EXHIBIT I

LESLIE E. DEVANEY
ANITA M. NOONE
LESLIE J. GIRARD
SUSAN M. HEATH
GAEL B. STRACK
ASSISTANT CITY ATTORNEYS

TED BROMFIELD
SENIOR DEPUTY CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

Casey Gwinn
CITY ATTORNEY

CIVIL DIVISION
1200 THIRD AVENUE, SUITE 1100
SAN DIEGO, CALIFORNIA 92101-4100
TELEPHONE (619) 533-5800
FAX (619) 533-5856

May 14, 2002

Mr. John H. Robertus
Executive Director
Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

Dear Mr. Robertus:

Order No. R9-2002-0083
Belt Street Spill of 2/1/01

As you know, the City of San Diego is assisting the staff in providing a preliminary site conceptual model and workplan for a soil and groundwater investigation pursuant to the above Order.

However, the City does so with an express reservation of rights to challenge any future order on the basis of its being considered a "discharger." The Technical Analysis supporting the inclusion of the City as a "discharger" is based on the flawed reasoning that liability is derived from the mere act of initiating a public work project, hence "the City initiated the action that resulted in the discharge." Technical Analysis, p. 8. Were this true, the City would be exposed as a discharger for all contractor errors, which is clearly not supportable by any authority.

Sincerely yours,

CASEY GWINN, City Attorney

By Ted Bromfield
Ted Bromfield
Senior Deputy City Attorney

TB:dr
cc: Barry S. Pulver, Associate Engineering Geologist
Chris Gonaver, Deputy Director, Environmental Protection Division
Ted Olson, Program Manager, Underground Storage Tank Program

CASEY GWINN, City Attorney
ANITA M. NOONE, Assistant City Attorney
TED BROMFIELD, Senior Deputy City Attorney
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REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN RE: WORKPLAN FOR BELT STREET	THE CITY OF SAN DIEGO'S POINTS & AUTHORITIES RE: NO LIABILITY FOR BELT STREET WORKPLAN BECAUSE: 1. THE CITY WAS NOT A "DISCHARGER" 2. THE CITY HAD NO LEGAL OR FACTUAL CONNECTION TO THE CAUSE OF THE DISCHARGE 3. THE PIPELINE WAS NOT REGISTERED AS REQUIRED BY GOVERNMENT CODE SECTION 4215 ET SEQ.

INTRODUCTION AND FACTS

The facts surrounding the February 1, 2001 pipeline rupture at Belt Street are simple and are not disputed by any party. As set out by staff in the Regional Board letter of November 13, 2001, an underground fuel pipeline was ruptured on February 1, 2001, during a geotechnical investigation being conducted along Belt Street in San Diego, California. The pipeline was ruptured during the drilling of a soil boring by Tri-County Drilling, Inc., as directed by AMEC, a geotechnical independent contractor of the City of San Diego. The pipeline is a Chevron Products Company owned, unregistered, eight-inch diameter, steel, underground fuel pipeline, containing unleaded gasoline. The pipeline is used to transport fuel for Chevron Products Company Bulk Fuel Terminals. The rupture of the pipeline caused a release of between

400 and 2,730 gallons of unleaded gasoline to the ground and groundwater. (Discrepancy is caused by number of gallons recaptured; HAZMAT Report, attached as Exhibit 1, quantifies spill at 400 gallons.)

The site is located in the City of San Diego near the southern terminus of Sicard Street. The site is located within the National Steel and Shipbuilding Company [NASSCO] facility which is leased from the Port of San Diego. The underground product pipeline is located within a portion of Belt Street that is now located within the NASSCO facility.

In addition to the above, it is undisputed that:

1. AMEC was hired by the City of San Diego on February 4, 2000 for "soils investigation" on an as needed basis. AMEC agreed to perform professional services "in accordance with the standards customarily adhered to by an *experienced and competent* professional" and was hired as an "independent contractor." (First Recital, Section 4.1, and Section 8.4, respectively. Full City-AMEC contract sent to Barry Pulver on December 24, 2001, incorporated by reference) [emphasis added].
2. AMEC submitted a revised proposal for "fifteen (15) testing borings along the proposed alignment" for City Water Department Groups 525-B, C and D. The City accepted the proposal on December 15, 2000. On January 19, 2001, AMEC proposed the location of each boring, including B-9, the site of the rupture. NO CITY EMPLOYEE SELECTED OR DIRECTED OR WAS PRESENT AT THE BORING LOCATION. (Exhibits 2, 3, and 4 respectively, previously supplied and reattached for convenience)
3. The actual rupture was done by Tri-County Drilling, Inc. under contract to AMEC. The City neither suggested, selected, nor had any relationship with Tri-County.
4. The eight-inch gasoline line was owned by Chevron Products, who had failed to register the pipeline with Underground Service Alert of Southern California [USA] in violation of California Government Code section 4215 et seq.

POINTS OF LAW

I.

THE CITY OF SAN DIEGO IS NEITHER FACTUALLY NOR LEGALLY A "DISCHARGER" UNDER WATER CODE § 13267 BECAUSE IT WAS INVOLVED IN NO CONDUCT OR LEGAL RELATIONSHIP THAT CAUSED THE DISCHARGE

The Board has requested a preliminary site model and groundwater investigation under Section 13267 of the Water Code. The relevant portion provides:

> (b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty or perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.

Water Code section 13267(b)(1)

To fall within the responsibilities of the statute, the City must be one who "has discharged, discharges, or is suspected of discharging." In construing the meaning of discharge, the courts use the plain meaning of the statute.

> We find nothing in the Porter-Cologne Act suggesting we should deviate from our usual obligation to give effect to statutes according to the ordinary import of the language used in framing them. (*California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal. 3d 692, 698 [170 Cal. Rptr. 817, 621 P.2d 856], followed in *People v. Morris* (1988) 46 Cal.3d 1, 15 [249 Cal.Rptr. 119, 756 P.2d 843].) Thus, as used in section 13304, "<u>discharge means: "to relieve of a charge, load or burden; . . . to give outlet to; pour forth; EMIT</u> . . . ." (Webster's New Internat. Dict. (3rd ed. 1961) p. 644.) <u>This definition is congruent with the Legislature's directive that "water quality control" mean "the regulation of any activity or factor which may affect the quality of the waters of the state</u> . . . ." (§ 13050, subd. (i), *Southern Cal. Edison Co. v. State Water Resources Control Bd.*, supra, 116 Cal.App.3d at p. 758.) According to this definition, the burden of sediment emitted by the opening of the gate valve in Lake Madrone Dam is a discharge.

Lake Madrone Water Dist. v. State Water Resources Control Board, 209 Cal. App. 3d 163, 174 [emphasis added]

In the above case, Lake Madrone Water District argued it was not a "discharger" by emitting sediment from its gate valve in Lake Madrone Dam. The court found that it was a "discharger" because discharge was not limited to a point source and the District was involved in an "activity or factor" affecting the water quality.

Contrast the above to the TOTAL lack of activity by the City of San Diego. There are absolutely no facts supporting any activity of the City that caused the February 1, 2001 rupture. The City did not select the location of the boring, was not present at the boring, contributed no "activity" causing the boring, and had no factual or legal relationship with the firm who bored the hole at B-9, Tri-County Drilling.

The Board's November 13, 2001 letter recites the City's only responsibility as "contracted with AMEC . . . thereby permitting the release to occur." (Letter at p. 2) This statement is factually inconsistent with the same letter's finding that "Tri-County Drilling, Inc. is a discharger because *the act of drilling* into the pipeline caused the release . . . ." (Letter at p. 2) [emphasis added]. Moreover, the mere *contracting* with AMEC does not establish any liability because AMEC was an independent contractor (see infra) and was only contracted with for professional services "in accordance with standards customarily adhered to by an experienced and competent professional." (Contract at Section 4.1) Surely contracting with a "competent professional" does not equate to contracting for rupture of a pipeline!

Hence absent some negligent activity on the City's part, it cannot be said to be responsible for this discharge of petroleum. Since the City had no activity leading to the discharge, it cannot be required to submit the required reports under Water Code section 13267.

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II.

THE CITY OF SAN DIEGO IS NOT LEGALLY RESPONSIBLE FOR THE ACTS OF AMEC BECAUSE AMEC WAS AN INDEPENDENT CONTRACTOR AND IS NOT RESPONSIBLE FOR TRI-COUNTY DRILLING, INC. BECAUSE THE CITY HAS NO FACTUAL OR LEGAL CONNECTION WITH TRI-COUNTY DRILLING.

As to AMEC, it is undisputed that AMEC was contracted with only for "as needed" professional geotechnical services. The full contract has been provided to the staff and Section 8.4 reads as follows:

> 8.4 Independent Contractors.
>
> The Consultant and any Subconsultants employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Professional Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

As clearly shown in Exhibits 2-4 (attached), all boring holes were proposed by AMEC and accomplished by Tri-County Drilling. Absent special circumstances, a person is *not* liable for acts of independent contractors. Witkin, *Summary of California Law*, Vol. 2, Agency and Employment § 12 (9th Ed. 1987).

> [1] An independent contractor is one who renders service in the course of an independent employment or occupation, following his employer's desires only as to the results of the work, and not as to the means whereby it is to be accomplished. (*Moody v. Industrial Acc. Com.*, 204 Cal. 668, 670 [269 P. 542]; *S.A. Gerrard Co. v. Industrial Acc. Com.*, 17 Cal.2d 411, 413 [110 P.2d 377].) [2] The general supervisory right to control the work so as to insure its satisfactory completion in accordance with the terms of the contract does not make the hirer of the independent contractor liable for the latter's negligent acts in performing the details of the work.

McDonald v. Shell Oil Company, 44 Cal. 2d 785, 788 (1955)

It is clear that the City had absolutely no control as to the means, method, or location of doing the instant boring leading to the spill.

As to Tri-County Drilling, Inc., the facts are likewise clear. The City of San Diego had absolutely no factual or legal connection to Tri-County. The City never contracted with Tri-County, spoke to Tri-County, or had any association with Tri-County. Obviously a person is not responsible for the acts of others without a showing of some special relationship.

> Where *liability in tort* is sought to be imposed upon a person for the wrongful act of another under the doctrine of *respondeat superior*, It must be shown that the wrongdoer was an agent or employee of the defendant.

Witkin, *Summary of California Law*, Vol. 2, Agency and Employment § 13 (9th Ed. 1987)

III.

CHEVRON VIOLATED A MANDATORY DUTY TO REGISTER ITS UNDERGROUND FUEL LINE AND HENCE IS RESPONSIBLE FOR THE BELT STREET DISCHARGE

As pointed out above, Water Code section 13267 seeks to assess responsibility for an "activity or factor" that caused the discharge. In the instant case, the State of California mandates that *all* subsurface pipes must be registered with the regional notification center:

> § 4216.1. Membership; costs
>
> Every operator of a subsurface installation, except the Department of Transportation, shall become a member of, participate in, and share in the costs of, a regional notification center. Operators of subsurface installations who are members of, participate in, and share in, the costs of a regional notification center, including, but not limited to, the South Shore Utility Coordinating Council, the Underground Service Alert – Northern California or the Underground Service Alert – Southern California are in compliance with this section and Section 4216.9.

California Government Code section 4216.1

The statutory requirement is specifically designed to provide a uniform registry where excavators can ascertain the location of subsurface facilities to avoid the precise incident that occurred here. AMEC consulted Underground Service Alert, listed in the statute, and was shown that Belt Street was clear of underground pipes. Violation of this mandatory duty was both the legal and factual cause of the rupture.

The courts routinely use a "but for" test or "substantial factor" test in assessing causation.

The failure to register this pipe directly led Tri-County to drill at B-9, since the USA ticket showed no subsurface installation. Hence either asking "but for" this omission or was this omission a "substantial factor" leads to the same answer: yes, failure to register the pipe directly caused the rupture.

> The test for joint tort liability is set forth in Section 431 of the Restatement of Torts 2d which provides: "The actors' negligent conduct is a legal cause of harm to another if (a) his [or her] conduct is a substantial factor in bringing about the harm, and, (b) there is no rule of law relieving the actor from liability because of the manner in which [her or] his negligence has resulted in the harm." (Rest.2d Torts, § 431.) Section 431 correctly states California law as to the issue of causation in tort cases.

Wilson v. Blue Cross of So. California, 222 Cal. App. 3d 660, 671-72 (1990) [emphasis added]

Hence the factual and legal cause of this rupture was the omission of a statutory duty by Chevron.

IV

THE STAFF REQUEST FOR A WORKPLAN FROM THREE SEPARATE ENTITIES (A) IS DUPLICATIVE, AND (B) DOES NOT BEAR A REASONABLE RELATIONSHIP TO THE NEED OR BENEFIT OF THE REPORT.

Section 13267(b)(1) mandates that the burden of providing a requested report must bear a reasonable relationship to: (a) the need, and (b) the benefits to be obtained from the report. The Regional Board letter of November 13, 2001 is completely silent on any discussion of this burden while the Regional Board letter of January 4, 2002 simply lists the burden as a "Key Issue."

The City objects to this approach for two fundamental reasons:

(1) The same workplan has been ordered from all three parties listed in the November 13, 2001 letter: Tri-County Drilling, Inc., AMEC, and the City. This order then clearly orders three reports all dealing with the same exact subject. Such duplication is obviously wasteful and hence such duplication and wasteful costs cannot be said to "bear a reasonable relationship" to benefits.

(2) Harding ESE and Chevron have confirmed to the County of San Diego Department of Environmental Health that the Lower Tank Farm presents *no* risk to either existing or potential beneficial uses. Attached as Exhibit 5 is the County of San Diego's "Case Closure Summary" for the Lower Tank Farm (Chevron). Note that this Closure Summary analyzes the Lower Tank Farm which is closest to the Bay, and finds that completed corrective action protects *both* existing and potential beneficial uses of the Board's Basin Plan (Section IV).

Note that the Lower Tank Farm lies west and closer to San Diego Bay than the Upper Tank Farm and hence indicates that the long-standing petroleum plume caused by the Upper Tank Farm does not pose a threat to the Bay. Moreover, the Upper Tank Farm plume that *predated* this rupture is under a "Notice of Responsibility Order" per Scott Weldon, County Environmental Health. This NOR requires ongoing Chevron and Arco clean-up to absorb the plume contents.

From the above, it is clear that the February 1, 2001 Belt Street rupture added only a minor amount to a large existing plume. Note the HAZMAT Report of 2/1/01 puts the rupture at only 400 gallons after recapture. Given this small amount and *mandated* existing remediation efforts required of both Chevron and Arco for the Upper Tank Farm, a Groundwater Investigation Report required in triplicate of Tri-County, AMEC, and the City is clearly overly burdensome and does not bear a reasonable relationship to the benefit since Chevron and Arco are already monitoring and instituting remediation efforts of the entire plume.

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CONCLUSION

Given the undisputed facts that the City neither directed, controlled, nor even was present at the drilling, it cannot be held accountable as a "discharger" under Water Code section 13267. Further, although the City contracted with AMEC, the contract clearly maintains the relationship as that of an "independent contractor" which, by law, insulates the City from any negligent acts of AMEC. Lastly, the actual cause of the rupture was the failure by Chevron to register both the existence and location of the eight-inch gasoline line.

From the uncontroverted facts, there is no City "activity or factor" that caused the rupture and hence the City bears no responsibility for any investigative reports under Water Code section 13267.

DATED: January 17, 2002.

Respectfully submitted,

CASEY GWINN, City Attorney

By _____
Ted Bromfield
Senior Deputy City Attorney

Attachments:
Exhibits 1-5

DECLARATION OF SERVICE BY MAIL) REGIONAL WATER QUALITY CONTROL BOARD IN RE: WORKPLAN FOR BELT STREET

I, Michelle Barrett, declare that I am, and was at the time of service of this service, over the age of eighteen years and not a party to the action; and I am employed in the County of San Diego, California, in which county this mailing occurred. My business address is 1200 Third Avenue # 1100, San Diego, California 92101. I served the following document:

CITY OF SAN DIEGO'S POINTS & AUTHORITIES RE: NO LIABILITY FOR BELT STREET WORKPLAN

by placing the original and six copies in an envelope addressed to:

Barry S. Pulver, P.E., Associate Engineering Geologist
Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

and by placing a true copy of same in a separate envelope, addressed to each Interested Party in this matter, as follows:

Tony Clark, Esq.
AMEC Legal Services
900 Monenco Place
801 - 6th Avenue SW
Calgary, Alberta, Canada T2P 3W3

Jeremiah D. Jackson, Ph.D, P.E.
AMEC Earth & Environmental, Inc.
5510 Morehouse Street
San Diego, CA. 92121-3720
(for Ronald J. Tanenbaum)

John M. Dillard, Esq.
Law Offices of John Dillard
313 North Birch Street
Santa Ana, CA. 92701-5603

Mr. Tim Duddie
Tri-County Drilling, Inc.
6415-A Marindustry Drive
San Diego, CA. 92121-2536

Mr. Paul Brown
Mr. John Wallace
San Diego Unified Port District
3165 Pacific Highway
San Diego, CA. 92101-1128

Mr. Michael Chee
Environmental Manager
National Steel and Ship Bulding Co.
Post Office Box 85278
San Diego, CA. 92113-5278

Mark Sigler, P.E., Senior Project Manager
Chevon Products Company
145 S. State College Boulevard, Suite 400
Brea, CA. 92822-2292

Mr. George McCandless
County of San Diego
Department of Environmental Health
Post Office Box 129261
San Diego, CA. 92122-9261

I then sealed each envelope and, with the postage thereon fully prepaid, deposited each in the United States mail at San Diego, California, on January 17, 2002.

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct. Executed on January 17, 2002, at San Diego, California.

Michelle Barrett

Michelle Barrett

Hazmat Incident Report 2001

Incident Number	Incident Date	Hazmat Unit Responding	Division
FS01008993	Thursday, February 01, 2001	Hazmat 1	C

HazmatCaptain	Hazmat Engineer 1	Hazmat Firefighter 1	Hazmat Firefighter 2	Fire Units
NAKAMA	BIXLER	DODDS	VANDEWALLE	E1, E4, E7, E3, T1, B1

Did HMD respond?	If checked yes - who?	Prop 65 ?	Incident Commander
Yes	Vent&Mcphearson	☐	Battalion Chief Frazier

Incident Address

2798 Harbor Drive

press to———

City	State	Zip Code	Dispatch Time
San Diego	CA	92101-	11:37

At Scene	Available Time	End Time	Total Time (including report)	Responsible Party Name
12:13	22:02			AMEC Anna Fyodorva, Supervisor

Address	City1	State1
16760 West Bernardo Dr.	San Diego	CA

Postal Code	Work Phone	Cost Recovery?	DOT Hazard Classification - pick one
	(858) 487-2113	Yes	Flammable Liquid (3)

DOT ID Number	Fire District - pick one
1203	San Diego

Incident Description 3 lines only - use note space for more

E-9 responded to Sta. 41 to pick-up HZM-1 to respond to fuel spill at NASCO/Chevron Tank Farm. Tri-County Drilling Co. sub-contracted by AMEC Co. was drilling with 8" auger bit and punctured an approximately 8" underground fuel line 5' below the surface. The fuel identified by product manager/Chevron as gasoline spilled approximately 400 gallons.

Hazardous Material name and associated hazards

Gasoline-Flammable Liquid

Actions Taken

1st Alarm Co.s contained the spill by diking and using facility imbiber pads. The spill was contained to 70' X 10' area. HZM1 monitored and investigated. HZM1 laid proper foam blanket with Propac and confirmed the shutdown of the pipeline by Chevron staff. Chevron facility initiated dispatch of FOSS environmental for clean-up procedures.

Person Preparing Report

Captain Nakama

Notes

The incident included 2 sets of problems. 1) fuel spilled in immediate area. 2) identifying and removing remainder of product in the damaged fuel line. The process was delayed due to on-sight NASCO vacuum truck initially declared their unit could handle flammables which an hour plus into the incident discovered it was rated for combustibles, thus delaying time for an additional truck. The other major delay was determining which of the 6 underground fuel lines were compromised. After a lenghty time of deducting 2 of the lines were not the damaged line, we opted to vacuum from the compromised drill sight. The vacuuming was successful in draining the underground fuel line which contained approximately 1,500 gallons.

Cost Recovery

Hazmat Cost Recovery Form

Check at least one code violation below.

ID	Incident Number	Date	Total Time at Scene
92	FS01008993	Thursday, February 01, 2001	10:30

HMMD at Scene?	HMMD Responder	Total Number Fire Personnel	Responsible Party Name
☑	Vent/Mc Phereson	21	AMEC/ Anna Fyodorva

RP Address	City	State
16760 West Bernardo Dr.	San Diego	Ca

Zip Code	RP Phone	Drivers License
	(858) 487-2113	

Company/Organization	Disposable Gloves (pairs)	Specialized Gloves	Chlor-d-tect Kits
Tri-County Drilling Co.	0	0	0

Chlor-n-oil Kits	Level B Suits	Level A Suits	Boots (pairs)	Drums (55 gallon)	Buckets (2 gallon)
0	0	0	0	0	0

Buckets (5 gallon)	Drum Theives	Imbiber Pads (packages)	Drum Liners	Other Equipment
0	0	0	6	40 gallons 6% foam

Report Person
Captain Nakama

Notes

Health Safety Code
☑ HS code 13009.6 (beyond property of origin

Health Safety Code 1
☐ HS code 25187.5 (DOHS ordered cleanup)

SD Muncipal Code
☐ 66.0201 (abandoned spill)

SD Municipal Code 1
☐ 44.0117 (illegal dumping/criminal action)

SD Municipal Code 2
☐ 66.0103 (illegal dumping on city property)

SD Municipal Code 3
☐ 660124 (illegal dumping in landfill)

USC
☑ 42 sec. 9607 (transportation or facility release cost recovery)

Incident Detail Listing
For Selected Incident

Jurisidiction: San Diego

Incident Date: 02/01/2001

Incident No.	Location	Incident Class	Description
		Incident Comments	

Unit	Disp	At Scene	Avail

Confidential Patient Information. Not to be disclosed to the public unless all references to medical aids and ambulance responses have been deleted. See

amec

TRANSMITTAL LETTER

Date: 30-Nov-00
Proposal No. S00-275 Revised

To: Mr. Jeff Collingwood
The City of San Diego
600 B Street, Suite 800, MS 908A
San Diego, CA 92101-4502

From: Yong Wang

Subject: Revised Proposal
Annual Geotechnical Consultant Agreement Task No. 17
Water Groups 525B, 525C, and 525D
Work Order Nos. 184131, 181141, and 184101
San Diego, California

Sent by: ☒ Mail ☐ FAX ☐ Fed Express/UPS ☐ To Be Picked Up ☐ Hand Deliver

The following items are being sent:
(If items are not as indicated, please notify us immediately)

Number of Copies	Document Date	Description
2	30-Nov-00	Revised Proposal

Please Note: ☐ Revisions ☐ Additions ☐ Changes ☐ Comments
☐ _____

Transmitted for: ☐ Approval ☐ Changes ☐ Your Use/File ☒ As Requested ☐ Review & Comment
☐ Other _____

	with enclosure	without enclosure
Copy To:	☐	☐

Socorro R Allen

Socorro R Allen
Marketing Coordinator

AMEC Earth & Environmental, Inc.
16760 W Bernardo Drive
San Diego, CA 92127-1904
Tel +(858) 487-2113
Fax +(858) 487-2357
www.amec.com

amec

30 November 2000
Proposal No. S00-275 Revised

Mr. Jeff Collingwood
The City of San Diego
600 B Street, Suite 800, MS 908A
San Diego, CA 92101-4502

RE: REVISED PROPOSAL
ANNUAL GEOTECHNICAL CONSULTANT AGREEMENT TASK NO. 17
WATER GROUPS 525B, 525C, AND 525D
WORK ORDER NOS. 184131, 181141, AND 184101
SAN DIEGO, CALIFORNIA

Dear Mr. Collingwood:

INTRODUCTION

AMEC Earth & Environmental (AMEC), is pleased to present this revised proposal to perform a geotechnical investigation and study for the subject project. The proposed construction consists of installation of three groups of 16-inch diameter water mains. The total length of the proposed main is approximately 2.5 miles. In general, the project site is located in the vicinity of the harbor area of San Diego, California, and is surrounded by marine terminal/shipyard (to the south) and railway facilities (to the north). The alignment will lie along portions of Harbor Drive, Crosby Road/Street, Bay Front Street, and Belt Street. AMEC is requested to perform a geotechnical study to investigate the existing conditions along the proposed alignment and provide engineering recommendations for use in the design and the preparation of the project plans.

SCOPE OF WORK

It is understood that the new water main will be installed using cut-and-cover trenching techniques. The depth of burial will be between 3 and 5 feet below the existing street surface. As requested, AMEC will advance fifteen (15) testing borings along the proposed alignment with five (5) borings for each group, depending on existing underground utility locations, access constraints, available existing data, and ground conditions. The borings will be advanced to a typical depth of about 12 feet below the existing grade using drilling equipment.

The borings will be logged by an AMEC representative who also will collect samples for examination and laboratory testing. Standard Penetration Test (SPT) sampling and split-spoon ring sampler testing will be performed. Upon completion, borings will be backfilled and resurfaced appropriately in accordance with City of San Diego's regulations. The laboratory testing program will consist of moisture content and dry density determinations, shear strength tests, grain size analyses, expansion index tests, Atterberg limits and corrosivity (data) assessments.

AMEC Earth & Environmental, Inc.
16760 W Bernardo Drive
San Diego, CA 92127-1904
Tel +1 (858) 487-2113
Fax +1 (858) 487-2357
www.amec.com

The field exploration program can be completed within one week after utility clearances and City permits are received. Laboratory testing can be finished within two weeks of the finish of field work. The final report can be submitted within 10 to 15 working days after the completion of our laboratory testing.

We propose to provide our services on a time-and-expense basis in accordance with the terms of the Annual Geotechnical Consultant Agreement dated 4 February 2000, C-09865. An estimated total fee will not exceed Nineteen Thousand Nine Hundred Ninety Dollars ($19,990.00) for the total 15 borings, laboratory testing and engineering study. A cost breakdown is included as Table 1, attached. Services beyond the scope outlined above will be provided on a time-and-expense basis in accordance with the fee schedule in the Annual Geotechnical Consultant Agreement dated 4 February 2000, C-09865. An estimate of the cost of additional work will be prepared for review and approval before any extra work is undertaken.

ASSUMPTIONS

In preparation of this proposal, we have made the following assumptions:

- In accordance with State law, AMEC will notify Underground Service Alert at least 48 hours before drilling. They will, in turn, contact the utility companies listed with them who provide service in the vicinity of the boring locations. These utilities will have 48 hours to meet with a representative of AMEC to identify and mark the locations of their respective lines. Neither AMEC nor its drilling subcontractor will be responsible for damage to such installations or utilities, public or private, except those already identified by USA, or shown on existing plans made available to us.

- The City of San Diego will arrange to obtain and deliver to AMEC, prior to drilling, any available information from City files addressing the site topography, property boundaries, location of utilities, and existing environmental, geologic/fault and geotechnical investigations.

- Boring location and elevation data will be obtained from the as-built survey performed by the City, or estimated based on the available project plans. AMEC will not survey boring elevations and locations.

- AMEC will backfill the borings, resurface and broom clean the work areas appropriately in accordance with relevant regulations. However, AMEC will not bring the site conditions back to the exact status prior to the drilling. This includes any pavement or vegetation damaged by drilling activities.

- Adjustment to our scope, schedule and costs due to access limitations, or obstructions to drilling, is not likely. However, in the event of any unforeseen delays or changes, we will notify the City immediately. Approval from the City staff will be obtained before modifications to the scope or schedule are made.

amec

- It is assumed that hazardous materials will not be encountered. If unanticipated hazardous materials are encountered during the field exploration activities, the work will immediately cease and we will consult with representatives of the City of San Diego on the appropriate action to be taken to mitigate the situation. The costs associated with additional permits and altering the drilling methodology to meet regulatory requirements are not included in this proposal.

CLOSURE

We appreciate the opportunity to prepare this proposal and look forward to working with you on this project. If you have any questions or need additional information, please contact the undersigned at (858) 487-2113.

Respectfully submitted,

AMEC Earth & Environmental, Inc.

Yong Wang
Senior Engineer

Joseph G Franzone, PE, GE
Supervising Engineer

YW/JGF/sra

Attachment: Table 1- Revised Estimated Cost

Distribution: (2) Addressee
Mr. Dwayne Abbey, City of San Diego, Water and Wastewater Facilities Division

amec

TABLE 1
REVISED ESTIMATED COST
GEOTECHNICAL INVESTIGATION
WATER GROUPS 525B, 525C, AND 525D - WORK ORDER NOS. 184131, 181141, AND 184101
CITY OF SAN DIEGO, CALIFORNIA

TOTAL SEWER-RELATED COSTS: $0.00

WATER-RELATED COSTS:

Category	Unit	Quantity	Rate	Amount	Total
FIELD					$ 9,753
Staff Geologist	hour	27	$ 87	$ 2,349	
Traffic Control-Field Technician II	hour	12	67	804	
Drill Rig	hour	25	170	4,250	
Drill Rig Mobilization	hour	3	170	510	
Coring of Asphalt Concrete	hole	15	50	750	
Asphalt Repair	hole	15	20	300	
Utility Markout Coordination	hour	6	87	522	
Clean-up	hour	4	67	268	
LABORATORY TESTING					$ 3,434
Moisture/Density	set	15	$ 20	$ 300	
Shear Strength	point	15	54	810	
Grain Size Analysis	test	10	135	1,350	
Atterberg Limits	test	8	55	440	
Expansion Index	test	2	95	190	
Soluble Sulfate	test	2	43	86	
Chloride	test	2	50	100	
Minimum Resistivity and pH	test	2	79	158	
OFFICE SUPPORT AND FINAL REPORT PREPARATION					$ 6,200
Project Manager - Permit Processing	hour	5	$ 115	$ 575	
Senior Engineer	hour	23	$ 115	$ 2,645	
Sr. Staff Geologist	hour	8	90	720	
Senior Engineering Geologist	hour	2	115	230	
Supervising Engineer	hour	2	125	250	
Senior Word Processor	hour	1	55	55	
Drafter	hour	25	65	1,625	
Reproduction	allow			100	

Estimated Cost	$ 19,387
Office Operations (6% of Labor Cost)	$ 603
TOTAL ESTIMATED WATER-RELATED COST	$ 19,990

THE CITY OF SAN DIEGO

December 15, 2000

AMEC Earth & Environmental, Inc.
16760 West Bernardo Drive
San Diego, CA 92127-1904

Dear Mr. Wang:

Subject: Annual Geotechnical Consultant Agreement (R-290801, Aud. Cert. 9900231), Task No. 17, Water Groups 525B, 525C, and 525D, W.O. Nos. 184131, 181141, and 184101

This letter is your authorization to proceed with the work for the subject task as described in your proposal dated November 30, 2000, for a total cost not to exceed $19,990.00. Payment will be on a time and material basis, not to exceed $19,990.00 for water related expenses.

If you have any questions, please call Project Manager Sadegh Jahadi at (619) 533-5139.

Sincerely,

Halla Razak
Deputy Director

AH/ml

cc: Jeff Collingwood, Senior Civil Engineer, Water & Wastewater Facilities Division
Jeffrey Shoaf, Senior Civil Engineer, Water & Wastewater Facilities Division
Sadegh Jahadi, Project Manager, Water & Wastewater Facilities Division
Lili Sanger, Account Clerk, Water & Wastewater Facilities Division
Consultant File
Project File

amec

Fax		From	YONG WANG
To	ALI HEIDARI	Direct Tel	
Company	CITY OF SAN DIEGO	Fax	
Fax	619-533-5176	Pages	7 (Inc. this page)
Charge no		Date	01/19/01
File no	6-252-10.7200	cc	
Fax operator			
Subject	WATER GROUP 525 (B, C, D)		

ALI,

ATTACHED PLEASE FIND THE PROPOSED BORING AND ALTERNATIVE LOCATIONS THAT WERE MARKED (IN FIELD) ALONG THE PROPOSED WATER GROUPS.

NOTE BORING B-9 IS LOCATED WITHIN NASCO PROPERTY (EAST OF GATE #14). BORING B-10 IS LOCATED OUTSIDE NASCO PROPERTY, IN THE PARKING AREA OF BELT ST. NEAR HARBOR DR.

THE BORING LOCATIONS WILL BE VERIFIED BY USA AND ADJUSTMENT MAY NEEDED BASED ON THE EXISTING UNDERGROUND UTILITIES. LET US KNOW YOUR COMMENTS ON THESE PROPOSED LOCATIONS. BORING INVESTIGATION WILL BE PERFORMED ON JAN. 26, 31 AND FEB. 1, 2001, BASED ON OUR CURRENT SCHEDULE. REGARDS,

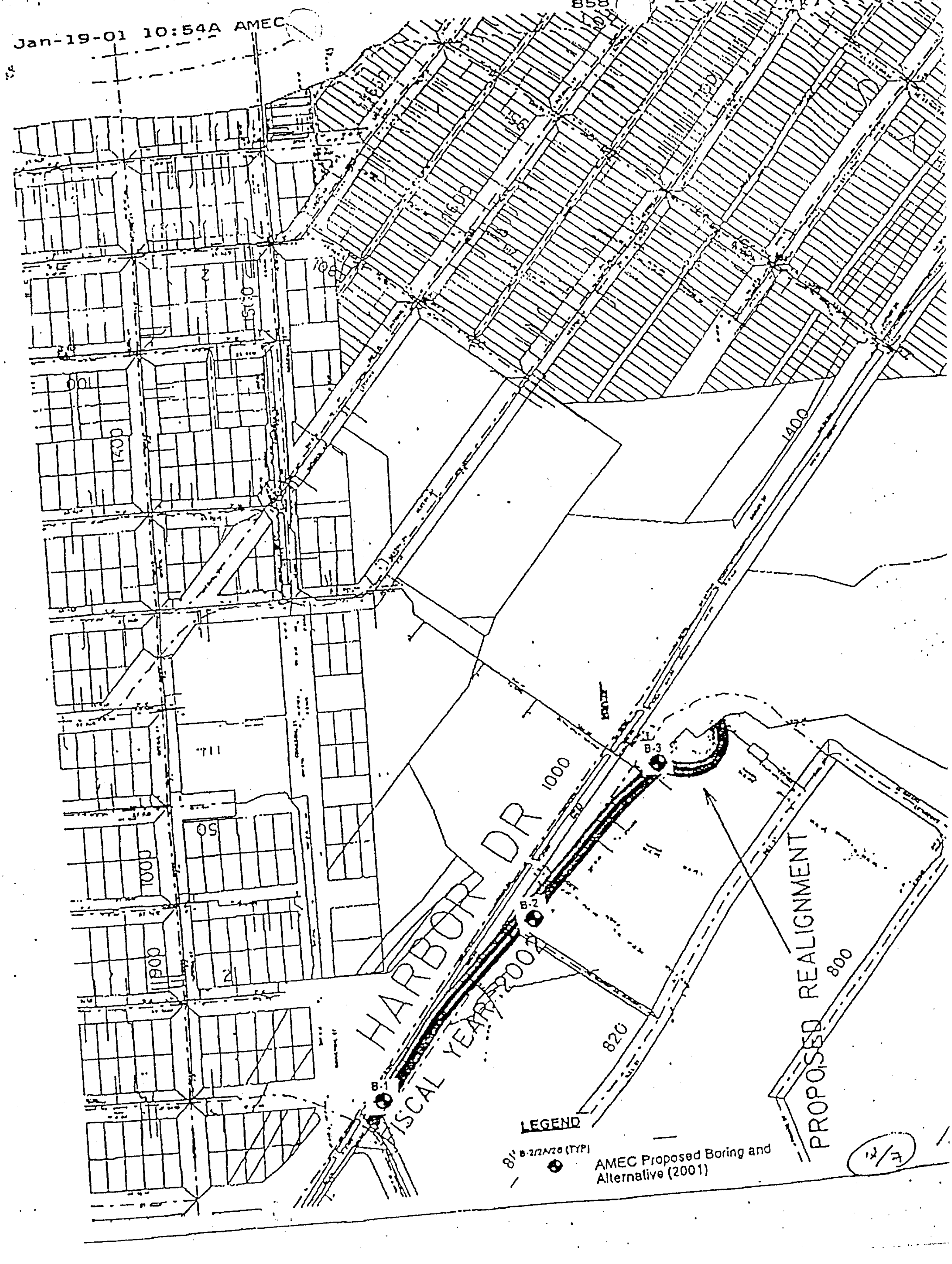
YONG WANG

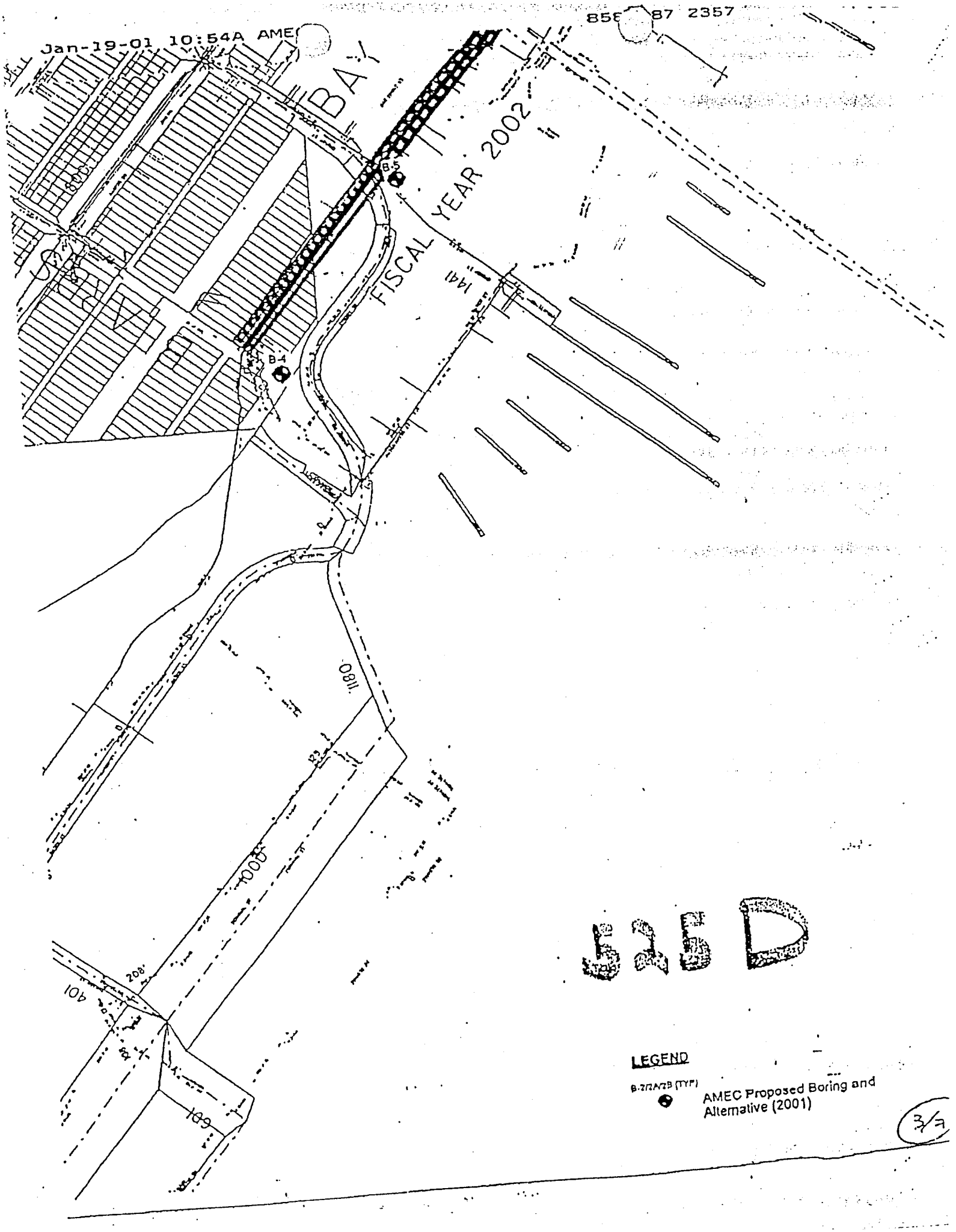
Dra\C:\Shared\Public\AMEC Templates\Fax Form 09 06 00..doc

AMEC Earth & Environmental, Inc.
16760 W Bernardo Drive
San Diego, CA 92127-1904
Tel +(858) 487-2113
Fax +(858) 487-2357
www.amec.com

This fax message is confidential. If you are not the intended recipient please notify us by telephone as soon as possible and either return the message by post or destroy it. If you are not the intended recipient, any use by you of its contents is prohibited.

Jan-19-01 10:54A AMEC 858 7 2357

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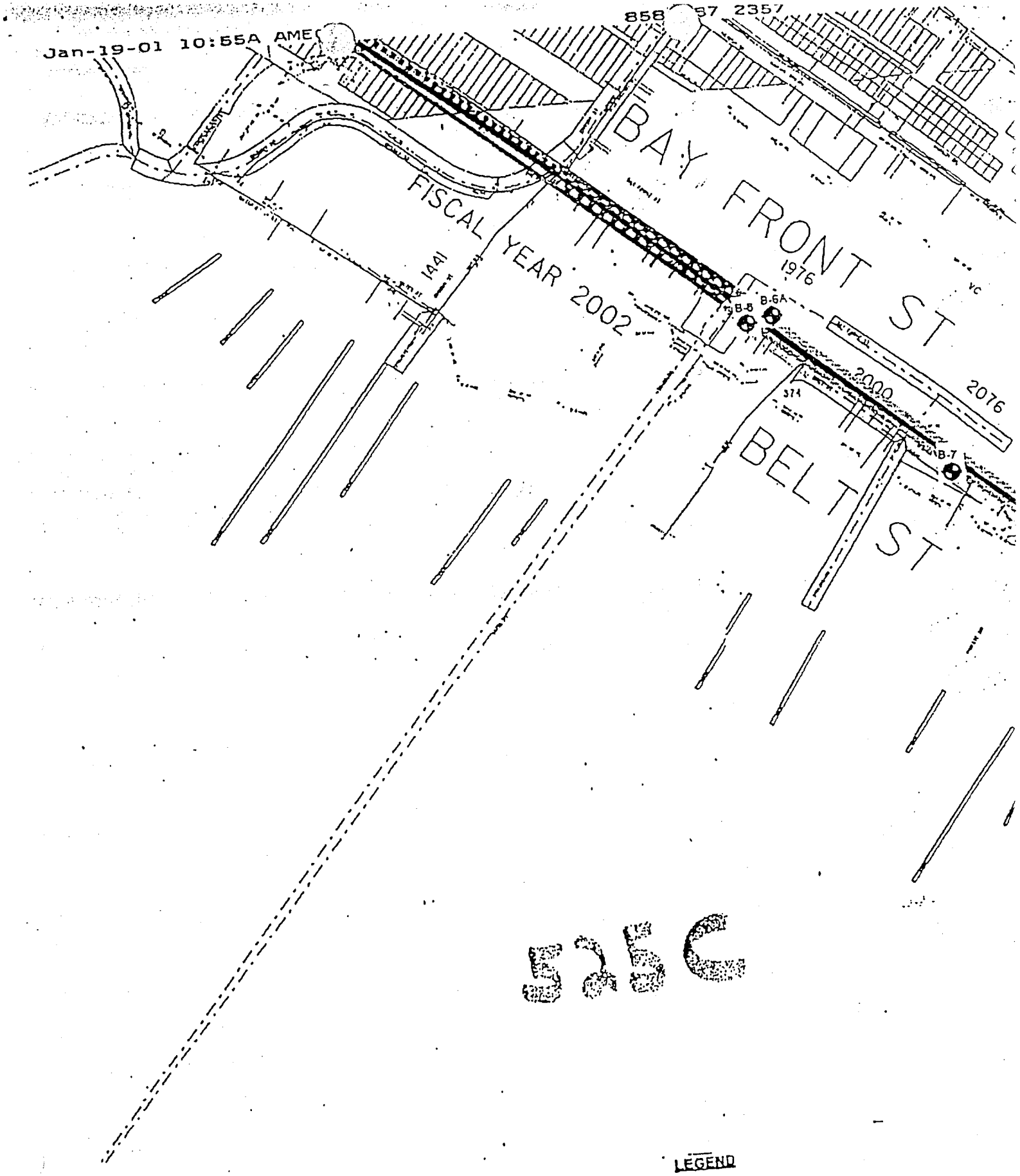
858 87 2357
BAY
FISCAL YEAR 2002
B-5
B-4
1441
1180
1000
401
208
LEGEND
B-2/2A/2B (TYP)
AMEC Proposed Boring and Alternative (2001)
3/7

525 D


Jan-19-01 10:55A AME
858 87 2357
BAY FRONT ST
FISCAL YEAR 2002
1441
1976
B-6A
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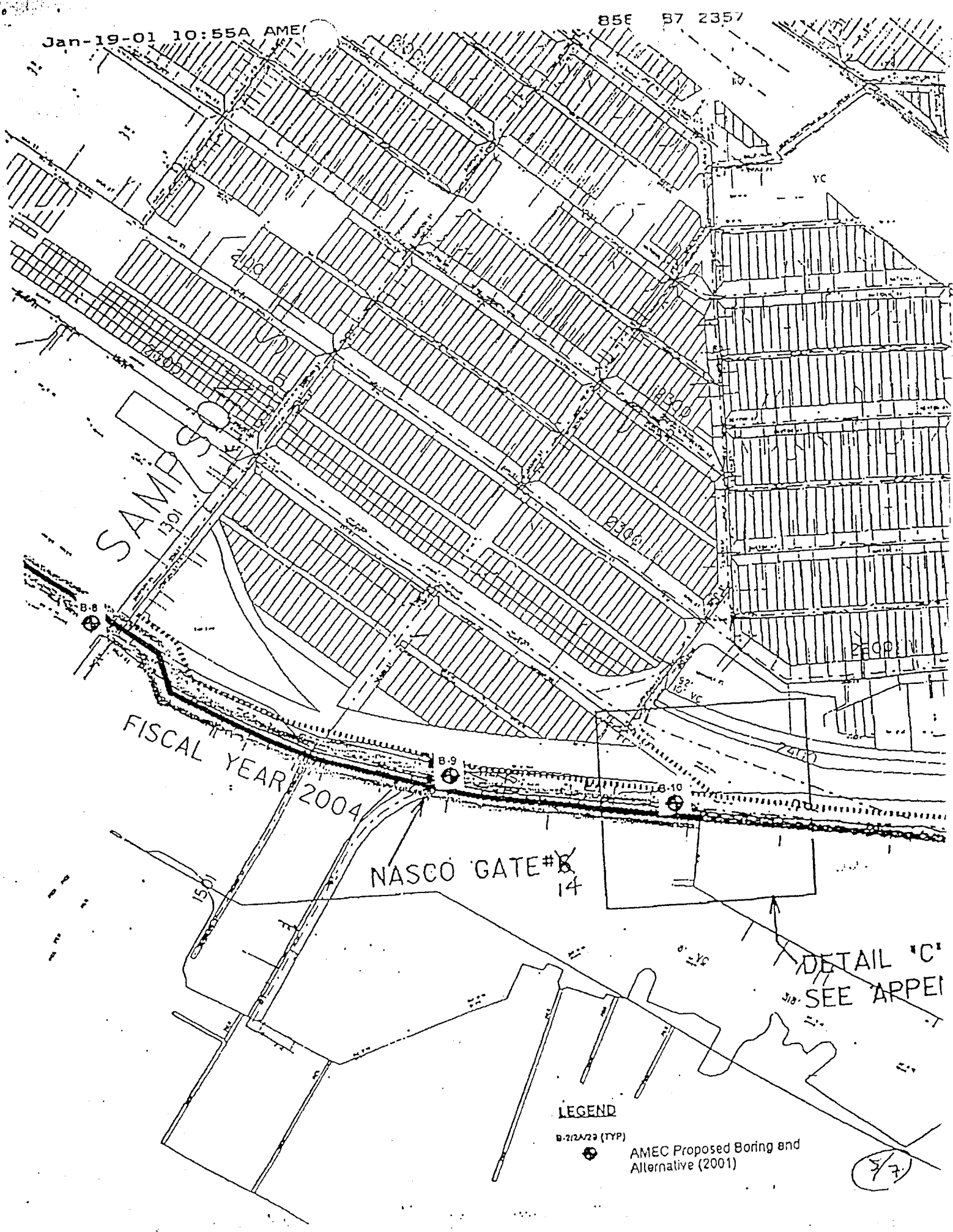
374
B-7
BELT ST
LEGEND
B-2/2A/2B (TYP)
AMEC Proposed Boring and Alternative (2001)


Jan-19-01 10:55A AME
85E B7 2357
SAMPSON
FISCAL YEAR 2004
B-8
B-9
B-10
NASCO GATE #6
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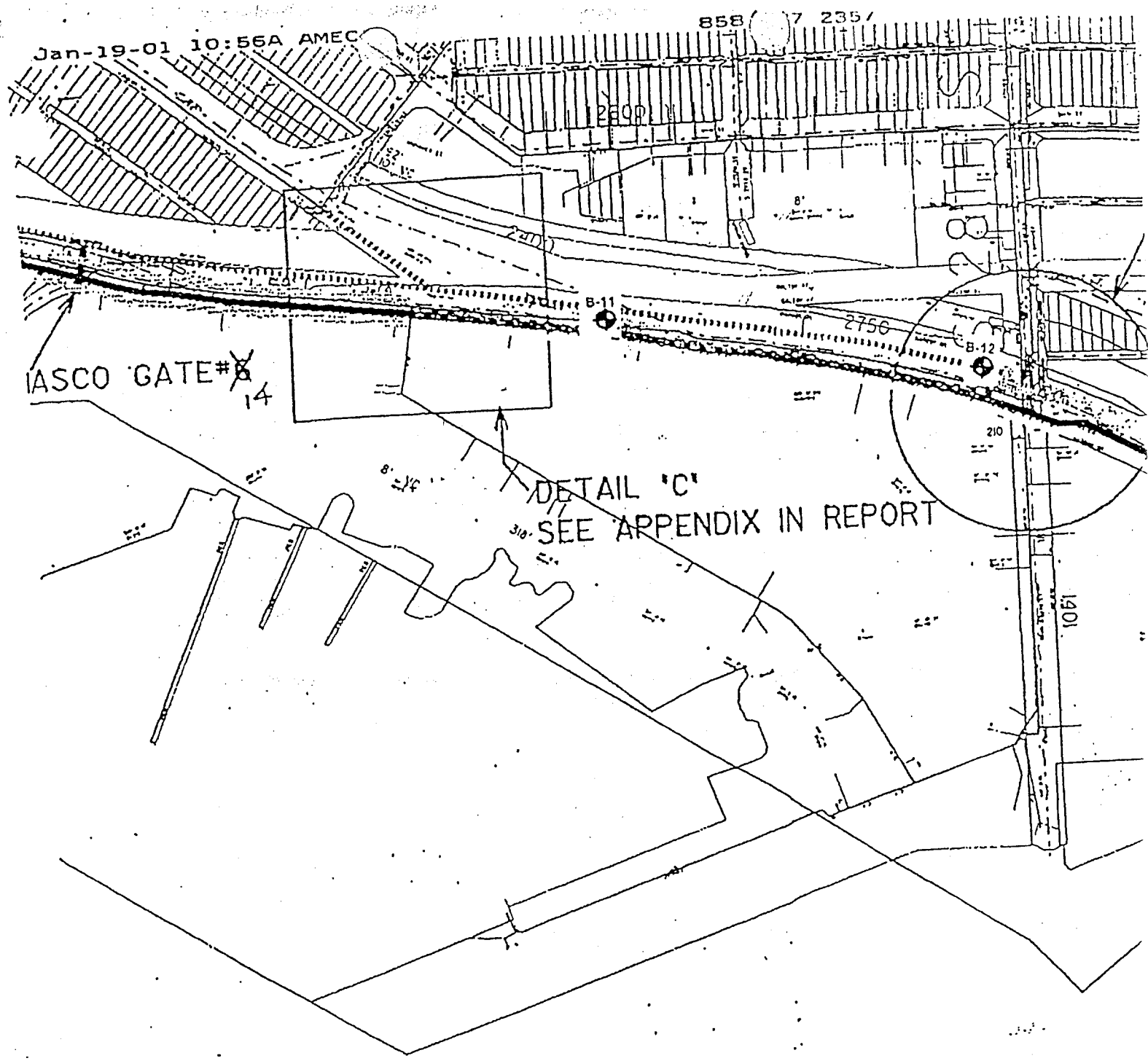
DETAIL "C"
SEE APPE
LEGEND
B-2/2A/2B (TYP)
AMEC Proposed Boring and Alternative (2001)
5/7



525 B

LEGEND

B-2/7A/7B (TYP) AMEC Proposed Boring and Alternative (2001)

6/7

County of San Diego

GARY W. ERBECK
DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
LAND AND WATER QUALITY DIVISION
P.O. BOX 129261, SAN DIEGO, CA 92112-9261
(619) 338-2222 FAX (619) 338-2377
1-800-253-9933

RICHARD HAAS
ASSISTANT DIRECTOR

December 5, 2001

Mr. Mark Sigler
Chevron Products Company
SAR Project Manager
P.O. Box 2292
Brea, CA 92822-2292

Dear Mr. Sigler:

VOLUNTARY ASSISTANCE PROGRAM CASE #H03791-004
CHEVRON PRODUCTS COMPANY TERMINAL #100-1252, LOWER TANK FARM
2295 BELT STREET, SAN DIEGO, CA

The site remediation information submitted to this agency by Harding ESE, summarizing the site characterization and mitigation activities at the above-referenced location, has been reviewed following guidance from the Regional Water Quality Control Board. With the provision that the information provided to this agency was accurate and representative of existing conditions, it is the position of this office that **no further action is required at this time.**

Please be advised that this letter does not relieve you of any liability under the California Health and Safety Code or the Porter Cologne Water Quality Control Act. If previously unidentified contamination is discovered which may affect public health, safety and/or water quality, additional site assessment and cleanup may be necessary.

Changes in the proposed use of the above site may require reevaluation to determine if the change will pose a risk to public health.

Thank you for your efforts in resolving this matter. Please contact Scott Weldon of the Site Assessment and Mitigation Program (SAM), at (619) 338-2539 if you require additional assistance.

Sincerely,

MICHAEL VERNETTI, Program Manager
Supervising Environmental Health Specialist
Site Assessment and Mitigation Program

MV:SW:kd

Enclosure

cc: Regional Water Quality Control Board Consultant
James Bryson, Harding ESE
Mike Chee, NASSCO
Bill Hays, Port of San Diego

WP/H03791-004VAPCLO

Case Closure Summary
Non-LOP or Voluntary Assistance Program

DATE: 11-07-01

I. AGENCY INFORMATION

Agency Name: County of San Diego, Environmental Health, SAM	Address: P.O. Box 129261	
City/State/ZIP: San Diego, CA 92112-9261	Phone: (619) 338-2222	FAX: (619) 338-2377
DEH Staff Person: Scott Weldon	Title: Project Manager	

II. CASE INFORMATION

Case No. H03791-004		
Site Name: Chevron Fuel Terminal #100-1252, Lower Tank Farm		
Site Address: 2295 Belt Street, San Diego, CA		
Property Owner: San Diego Unified Port District c/o Bill Hays	Address: P.O. Box 120488 San Diego, CA 92112-0488	Phone: 619-686-6584
Responsible Party: Chevron Products Company c/o Mark Sigler	Address: P.O. Box 2292, Brea, CA 92822-2292	Phone: 714-671-3200
Type of Case: Non-LOP Tank Case		
RWQCB/DTSC notification of DEH Oversight: 9-13-01		

III. SITE CHARACTERIZATION AND/OR INFORMATION

Cause and Type of Contamination (if any): Gasoline contamination from up-gradient fuel farms.				
Site Characterization complete? Yes				
Monitoring Wells Installed? Yes	Total Number: 4	Proper Screened Interval? Yes		Number of decommissioned wells: None
Range of groundwater levels on the site? 22.01 to 23.89 feet below grade.				Groundwater Flow Direction: to the west
Most Sensitive Current Use: Site lies in non-beneficial groundwater use area.				
Are Drinking Water Wells Affected? No		RWQCB Basin Number: Chollas Hydrologic Area (908.22)		
Is Surface Water Affected? No		Nearest Surface Water name: San Diego Bay		
Off-Site Beneficial Use Impacts (addresses/locations): None				

TREATMENT AND DISPOSAL OF AFFECTED MATERIAL

Material	Amount (Include Units)	Action (Treatment or Disposal w/Destination)	Date
Steel aboveground tanks	Seven	Cut up and recycled	9-01
Steel UST's used for condensate	Two	Removed and recycled	9-19-01
Concrete Clarifier	One	Crushed and disposed of	9-19-01

Non-LOP - Underground Storage Tank Oversight handled outside the LOP
Non-Tank – Voluntary Assistance Program

Case Closure Summary
Non-LOP or Voluntary Assistance Program

H03791-004

III. SITE CHARACTERIZATION AND/OR INFORMATION (Continued)

MAXIMUM DOCUMENTED CONTAMINANT CONCENTRATIONS - - BEFORE AND AFTER CLEANUP - - N/A MEANS NOT ANALYZED

Contaminant	Soil (ppm)		Water (ppm)		Contaminant	Soil (ppm)		Water (ppm)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	< 1.0	< 1.0	< 0.5	< 0.5	Xylene	N/A	N/A	< 0.0005	< 0.0005
TPHd	28	28	< 0.5	< 0.5	MTBE	< 0.005	< 0.005	0.370	0.370
Benzene	N/A	N/A	< 0.0005	< 0.0005					
Toluene	N/A	N/A	< 0.0005	< 0.0005					
Ethyl Benzene	N/A	N/A	< 0.0005	< 0.0005					

Comments: All the aboveground tanks and UST's at this site have been removed. The underground piping was also removed, with the exception of a small portion of six lines at the northeast property line. Four of these lines were grout filled, and two were capped and left in place for possible use as remediation piping in the future.

Low concentrations of MTBE are present in groundwater beneath the site, but no other petroleum constituents are present. The presence of MTBE is thought to have originated from the upgradient tank farms.

IV. CLOSURE

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan? Yes

Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan? Yes

Does corrective action protect public health for current land use? Yes

Case review based on proposed use as a shipyard.

Are there other issues DEH needs to follow up on: No

Site Management Requirements: None

Should corrective action be reviewed if land use changes? Yes

List Enforcement Actions Taken: None

List Enforcement Actions Rescinded: None

Is this account up to date and current? Yes

V. LOCAL AGENCY REPRESENTATIVE DATA

Name: Kevin Heaton	Title: Senior Hydrogeologist Land and Water Quality Division
Signature: Kevin Heaton	Date: 11/19/2001

VI. RWQCB NOTIFICATION

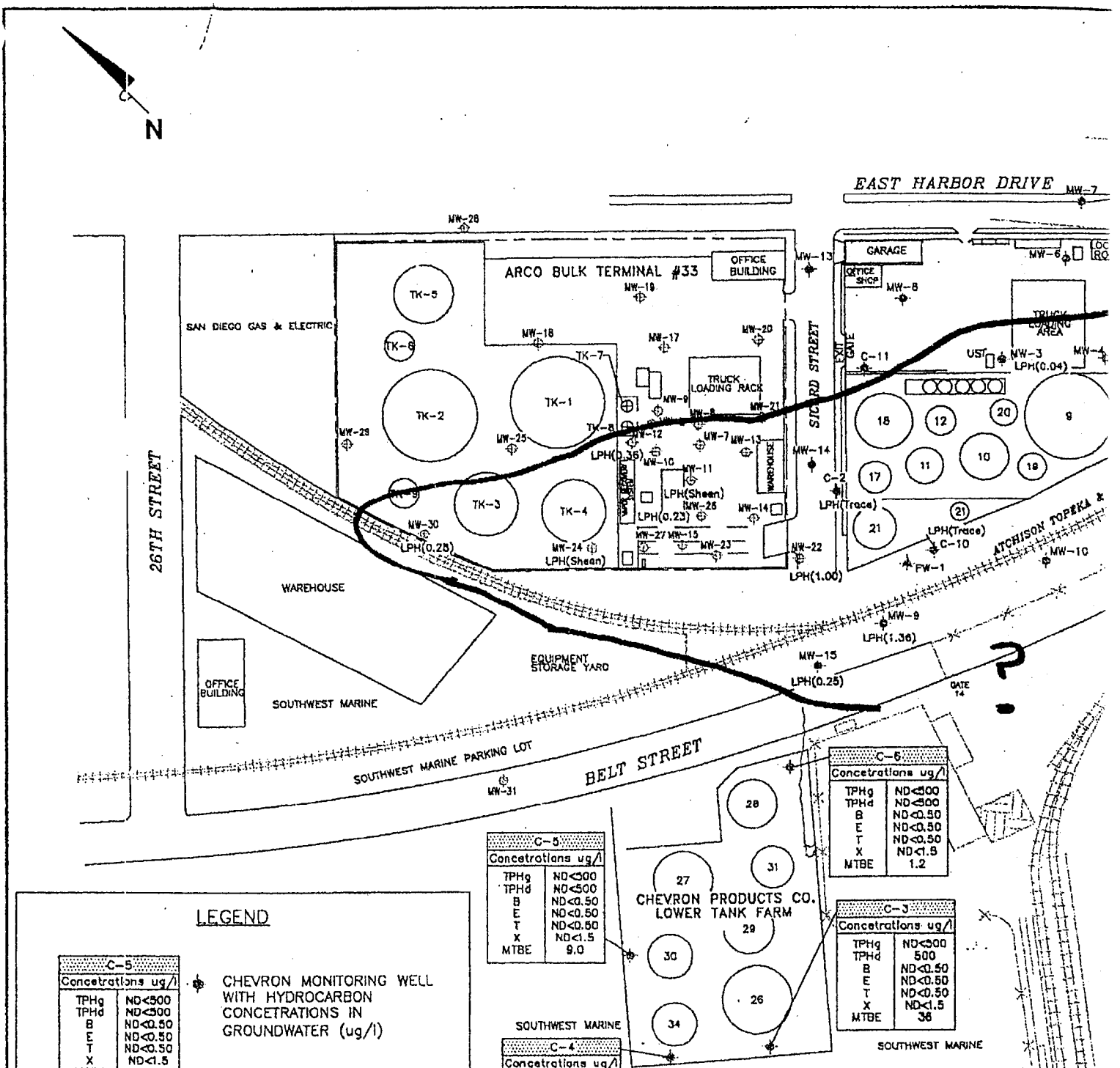
Date Submitted to RWQCB: N/A – Site lies in a non-beneficial groundwater use area	RWQCB Response: N/A	
RWQCB Staff Name: N/A	Title: N/A	Date: N/A

VII. ADDITIONAL COMMENTS, DATA, ETC.

The existing groundwater monitoring wells are to remain in place to aid in assessment of impacts to groundwater from the up-gradient tank farms.

This document and the related CASE CLOSURE LETTER shall be retained by the lead agency as part of the official site file.

DEH:HM-9159 (Rev. 6/99)



C-6	
Concetrations ug/l	
TPHg	ND<500
TPHd	ND<500
B	ND<0.50
E	ND<0.50
T	ND<0.50
X	ND<1.5
MTBE	1.2

C-5	
Concetrations ug/l	
TPHg	ND<500
TPHd	ND<500
B	ND<0.50
E	ND<0.50
T	ND<0.50
X	ND<1.5
MTBE	9.0

C-3	
Concetrations ug/l	
TPHg	ND<500
TPHd	500
B	ND<0.50
E	ND<0.50
T	ND<0.50
X	ND<1.5
MTBE	36

C-4	
Concetrations ug/l	
TPHg	ND<500
TPHd	ND<500
B	ND<0.50
E	ND<0.50
T	ND<0.50
X	ND<1.5
MTBE	370

LEGEND

C-5	
Concetrations ug/l	
TPHg	ND<500
TPHd	ND<500
B	ND<0.50
E	ND<0.50
T	ND<0.50
X	ND<1.5
MTBE	9.0

CHEVRON MONITORING WELL WITH HYDROCARBON CONCETRATIONS IN GROUNDWATER (ug/l)

MW-15 LPH(0.25) — CHEVRON MONITORING WELL WITH LIQUID PHASE HYDROCARBON CONCETRATIONS (LPH)

MW-30 LPH(0.28) — ARCO MONITORING WELL WITH LIQUID PHASE HYDROCARBON CONCETRATIONS (LPH)

NOTES:

TPHg = total petroleum hydrocarons as gasoline. TPHd = total petroleum hydrocarons as diesel. B = benzene. T = toluene. E = ethylbenzene. X = xylenes. MTBE = methyl tertiary butyl ether. ug/l = micrograms per liter. LPH = liquid phase hydrocarbons. All locations & dimensions are approximate. Other interpretations of data are possible.

SOURCE:

Modified from a map provided by IT Corporation, 1/9/01. Arco data provided by Secor Int.

TRC

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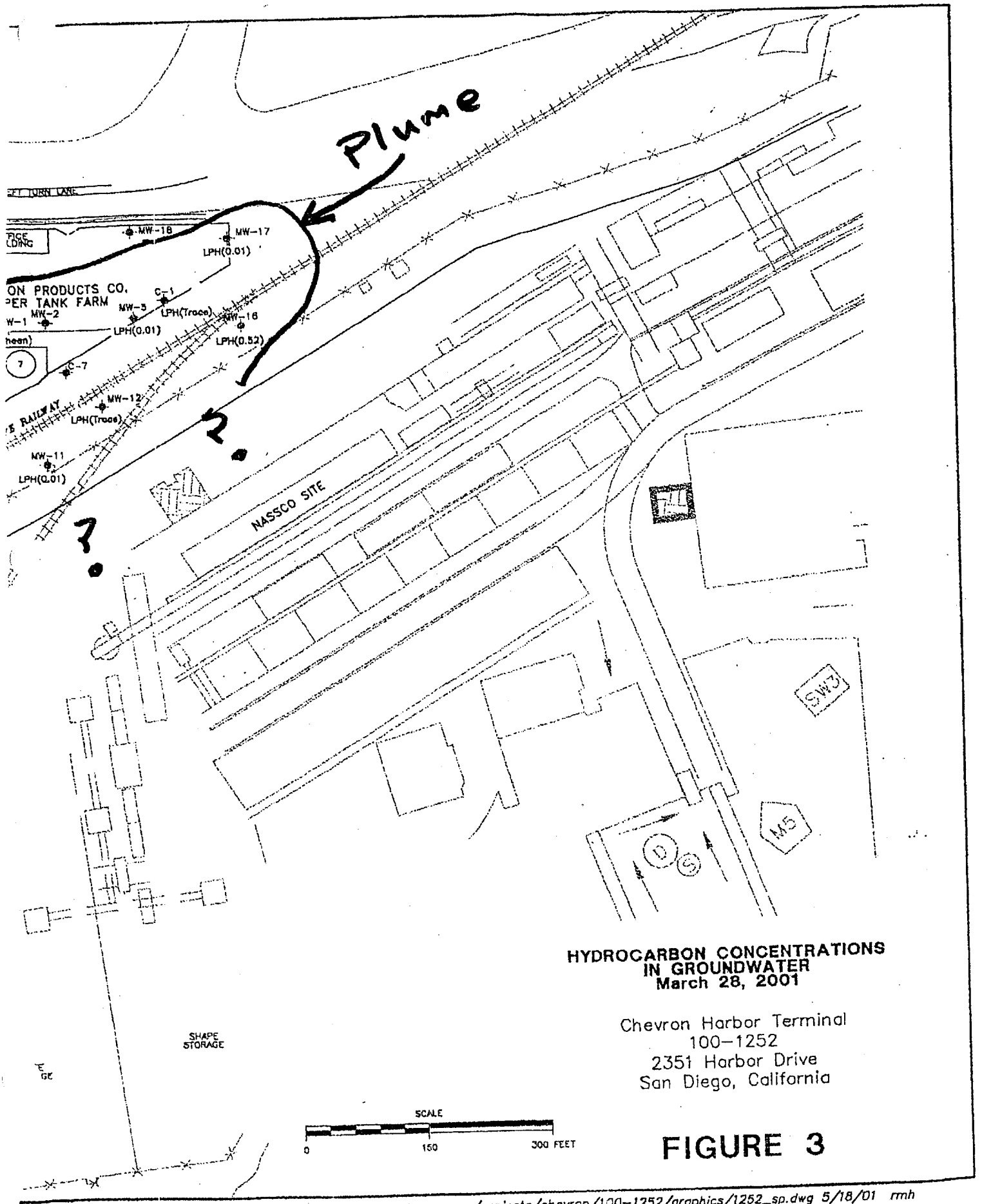
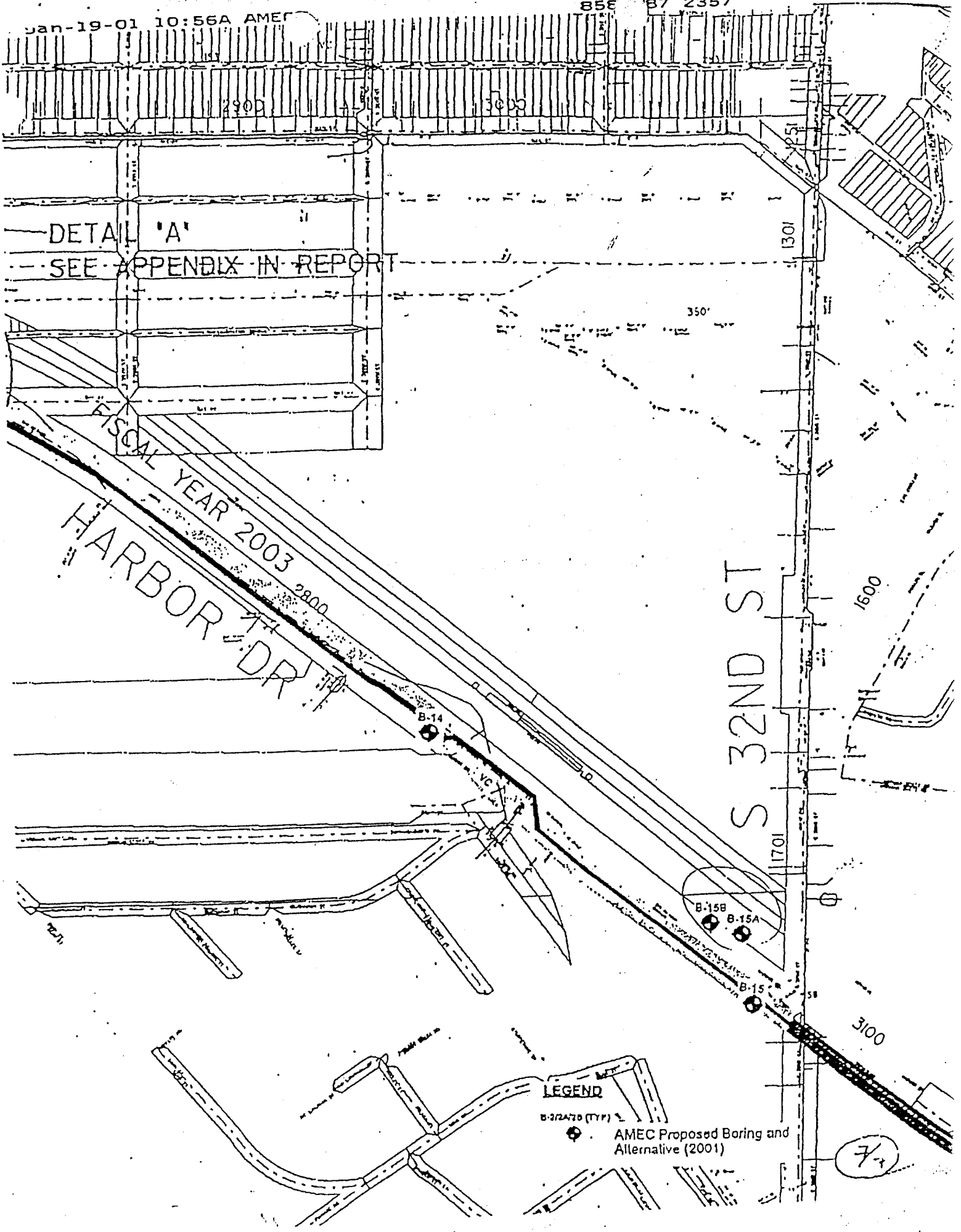


HYDROCARBON CONCENTRATIONS IN GROUNDWATER
March 28, 2001

Chevron Harbor Terminal
100-1252
2351 Harbor Drive
San Diego, California

FIGURE 3

g:/projects/chevron/100-1252/graphics/1252_sp.dwg 5/18/01 rmh


DETAIL 'A'
SEE APPENDIX IN REPORT
FISCAL YEAR 2003
HARBOR DR
S 32ND ST
2900
3000
2800
1301
1600
1701
3100
350'
B-14
B-15B
B-15A
B-15
LEGEND
B-2/2A/2B (TYP)
AMEC Proposed Boring and Alternative (2001)

CASEY GWINN, City Attorney
ANITA M. NOONE, Assistant City Attorney
TED BROMFIELD, Senior Deputy City Attorney
California State Bar No. 050197

Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, CA. 92101
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

ATTORNEYS FOR CITY OF SAN DIEGO

REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF: THE CITY OF SAN DIEGO AMEC EARTH & ENVIRONMENTAL TRI-COUNTY DRILLING, INC. NONCONFORMANCE WITH CALIFORNIA WATER CODE SECTION 3267	Complaint No. R9-2002-331 DECLARATION OF SENIOR CIVIL ENGINEER JEFF SHOAF

I, JEFF SHOAF, declare as follows:

1. I am a Senior Civil Engineer in the Engineering & Capital Projects Department, Wastewater and Capital Projects Division.

2. During 2000 and 2001, I supervised Sadegh Jahadi, who was the Project Manager for Water Group 525 B, C, D, a project to install three groups of sixteen-inch diameter lines for approximately 2.5 miles along Harbor Drive, Crosby Road, Bay Front Street, and Belt Street.

3. As part of that Project, City employees Jeff Collingwood and Halla Razak hired AMEC to do fifteen test borings along the alignment for examination and testing. AMEC was hired from an "as-needed" contract for specialized geotechnical services that specifically provided they were independent contractors.

4. On January 19, 2001, AMEC sent proposed boring locations to Mr. Ali Heidari, who works in my department. The proposed boring locations were not directed by me or anyone on City staff and did not list any subcontractor as performing the actual work.

5. I have reviewed the AMEC contract and proposal for work thereunder. Neither I nor anyone at my direction selected, requested, or controlled in any manner any AMEC employees or subconsultants in the performance of the requested tasks.

6. Neither I nor any other City employee was present at the Belt Street location on February 1, 2001, when the Chevron pipeline was ruptured.

7. Each of the above is true of my own knowledge and I am competent to testify to same.

I declare under penalty of perjury under the laws of the State of California that the foregoing Statement by me is true and correct.

DATED: November 13, 2002.

Jeff Shoaf

JEFF SHOAF
Senior Civil Engineer, City of San Diego

CASEY GWINN, City Attorney
ANITA M. NOONE, Assistant City Attorney
TED BROMFIELD, Senior Deputy City Attorney
California State Bar No. 050197

Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, CA. 92101
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

ATTORNEYS FOR CITY OF SAN DIEGO

REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

IN THE MATTER OF: THE CITY OF SAN DIEGO AMEC EARTH & ENVIRONMENTAL TRI-COUNTY DRILLING, INC. NONCONFORMANCE WITH CALIFORNIA WATER CODE SECTION 3267	Complaint No. R9-2002-331 DECLARATION OF CITY OF SAN DIEGO UNDERGROUND STORAGE TANK PROGRAM MANAGER THEODORE OLSON

I, Theodore Olson, declare as follows:

1. I am the Underground Storage Tank Program Manager for the City of San Diego Environmental Services Department.

2. In or about November 2001, I became involved in the City's efforts to respond to the Regional Water Quality Control Board's [RWQCB] directive to prepare a workplan and site conceptual model [workplan] to delineate the extent of gasoline contamination and potential migration pathways in connection with a release on February 1, 2001, in the vicinity of a Chevron tank farm in the Belt Street area of the City on property leased by NASSCO from the Port District.

3. Since that time, I have been in frequent contact with Mr. Barry Pulver, Regional Board Associate Engineering Geologist, regarding the City's efforts and delays encountered in preparing the workplan for submittal to the Regional Water Quality Control Board [RWQCB].

4. In particular, on May 3, 2002, I telephoned Mr. Pulver to check on the deadline for submitting the workplan. Mr. Pulver expressly told me that as long as the City was making progress in complying with the April 9, 2002 Order, the RWQCB would not pursue civil penalties in this matter.

5. On May 6, 2002, I confirmed that telephone conversation in an e-mail sent to Mr. Pulver at the e-mail address listed on his business card. A true and correct copy of that e-mail is attached hereto as Exhibit 1. In that e-mail, I expressly confirmed Mr. Pulver's statement to me that as long as the City was making progress in complying with the April 9, 2002 Order, the RWQCB would not pursue civil penalties. I also reconfirmed the City's intent to provide the workplan.

6. Mr. Pulver did not respond to that e-mail, and did not ever communicate to me in any way that my understanding as reflected in that e-mail was incorrect.

7. Moreover, I had no reason to disbelieve Mr. Pulver's statements to me, nor to question his authority to make such a statement on behalf of the RWQCB. So, I took him at his word that as long as progress was being made on the workplan, the RWQCB would not pursue an enforcement action against the City.

8. Neither Mr. Pulver nor any other RWQCB staff member I dealt with informed me of any date after which civil penalties would be imposed if the workplan had not by then been submitted.

9. In fact, prior to the issuance of the Complaint in this matter, Mr. Pulver did not express to me any frustration or dissatisfaction with the pace of progress on the workplan.

10. Moreover, in a September 12, 2002, e-mail from Mr. Ron Kofron of Geocon, Mr. Pulver was informed that the City was having difficulty obtaining access to two parcels of private property, which had caused a delay of several weeks in preparing the workplan. Mr. Pulver failed to offer any assistance in obtaining that access. A true and correct copy of that e-mail is attached hereto as Exhibit 2.

/////

/////

11. A true and correct chronology of my communications with RWQCB staff on the matter, as well as my other efforts and those of the City's consultant, to ensure timely preparation of the workplan, is attached hereto as Exhibit 3.

12. Each of the above is true of my own knowledge and I am competent to testify to same.

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

DATED: November 19, 2002

Theodore Olson
Underground Storage Tank Program Manager
City of San Diego Environmental Services Dept.

From: Ted Olson
To: LANLAB:pulvb@rb9.swrcb.ca.gov
Date: 5/6/02 11:24AM
Subject: Chevron - Belt St. Pipeline Rupture

Barry,

I am writing you to confirm what we discussed in our phone conversation last Friday.We discussed the RWQCB's request for a Workplan and Site Conceptual Model to delineate the extent of gasoline contamination and potential migration pathways.

On Friday I met with Ron Kofron, Senior Project Manager with Geocon, to discuss the Belt St. Pipeline Rupture. I asked Ron to prepare a proposal to do the Workplan and Site Conceptual Model as requested.

I asked if the Board was going to consider the due date for these two reports to be 30 days from April 9, 2002, the date of the Summary of Public Hearing.

You responded that the Board still considers the due date to be January 25, 2002 as originally set in the Directive for Groundwater Investigation Report Pursuant to California Water Code Section 13267, Belt Street Pipeline Rupture, San Diego, California, dated November 13, 2001. However, you also stated that as long as the Board sees positive progress being made to comply with the directive it will not pursue civil penalties.

We intend to comply wwith the directive and will keep you informed as to our progress. If you have any concerns or questions please let me know. Please acknowledge that my undestanding of the due date agrees with the Board's intention.Thanks.

Ted Olson
City of San Diego
Environmental Protection Division
858.573.1266
tolson@sandiego.gov

CC: Grace Lowenberg; LANLAB:chanj@[rb9.swrcb.ca.gov]

STATE OF CALIFORNIA

Barry S. Pulver, R.G., C.E.G., C.H.G.
Associate Engineering Geologist

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340
Internet Website: www.swrcb.ca.gov/rwqcb9

(858) 467-2733 CALNET 734-2733
pulvb@rb9.swrcb.ca.gov FAX (858) 571-6972

Ted Olson - Belt Street Pipeline

From: "Ron Kofron" <kofron@geoconinc.com>
To: "Barry Pulver" <pulvb@rb9.swrcb.ca.gov>
Date: 9/12/2002 6:33 AM
Subject: Belt Street Pipeline
CC: "Ted Olson" <TWO@sdcity.sannet.gov>

Hi Barry, I wanted to give you an update on our progress on the Belt Street Pipeline project.

We have acquired utility maps from various sources and have been compiling that information. I did a field recon with Ted to check utility maps, but that activity is not complete because our firm is not cleared to enter unescorted. To gain full access to the premises, NASCO requires a 3rd party access agreement which has been in the works for over 6 weeks and still is not 100% final!

Finding the discharge points of all the storm drains will also require access to the neighboring Southwest Marine property which I will arrange through NASSCO.

I have received some materials from Chevron relating to the ongoing groundwater monitoring and the initial response, but no reply at all to my request for any historical information.

I will be on vacation from the 16th to the 27th, returning on the 30th, so there will be a hiatus during that time. I will pick things up when I return and am expecting a mid-October delivery of the work plan and preliminary SCM.

If you have any questions or concerns, I'll be here until tomorrow afternoon.

Ron Kofron, CEG
Geocon Consultants Inc.

858.558.6100 phone
858.558.8437 fax

ACL R9-2002-331

CHRONOLOGY OF COMMUNICATIONS BETWEEN CITY ENVIRONMENTAL SERVICES DEPARTMENT AND REGIONAL BOARD REGARDING BELT STREET FROM APRIL 1, 2002 THROUGH NOVEMBER 5,2002

1. April 1, 2002 -- Telephone conversation between Ted Olson and Barry Pulver regarding leaks from Chevron aboveground storage tanks on adjoining property.

2. April 8, 2002 – Meeting between Ted Olson and Barry Pulver at RWQCB offices regarding the status of the Chevron Tank Farms, emergency response conducted immediately after release at issue, information about pipelines, Board's desire to hold someone environmentally responsible.

3. April 12, 2002 – Telephone conversation between Ted Olson and Barry Pulver. Mr. Pulver advises Mr. Olson that Chevron's environmental consultant is looking into obtaining NASSCO's permission to install three monitoring wells.

4. April 19, 2002 – Ted Olson and Barry Pulver discuss need for site conceptual model and workplan (collectively "workplan") to address horizontal and vertical assessment.

5. May 3, 2002 – Telephone conversation between Ted Olson and Barry Pulver initiated by Mr. Olson specifically to check on deadline for workplan submittal. Mr. Pulver states that as long as the City is making progress in complying with the April 9, 2002 Order, the Regional Board would not pursue civil penalties.

6. May 6, 2002 – E-mail from Ted Olson to Barry Pulver confirming their May 3, 2002 telephone conversation and expressly confirming Mr. Pulver's statement that as long as the City is showing progress in complying with the April9, 2002 Order, the Regional Board would not pursue civil penalties in this matter. (See Exhibit 1 to this Declaration)

7. May 23, 2002 – Ted Olson and Ron Kofron and Bob Breglio of Geocon Consultants, Inc. ("Geocon"), the City's consultant in this matter, visit NAASCO to view site of rupture and discuss proposal for workplan.

8. June 10, 2002 – Barry Pulver is copied on an e-mail from Ted Olson to Ron Kofron at Geocon regarding Geocon's possible conflict of interest in preparation of the workplan.

9. June 13, 2002 – Barry Pulver is copied on an e-mail from Ted Olson to City Attorney and Geocon regarding Geocon's possible conflict of interest in preparation of the workplan.

10. June 13, 2002 – Ted Olson receives the first proposal from Geocon for preparation of the site conceptual model and workplan.

11. June 21, 2002 – E-mail from Barry Pulver to Ted Olson acknowledging receipt of

Geocon proposal and thanking Mr. Olson for providing it.

12. July 25, 2002 – Letter to NAASCO from Geocon seeking third party access agreement for purposes of conducting an environmental site assessment.

13. July 26, 2002 – Letter to Chevron from Geocon requesting information about pipeline and rupture repair.

14. August 12, 2002 – Letter from Geocon to Ted Olson enclosing a site assessment proposal and cost estimate.

15. August 22, 2002 – Geocon transmits third party access agreement to NAASCO.

16. August 27, 2002 – Barry Pulver is copied on a letter from Ted Olson to Geocon transmitting an executed copy of the agreement with Geocon for preparation of the workplan.

17. September 12, 2002 – E-mail to Barry Pulver from Ron Kofron of Geocon advising Mr. Pulver that the City was having difficulty obtaining NAASCO's agreement to allow access for purposes of conducting the site assessment, which had caused a delay of over six weeks in preparing the workplan, and that Chevron had failed to reply to Geocon's request for historical information, which was also contributing to the delay.

18. November 5, 2002 – Telephone call from Barry Pulver to Ted Olson acknowledging receipt of workplan.

Ted Olson - Re: Belt Street

From: Ted Olson
To: Kofron@geoconinc.com
Date: 6/10/2002 10:37 AM
Subject: Re: Belt Street
CC: Chris Gonaver; Grace C. Lowenberg; LANLAB:pulvb@rb9.swrcb.ca.gov

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Ron,

Yes, I asked Grace Lowenburg, Deputy City Attorney, if there would be a problem or potential conflict of interest if former AMEC employee Yong Wang now works for Geocon. I explained to Ms. Lowenburg that Mr. Wang works in Geocon's geotechnical division and has no involvement at all in the work that Geocon's environmental division will be doing for the City on the Belt St. Chevron gasoline pipeline rupture.

Ms. Lowenburg informed me last Friday that as long as Mr. Wang has no involvement whatsoever in this project there will not be a problem.

You had asked me about the potential conflict of interest when you discovered that before you hired Mr. Wang about six months ago, he had worked for AMEC and on the geotechnical investigation during which the Chevron gasoline pipe was ruptured. You were concerned because you did not want there to be a cloud over the workplan and conceptual site model I have requested Geocon to perform.

Please proceed with the project. When will you be able to get the draft proposals to me? Talk to you soon.

Ted Olson

>>> "Ron Kofron" <kofron@geoconinc.com> 06/10/02 08:44AM >>>

Ted, any ruling yet?

Ted Olson - Re: Belt Street

From: Ted Olson
To: Grace Lowenberg; kofron@geoconinc.com
Date: 6/13/2002 11:02 AM
Subject: Re: Belt Street
CC: Chris Gonaver; LANLAB:chanj@[rb9.swrcb.ca.gov]; LANLAB:pulvb@rb9.swrcb.ca.gov

Hello Grace,

Yes, Ron Kofron and I have discussed this aspect of the issue and Mr. Wang has no relationship with AMEC, financial or otherwise. As I mentioned previously he works in the geotechnical group with Geocon and we deal exclusively with Ron and the environmental group.

I feel secure in the fact that Ron and Geocon will perform the work well and avoid any actions that may be construed as a conflict of interest.

I know Ron is working on the proposals as we speak. He had held off for a few days until we got the potential conflict of interest issue resolved.Thanks.

Ted

>>> Grace Lowenberg 06/10/02 10:44AM >>>
Hi Ted:

An important aspect of our analysis was that Mr. Wang no longer worked for AMEC , nor retained any financial interest in AMEC. I'm assuming you double-checked his status in that regard?

Grace

>>> "Ted Olson" < TOlson@sandiego.gov > 06/10/02 10:37AM >>>
Ron,

Yes, I asked Grace Lowenburg, Deputy City Attorney, if there would be a problem or potential conflict of interest if former AMEC employee Yong Wang now works for Geocon. I explained to Ms. Lowenburg that Mr. Wang works in Geocon's geotechnical division and has no involvement at all in the work that Geocon's environmental division will be doing for the City on the Belt St. Chevron gasoline pipeline rupture.

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Ted Olson

>>> "Ron Kofron" < kofron@geoconinc.com > 06/10/02 08:44AM >>>

Ted, any ruling yet?

Ted Olson - Chevron Pipeline Rupture

From: "Barry Pulver" <pulvb@rb9.swrcb.ca.gov>
To: <TOlson@sandiego.gov>
Date: 6/21/2002 2:34 PM
Subject: Chevron Pipeline Rupture

Ted,

Thanks for sending me the fax of the proposal (Project No. 09225-06-01) you received from Geocon (dated June 13, 2001) to prepare the preliminary site conceptual model and site assessment workplan for the Chevron Pipeline Rupture. The scope of work presented in the proposal is consistent with the investigative order issued on November 13, 2001.

Thanks, Barry

GEOCON
CONSULTANTS, INC.
ENVIRONMENTAL ■ GEOTECHNICAL ■ MATERIALS

Project No. 09225-06-01
July 25, 2002

Ms. Maggie Smith
Risk Manager (M/S 20-E)
NASSCO
Post Office Box 85278
San Diego, California 92186-5278

Subject: BELT STREET PIPELINE
SAN DIEGO, CALIFORNIA
THIRD PARTY ACCESS AGREEMENT
ENVIRONMENTAL SITE ASSESSMENT
CHEVRON PIPELINE RUPTURE

Dear Ms. Smith:

Geocon Consultants Inc. is seeking access to the NASSCO premises for the purpose of conducting environmental site assessment activities near Gate 14. The California Regional Water Quality Control Board (CRWQCB) has ordered (copy enclosed) the City of San Diego to perform the soil and groundwater investigation following the rupture of the Chevron Pipeline in 2001. Geocon has been retained by the City of San Diego to perform this investigation and was referred to you by Mr. Mike Chee of NASSCO.

Our investigation will be performed in several phases, and will likely span several years. The activities on the NASSCO premises will be focused on Belt Street, between Gates 12 and 14, and westward to Berths X to XII. Our first task is to identify and locate all utilities in the vicinity of the incident and identify possible connections and pathways to San Diego Bay. A work plan describing the subsurface investigation to be performed will be prepared and submitted to the CRWQCB.

Upon approval of the workplan, Geocon and its subcontractors will conduct the subsurface investigation consisting of drilling soil borings, collecting soil samples, installing monitoring wells and collecting groundwater samples. Drilling waste will be stored temporarily onsite until arrangements are made to transport it offsite under manifest. Quarterly monitoring and sampling of the wells may be necessary.

We are submitting the Third Party Access Agreement. Our counsel has reviewed the terms and has red-lined portions in the agreement as are apparent of the agreement. Geocon has no affiliation with the United States Navy or any ship repair activities at NASSCO. The requested insurance certificate will be forwarded to you under separate cover.

6970 Flanders Drive ■ San Diego, California 92121-2974 ■ Telephone (858) 558-6100 ■ Fax (858) 558-8437

Please call us if you have any questions.

Sincerely,

GEOCON CONSULTANTS, INC.

Ronald J. Kofron, CEG
Senior Project Manager

RJK:sc

(1) Addressee
(1) NASSCO Security (letter only)
Attention: Ms. Gina Ng
(1) NASSCO - Environmental (letter only)
Attention: Mr. Mike Chee
(1) City of San Diego (letter only)
Attention: Mr. Ted Olson

Enclosures: Certified Letter from California Regional Water Quality Control Board dated November 13, 2001
Third Party Access Request Form
Subcontractor Third Party
Environmental Sign Off

GEOCON
CONSULTANTS, INC.
ENVIRONMENTAL ■ GEOTECHNICAL ■ MATERIALS

Project No. 09225-06-01
July 26, 2002

OVERNIGHT DELIVERY

Mr. Mark Sigler
Chevron Products Company
145 South State College Boulevard, Suite 400
Brea, California 92822-2292

Subject: BELT STREET PIPELINE RUPTURE
NASSCO SHIPYARD
SAN DIEGO, CALIFORNIA
REQUEST FOR DOCUMENTATION

Dear Mr. Sigler:

Geocon Consultants Inc. (Geocon) has been retained by the City of San Diego to perform the soil and groundwater assessment of the Belt Street Pipeline rupture as directed by the California Regional Water Quality Control Board (CRWQCB).

As part of the development of the Site Conceptual Model (SCM) and workplan, the CRWQCB has requested factual information concerning the abatement measures and corrective actions implemented to date and also a detailed history if the pipeline.

It is our understanding that Chevron conducted all of the emergency response measures immediately following the incident and initial remediation measures in the weeks thereafter.

We are requesting your assistance in preparing the SCM and Workplan by providing us with the available documentation of the corrective measures implemented by Chevron to address the specific items requested in the CRWQCB's Order.

The CRWQCB has also requested a detailed history of the pipeline, including the date of installation, repair history, construction details, a listing of all fuels, chemicals and other products that may have historically transported through the ruptured pipeline. We believe that most, if not all, of this information will be available only through Chevron.

Please call me to discuss the availability of the information we have requested.

Sincerely

GEOCON CONSULTANTS, INC.

Ronald J. Kofron, CEG
Senior Project Manager

RJK:sc

(1) Addressee
(1) Mr. Ted Olson, City of San Diego

6970 Flanders Drive ■ San Diego, California 92121-2974 ■ Telephone (858) 558-6100 ■ Fax (858) 558-8437

GEOCON
CONSULTANTS, INC.
ENVIRONMENTAL ■ GEOTECHNICAL ■ MATERIALS

Project No. 09225-06-01
June 13, 2002
Revised August 12, 2002

Mr. Ted Olson
The City of San Diego
Environmental Services Department
9601 Ridgehaven Court M.S. 1103-A
San Diego, California 92123-1636

Subject: BELT STREET PIPELINE
SAN DIEGO, CALIFORNIA
COST ESTIMATE FOR THE DEVELOPMENT OF PRELIMINARY SITE CONCEPTUAL MODEL, AND WORK PLAN FOR SITE ASSESSMENT ACTIVITIES

Dear Mr. Olson:

At your request, Geocon has prepared this proposal and cost estimate for the development of preliminary site conceptual model (SCM), and work plan for site assessment activities to be performed at Belt Street on the National Steel and Shipbuilding (NASSCO) facility on San Diego Bay.

BACKGROUND

It is our understanding that on February 1, 2001, an underground fuel pipeline was ruptured during a geotechnical investigation being conducted along Belt Street in San Diego, California. The pipeline was ruptured during the drilling of a soil boring by Tri-County Drilling, Inc., as directed by AMEC, a geotechnical consultant contracted by the City of San Diego. The pipeline is a Chevron Products Co. (Chevron)-owned, eight-inch diameter, steel, underground fuel pipeline containing unleaded gasoline. The pipeline is used to transport fuel between the upper and lower Chevron Products Co. Bulk Fuel Terminals. The rupture of the pipeline caused a release of approximately 2,730 gallons of unleaded gasoline to the ground and groundwater.

The site is located in the City of San Diego near the southern terminus of Sicard Street. The site is located within the NASSCO facility which is leased from the Port of San Diego. The underground product pipeline is located within a portion of Belt Street that is now located within the NASSCO facility.

Soil samples were collected February 2001 as part of the emergency response activities conducted by Chevron. and analyzed for total petroleum hydrocarbons as gasoline (TPHg) and as diesel (TPHd), benzene, toluene, ethylbenzene, xylenes, methyl tertiary butyl ether (MTBE), di-isopropyl ether (DIPE), ethyl tertiary butyl ether (ETBE), tertiary amyl methyl ether (TAME), and tertiary butyl alcohol (TBA). Samples were collected from depths ranging between 5 to 11 feet below grade. Following the emergency response activities, Chevron installed a dual-purpose groundwater monitoring/vapor extraction well (NAS-1) on the NASSCO Property and used a mobile, high-vacuum dual-phase extraction unit to remove liquid and vapor phase hydrocarbons from the well. Chevron reportedly recovered approximately 1,500 gallons of hydrocarbons from this well and reduced free product thickness down to approximately 1.5 inches. At the time of our visit to the site on May 23, 2002, no measurable free product was detected in the well.

Previous site assessments have been conducted at the upper and lower Chevron Terminals. The lower Chevron Terminal received no further action status from the RWQCB in 2001.

REGIONAL SETTING

The site is located in the Chollas Hydrologic Subarea (908.22) of the San Diego Mesa Hydrologic Area (908.20) of the Pueblo San Diego Hydrologic Unit (908.00). The Basin Plan indicates that beneficial uses of groundwater in this Hydrologic Area do not apply westerly of the easterly boundary of the right-of-way of Interstate 5 and that this area is exempted from the sources of drinking water policy. The site is located in this area, therefore, groundwater at the site is exempted from the sources of drinking water policy.

Groundwater at the site is at a depth of approximately 10 to 12 feet below grade and likely flows toward San Diego Bay, reported by the RWQCB to be approximately 600 feet to the southwest. In addition, underground structures, such as pipelines, and storm drains, may be potential pathways for groundwater at the site to flow into San Diego Bay.

The California Regional Water Quality Control Board (RWQCB) has established the following cleanup goals for groundwater within 1,000 feet of San Diego Bay:

Benzene	400	micrograms per liter (µg/l)
Toluene	5,000	µg/l
Ethylbenzene	430	µg/l
Xylenes	10,000	µg/l
Napthalene	2,350	µg/l
PNAs	300	µg/l

On November 13, 2001, the RWQCB issued a Directive for Groundwater Investigation Report pursuant to Water Code 132767 and has requested a preliminary SCM and a workplan to conduct a soil and groundwater investigation. This Directive was affirmed by Order No. R9-2002-0083 dated April 9, 2002.

SCOPE OF SERVICES

Task I- Preliminary Site Conceptual Model

A preliminary SCM that describes the release scenario, the geologic and hydrogeologic nature of the site, the distribution of contaminants in soil, groundwater, and soil vapor, and identifies pathways and potential receptors. The importance of the SCM is that it establishes the basis for determining the risks to potential receptors and the framework for the investigation and remedial effort to be conducted at the site. The preliminary SCM will include:

- A description of the release, and identification of the primary source;
- Abatement measures and interim corrective actions taken to date;
- Description of the site geology and hydrogeology;
- A conduit study to identify all underground utilities, construction, and natural features that may act as preferential pathways for the migration of contaminants;
- Identification of all potential receptors;
- Evaluation of all complete and incomplete pathways;
- Current and reasonably foreseeable future risk to public health; and
- Current and reasonably foreseeable future risk to ecological receptors, creeks, and surface water.

Task II - Workplan for Site Assessment Activities

A workplan for a soil and groundwater investigation will be prepared describing the proposed activities to be performed to develop the SCM. In addition to a description of the proposed investigation such as the location of borings, monitoring wells and sampling methodology, the following specific items requested by the RWQCB will be included.

- A map showing the location of all underground utilities in the vicinity of the site.
- Cross-sections showing the dimension, invert elevation, and construction details of the underground utilities described above.
- A map showing the location of all storm drains in the vicinity of the site that discharge into San Diego Bay. The map must show the location where the storm drains discharge into San Diego Bay.
- Cross-sections showing the dimensions, invert elevations, and construction details of the storm drains described above.
- A detailed history of the pipeline. This history should include the date that the pipeline was installed, repair history of the pipeline, construction details of the pipeline, and a listing of all

fuels, chemical, and other products that may have historically been transported through the ruptured pipeline.

PROPOSED FEE

Geocon proposes to perform the scope of services outlined above on a "time and materials" basis for an estimated fee of $8,820.00. The breakdown of this fee is as follows:

Task I	Development of Preliminary Site Conceptual Model	$ 6,620.00
Task II	Prepare Work Plan for Soil and Groundwater Investigation	$ 2,900.00

Upon receipt of approval of the SCM and workplan from the RWQCB, a cost estimate for the site investigation activities will be prepared and submitted to you. The fee is valid for a period of 60 days from the date of this proposal.

If this proposal meets with your approval, please acknowledge by signing below and returning a copy to us. This proposal and scope of services to be provided will be in accordance with and subject to the terms of the existing contract for environmental services between Geocon and the City of San Diego.

Sincerely,

GEOCON CONSULTANTS, INC.

Ronald J. Kofron, CEG
Senior Geologist

RJK:sc

(2) Addressee

Signature of City of San Diego

August 26, 2002
Date

Theodore W. Olson
Printed Name

UST Program Manager
Title

THE CITY OF SAN DIEGO

TRANSMITTAL

Date: August 27, 2002

TO: Geocon Consultants, Inc.
6970 Flanders Drive
San Diego, CA 92121-2974

ATTENTION: Ron Kofron, CEG, Senior Geologist

RE: Belt Street Pipeline, San Diego, California
Cost Estimate for the Development of Preliminary Site Conceptual Model, and Work Plan for Site Assessment Activities

We are transmitting to you herewith:

__1__ copy/copies Client signed copies/Project No. 09225-06-0

____ copy/copies _____

____DESCRIPTION: _____

These are:

( ) For Approval.
( ) Revised for Approval.
( ) Disapproved. Please revise and re-submit.
( ) Approved as noted.
( ) For your Files and Use.
( ) Please return ____ copies with corrections.
(✓) COMMENTS: Please proceed with the Work Plan for Site Assessment and Preliminary Site Conceptual Model for the Belt Street Pipeline Rupture.

Enclosure

cc: Chris Gonaver, Deputy Director, Environmental Protection Division
Grace Lowenberg, Deputy City Attorney, City Attorney's Office
Grant Telfer, Deputy City Attorney, City Attorney's Office
Jeff Shoaf, Senior Civil Engineer, Engineering & Capital Projects
Barry Pulver, S.D. Regional Water Quality Control Board office

Theodore W. Olson, R.E.A.
Underground Storage Tank
Program Manager

Environmental Protection Division • Environmental Services Department
9601 Ridgehaven Court, Suite 310 • San Diego, CA 92123
Tel (858) 492-5051 Fax (858) 492-5041

CASEY GWINN, City Attorney
ANITA M. NOONE, Assistant City Attorney
TED BROMFIELD, Senior Deputy City Attorney
California State Bar No. 050197

Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, CA. 92101
Telephone: (619) 533-5800
Facsimile: (619) 533-5856

ATTORNEYS FOR CITY OF SAN DIEGO

REGIONAL WATER QUALITY CONTROL BOARD

SAN DIEGO REGION

IN THE MATTER OF: THE CITY OF SAN DIEGO AMEC EARTH & ENVIRONMENTAL TRIAL-COUNTY DRILLING, INC. NONCONFORMANCE WITH CALIFORNIA WATER CODE SECTION 3267	DECLARATION OF CHRIS GONAVER

I, Chris Gonaver, declare as follows:

1. I am a Deputy Director of the City of San Diego Environmental Services Department.

2. On or about April 4, 2002, I received a call from Mr. John Robertus, Regional Water Quality Control Board [RWQCB] Executive Officer San Diego Region, asking me if I was aware of the release on February 1, 2001, in the vicinity of a Chevron tank farm in the Belt Street area of the City. I informed Mr. Robertus that I was not aware of the details of this release, but that I would check. Mr. Robertus stated that he called me to see if I could assist in having a Site Conceptual Model and Workplan developed for the assessment of this site.

/////

3. . Since that time, I have been in contact with members of the Regional Water Quality Control Board [RWQCB], regarding the City's efforts and delays encountered in preparing the workplan. See Exhibits 1 and 2 attached hereto.

4. In addition to the above-described contacts, on October 25, 2002, after receiving a copy of the Complaint, I called and spoke with Mr. Robertus about the Complaint. He indicated that when he executed the Complaint, he believed staff had given the City advance notice that the Complaint would be issued shortly, when in fact that was not the case.

5. On November 5, 2002, the final workplan was hand-delivered to the RWQCB on behalf of the City alone. No other party to the Complaint participated in the preparation of the workplan.

6. On November 6, 2002, I again spoke with Mr. John Robertus to arrange a meeting with him to discuss the workplan. Mr. Robertus stated that he was currently reviewing the workplan, which he thought was very good and just what he was looking for. He stated that he had learned two new pieces of information from the workplan. First, he had not been aware of the significant clean-up conducted immediately after the release. Second, Mr. Robertus stated that he was not aware of the significant and long-standing contamination at the immediately adjoining property, allegedly associated with a release from Chevron's Upper Tank Farm.

7. Each of the above is true of my own knowledge and I am competent to testify to same.

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

DATED: November 19, 2002

Chris Gonaver, Deputy Director
City of San Diego Environmental Services Dept.

From: "Chris Gonaver" <CGonaver@sandiego.gov>
To: <robej@rb9.swrcb.ca.gov>
Date: 4/18/02 12:44PM
Subject: Belt Street

John,

As a follow-up to our phone conversation today, at the request of the Regional Water Quality Control Board, the City of San Diego will be moving forward to develop a site conceptual model and workplan to conduct a soil and groundwater assessment for the above release. We will attempt to partner with other involved parties to prepare these documents. However, if we are not successful, the City will proceed on its own to prepare these documents.

Please note, it is the City's position that it is not a discharger or otherwise responsible party in this matter. By preparing these documents, the City is not admitting any fact, fault or liability regarding this release. The City reserves all rights to contest the Board's findings, conclusions, directives and orders in this matter, and to pursue appropriate legal means to recover any and all costs from those responsible.

I will keep you and your staff informed regarding our progress.

Chris

CC: "Jeff Shoaf" <JShoaf@sandiego.gov>, "Rachel Young" <RHYoung@SanDiego.gov>, "Ted Bromfield" <TBromfield@SanDiego.gov>, "Ted Olson" <TOlson@sandiego.gov>, "Wendy Gamboa" <WGamboa@sandiego.gov>, <gcl@sdcity.sannet.gov>

From: "John Robertus" <robej@rb9.swrcb.ca.gov>
To: <CGonaver@sandiego.gov>
Date: 4/18/02 4:44PM
Subject: Re: Belt Street

Chris, thanks for the e-mail. I will wait for the City response. JHR

"The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at http://www.swrcb.ca.gov ."