are up- or cross-gradient from the property, regardless of who originally installed the wells. Enough data has been generated to date to clearly establish Fairfield Cleaners is not the source of any COCs detected in the wells other than those hydrogeologically down-gradient of the 625 Jackson property – specifically, MWs-17 and 18. Future monitoring by the PRPs for 625 Jackson Street should be limited to MWs-17 and 18.

**Response:** We disagree with the assertion that wells MW-17 and MW-18 are the only wells hydrogeologically downgradient of Fairfield Cleaners. As noted in our responses to comments # 10, 13, 14, and 15, nine years of groundwater monitoring data show that wells MW-17 and MW-18 are only two of more than a dozen monitoring wells downgradient of the Fairfield Cleaners. Groundwater monitoring activities are an important aspect of site characterization. Monitoring wells installed by the current owners of 625 Jackson Street property provide valuable information regarding the extent of groundwater contamination and contaminant trends over time.

18. **Comment:** Water Code Section 13304 liability is not joint and several. The language of this Water Code section imposes only a several obligation.

**Response:** We disagree. Joint and several liability describes the “liability of copromisors of the same performance when each of them, individually, has the duty of fully performing the obligation, and the obligee can sue all or any of them upon breach of performance.” (Black’s Law Dictionary 6<sup>th</sup> ed. 1991) p. 583.) Liability is “joint and several when the creditor may demand payment or sue one or more of the parties to such liability separately, or all of them together at his option.” (Ibid.) Dischargers under Water Code section 13304 are jointly and severally liable. (See, e.g., State Water Board Order WQ 90-2 (*Union Oil*)). The Water Board’s practice is to name all parties who are responsible to a cleanup and abatement order. Each party, however, is responsible for

fully complying with the order. The presumption against joint and several obligations unless there are express words to the contrary applies to rights created in favor of several persons, not obligations such as here. (See Civ. Code § 1431.) Thus, the named dischargers to the Tentative Order for 625 Jackson are jointly and severally liable.

19. **Comment:** Mrs. Hirsch is not potentially responsible for releases from 712 Madison Street, 622-630 Jackson Street or any property other than 625 Jackson Street. Nonetheless, the Tentative Order would require Mrs. Hirsch to address groundwater contamination caused by discharges from other properties at the Site.

**Response:** We disagree. See our response to Jewel Hirsch Comment #7, above.

20. **Comment:** The Tentative Order requires Mrs. Hirsch to investigate and cleanup contamination in groundwater caused by releases from other persons at other properties. These requirements that Mrs. Hirsch perform investigation and cleanup of discharges of waste she did not cause or permit is contrary to the statutory language of the Water Code, as well as the public policy as enacted by the People of the State of California.

**Response:** We disagree. See our response to Jewel Hirsch Comment #7, above.

Attachments:

1. Technical Reports Submitted by Johnson, Goins, Hazard, Lawing
2. Deposition Transcripts, Excerpts
3. Inspection Records

**TECHNICAL REPORT**  
(Water Code § 13267)

Author: Lucilla Hazard  
215 Sage Meadows  
Rio Vista, California 94571

Subject: Property at 625 Jackson Street, Fairfield, Solano County – Requirement for  
Technical Report on Site History Pursuant to California Regional Water  
Quality Control Board Letter Dated December 20, 2011

Date: January 25, 2012

I, Lucilla Hazard, declare, to the best of my knowledge and recollection, as follows:

1. I was formerly married to Obie Goins during the time he was an owner-partner, along with Ray Johnson and John Blue, of the business known as Fairfield Laundry and Cleaners. Mr. Goins was an owner-partner of that business from on or about June 1980 until sometime in 1981 when the business was resold to Jewel Hirsch. Fairfield Cleaners operated at the property located at 625 Jackson St. in Fairfield, California.

2. Fairfield Cleaners was a dry cleaning business. I was not involved in the day-to-day business operations. As stated above, I was merely married to and lived with Obie Goins who was one of the owners-partners of the business. My current contact information is as follows:

Lucilla Hazard  
215 Sage Meadows  
Rio Vista, California 94571  
Phone: 707-374-3810  
E-mail: lucillahazard@yahoo.com

3. Fairfield Cleaners was purchased from Jewel Hirsch in or about June 1980. The business was sold back to Jewel Hirsch sometime in 1981. Jewel Hirsch's contact information is as follows:

Jewel Hirsch  
1712 Sky Mountain Way  
Henderson, Nevada 89014

4. Besides Jewel Hirsch, John Blue (who I believe is deceased), Ray Johnson (3242 Congressional Circle, Fairfield, California 94534, Phone: 707-426-9719, E-mail: rayjohnson1@msn.com), and Obie Goins (8121 Blackstallion Ct., Sacramento, California 95829, phone: 916-320-7336, e-mail: gri@goingsri.net), I am not aware of the contact information for any prior or current business operators or property owners.

5. I was not involved in the day-to-day business operations. As stated above, I was merely married to and lived with Obie Goins who was one of the owners-partners of the business.

6. I have no knowledge of the chemicals stored, used, handled, produced, recycled, or disposed at the property during the period of operation.

7. In making this declaration, I consulted my attorney Jeremy Price, Hunt & Jeppson, LLP.

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

Dated: 2-16-2012

  
LUCILLA HAZARD

**TECHNICAL REPORT**  
(Water Code § 13267)

Author: Ray Johnson  
3242 Congressional Circle  
Fairfield, California 94534

Subject: Property at 625 Jackson Street, Fairfield, Solano County – Requirement for  
Technical Report on Site History Pursuant to California Regional Water  
Quality Control Board Letter Dated December 20, 2011

Date: January 25, 2012

I, Ray Johnson, declare, to the best of my knowledge and recollection, as follows:

1. I was an owner-partner, along with Obie Goins and John Blue, of the business known as Fairfield Laundry and Cleaners from on or about August 1980 until sometime in 1981 (possibly December 1981) when the business was resold to Jewel Hirsch. Fairfield Cleaners operated at the property located at 625 Jackson St. in Fairfield, California.

2. Fairfield Cleaners was a dry cleaning business. I was not involved in the day-to-day business operations. That was performed by John Blue. I was an investor in the partnership and my role was to market the business and find new customers. My current contact information is as follows:

Ray Johnson  
3242 Congressional Circle  
Fairfield, California 94534  
Phone: 707-426-9719  
E-mail: rayjohnson1@msn.com

3. Fairfield Cleaners was purchased from Jewel Hirsch in or about June 1980. The business was sold back to Jewel Hirsch sometime in 1981 (possibly December 1981). Jewel Hirsch's contact information is as follows:

Jewel Hirsch  
1712 Sky Mountain Way  
Henderson, Nevada 89014

4. Besides Jewel Hirsch, John Blue (who I believe is deceased), and Obie Goins (8121 Blackstallion Ct., Sacramento, California 95829, phone: 916-320-7336, e-mail: gri@goingsri.net), I am not aware of the contact information for any prior or current business operators or property owners.

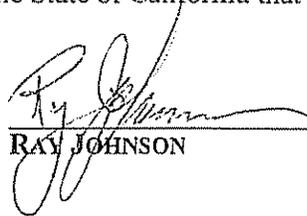
5. I was not involved in the day-to-day business operations. That was performed by John Blue. I was an investor in the partnership and my role was to market the business and find new customers.

6. I have no knowledge of the chemicals stored, used, handled, produced, recycled, or disposed at the property during the period of operation.

7. In making this declaration, I used my personal recollection and consulted my attorney Jeremy Price, Hunt & Jeppson, LLP.

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

Dated: 1-26-12

  
\_\_\_\_\_  
RAY JOHNSON

**TECHNICAL REPORT**  
(Water Code § 13267)

Author: Obie Goins  
8121 Blackstallion Ct.  
Sacramento, California 95829

Subject: Property at 625 Jackson Street, Fairfield, Solano County – Requirement for  
Technical Report on Site History Pursuant to California Regional Water  
Quality Control Board Letter Dated December 20, 2011

Date: January 25, 2012

I, Obie Goins, declare, to the best of my knowledge and recollection, as follows:

1. I was an owner-partner, along with Ray Johnson and John Blue, of the business known as Fairfield Laundry and Cleaners from June 1980 until sometime in 1981 when the business was resold to Jewel Hirsch. Fairfield Cleaners operated at the property located at 625 Jackson St. in Fairfield, California.

2. Fairfield Cleaners was a dry cleaning business. The day-to-day operations of the business were performed by John Blue. The business was not operated by me. My role in the partnership was to serve as a business consultant and investor. My current contact information is as follows:

Obie Goins  
8121 Blackstallion Ct.  
Sacramento, California 95829  
Phone: 916-320-7336  
E-mail: gri@goingsri.net

3. Fairfield Cleaners was purchased from Jewel Hirsch in or about June 1980. The business was sold back to Jewel Hirsch sometime in 1981. Jewel Hirsch's contact information is as follows:

Jewel Hirsch  
1712 Sky Mountain Way  
Henderson, Nevada 89014

4. Besides Jewel Hirsch, John Blue (who I believe is deceased), and Ray Johnson (3242 Congressional Circle, Fairfield, California Fairfield, California 94534, Phone: 707-426-9719, E-mail: rayjohnson1@msn.com), I am not aware of the contact information for any prior or current business operators or property owners.

5 The day-to-day operations of the business were performed by John Blue. The business was not operated by me. My role in the partnership was to serve as a business consultant and investor.

6 I have no knowledge of the chemicals stored, used, handled, produced, recycled, or disposed at the property during the period of operation.

7 In making this declaration, I reviewed a 1980 partnership tax return for the business and consulted my attorney Jeremy Price, Hunt & Jeppson, LLP

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

Dated: 01-16-2012

  
OBIE GOINS

TECHNICAL REPORT  
(Water Code § 13267)

Author: Judy Lawing  
302 Phillip Drive #103  
Daly City, California 94015

Subject: Property at 625 Jackson Street, Fairfield, Solano County – Requirement for  
Technical Report on Site History Pursuant to California Regional Water  
Quality Control Board Letter Dated December 20, 2011

Date: January 25, 2012

I, Judy Lawing, declare, to the best of my knowledge and recollection, as follows:

1. I was formerly married to Ray Johnson during the time he was an owner-partner, along with Obie Goins and John Blue, of the business known as Fairfield Laundry and Cleaners. Mr. Johnson was an owner-partner of that business from on or about August 1980 until sometime in 1981 (possibly December 1981) when the business was resold to Jewel Hirsch. Fairfield Cleaners operated at the property located at 625 Jackson St. in Fairfield, California.

2. Fairfield Cleaners was a dry cleaning business. I was not involved in the day-to-day business operations. As stated above, I was merely married to and lived with Ray Johnson who was one of the owners-partners of the business. My current contact information is as follows:

Judy Lawing  
302 Phillip Drive #103  
Daly City, California 94015  
Phone: 650-756-7006  
E-mail: mydccave@yahoo.com

3. Fairfield Cleaners was purchased from Jewel Hirsch in or about June 1980. The business was sold back to Jewel Hirsch sometime in 1981 (possibly December 1981). Jewel Hirsch's contact information is as follows:

Jewel Hirsch  
1712 Sky Mountain Way  
Henderson, Nevada 89014

4. Besides Jewel Hirsch, John Blue (who I believe is deceased), Ray Johnson (3242 Congressional Circle, Fairfield, California Fairfield, California 94534, Phone: 707-426-9719, E-mail: rayjohnson1@msn.com), and Obie Goins (8121 Blackstallion Ct., Sacramento, California 95829, phone: 916-320-7336, e-mail: gri@goinsgri.net), I am not aware of the contact information for any prior or current business operators or property owners.

5. I was not involved in the day-to-day business operations. As stated above, I was merely married to and lived with Ray Johnson who was one of the owners-partners of the business.

6. I have no knowledge of the chemicals stored, used, handled, produced, recycled, or disposed at the property during the period of operation.

7. In making this declaration, I consulted Ray Johnson and my attorney Jeremy Price, Hunt & Jeppson, LLP.

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

Dated: 1/25/2012

  
\_\_\_\_\_  
JUDY LAWING

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1 the waterproofing mixture, the five-to-one PERC mixture,  
 2 and I believe you mentioned that you used that from  
 3 approximately 1979 through 1981 and that you ceased that  
 4 process due to spillage.  
 5 Is that a correct understanding of your  
 6 testimony? Let me rephrase.  
 7 A. I didn't like the process because the  
 8 possibility was there.  
 9 Q. Do you recall an occurrence where there was  
 10 spillage during that process?  
 11 A. Every time that there was a garment dipped in  
 12 that bucket and returned to the dry cleaner, the space  
 13 between the bucket and the dry cleaner, which was  
 14 probably that far (indicating), there was a trail of  
 15 PERC that went across.  
 16 You took the garment out of the bucket, wrung  
 17 it out as best as possible into the bucket, and -- but  
 18 as you were returning it to the dry cleaner to go ahead  
 19 and extract, there was a trail of solvent that went  
 20 across the floor.  
 21 That's why I didn't like that system.  
 22 Q. Was there a containment system for the transfer  
 23 system?  
 24 A. No.  
 25 Q. Do you recall during your use of the transfer

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1 system any need to notify the neighbors regarding a  
 2 spill?  
 3 A. No.  
 4 MS. McADAM: All right. I think those are my  
 5 questions for now. Thank you very much.  
 6 EXAMINATION  
 7 BY MR. PRICE:  
 8 Q. Good afternoon, Mr. Duensing. You and I met  
 9 earlier today. My name is Jeremy Price, and I represent  
 10 Obie Goins, Lucilla Hazard, Judy Lawing and Ray Johnson.  
 11 I just have a couple of quick questions, follow-up  
 12 questions for you.  
 13 During the time you operated the transfer  
 14 system, how often did you receive deliveries of PERC?  
 15 A. I would get PERC, as best as I can remember,  
 16 about once a month.  
 17 Q. And how long was the process -- how long did  
 18 the process take from the start of the delivery to the  
 19 end of the delivery of the PERC?  
 20 A. Oh, maybe 20 minutes, half hour.  
 21 Q. Okay.  
 22 A. Now, that would all depend on whether the  
 23 individual vendor was just delivering PERC or whether  
 24 the particular -- I can remember instances where the  
 25 particular vehicle had PERC plus my other items on it.

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1 So the vendor would be there longer than a half  
 2 hour because he had to unload hangers or whatever on top  
 3 of the pumping of PERC.  
 4 Q. Okay. During the time that you operated the  
 5 dry-to-dry system, how often did you receive deliveries  
 6 of PERC?  
 7 A. Maybe every three weeks. More often than the  
 8 transfer.  
 9 Q. And how long was that process? How long did  
 10 that take from start of the delivery to the end of the  
 11 delivery?  
 12 A. Same time.  
 13 Q. 20 minutes?  
 14 A. Yeah.  
 15 Q. During the time that you operated the transfer  
 16 system -- strike that.  
 17 Each time PERC was delivered to your business  
 18 during the time you operated it, was the mechanism by  
 19 which it was delivered through a hose? Was it always  
 20 through a hose?  
 21 A. Yes.  
 22 Q. Okay.  
 23 A. I never received drums of PERC. How it got off  
 24 the truck, I can't swear that it was always 55-gallon  
 25 drums. It might have been a larger container.

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1 I couldn't bear witness to that exactly, but it  
 2 was always in a hose.  
 3 MR. PRICE: Thank you, Mr. Duensing. That's  
 4 all I have.  
 5 MR. SHAMIYEH: You done?  
 6 MR. PRICE: Yeah.  
 7 EXAMINATION  
 8 BY MR. SHAMIYEH:  
 9 Q. Hi, Mr. Duensing. I'm again, Nick Shamiyeh. I  
 10 represent Mr. and Mrs. Assad, who own the property at  
 11 716 Jackson Street, the next block over from you.  
 12 When you purchased the business, did you have  
 13 to take a test from the State?  
 14 A. To my knowledge, it wasn't the State. It was  
 15 the school that I went to. Whether the State was  
 16 funding and operating that school, I don't know.  
 17 I never took -- boy. No, the only test I ever  
 18 took for the license was at the school. That was the  
 19 only one I ever took.  
 20 Q. Do you recall whether or not you received a  
 21 license in your name as an operator of a dry cleaning  
 22 from the State?  
 23 A. Yes, I did.  
 24 Q. Okay. Was that renewed annually; do you know?  
 25 Do you recall?

1           A.       They would be extracted the best they  
2 could.

3           Q.       Still damp though?

4           A.       But they would still be damp. Yeah.

5           Q.       Would there be occasions when a drop or two  
6 or maybe more would drop off the clothes while they were  
7 being moved from one machine to the other?

8           A.       I don't recall that ever happening.

9           Q.       Ms. Hirsch, when you and your husband  
10 acquired -- let's go back to even before you acquired it.

11                   Starting the first day you began work at  
12 625 Jackson straight through to the present, do you remember  
13 seeing any cracks in the interior foundation floor at that  
14 location?

15           A.       Well, it was cement. So I'm going to say  
16 there was probably cracks.

17           Q.       Do any particular cracks stand out in your  
18 mind?

19           A.       No.

20           Q.       Do you ever remember at any point in time  
21 while you either owned or worked at the 625 Jackson location  
22 notifying the property owner that there were cracks in the  
23 interior floor, the concrete floor?

24           A.       No.

25           Q.       When the dry cleaning equipment was moved



1 the road, and I'm sure Mr. Graham will follow up, if I  
2 missed anything.

3 But describe for me, if you would, what was  
4 involved in how you waterproofed garments?

5 A. I don't remember the ratio. But you put perc  
6 into a drum, a free-standing drum. And then you added the  
7 water repellent chemical in there.

8 And you swished it around. And then if you  
9 had to water repellent something, it had a basket that went  
10 down inside. And you soaked the garment in the drum. And  
11 then you pulled out the basket and hung it on the side like  
12 a deep fryer.

13 And then you'd just let it drain out. Then  
14 you would take the garment out of the water repellent drum  
15 and extract it in the cleaning machine, and then put it in  
16 the dryer.

17 Now, that's as best as I can remember.

18 BY MR. FARRELL:

19 Q. Is that how you performed waterproofing of  
20 garments in the early stages of your tenure at 625  
21 Jackson?

22 A. Yes.

23 Q. Did that process change at any point in time  
24 before you ceased operations?

25 A. Yes.



1 sniffer?

2 A I don't know.

3 Q Do you recall -- do you have any  
4 recollection of a separate piece of equipment  
5 besides the Marvel unit that might have been one  
6 of those items?

7 A You mean a water separator?

8 Q Yeah. I'm just curious whether there's  
9 any recollection on your part about whether the  
10 still water separator and/or sniffer were separate  
11 from the Marvel unit or whether they were built  
12 into the machine.

13 MS. McADAM: Objection; speculation.

14 THE WITNESS: The sniffer was  
15 separate, but I couldn't tell you about the water  
16 separator.

17 BY MR. FARRELL:

18 Q And did you acquire -- was a sniffer  
19 acquired at the same time as the Marvel dry-to-dry  
20 system?

21 A No.

22 Q The sniffer was -- had been used  
23 previously with the transfer system?

24 A Yes.

25 Q Item number three states, "The water



1 separator drains into a bucket. The contents  
2 (water) are disposed in the sewer system."

3 I think we touched on this briefly  
4 yesterday with the transfer system, and I believe  
5 you did indicate that the water separator drained  
6 into the bucket, and that when it came time to  
7 drain that bucket -- I'm trying to recall what you  
8 said. It was poured --

9 A Into the hole in the floor.

10 Q That's correct, into the floor drain.

11 A Right.

12 Q Right. Did that practice stay the same  
13 after the Marvel dry-to-dry system was installed  
14 in terms of the separator water?

15 A Yes.

16 Q So the reference here to, "The contents  
17 are disposed in the sewer system," that would be  
18 the pouring it into the floor drain?

19 A Yes.

20 Q All right. Number four, Ms. Hirsch,  
21 states that, "They changed carriage filters often  
22 so as not to have to use the still."

23 Was that your practice, both with the  
24 older transfer system and the replacement Marvel  
25 system?



1 A Yes.

2 Q Did you still provide them in the  
3 same -- in -- with the perc and the perc solution?

4 A I don't recall. It might have been when  
5 we were using the aerosol cans.

6 Q As you sit here today, do you ever  
7 recall waterproofing any garments in the perc and  
8 perc solution and then placing them into the  
9 dry-to-dry machine?

10 A I don't recall.

11 Q You said in your waterproofing process,  
12 you used a drum for the perc and the perc  
13 solution; is that correct?

14 A Yes.

15 Q And how big was that drum?

16 A I don't know, maybe -- is that a  
17 15-gallon drum? That's --

18 Q Three to four feet high?

19 A Yeah.

20 Q Okay. And how wide?

21 A That big (indicating).

22 Q Could you estimate how long that is for  
23 me?

24 A Three feet, maybe.

25 Q We have video, so --



1 A Yes.

2 Q How quickly would that bucket fill up?

3 A I don't recall.

4 Q On a daily basis would it fill up?

5 A No.

6 Q Weekly?

7 A Yes.

8 Q More than once a week?

9 MS. McADAM: Objection; calls for  
10 speculation.

11 THE WITNESS: I think so.

12 BY MR. PRICE:

13 Q So when the bucket filled up, that's  
14 when you would take it and dump it into the floor  
15 drain?

16 A Actually, I would dump it when it got  
17 half full. I couldn't carry it when it was full.

18 Q Okay. How big was the bucket?

19 A 5-gallon pail.

20 Q Okay. When I refer to how quickly does  
21 the bucket fill up, and you said, well, on a  
22 weekly basis, is that -- are you meaning to say  
23 that on a weekly basis, the bucket would fill  
24 halfway up, and that's when you would dump it?

25 A Yes.



1 Q Do you recall providing any training to  
2 Ray Johnson?

3 A No.

4 Q Do you recall providing any training to  
5 John Blue?

6 A No.

7 Q Do you recall providing training to  
8 LaVerne Applebee or LaVerne Blue?

9 A No.

10 Q So if I understand your prior testimony,  
11 then, that the only training that you provided was  
12 to Obie's step-daughter?

13 A Correct.

14 Q Okay. And the training was with regard  
15 to how to operate the equipment?

16 A Yes.

17 Q Which equipment are you referring to?

18 A The dry cleaning machine.

19 Q Okay. What about spotting?

20 A Spotting -- probably some spotting, too,  
21 yes.

22 Q Are you guessing?

23 A Yeah, I'm guessing, because she already  
24 went to Laney College and got her license.

25 Q Okay.





**COUNTY OF SOLANO  
ENVIRONMENTAL MANAGEMENT**  
601 TEXAS STREET • FAIRFIELD, CA 94533  
(707) 421-6765  
**HAZARDOUS MATERIALS INSPECTION REPORT**

Sweeps No. 30771  
No. of Employees 1-4

1 of 3

NAME: Fairfield Cleaners & Laundry ADDRESS: 625 Jackson St  
CITY: Fairfield ZIP: 94533 PHONE: 707-427-0161  
OWNER: Jewel Hirsch  
INITIAL: ✓ ANNUAL: ✓ REINSPECTION: \_\_\_\_\_ COMPLAINT: \_\_\_\_\_  
*Previously Exempt*  
Met with Jewel + David Hirsch

A

- PERMIT APPLICATION COMPLETE? Y N ✓
- INVENTORY DATE: \_\_\_\_\_, 19\_\_
- 1. HAZMAT INVENTORY ACCURATE? Y N ✓
- 2. PROPER STORAGE? SECURED? Y N ✓
- 3. CONTAINERS PROPERLY LABELED? Y N ✓
- 4. HAZ WASTE DISPOSAL RECORDS AVAILABLE? NOT ON SITE Y N ✓
- 5. SPILL CONTAINMENT? SPILLS? Y N ✓
- SITE LAYOUT/FACILITY MAP:
- 6. ORIENTED TO NORTH? Y N ✓
- 7. ALL HAZMAT/WASTE SHOWN? Y N ✓
- 8. FIRE FIGHTING EQUIPMENT? Y N ✓
- 9. EXITS, ESCAPE ROUTES, HEADCOUNT AREAS? Y N ✓
- 10. STORM DRAINS, SEWERS, RUN OFF PATTERNS? Y N ✓
- 11. SHUT-OFFS (GAS, ELECTRIC, WATER)? Y N ✓
- 12. LOCATION OF MSDS? Y N ✓
- EMERGENCY RESPONSE PLAN:
- 13. MITIGATION PROCEDURES? Y N ✓
- 14. EVACUATION PROCEDURES? Y N ✓
- 15. PHONE NUMBERS? Y N ✓
- TRAINING:
- 16. NEW EMPLOYEE TRNG RECORDS? Y N ✓
- ACUTELY HAZARDOUS MATLS (RMPP): N/A
- 17. AHM EXCEED TPO? Y N ✓
- 18. REGISTRATION FORM FILED? Y N ✓
- 19. TRADE SECRET? Y N ✓
- DOES THIS FACILITY HAVE UGTS? Y N ✓
- FACILITY PERMITTED TO OPERATE? Y N ✓
- EPA I.D. # \_\_\_\_\_

Recent change in operations this year resulted in increased hazardous materials/waste.  
They have over 55 gal, 200 cuft, 500 lbs and a Hazardous Materials Management Plan (HMMP) required per Cal Health & Safety Code Sect 25503.5.  
① Complete The HMMP permit application items # A, 1, 6-16 will be covered by this application. You must have a completed HMMP to get your permit  
② Dry cleaning unit is a closed system <sup>with Secondary Containment</sup> still bottom (perchloroethylene) is plumbed into collection unit (sealed drum). Lin/ water waste is also collected (sealed drum). Filters spin and are self cleaning. They last 2 years, lint is collected in the Air filter and stored in drum listed above. No odor noted (Unit is enclosed neg Pressure)  
Please provide a plumbing diagram for the dry cleaning unit. According to David it is NOT connected to the sewer or other drains.

Standard laundry machines discharge to sewer (also Boilers).  
THESE VIOLATIONS SHALL BE CORRECTED WITHIN 30 days DAYS.

INSPECTOR Albert G. Netto DATE 8/24/95 19\_\_  
RECEIVED BY [Signature]

WHITE - ORIGINAL

CANARY - OWNER'S COPY

PINK - FILE COPY

#K Exhibit  
34  
Hirsch  
4-19-18  
ESQUIRE

JH0008335

SITE NAME:

Fairfield Cleaners

DATE:

PROGRAM: 2/22/88

SITE COMPUTER # 30771

SITE ADDRESS:

625 Jackson St Fairfield

- ② Cont: Keep container sealed when not in use (lint/water drum)
- ③ Found Two Haz Waste drums without haz waste label (30 gal each) (still bottom perchloroethylene and ② unknown with many cans, some labelled solvent etc)
- ④ Disposal of Haz waste is through a registered hauler. Keep manifests on site for inspection. Submit disposal manifest for unknown drum 30 days
- ⑤ Clean up spills when they occur. The spilled detergent (powder) should be picked up. Where do all the floor drains go (sewer or storm drain). Please show on site diagram.

6-16 Complete The Hump

Note: Mop water shall go to The Sanitary Sewer.

## Chemical Inv:

165 gal new Perchloroethylene MAX

100 gal New Detergent (MAX)

60 gal Waste perchloroethylene Sludge (90 gal/yr still bottoms)

30 gal Waste lint/water 30 gal/yr. MAX

2 gal Boiler Treatment (caustic NaOH)

Please reply to the above listed items within 30 days

Submit required documents in 30 days

Dispose of unknown drum in 90 days

Note: Completion of the above items will also correct the violation issued in The Fairfield Suisun Sewer Dist inspection check list.

Blank Hump was provided with Haz Waste handout, storm water Brochure and etc.

INSPECTOR

Albert C Netto

RECEIVED BY:

Paul Stewart

Solano County Environmental Management -- (707) 421-6765  
 Fairfield-Suisun Sewer District -- (707) 429-8930  
 Joint Water Pollution Prevention Inspection Report

3 of 3

Name: Fairfield Cleaners + Laundry Sweeps No.: 30771  
 Address: 625 Jackson STREET No. of Employees: 1-4  
 City: Fairfield Zip: 94533 Telephone: ( ) 427-0161  
 Owner: Jewel Hirsch  
 Major Product or Service: Cleaners/Laundry  
 Reason for Inspection:  Routine  Reinspection  Complaint  
 Educational Information Provided by Inspector:  
 Brochure  Verbal  Other (describe):

Sanitary Sewer/Storm Drain Checklist			Yes	No	N/A	Yes	No	N/A
<b>A. DRAIN MANAGEMENT</b>						<b>C. WASTE MANAGEMENT</b>		
1	Floor drains in work area free of stains?					1	Haz. wastes properly disposed?	
2	Sinks and toilets free of unusual stains?				2	Haz. wastes hauling manifests available?		
3	Exterior surfaces free of stains?				3	Hauled waste volume appropriate for waste stream?		
4	Area around storm drains free of stains?				4	Spent parts cleaning solution properly managed and disposed?		
5	Sewer clean-outs free of stains and/or signs of illegal dumping?				5	Area behind business free of dumps?		
6	On-site manholes free of unusual stains?				6	Dumpster/trash covered and not leaking?		
7	Loading dock drains free of stains/debris?				7	Containers covered/protected from rain?		
8	Causes of any observed stains identified?				8	Wash waters and mop waters drained to sanitary sewer?		
9	Oil/water separators regularly and properly maintained?				9	Car wash water discharged to landscaping or sanitary sewer?		
10	Drains from process units protected and/or sealed from sanitary sewer?				<b>D. SPILL CLEAN-UP and PREVENTION</b>			
11	Interior drains connected to sanitary sewer?				1	Spills cleaned using dry cleaning methods?		
12	Drains from roof equipment (non-condensate) flow to sanitary sewer?				2	Spill clean-up kits readily available?		
13	Steam cleaning/pressure washing drained to sanitary sewer?				3	Written spill response plan on site?		
<b>B. EQUIPMENT/MATERIALS STORAGE</b>						<b>E. EMPLOYEE TRAINING</b>		
1	Haz. materials stored to prevent spills from entering sanitary sewer and storm drains?				1	Regular training in spill clean-up?		
2	Other materials/process wastes managed to prevent entry into sanitary sewer/storm drains?				2	Regular training in proper waste disposal?		
3	Materials and products protected from rain?				3	Regular training in housekeeping methods?		
4	Exterior equipment free of oils and other residues that may enter storm drains?				4	Regular training on storm drain protection?		
5	Drip pans used to collect fluids from leaking equipment and vehicles?				5	Regular training on sanitary sewer protection?		
<b>F. Other</b>								

Problem/Activity	Severity			Severity Codes 0=In Compliance 1=Minor 2=Severe	In Compliance with pollution control requirements? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	0	1	2		
A. Drain Management					
B. Equipment/Materials Storage					
C. Waste Management					
D. Spill Clean-up and Prevention					
E. Employee Training					
F. Other:					

Enforcement Action Level:  Warning Notice (Complete HARP, Obtain manifests for Haz waste, Develop spill plan/training for employees)  
 Notice of Minor Violation  
 Notice of Major Violation

Water Pollution Prevention Program violations shall be corrected within 30 days.  
 Inspector Signature: Albert G. Nelson Date: 8/24/95  
 Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Copy Distribution: WPM - District, Yellow - File, Pink - Contact Person



Storm drain close to side walking door increases risk of pollution loading storm drain!

Solano County Environmental Management -- (707) 421-6765  
 Fairfield-Suisun Sewer District -- (707) 429-8930  
 Joint Water Pollution Prevention Inspection Report

Name: Fairfield Cleaners Sweeps No.: 30721  
 Address: 625 Jackson St No. of Employees: 4  
 City: Fairfield Zip: 94533 Telephone: (927) 0161  
 Owner: Jewel Hirsch Reason for Inspection:  Routine  Reinspection  Complaint  
 Educational Information Provided by Inspector:  Brochure  Verbal  Other

Sanitary Sewer/Storm Drain Checklist				Yes	No	N/A
<b>A. DRAIN MANAGEMENT</b>						
1	Floor drains, sinks, and toilets free of oil and chemical stains?		<input checked="" type="checkbox"/>			
2	Exterior surfaces, storm drains, loading dock drains, manholes, and sanitary sewer clean-outs free of chemical stains and oil stains?			<input checked="" type="checkbox"/>		
3	Oil water separators (if present) regularly and properly maintained/documented?		<input checked="" type="checkbox"/>			
4	Causes of any observed stains identified?		<input checked="" type="checkbox"/>			
5	Interior drains connected to sanitary sewer?		<input checked="" type="checkbox"/>			
6	Drains from process units protected and/or sealed to prevent discharge to sanitary sewer/storm drain?		<input checked="" type="checkbox"/>			
7	Non-condensate drains from roof equipment flow to sanitary sewer?				<input checked="" type="checkbox"/>	
8	Steam cleaning/pressure washing drained to oil/water separator and/or sanitary sewer?				<input checked="" type="checkbox"/>	
<b>B. EQUIPMENT/MATERIALS STORAGE</b>						
1	Materials/wastes stored to prevent spills from entering sanitary sewer and storm drains?		<input checked="" type="checkbox"/>			
2	Materials, products, and containers protected from rain?		<input checked="" type="checkbox"/>			
3	Exterior equipment free of oils and other residues that may enter storm drains?		<input checked="" type="checkbox"/>			
4	Drip pans used to collect fluids from leaking equipment and vehicles?		<input checked="" type="checkbox"/>			
<b>C. WASTE MANAGEMENT</b>						
1	Haz. wastes properly managed, disposed and are Haz. waste manifests available?				<input checked="" type="checkbox"/>	
2	Hauled waste volume appropriate for expected waste stream?				<input checked="" type="checkbox"/>	
3	Wash waters and mop waters drained to sanitary sewer or waste haulers?				<input checked="" type="checkbox"/>	
4	Dumsters/trash covered and not leaking?				<input checked="" type="checkbox"/>	
5	Area behind business free of dumps?				<input checked="" type="checkbox"/>	
6	Car wash water discharged to landscaping or sanitary sewer?				<input checked="" type="checkbox"/>	
<b>D. SPILL CLEAN-UP and PREVENTION</b>						
1	Spills cleaned using dry cleaning methods?				<input checked="" type="checkbox"/>	
2	Spill clean-up kits readily available?				<input checked="" type="checkbox"/>	
3	Written spill response plan on site?				<input checked="" type="checkbox"/>	
4	Rag service & clean sweep use documented?				<input checked="" type="checkbox"/>	
<b>E. EMPLOYEE TRAINING</b>						
1	Regular training in spill clean-up?				<input checked="" type="checkbox"/>	
2	Regular training in proper waste disposal?				<input checked="" type="checkbox"/>	
3	Regular training in housekeeping methods?				<input checked="" type="checkbox"/>	
4	Regular training on storm drain protection?				<input checked="" type="checkbox"/>	
5	Regular training on sanitary sewer protection?				<input checked="" type="checkbox"/>	
6	Do employees know the difference between a storm drain and a sanitary sewer?				<input checked="" type="checkbox"/>	
In Compliance with Pollution Control Requirements? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Enforcement Level (if not in compliance, check one): <input checked="" type="checkbox"/> WARNING NOTICE <input type="checkbox"/> NOTICE OF MINOR VIOLATION <input type="checkbox"/> NOTICE OF MAJOR VIOLATION			

Plug floor drain?

Inspector Comments: No current HUMP on file, green drum & waste containers not properly labeled. Empty containers shall be labeled w/ original label plus "EMPTY" and date emptied. Lots of staining on the shop floor - floor drain within 5' of PERC machine (work area) make spill recognition & response ineffective. Dispose of extra containers, clean floor, drum rinse water, file HUMP, label containers and forward last 3 years of waste manifests.

NOTES: Cooling tower overflow goes into ground outside, tower condensate or leaking water tray; oil/water separator water goes into

Water Pollution Prevention Program violations shall be corrected within 30 days.

Inspector Signature: [Signature] Date: 9/16/02  
 Received By: [Signature] Date: 9/16/02

waste drum w/ lint as per David Hirsch & both are hauled off as haz. waste



**SOLANO COUNTY DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
 601 TEXAS STREET, FAIRFIELD CA 94533 707-421-6765  
 www.solanocounty.com

SWEEPS #  
21/22- 30714

Business Name Fairfield Cleaners Address 625 Jackson St  
 City, ZIP FA 94533 Manager David Hirsch  
 Phone 427 0161 Emergency Phone 429 5258 # Employees 4 Pg 1 of 2

**HAZARDOUS MATERIALS RELEASE RESPONSE PLAN & INVENTORY and HAZARDOUS WASTE**  
 The items below have been inspected. Circled items represent violations of the California Health and Safety Code (HSC) or the California Code of Regulations (CCR) Title 22, or other Regulations as listed and shall be corrected as follows or as noted on page \_\_\_\_:

**VIOLATIONS**

**CORRECTIVE ACTIONS**

(A) BUSINESS PLAN			INSPECTED ?	YES	NO	Consent to inspect, photograph, sample	YES	NO
10	40	70	✓			Plan not available, on file, or updated HSC 25503.5, 25504, 25505	Submit the HMMP within 30/15 days of the date of this report. Keep plan on site. Update changes or update plan every three years. (Threshold: 55 gallons, 500 pounds, 200 cuft)	
11	41	71	✓			Chemical inventory statement not filed, or updated - HSC 25504, 25505, 25510	Submit an inventory annually. Submit for 100% increase in material, new undisclosed material, change of address/ownership/name. Submit within 30/15 days from the date of this report.	
12	42	72	✓			Site diagram not accurate - HSC 25509	Complete a site diagram to scale, that depicts site layout, location of haz-mat, exits, fire fighting equipment, utility shutoffs, water drainage patterns, streets.	
13	43	73	✓			Notification procedures and phone #'s not available - HSC 25504, 25507, 25509	Notification phone numbers shall be listed on the HMMP. All releases of haz-mat shall be reported immediately to this office- 707-421-6765 and the State OES- 800-852-7550.	
14	44	74	✓			Hazardous Materials not labeled OSHA 1910.1200 & 8CCR 5194(f)(4)	All hazardous materials containers shall be labeled with the manufacturer's label to include contents and hazard category. Label all containers within 30 days. MSDS shall be available	
15	45	75	✓			RMP required and not prepared; RMP not being implemented - HSC 25535	You shall prepare and submit an RMP to The Federal EPA and this office within _____ months of the date of this report or by _____ Chemical: _____	
(B) WASTE			INSPECTED ?	YES	NO	Consent to inspect, photograph, sample	YES	NO
10	40	70	✓			Waste determination not made CCR 66262.11	Before you transfer, treat, store or dispose of any waste, you shall determine if the waste is hazardous. Generator knowledge may suffice.	
11	41	71	✓			No EPA ID number - CCR 66262.12, 66263.42, HSC 25250.8	You shall obtain an EPA ID number from DTSC within 30/15 days of the date of this report. Call: 916-255-1136 (1-800-61-TOXIC)	
12	42	72	✓			Containers/tanks not labeled CCR 66262.34	Label with: Hazardous waste, generator address, contents, hazardous properties, physical state and accumulation date. Max accumulation: 90/180/270 days. Label containers/tanks today.	
13	43	73	✓			Containers/tanks not managed properly - CCR 66265.170-178 & 190-202	Containers shall be: 1. Closed when not in use; 2. Serviceable; 3. Compatible with stored materials	
14	44	74	✓			Incompatibles not separated CCR 66262.34 & 66265.177	Incompatible wastes shall not be stored in the same container (e.g. acids and bases). A container holding hazardous waste that is incompatible with another waste or material must be separated.	
15	45	75	✓			Ignitable/reactive waste not 50' from property line - CCR 66265.176	Containers holding ignitable or reactive wastes shall be located at least 50' from the property line and shall be properly grounded if metallic.	
16	46	76	✓			Waste area not inspected weekly CCR 66265.174 & 195	Inspect waste storage area (containers weekly and tanks daily), for damage or evidence of leaks or spills. A log shall be kept recording the inspections by date and person inspecting.	
17	47	77	✓			Spill kit, communication device or alarm not available - CCR 66265.32	All facilities shall be equipped with communications or alarm devices for summoning help, fire control equipment, spill control and decontamination equipment and adequate water supply.	
18	48	78	✓			Facility not designed to minimize release - CCR 66265.31	Facilities maintained/operated to minimize the possibility of fire, explosion, or release of haz wastes to air, soil, or surface water which could threaten human health or the environment	
19	49	79	✓			Manifests/receipts not available CCR 66262.40	Manifest copies provided to CalEPA & the TSDF. Receipts and manifest copies shall be available for three years.	
20	50	80	✓			Unauthorized disposal of waste HSC 25189.5	The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit issued by the appropriate agency. (see page _____)	
21	51	81	✓			Waste oil filters not managed properly CCR 66265.130	Filters drained of free flowing oil, stored in an appropriate closed container, labeled with the words "Drained used oil filters" and accumulation date. Dispose of filters (<1 ton) annually.	
(C) COMMON VIOLATIONS								
38	68	98	✓			Contingency/Emergency Response plan inadequate CCR 66265.50-56, HSC 25504	Design plan to minimize hazards to human health or the environment resulting from explosion fire or release of hazardous material or waste. Evaluate danger from fire and spills, consider evacuation and mitigation. Revise and submit the E.R. plan within 30 days.	
39	69	99	✓			Training; records not available or not documented - CCR 66265.16, HSC 25504	Personnel shall be trained within 6 mos. of hiring. Training documented and records kept until facility closure. Include response to fires, spills, equipment and system failures. Annual refresher.	

Corrected On Site = COS Not Later Than = NLT

Class I = Major threat (to human health, safety or the environment) Class II = Moderate threat Minor = Low threat

1 - SPCC is available on site for this facility: N/A Yes \_\_\_ No \_\_\_ (660/1320 gal) # of ASTs \_\_\_ Size \_\_\_ (916-227-4364)

2 - Supplemental Tiered Permitting checklist attached: Yes \_\_\_ No \_\_\_

3 - Supplemental RMP checklist attached: Yes \_\_\_ No \_\_\_

4 - Supplemental UST checklist attached: Yes \_\_\_ No \_\_\_

**NO VIOLATIONS NOTED**

Submit the Return to Compliance Letter in 30 days \_\_\_  
 15 days \_\_\_ (NLT \_\_\_) (for any violations not corrected on site)

Received By [Signature] Inspector [Signature] Date 12/5/02

HK Exhibit  
41  
Hirsch  
ESQUIRE  
4-19-12

JH0008340

Solano County Environmental Management - (707) 421-6765  
 Fairfield-Suisun Sewer District - (707) 429-8930  
 Joint Water Pollution Prevention Inspection Report

Page 7 of 26

Name: FF Cleaners Sweeps No.: 50771  
 Address: 1025 Jackson St No. of Employees: \_\_\_\_\_  
 City: FF Zip: 94533 Telephone: (427) 0161  
 Owner: Jewel Hirsch Reason for Inspection:  Routine  Reinspection  Complaint  
 Educational Information Provided by Inspector:  Brochure  Verbal  Other

Sanitary Sewer/Storm Drain Checklist				Yes	No	N/A
<b>A. DRAIN MANAGEMENT</b>						
1	Floor drains, sinks, and toilets free of oil and chemical stains?					
2	Exterior surfaces, storm drains, loading dock drains, manholes, and sanitary sewer cleanouts free of chemical stains and oil stains?					
3	Oil water separators (if present) regularly and properly maintained/documented?					
4	Causes of any observed stains identified?					
5	Interior drains connected to sanitary sewer?					
6	Drains from process units protected and/or sealed to prevent discharge to sanitary sewer/storm drain?					
7	Non-condensate drains from roof equipment flow to sanitary sewer?					
8	Steam cleaning/pressure washing drained to oil/water separator and/or sanitary sewer?					
<b>B. EQUIPMENT/MATERIALS STORAGE</b>						
1	Materials/wastes stored to prevent spills from entering sanitary sewer and storm drains?					
2	Materials, products, and containers protected from rain?					
3	Exterior equipment free of oils and other residues that may enter storm drains?					
4	Drip pans used to collect fluids from leaking equipment and vehicles?					
<b>C. WASTE MANAGEMENT</b>						
1	Haz. wastes properly managed, disposed and are Haz waste manifests available?					
2	Hauled waste volume appropriate for expected waste stream?					
3	Wash waters and mop waters drained to sanitary sewer?					
4	Dumpster/trash covered and not leaking?					
5	Area behind business free of dumps?					
6	Car wash water discharged to landscaping or sanitary sewer?					
<b>D. SPILL CLEAN-UP and PREVENTION</b>						
1	Spills cleaned using dry cleaning methods?					
2	Spill clean-up kits readily available?					
3	Written spill response plan on site?					
4	Rag service & clean sweep use documented?					
<b>E. EMPLOYEE TRAINING</b>						
1	Regular training in spill clean-up?					
2	Regular training in proper waste disposal?					
3	Regular training in housekeeping methods?					
4	Regular training on storm drain protection?					
5	Regular training on sanitary sewer protection?					
6	Do employees know the difference between a storm drain and a sanitary sewer?					
In Compliance with Pollution Control Requirements?			Enforcement Level (if not in compliance, check one):			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			<input checked="" type="checkbox"/> WARNING NOTICE <input type="checkbox"/> NOTICE OF MINOR VIOLATION <input type="checkbox"/> NOTICE OF MAJOR VIOLATION			

Inspector Comments: Facility is neater than it was during our 9/16/02 inspection. Inventory bins have been labeled and is adequate except for inventory bins (1 for product & 1 for waste). Fire chain has not been checked and many extra vessels are still present such as the green drums w/o proper labeling referenced in our 9/16/02 inspection. Except extra drums labels in good shape for haz waste. Fix inventory bins, call for a reinspection and make 3 yards of waste area available for inspection. Dispose of extra containers in the large

Water Pollution Prevention Program violations shall be corrected within 30 days. Specific

Inspector Signature: [Signature] Date: 12/5/02  
 Received By: [Signature] Date: \_\_\_\_\_

Copy Distribution: White - District, Pink - File, Yellow - Contact Person, Green - Inspector



**SOLANO COUNTY DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
 601 TEXAS STREET, FAIRFIELD CA 94533 707-421-6765  
 www.solanocounty.com

SWEEPS #  
 21/22- 30771.4

Business Name Fairfield Cleaners Address 625 Jackson St  
 City, ZIP Fairfield 94533 Manager David Hirsch  
 Phone 427,0161 Emergency Phone 429,5258 # Employees 4 Pg 1 of 2

**HAZARDOUS MATERIALS RELEASE RESPONSE PLAN & INVENTORY and HAZARDOUS WASTE**

The items below have been inspected. Circled items represent violations of the California Health and Safety Code (HSC) or the California Code of Regulations (CCR) Title 22, or other Regulations as listed and shall be corrected as follows or as noted on page \_\_\_\_:

Class I	Class II	Minor	Inadequate
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**VIOLATIONS**      **CORRECTIVE ACTIONS**

(A) BUSINESS PLAN			INSPECTED?	YES	NO	Consent to inspect, photograph, sample	YES	NO
10	40	70	Plan not available, on file, or updated HSC 25503.5, 25504, 25505			Submit the HMMP within 30/15 days of the date of this report. Keep plan on site. Update changes or update plan every three years. (Threshold: 55 gallons, 500 pounds, 200 cuft)		
11	41	71	Chemical inventory statement not filed, or updated - HSC 25504, 25505, 25510			Submit an inventory annually. Submit for 100% increase in material, new undisclosed material, change of address/ownership/name. Submit within 30/15 days from the date of this report.		
12	42	72	Site diagram not accurate - HSC 25509			Complete a site diagram to scale, that depicts site layout (location of haz-mat areas, fire fighting equipment, utility shutoffs, water drainage patterns, streets).		
13	43	73	Notification procedures and phone #s not available - HSC 25504, 25507, 25509			Notification phone numbers shall be listed on the HMMP. All releases of haz-mat shall be reported immediately to this office - 707-421-6765 and the State OES- 800-852-7550.		
14	44	74	Hazardous Materials not labeled OSHA 1910.1200 & 8CCR 5194(f)(4)			All hazardous materials containers shall be labeled with the manufacturer's label to include contents and hazard category. Label all containers within 30 days. MSDS shall be available		
15	45	75	RMP required and not prepared; RMP not being implemented - HSC 25535			You shall prepare and submit an RMP to The Federal EPA and this office within _____ months of the date of this report or by _____ Chemical: _____		
(B) WASTE			INSPECTED?	YES	NO	Consent to inspect, photograph, sample	YES	NO
10	40	70	Waste determination not made CCR 66262.11			Before you transfer, treat, store or dispose of any waste, you shall determine if the waste is hazardous. Generator knowledge may suffice.		
11	41	71	No EPA ID number - CCR 66262.12, 66263.42, HSC 25250.8			You shall obtain an EPA ID number from DTSC within 30/15 days of the date of this report. Call: 916-255-1136 (1-800-61-TOXIC)		
12	42	72	Containers/tanks not labeled CCR 66262.34			Label with: Hazardous waste, generator address, contents, hazardous properties, physical state and accumulation date. Max accumulation: 90/180/270 days. Label containers/tanks today.		
13	43	73	Containers/tanks not managed properly - CCR 66265.170-178 & 190-202			Containers shall be: 1. Closed when not in use; 2. Serviceable; 3. Compatible with stored materials 4. Containment required for tanks (facilities > 1000 kg/month)		
14	44	74	Incompatibles not separated CCR 66262.34 & 66265.177			Incompatible wastes shall not be stored in the same container (e.g. acids and bases). A container holding hazardous waste that is incompatible with another waste or material must be separated.		
15	45	75	Ignitable/reactive waste not 50' from property line - CCR 66265.176			Containers holding ignitable or reactive wastes shall be located at least 50' from the property line and shall be properly grounded if metallic.		
16	46	76	Waste area not inspected weekly CCR 66265.174 & 195			Inspect waste storage area (containers weekly and tanks daily), for damage or evidence of leaks or spills. A log shall be kept recording the inspections by date and person inspecting.		
17	47	77	Spill kit, communication device or alarm not available - CCR 66265.32			All facilities shall be equipped with communications or alarm devices for summoning help, fire control equipment, spill control and decontamination equipment and adequate water supply.		
18	48	78	Facility not designed to minimize release - CCR 66265.31			Facilities maintained/operated to minimize the possibility of fire, explosion, or release of haz wastes to air, soil, or surface water which could threaten human health or the environment		
19	49	79	Manifests/receipts not available CCR 66262.40 11/20/01 - 3/10/99			Manifest copies provided to CalEPA & the TSDF. Receipts and manifest copies shall be available for three years. 120 gal / yr		
20	50	80	Unauthorized disposal of waste HSC 25189.5			The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit issued by the appropriate agency. (see page 3)		
21	51	81	Waste oil filters not managed properly CCR 66265.130			Filters drained of free flowing oil, stored in an appropriate closed container, labeled with the words "Drained used oil filters" and accumulation date. Dispose of filters (<1 ton) annually.		
(C) COMMON VIOLATIONS 2002 - 2003			INSPECTED?	YES	NO	Consent to inspect, photograph, sample	YES	NO
38	68	98	Contingency/Emergency Response plan inadequate CCR 66265.50-56, HSC 25504			Design plan to minimize hazards to human health or the environment resulting from explosion fire or release of hazardous material or waste. Evaluate danger from fire and spills, consider evacuation and mitigation. Revise and submit the E.R. plan within 30 days.		
39	69	99	Training; records not available or not documented - CCR 66265.16, HSC 25504			Personnel shall be trained within 6 mos. of hiring. Training documented and records kept until facility closure. Include response to fires, spills, equipment and system failures. Annual refresher.		

Corrected On Site = COS Not Later Than = NLT  
 Class I = Major threat (to human health, safety or the environment) Class II = Moderate threat Minor = Low threat

1 - SPCC is available on site for this facility: N/A Yes No (660/1320 gal) # of ASTs Size (916-227-4364)

2 - Supplemental Tiered Permitting checklist attached: Yes No  
 3 - Supplemental RMP checklist attached: Yes No  
 4 - Supplemental UST checklist attached: Yes No  
 Submit the Return to Compliance Letter in 30 days  
 15 days (NLT) (for any violations not corrected on site)

**NO VIOLATIONS NOTED**

Received By [Signature] Inspector [Signature] Date 4/14/03

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HK Exhibit  
 42 Hirsch  
 ESQUIRE  
 4-19-03  
 JH0008342

Solano County Environmental Management -- (707) 421-6765  
 Fairfield-Suisun Sewer District -- (707) 429-8930  
 Joint Water Pollution Prevention Inspection Report

Name: <u>Fairfield Cleaners</u>			Sweeps No.: <u>30771</u>				
Address: <u>625 Jackson St</u>			No. of Employees: _____				
City: <u>PR</u>		Zip: <u>94533</u>	Telephone: ( <u>427</u> ) <u>0161</u>				
Owner: <u>Jewel Horsch</u>			Reason for Inspection: <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Reinspection <input type="checkbox"/> Complaint Educational Information Provided by Inspector: <input type="checkbox"/> Brochure <input checked="" type="checkbox"/> Verbal <input type="checkbox"/> Other				
Major Product or Service: _____							
<b>Sanitary Sewer/Storm Drain Checklist</b>							
	Yes	No	N/A		Yes	No	N/A
<b>A. DRAIN MANAGEMENT</b>				<b>WASTE MANAGEMENT</b>			
1				1	OK		
2	✓			2			
3				3			
4				4			
5				5			
6				6			
7				<b>D. SPILL CLEAN-UP and PREVENTION</b>			
8				1			
<b>B. EQUIPMENT/MATERIALS STORAGE</b>				<b>E. EMPLOYEE TRAINING</b>			
1				1			
2				2			
3				3			
4				4			
In Compliance with Pollution Control Requirements? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> 10/1/02 to 10/1/03 (975 lbs or 75 gals)				Enforcement Level (if not in compliance, check one): <input checked="" type="checkbox"/> WARNING NOTICE <input type="checkbox"/> NOTICE OF MINOR VIOLATION <input type="checkbox"/> NOTICE OF MAJOR VIOLATION			

*Handwritten note:* floor

*Handwritten note:* floor equipment

Inspector Comments: Some extra soap containers still onsite, cluttering the northwest corner of the shop. This area is also wet making it hard to identify unwanted spills and to respond appropriately. A gap in hazardous waste manifest exists between 10/30/01 and 10/30/02 (i.e. no records in between these two pickups). A <sup>plastic</sup> cup has been lodged in the floor drain acting as a crude screening device. A leaking washing machine in area creates need for the

Water Pollution Prevention Program violations shall be corrected within ongoing days.  
 Inspector Signature: \_\_\_\_\_ Date: 4/14/03

Received By: [Signature] Date: \_\_\_\_\_  
floor drain. Keep waste areas clutter free!