

1 EDWARD H. STONE, ESQ. (SBN 047174)
EDWARD H. STONE, A LAW CORPORATION
2 18201 Von Karman Ave., Suite 1160
Irvine, California 92612
3 Telephone: (949) 833-7708
Facsimile: (949) 833-7583
4

5 Attorney for Petitioner, Ronald J. Patrick, Administrator
of the Estate of James W. Patrick
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8 **STATE OF CALIFORNIA**
9 **STATE WATER RESOURCES CONTROL BOARD**
10

11) Case No: SCP Case No. 0909; SCP ID NO.
In the matter of CLEANUP AND ABATEMENT) 204CA00
12 ORDER NO. R4-2010-0044 OF THE)
CALIFORNIA REGIONAL WATER QUALITY) **PETITION FOR REVIEW AND REQUEST**
13 BOARD - LOS ANGELES REGION: SCP Case) **FOR STAY; REQUEST FOR EVIDENTIARY**
No. 0909; SCP ID NO. 204CA00) **HEARING; DECLARATION OF EDWARD**
14) **H. STONE**
15)
16) (*Water Code §13320; 23 Cal. Code of Regs. §§*
) *2050, 2052, 2053*)

17 Petitioner, Ronald J. Patrick, Administrator of the Estate of James W. Patrick ("Petitioner"),
18 in his capacity as Administrator (hereinafter "Administrator"), hereby submits the Petition for Review
19 and respectfully requests that the State Water Resources Control Board ("SWRCB") review Cleanup
20 and Abatement Order No. R4-2010-0044, issued by the California Regional Water Quality Board, Los
21 Angeles Region ("Regional Board") on July 30, 2010, with respect to the liability of Ronald J. Patrick
22 as Administrator of the Estate of James W. Patrick as a discharger and. "primary responsible party"
23 ("PRP" and/or "PRPs") pursuant to *Water Code* § 13304.

24 Petitioner further requests a stay of Cleanup and Abatement Order No. Order R4-2010-0044
25 as to the Administrator pending this appeal. Petitioner further requests an evidentiary hearing before
26 the SWRCB to allow Petitioner an opportunity to offer testimony and additional evidence in support
27 of the Petition.
28

1 **I. PETITION FOR REVIEW**

2 **A. Names. And Address Of Petitioners**

3 Petitioner is Ronald J. Patrick as Administrator of the Estate of James W. Patrick.
4 Petitioner may be contacted through his counsel identified above: Edward H. Stone, Esq. of Edward
5 H. Stone, A Law Corporation, 18201 Von Karman Avenue, Suite 1160, Irvine, CA 92612-1005.

6 **B. The Regional Board's Action For Which Review By The State Water Board Is**
7 **Requested**

8 Petitioner requests review of Cleanup and Abatement Order No. R4-2010-0044
9 ("Order No. R4-0044") issued by the Regional Board to Jay Patrick, aka James Warren Patrick and/or
10 Ronald J. Patrick, Administrator of the Estate of James W. Patrick. A copy of Order No. R4-0044
11 is attached as Exhibit A. The Regional Board orders that all dischargers cleanup and abate waste
12 emanating from 14650 Firestone Boulevard, La Mirada, California ("Subject Property") pursuant to
13 *Water Code* § 13304.

14 **C. The Date Of The Regional Board's Action**

15 The Regional Board's action subject to review is dated July 30, 2010.

16 **D. Reasoning In Support Of The Regional Board's Improper Action**

17 The Regional Board is precluded from recovery reimbursement costs related to
18 environmental remediation because the statutory time to file a claim and/or Creditor's Claim against
19 Ronald J. Patrick as Administrator of the Estate of James W. Patrick has expired under California
20 Law. Additionally, there is a lack of substantial evidence to support a finding that Petitioner is
21 responsible party for the discharge of waste substances on the Subject Property in violation of Water
22 Code § 13304. It is alleged that Mr. James Patrick was the owner of Tect, Inc. Shareholders own
23 shares in a corporation. There is no proof that Mr. James W. Patrick was a shareholder and owned
24 one-hundred percent (100%) of Tect, Inc. shares or proof that James W. Patrick was the owner of
25 Tect, Inc. Neither is Mr. James W. Patrick personally liable for improper conduct of the corporation
26 without sufficient evidence to disregard Tect, Inc. as a distinct and separate legal entity from its
27 shareholders, such as, allegedly Mr. James Patrick. A lack of any evidence to support the application
28 of alter ego liability principles precludes Mr. James Patrick's personal liability for corporate acts.

1 Moreover, Ronald J. Patrick as Administrator of the Estate of James W. Patrick cannot
2 be held liable for the conduct of Tect, Inc. because liability does not extend to Mr. James Patrick's
3 probate estate, which has Zero assets and under California Law, prohibits liability because of the
4 failure to file any timely Creditor's Claim or any Creditor's Claim. The California Regional Water
5 Quality Board - Los Angeles Region (hereinafter from time to time "public entity") and/or any other
6 responsible party and responsible parties in this matter, failed to file a timely Creditor's Claim or any
7 Creditor's Claim, which is required under California Law. Order No. R4-0044 is an unavailing
8 attempt to expand the asset pool to identify responsible parties without adequately exploring well-
9 settled California Law, which stands to protect Mr. James Patrick personally and/or his Probate
10 Estate, as well as Ronald J. Patrick, Administrator of the Estate of James W. Patrick from liability
11 arising from Tect, Inc.'s wrongful conduct.

12 **E. Petitioner Is Aggrieved**

13 Petitioner is aggrieved because Order No. R4-0044 wrongfully identifies Petitioner
14 as a responsible party. Petitioner never owned the Subject Property. Nor did Petitioner cause the
15 disposal of waste substances as alleged. Additionally, Order No. R4-0044 imposes excessive and
16 unnecessary financial burden on Petitioner despite a lack of substantive evidence demonstrating
17 personal liability of Mr. James Patrick and/or his Probate Estate and/or Ronald J. Patrick as
18 Administrator of the Estate of James W. Patrick.

19 **F. Requested Action By State Board**

20 Petitioner, Ronald J. Patrick as Administrator of the Estate of James W. Patrick
21 respectfully request that the SWRCB review Order No. R4-0044, issued by the Regional Board on
22 July 30, 2010, with respect to the liability of James Patrick and/or Jay Patrick and/or James W.
23 Patrick, as well as Ronald J. Patrick, Administrator of the Estate of James W. Patrick as a discharger
24 and PRP pursuant to *Water Code* § 13320, *23 Cal. Code of Regs.* §§ 648 *et seq.* and 2050 *et seq.*, and
25 *Government Code* § 11400 *et seq.* Petitioner further respectfully requests that the SWRCB and the
26 Regional Board withdraw and remove Petitioner as PRP under Order No. R4-0044, or be rescinded
27 in its entirety. Petitioner also requests a stay of Order No. Order R4-0044 pending this appeal.

28 Petitioner further respectfully requests an evidentiary hearing before the SWRCB
pursuant to *23 Cal. Code of Regs.* § 2052 to allow Petitioner an opportunity to offer testimony and

1 additional evidence in support of the Petition, as discussed in Section G, *infra*.

2 **G. Statement of Points And Authorities In Support Of Review**

3 **1. Prefatory Statement**

4 The Regional Board erroneously identifies Mr. James Patrick, individually, and
5 Jay Patrick and/or James Warren Patrick as discharger and PRP because of Mr. James Patrick's
6 purported "relationship to either Tect, Inc. or Western Chemical, who are both primary responsible
7 parties." More specifically, the Regional Board names Mr. James Patrick as a PRP because of his
8 alleged ownership of Tect, Inc. Ronald J. Patrick as Administrator of the Estate of James W. Patrick
9 is named as a PRP. Furthermore, it is alleged that Order No. R4-0044 is an unsubstantiated attempt
10 to expand the asset pool to include parties without substantial evidence and/or failure to abide by
11 California Law.

12 **2. Relevant Factual Background**

13 It is alleged that Tect, Inc. operated a chemical and solvent reclaiming and
14 manufacturing operation on the Subject Property from approximately 1963 to 1970. The Regional
15 Board memoranda alleges that Tect, Inc. was founded and owned by Mr. James Patrick and that
16 neither Mr. James Patrick nor Tect, Inc. owned the Subject Property at any time. The discharge of
17 waste substances is alleged to have occurred in November 1973 after Tect, Inc. was no longer on the
18 subject property. Also, Tect, Inc. is owned by shareholders and not by an individual. The Regional
19 Board proffers no evidence to support its allegations that Mr. James Patrick was a shareholder or
20 owner of Tect, Inc.

21 On or about October 2, 2008, Soco West, Inc. ("Soco West") petitioned the
22 SWRCB for review of an order to Submit Technical Documents, to Complete Off-Site Subsurface
23 Investigation, to Complete Off-Site Indoor Air Surveys and to Cleanup and Abate On-Site Subsurface
24 Contamination ("Soco Order") issued on September 3, 2008¹. Soco West requested, among others,
25 that Tect, Inc. and Mr. James Patrick be identified as responsible parties on the grounds that Tect, Inc.

26
27
28 ¹I Soco West requested that the SWRCB hold its petition in abeyance pursuant to 23 Cal. Code of Regs. § 2050.5. Because the time period for formal disposition is tolled during the abeyance, Petitioners address Soco West's assertions herein.

1 caused contamination as a lessee of the Subject Property and as to an additional site in New Jersey.

2 On or about July 30, 2010, Petitioner submitted a response to the SWRCB and
3 the Regional Board providing that Ronald J. Patrick as Administrator of the Estate of James W.
4 Patrick did not cause any release or migration of contamination therefore should not be identified as
5 a responsible party. The SWRCB denied this Petition to the Board's "draft" order on November 3,
6 2009, without the limitation on Ronald J. Patrick as Administrator of the Estate of James W. Patrick's
7 ability to bring another petition. Petitioner argued, in part, that the California Probate Code bars this
8 action and that Tect, Inc. issues do not extend to Ronald J. Patrick, Administrator of the Estate of
9 James W. Patrick because there was no evidence to support that Mr. James Patrick personally caused
10 the contamination of the Subject Property. Additionally, Petitioner asserted that the New Jersey and
11 Alacer Corp.'s operations were not relevant to the remediation efforts.

12 The Regional Board agreed that the New Jersey operation afforded no
13 probative value as to whether Tect, Inc. or Mr. James Patrick was accountable for the discharge of
14 waste substances and declined to hold Alacer Corp. responsible as a PRP. Moreover, the Regional
15 Board failed to provide any evidence to support Mr. James Patrick's privity to Tect, Inc., as an officer,
16 owner, or otherwise. Instead, the Regional Board made no decision as to the balance of Petitioner's
17 assertions, instead, the Regional Board merely stated, "comment noted."

18 Nevertheless, The Regional Board issued Order No. R4-0044 identifying Tect,
19 Inc., Mr. James Patrick, and Ronald J. Patrick, Administrator of the Estate of James W. Patrick as
20 dischargers and PRPs under *Water Code* § 13304. Petitioner submits this Petition on the grounds that
21 Order No. R4-0044 is arbitrary and capricious because liability does not extend to Ronald J. Patrick,
22 Administrator of the Estate of James W. Patrick.

23 **3. The Regional Board's Failure To Timely File A Creditor's Claim Or Any**
24 **Creditor's Claim Against The James W. Patrick Estate Precludes Recovery Under Order No.**
25 **R4-0044**

26 The Regional Board's failure to assert a timely Creditor's Claim and/or any
27 Creditor's Claim against Ronald J. Patrick, Administrator of the Estate of James W. Patrick
28 precludes its recovery for environmental remediation costs through Order No. R4-0044. *Probate Code*
§ 9200 *et seq.* requires a public entity to file a creditor claim against a decedent's estate within the

1 creditor claim period specified in *Probate Code* § 9100 *et seq*, unless the entity is one of the public
2 entities listed in *Probate Code* §9201². The Regional Board is not exempted from the creditor claim
3 requirements set forth above.

4 The Regional Board failed to file a timely Creditor's Claim and/or any
5 Creditor's Claim against Ronald J. Patrick as Administrator of the Estate of James W. Patrick, thereby
6 barring it from pursuing the Estate and/or the Administrator or the Trustees of the James W. Patrick
7 Trust under *Dobler v. Arluk Medical Center Industrial Group, Inc.* (2001) 89 Cal.App.4th 530, 536-
8 539; *Probate Code* §19001(a); and *Code of Civil Procedure* §366.2.³ *Dobler, supra*, affirms the
9 reasoning in support of the short limitation period noted herein. "Although restrictive, these short
10 limitation periods protect a decedent's heirs, beneficiaries and devisees from unknown and unfiled
11 claims. They also enable the expeditious administration of probate estates." *Dobler, supra*, 89
12 Cal.App.4th at 536. The brief limitations period set forth in *Public Code* § 9100 for filing claims is

14 ² *Probate Code* §9200 states: "(a) Except as provided in this chapter, a claim by a public entity shall be filed within
15 the time otherwise provided in this part. A claim not so filed is barred, including any lien imposed for the claim. (b)
16 As used in this chapter, 'public entity' has the meaning provided in Section 811.2 of the Government Code, and
17 includes an officer authorized to act on behalf of the public entity."

18 *Probate Code* §9100 states: "(a) A creditor shall file a claim before the expiration of the later of the following times:
19 (1) Four months after the date letters are first issued to a general personal representative. (2) Sixty days after the date
20 notice of administration is mailed or personally delivered to the creditor. Nothing in this paragraph extends the time
21 provided in Section 366.2 of the Code of Civil Procedure. (b) A reference in another statute to the time for filing a
22 claim means the time provided in paragraph (1) of subdivision (a). (c) Nothing in this section shall be interpreted to
23 extend or toll any other statute of limitations or to revive a claim that is barred by any statute of limitations. The
24 reference in this subdivision to a 'statute of limitations' includes Section 366.2 of the Code of Civil Procedure."

25 *Probate Code* §9201 states: "Notwithstanding any other statute, if a claim of a public entity arises under a law, act,
26 or code listing in subdivision (b): (1) The public entity may provide a form to be used for the written notice or
27 request to the public entity required by this chapter. Where appropriate, the form may require the decedent's social
28 security number, if known. (2) The claim is barred only after written notice or request to the public entity and
expiration of the period provided in the applicable section. If no written notice or request is made, the claim is
enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code..."

³ *Probate Code* § 19001(a) states: "Upon the death of a settlor, the property of the deceased settlor that was subject
to the power of revocation at the time of the settlor's death is subject to the claims of creditors of the deceased
settlor's estate and to the expenses of administration of the estate to the extent that the deceased settlor's estate is
inadequate to satisfy those claims and expenses."

Code of Civil Procedure §366.2 states: "(a) If a person against whom an action may be brought on a liability of the
person, whether arising in contract, tort, or otherwise, and whether accrued or not accrued, dies before the expiration
of the applicable limitations period, and the cause of action survives, an action may be commenced within one year
after the date of death, and the limitations period that would have been applicable does not apply."

1 expressly designed to expedite the distribution of estate assets by requiring creditors, such as the
2 Regional Board, to promptly assert their Creditor's Claims against Ronald J. Patrick as Administrator
3 of the Estate of James W. Patrick and/or the Trustees of the Patrick Trust in this instance.

4 "A properly filed claim in the probate proceeding is crucial for another reason as well.
5 A timely filed claim is a condition precedent to filing an action against a decedent's estate." *Id.* at
6 536. As in *Dobler*, the creditor fulfilled the condition precedent by timely filing a claim, and,
7 accordingly, was permitted to collect its money judgment from the trust corpus. *Id.* at 544-45. On the
8 other hand, however, the Regional Board never filed a Creditor's Claim against Ronald J. Patrick,
9 Administrator of the Estate of James W. Patrick and/or the Trustee of The Patrick Trust, since Mr.
10 James Patrick's 2003 death, and therefore waiving its rights against either Ronald J. Patrick as
11 Administrator of the Estate of James W. Patrick and/or the Trustees of the Patrick Trust.

12 In response to Soco West's petition for review of the Soco Order, Petitioner responded
13 that state law governing decedent estates are not preempted by CERCLA, a federal law, and should
14 apply to this Water Code action as well. More specifically, the enforceability of limitation periods of
15 creditor claims applies in the context of environmental remediation cases. In *Witco Corp. v. Beekhuis*
16 (3d Cir. 1994) 38 F.3d 682, the court held that timely compliance with Delaware's creditors' claims
17 statute was a condition precedent to the satisfaction of judgment from trust assets.. In *Witco*, the court
18 ruled that the plaintiffs CERCLA action against a personal representative was cut off by his failure
19 to file a timely claim under Delaware's creditors' claims statute. The fact that the plaintiffs action was
20 timely under CERCLA's statute of limitations did not obviate plaintiffs obligation to have first
21 complied with the state creditor statute. The Court specifically rejected plaintiffs argument that
22 CERCLA preempted state statutes governing the administration of decedent's estates; affirming
23 Congress' intent as not encompassing any intention to unsettle estates. *Witco*, supra, 38 F.3d at 688-
24 91.

25 The court held as follows:

26 "Nothing in the language of CERCLA suggests that Congress intended to preempt state law
27 governing claims against decedents' estates. Section 9613(f) of CERCLA authorizes
28 contribution actions against "any ... person who is liable or potentially liable under Section
9607(a)...." 42 U.S.C. § 9613(f) (1988). Section 9607(a) in turn, delineates four classes of
responsible parties upon whom liability is imposed: (1) the current owners or operators of a
contaminated property, (2) owners or operators of the property at the time of hazardous waste
disposal, (3) persons who arrange for disposal or treatment of hazardous substances at the

1 property, and (4) persons who accepted hazardous substances for transport to the property. 42
2 U.S.C. § 9607(a) (1988). CERCLA does not contain any provision that imposes liability
3 directly upon the estates of those four classes of responsible parties. In light of the traditional
4 reluctance of Congress to preempt state laws which are of significant importance to the states
5 and traditionally within their province, we decline to read into the CERCLA statute the
6 congressional intent to except CERCLA claims from state probate laws and procedures." [Id.
7 at 689].

8 This rationale applies to this action as well as the California Probate Code should bar
9 a state recovery action. Soco West's assertion that Petitioner should be considered a primary
10 responsible party is premised on unavailing precedent. First, in *Freudenberg-NOK General*
11 *Partnership v. Thomopoulos*, C.A. No. C91-207-L, 1991 U.S. Dist. LEXIS 19421 (D.N.H. Dec. 9,
12 1991), the court merely provides a cursory analysis in reaching its decision that CERCLA preempted
13 the New Hampshire non-claim statute. No reasoning was provided for the court's decision other than
14 the principle that CERCLA should be given broad and liberal construction. However, *Witco, supra*,
15 provides a detailed analysis to support that CERCLA does not preempt state law concerning the
16 distribution of decedent estates. Similarly, CERCLA should not preempt the Water Code in this case.

17 Second, in *Soo Line Railroad Co. v. B.J. Carney & Co.*, 797 F. Supp 1472 (D. Minn.
18 1992), the court determined that CERCLA preempted the state non-claim statute by relying on the
19 precedent established by *Thomopolous, supra*. Moreover, the court noted that its decision was based
20 on the estate's failure to provide any authority in support of its position. *Soo Line, supra*, 1472 F.
21 Supp. 1472, 1485. In the present case, however, *Witco* probatively demonstrates that CERCLA is
22 not intended to preempt state law as proposed by Soco West.

23 Third, *Steege Corp. v. Ravenal*, 830 F.Supp. 42 (D. Mass. 1993) is not applicable. In
24 *Steege*, the court held that the Rhode Island non-claim statute was preempted by the CERCLA
25 contribution statute of limitations because the contribution claims were "governed by Federal law".
26 The Court in *Steege*, however, overlooked the fact that 42 U.S.C. § 9613(f) also states that
27 contribution claims are to be brought in accordance with the Federal Rules of Civil Procedure which
28 provide that state law determines an individual's capacity to be sued. See Fed R. Civ. P. 17(b). In
addition, the case is factually distinguishable in that the defendant executors were at one time owners
of the site in question and in that capacity could be subject to CERCLA liability. Therefore, *Steege*
is distinguishable and affords no substantive insight to the case at bar.

1 Accordingly, the statute of limitations applicable to decedent estates is applicable
2 herein. As the Supreme Court of California specifically noted in *Collection Bureau of San Jose v.*
3 *Rumsey* ("*Rumsey*") (2000) 24 Cal.4th 301, in recognition of the recommendations of the California
4 Law Commission reports, the legislative intent in enacting section *Code of Civil Procedure* § 353,
5 now *Code of Civil Procedure* § 366.2 (CCP§366.2), was to protect decedents' estates from stale
6 claims of creditors and imposed strong public policies of expeditious estate administration and
7 security of title for distributees and is consistent with the concept that a creditor has an obligation to
8 keep informed of the status of the debtor. The one-year statute of limitations of CCP 366.2 is
9 intended to apply to any action on a debt of the decedent including one against the Administrator
10 and/or Petitioner. *Rumsey, supra*, 24 Cal.4th at 308; *Levine v. Levine* (2002) 102 Cal.App.4th 1256,
11 1264.

12 The amendments of former section CCP 353, now CCP 366.2 were enacted with the
13 clear understanding and intent that they would apply to any action on the debt of a decedent,
14 regardless of whom the action was brought against. *Rumsey, supra*, 24 Cal.4th at 308. Similarly,
15 precedent affirms that the one-year limitation period of CCP 366.2 applies to Creditor's Claims
16 against the decedent and/or Ronald J. Patrick as Administrator of the Estate of James W. Patrick
17 and/or the Patrick Trust. *Wagner v. Wagner* (2008) 162 Cal.App.4th 249, 256; *Estate of Yool* (2007)
18 151 Cal.App.4th 867, 876; *Levine, supra*, 102 Cal.App.4th at 1261-1262; *Dobler, supra*, 89
19 Cal.App.4th at 535-536. The Regional Board's claim against Petitioner certainly falls within the ambit
20 of "...liability [arising] from contract, tort, or otherwise." Code of Civil Procedure § 366.2(a). Section
21 366.2 applies to all claims which relate to a relationship between the alleged creditor/decedent and
22 one asserting that claim where the asserted wrongful conduct has occurred, inclusive of claims
23 brought against an Administrator. *Estate of Yool, supra*, 151 Cal.App.4th at 872-873;
24 Recommendation Relating to Notice of Creditors in Estate Administration 20 Cal. Law Revision
25 Corn. Rep. (1990) P. 515.

26 Despite issuing Order R4-0044, the Regional Board failed to opine on the merits of
27 Petitioner's objections to being identified as a PRP. The Regional Board took no affirmative position
28 as to the application of preemption principles in CERCLA actions as analyzed in *Witco, supra*, and
applicable to this Water Code action. Instead, The Regional Board merely noted "comment noted"

1 in response to Petitioner's assertion that The Regional Board's claim was time barred. Petitioner's
2 request for stay is appropriate as The Regional Board's failure to deny Petitioners' assertions implies
3 its appreciation of the merits of such.

4 As such, *Witco, supra*, and *Dobler, supra*, provide sufficient support that CERCLA
5 does not preempt state law regarding distribution of decedent estates, and should be applied to bar
6 this state action as well. The precedent confirms that adherence with the strictures of *Probate Code*
7 §§ 9100 *et seq* and/or 19100 *et seq.*, and the one-year limitations period of *Code of Civil Procedure*
8 §366.2, applies to actions based exclusively on the liability of a deceased testator or settlor filed by
9 third party "potentially responsible parties" against the Administrator and/or trustees, as is presently
10 the case. See CEB, California Trust Administration, §6.12-Environmental Issues in Trust
11 Administration. The Regional Board is therefore barred from recovering costs associated with
12 environmental remediation because it failed to file a timely Creditor's Claim and/or any Creditor's
13 Claim against Ronald J. Patrick, Administrator of the Estate of James W. Patrick under *Probate Code*
14 § 9100 *et seq.* and *Code of Civil Procedure* § 366.2.

15 Furthermore, the Regional Board and/or any person or entity was not only required to
16 follow *Probate Code* § 9100, it also was required to bring their specific causes of action within the
17 time provided by the applicable statute of limitations, *Code of Civil Procedure* § 366.2. Again, the
18 section provides in relevant part:

19 “(a) If a person against whom an action may be brought on a liability of the person,
20 whether arising in contract, tort, or otherwise, and whether accrued or not
21 accrued, dies before the expiration of the applicable limitations period, and the
22 cause of action survives, an action may be commenced within one year after
the date of death, and the limitations period that would otherwise have been
applicable does not apply.”

23 (b) The ***limitations period provided in this section for commencement of action***
24 ***shall not be tolled or extended for any reason***, except as provided in any of
the following, [dealing with holidays or instances in which creditor's claims
25 have been filed against an estate or trust].
(Emphasis added.)

26 The Law Revision Commission Comments to this section add:
27 *This section applies a one-year statute of limitations on all actions against a decedent*
28 *on which the statute of limitations otherwise applicable has not run at the time of*
death. This one-year limitation period applies regardless of whether the statute
otherwise applicable would have expired before or after the one-year period.

1 [¶] The one-year limitation of Section 366.2 applies in any action on a
2 liability of the decedent, whether against a personal representative . . . *or against*
3 *another person, such as a distributee* . . . a person who takes the decedent's property
4 and is liable for the decedent's debts . . . *or a trustee*. . . .
(Emphasis added.)

5 CCP Section 366.2 has been discussed in a number of decisions. Courts have
6 concluded that if a cause of action exists while a decedent is alive, regardless of whether the cause
7 of action has accrued for statute of limitations purposes, "the decedent's death triggers the [one-year]
8 limitations period prescribed by the statute." (*Ferraro v. Camarlinghi* (2008) 161 Cal.App.4th 509,
9 554; see *Farb v. Superior Court* (2009) 174 Cal.App.4th 678.)

10 A very recent pronouncement on the parameters of CCP section 366.2 was made by
11 the Court of Appeal on November 17, 2009 in *Stoltenberg v. Newman* (2009) 179 Cal.App.4th 287
12 ("*Stoltenberg*"). In *Stoltenberg* the defendants successfully contended that because a trustor and
13 trustee, Harry Newman, Jr. ("Newman"), had died on October 19, 2001, a lawsuit filed in 2004
14 against a successor trustee of the Trust due to Newman's alleged breaches of fiduciary duties was
15 barred by CCP section 366.2. Citing the Law Revision Commission Comments referenced above,
16 the Court concluded its discussion by holding that summary judgment should have been granted in
17 favor of the successor trustee because:

18 It appears that whatever its form, the substance of the claims in this case is for the
19 personal misconduct of the settlor/trustee on behalf of and for the benefit of the trust, that was
20 completed entirely before the settlor/trustee died, and for which the settlor/trustee could have been
21 held personally liable. The action is one that could have been "brought on a liability of the person"
22 (§ 366.2, subd. (a)), and is based 'on a debt of the decedent'" [quoting *Collection Bureau of San*
23 *Jose v. Rumsey* (2000) 24 Cal.4th 301, 308] even though brought against the successor trustee. The
24 successor trustee is the named party defendant only to pursue trust assets for the acts of Newman.
25 Section 366.2 was intended to impose a time limit on such claims, "regardless of whom the action
26 was brought against. . . ." (*Rumsey, supra*, 24 Cal.4th at p. 308.) Accordingly, the claims against
27 Newman Trust are barred by section 366.2." (*Id.*, at pp. 296-297.)

28 The rule of *Stoltenberg* is supported by all other applicable authority. This was a case
in which a limited partnership had formerly owned a shopping mall. The limited partners brought

1 an action against numerous defendants for breach of fiduciary duty and an accounting, alleging that
2 in order to obtain the limited partners' consent to refinancing the shopping mall, which ultimately led
3 to a distress sale of the shopping mall, defendants concealed vital information from the limited
4 partners. One of the defendants was the trustee of a Trust and who was also the general partner of
5 the limited partnership. After the Trustee in her individual capacity, and other former owners were
6 dismissed as parties in Superior Court, Los Angeles, County, Case no. BC322141, because the Hon.
7 Terry A. Green, J., granted summary judgment to the trust and other defendants, the limited partners
8 appealed.

9 In support of *Stoltenberg, supra*, is *Wagner v. Wagner* (2008) 162 Cal.App.4th 249,
10 in which a trustor died in November 2003 and the successor trustee Claire thereafter disclosed to her
11 brother, Kent, her intention to pay herself from trust assets for care she had provided the trustor
12 during the final four years of the trustor's life. (*Id.*, at p. 253.) Claire filed an accounting in which
13 she described assets of the trust and requested an order permitting her to pay herself \$200,000 for
14 such care, whereupon Kent filed objections to the report and challenged the proposed payment to
15 Claire as untimely under CCP section 366.2. (*Ibid.*) Claire contended her claim was not an "action"
16 encompassed by section 366.2, but the Court of Appeal held otherwise, observing that "any claim
17 first asserted outside the limitations period, whether submitted to the trustee or filed in court, is
18 barred." (*Id.*, at p. 256, n. 3.)

19 The Court of Appeal went on to state:

20 [T]here is no question the one-year limitation period applies to Claire's claim against
21 the Trust. As we stated in *Dobler v. Arluk Medical Center Industrial Group, Inc.*
22 (2001) 89 Cal.App.4th 530, 535-536 [107 Cal.Rptr.2d 478], "This uniform one-year
statute of limitations applies to actions on all claims against the decedent which
survive the decedent's death." [Citations omitted.] (*Ibid.*)

23 Although Claire argued she had "effectively complied" with the statute by presenting
24 a claim "in her mind" to herself within the statutory period, and thereby tolled the statutory one-year
25 period, such an assertion was nonsense: there was "no reason to believe a trustee's presentation of
26 his or her claim should differ from that of any other creditor." (*Id.*, at p. 257.)

27 The one-year limitations period of CCP §366.2 also governs when the claimant sues
28 beneficiaries of a trust after the death of the trustor.

1 In *Embree v. Embree* (2004) 125 Cal.App.4th 487, the court considered the
2 circumstances of Alvin Embree ("Alvin"), who had entered into a marital settlement agreement with
3 his former wife, Joanne Embree ("Joanne"), which was approved as an order of the court and
4 obligated Alvin to pay monthly spousal support until Joanne remarried or Alvin died, and which
5 further provided that if he predeceased her, a trust or annuity would be established to provide her
6 with an amount equal to the spousal support payments for as long as she lived. (*Id.*, at p. 490.)
7 Instead, after Alvin died, all of his known property was distributed pursuant to the terms of his
8 revocable living trust without a new trust or annuity being created for the benefit of Joanne. (*Ibid.*)

9 Joanne attempted to enforce her claim for a lifetime annuity against the beneficiaries
10 of Alvin's living trust, and the trial court held it was time-barred, a holding affirmed by the Court of
11 Appeal. (*Ibid.*) Alvin had died on May 15, 2001, his estate was not probated, and the trustee of his
12 revocable living trust did not file any notice to creditors under Probate Code section 19100. (*Id.*, at
13 p. 491.) On December 23, 2002, Joanne filed a lawsuit against the beneficiaries of the trust which
14 Alvin had established before his death. The Court of Appeal held that Joanne was required to file
15 her claim against the beneficiaries within one year of Alvin's death, and that her failure to do so
16 barred her action under section 366.2. (*Id.*, at pp. 493, 496-497.) The Court then discussed the fact
17 that no equitable estoppel was suggested given the facts before the trial court, but further held that
18 CCP §366.2 barred any tolling principle "except under specifically enumerated circumstances," i.e.,
19 those circumstances listed in the statute itself, which were not present. (*Id.*, at pp. 496-497.)

20 Similarly, in *Levine v. Levine* (2002) 102 Cal.App.4th 1256, the decedent, Allan
21 Levine ("Allan"), died on September 28, 1999. (*Id.*, p. 1258.) When he was alive, Allan had
22 established investment accounts in his grandchildren's names pursuant to the Uniform Transfers to
23 Minors Act, Probate Code section 3900 *et seq.*, but he then withdrew the money from those funds
24 approximately four years before his death. More than a year after his death, the grandchildren filed
25 a complaint against his widow, Karen Levine ("Karen"), in her capacity as beneficiary of the family
26 trust which held title to the bulk of Allan's estate. Karen successfully demurred pursuant to the
27 limitations provisions of CCP section 366.2. The plaintiffs next filed an amended complaint and
28 named Karen in her capacity as a trustee, but that complaint, too, was dismissed based upon the
previous ruling on the grounds that the grandchildren's action was barred by limitations. On appeal,

1 the grandchildren asserted that the tolling provisions of Code of Civil Procedure section 352
2 prevented the statute from running until the grandchildren reached the age of majority, but the Court
3 of Appeal disagreed. *Ibid.*

4 The Court of Appeal held:

5 The language is clear that the one-year statute applies to all debts of the decedent
6 regardless of whom the claims are brought against. **The one-year provision is not**
7 **subject to delayed discovery or tolling due to minority or incapacity.** Since the
claims were filed too late, the trial court did not err in sustaining the demurrer or
dismissing the claims. (*Id.*, at p. 1265; emphasis added.)

8
9 **4. The Regional Board Properly Determined That Alacer Corporation Is**
10 **An Independent Entity From Tect, Inc. Despite Being Wholly Owned By The Patrick Trust**

11 On the one hand, the Regional Board properly determined that Alacer Corp.
12 should not be identified as a responsible party. On the other hand, the Regional Board erroneously
13 determined that Ronald J. Patrick, Administrator of the Estate of James W. Patrick should be
14 identified as a responsible party. Just like Alacer Corp. is not a responsible party as an independent
15 entity from Tect, Inc., so too is Ronald J. Patrick, Administrator of the Estate of James W. Patrick
16 separate and distinct from Tect, Inc. Ronald J. Patrick, Administrator of the Estate of James W.
17 Patrick, as discussed infra, has never caused nor been engaged in the corporate conduct of Tect, Inc.
18 Such an inconsistency must be abated and Ronald J. Patrick, Administrator of the Estate of James
19 W. Patrick, must be withdrawn as a PRP.

20 **5. Neither Mr. James Patrick Nor Ronald J. Patrick, Administrator of the**
21 **Estate of James W. Patrick Are Personally Liable For Wrongful Conduct By Tect, Inc. Under**
22 **Corporate Principles**

23 Any and all liability caused by Tect, Inc. does not de facto extend to Mr.
24 James Patrick, personally, without sufficient facts to establish that Tect, Inc., on the one hand, and
25 Mr. James Patrick, on the other hand, should be considered one in the same under alter ego liability
26 principles. It is well-settled California Law that a corporation is generally considered a legal entity
27 separate and distinct from its stockholders, officers, and directors. *Miller v. McColgan* (1941) 17
28 Cal.2d 432, 436; *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1108. However, a corporate identity
may be disregarded where an abuse of the corporate privilege justifies holding the equitable

1 ownership of a corporation liable for the actions of the corporation. *Sonora Diamond Corp. v.*
2 Superior Court (2000) 83 Cal.App.4th 523, 538.

3 Under the alter ego doctrine, the law declares that the individual and the corporation
4 are the same entity. Where a corporation is used by an individual to perpetrate a fraud, circumvent
5 a statute, or accomplish some other wrongful or inequitable purpose, a court may disregard the
6 fiction of corporate entity and treat the acts as if they were conducted by the persons controlling the
7 corporation. *McClellan v. Northridge Park Townhome Owners Association, Inc.* (2001) 89
8 Cal.App.4th 746, 752-53.

9 Under the Porter-Cologne Water Quality Control Act ("Porter-Cologne Act") (Water
10 Code §§ 13000 et seq.), a person may be ordered to cleanup a site or to compensate the regional
11 board for cleanup costs it incurs if the following two requirements are met: (1) the person must have
12 caused or permitted waste to be discharged where it is or probably will be discharged in the waters
13 of the State; and (2) the discharge must create or threaten to create a condition of pollution or
14 nuisance. Water Code § 13050(d). Liability extends to owners of the property and tenants who
15 participate in discharge of waste substances. See *People v. New Penn Mines, Inc.* (1963) 212
16 Cal.App.2d 667, 672-74. Here, however, the Regional Board does not provide any evidence to
17 support that Mr. James Patrick, individually and/or the Administrator, actively participated in the
18 discharge of waste water as alleged in Order No. R4-0044 in the Soco West petition. The
19 Administrator has alleged that the Estate of James W. Patrick has nothing to do with the Subject
20 Property or its contamination.

21 In the present case, the Regional Board fails to offer a scintilla of evidence to support
22 that Mr. James Patrick or Ronald J. Patrick, Administrator of the Estate of James W. Patrick should
23 be held personally accountable for the alleged actions by Tect, Inc. The application of alter ego
24 liability is an extreme remedy with a high factual threshold standard. Before the acts and obligations
25 of a corporation can be legally recognized as those of an individual, and vice versa, the following
26 circumstances must be present: (1) there must be such a unity of interest and ownership between the
27 corporation and its equitable owner or the individual controlling it that the individuality or
28 separateness of the person and corporation has ceased, so that their separate personalities no longer

1 in reality exist; and (2) there must be an inequitable result if acts in question are treated as those of
2 the corporation alone. *Baize. v. Eastridge Companies* (2006) 142 Cal.App.4th 293, 302.

3 No one dispositive characteristic requires that alter ego liability principles be applied.
4 Instead, the court may consider, inter alia, commingling of funds and other assets, unauthorized
5 diversion of corporate funds for personal use, personal liability for corporate debts, concealment and
6 misrepresentation of the identity of responsible ownership,, or the use of a corporation as a
7 subterfuge of illegal transactions. See *Associated Vendors, Inc. v. Oakland Meat Co.* (1962) 210
8 Cal.App.2d 825, 838. On the other hand, the lack of such evidence supports maintaining the
9 corporation as separate and distinct from its shareholders, including any shareholders. See
10 *T W M Homes, Inc. v. Atherwood Realty & Inv. Co.* (1963) 214 Cal.App.2d 826.

11 The Regional Board offers no evidence to establish a sufficient link between Tect,
12 Inc. and Mr. James Patrick other than his purported previous ownership of the corporation. Again,
13 Corporations are owned by the shareholders. Moreover, the Regional Board now seeks to extend
14 liability to include Ronald J. Patrick, Administrator of the Estate of James W. Patrick merely because
15 it is the Estate of James W. Patrick, but this estate has no assets and/or it seeks liability because it
16 would produce an unequitable result of forcing other named responsible parties and the State of
17 California to pay pollution “allegedly” caused by James Patrick, deceased. These grounds are
18 unavailing and/or invalid.

19 To the extent that ownership is established as alleged, mere ownership does not de
20 facto establish liability of Mr. James Patrick for the conduct of the corporation. Instead, the facts
21 must establish a sufficient nexus between Mr. James Patrick and Tect, Inc. to disregard the
22 corporation as a distinct and separate legal entity. As raised in Petitioner’s June 1, 2010 letter, *supra*,
23 there is a lack of substantial evidence to establish that Mr. James Patrick individually caused the
24 discharge of waste substances.

25 Further, Ronald J. Patrick, Administrator of the Estate of James W. Patrick cannot
26 be held liable under *Water Code* § 13304 merely because it it is the Estate of James W. Patrick, but
27 this estate has no assets and/or it seeks liability because it would produce an unequitable result of
28 forcing other named responsible parties and the State of California to pay pollution “allegedly”
caused by James Patrick, deceased. These grounds are unavailing and/or invalid. The lack of

1 substantial evidence to hold Mr. James Patrick accountable for the acts of Tect, Inc. necessarily
2 precludes any recovery for cleanup costs from Ronald J. Patrick, Administrator of the Estate of
3 James W. Patrick. Ronald J. Patrick, Administrator of the Estate of James W. Patrick, which has
4 Zero probate assets. Since the Regional Board determined that Alacer Corporation should not be
5 identified as a responsible party because it is an independent entity from Tect, Inc. despite being
6 owned by the James W. Patrick Trust corpus, similarly, the Regional Board should withdraw Mr.
7 James Patrick and Ronald J. Patrick, Administrator of the Estate of James W. Patrick as responsible
8 parties because the law considers both parties as separate and distinct from Tect, Inc. Accordingly,
9 so too are Mr. James Patrick and Ronald J. Patrick, Administrator of the Estate of James W. Patrick
10 wholly independent from Tect, Inc. and the repercussions for its alleged wrongful conduct.

11 Accordingly, there is a lack of substantial evidence to support that Petitioner is a
12 responsible party under *Water Code* § 13304 because liability does not extend to Mr. James Patrick
13 personally and/or Ronald J. Patrick, Administrator of the Estate of James W. Patrick, absent
14 sufficient facts to support that Mr. James Patrick and/or Ronald J. Patrick, Administrator of the
15 Estate of James W. Patrick and Tect, Inc. are one in the same under alter ego liability principles.

16 **H. List Of Persons Other Than Petitioners Known By The Regional Board**
17 **To Have An Interest In The Subject Matter Of The Petition**

18 A copy of the list of interested persons, obtained from the Regional Board, is attached
19 hereto as Exhibit B.

20 **I. Statement of Service Of Petition**

21 A copy of this Petition has been delivered to the executive officer of the Regional
22 Board for the Los Angeles region.

23 **J. Request To The Regional Board For Preparation Of The Administrative**
24 **Record**

25 By copy of this Petition to the executive officer of the Regional Board, Petitioner
26 hereby requests the preparation of the administrative record herein. Petitioner reserves the right to
27 submit supplemental evidence and to request a hearing for the purpose of considering additional
28 evidence not previously presented to the Regional Board as permitted under 23 Cal. Code of Regs.
§ 2050.6.

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K. 7/30/2010 Cleanup Abatement Order Error

Neither Edward H. Stone, individually nor Edward H. Stone, A Law Corporation represents the Patrick Trust as alleged in the 7/30/2010 Cleanup and Abatement Order.

II REQUEST FOR STAY

In accordance with 23 Cal. Code of Regs. § 2053 (a), Petitioner. requests a stay of Order No. R4-0044 as it applies to Petitioner. Petitioner has attached to this Petitioner Exhibit C, the declaration of Edward H. Stone setting forth proof that: (1) substantial harm to Petitioner will result if a stay is not granted; (2) no substantial harm to other interested persons or to the public interest will result if the stay is granted; and (3) there are substantial questions of fact and law regarding the propriety of Order No. R4-0044.

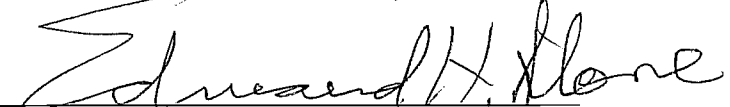
III. CONCLUSION

Based on the foregoing, Petitioner respectfully submit that the issuance of Cleanup and Abatement Order No. R4-2010-0044 was improper, inappropriate, unlawful, and not supported by substantial evidence, and, accordingly it is to be withdrawn and remove Petitioner as responsible party under *Water Code* § 13304. Petitioner respectfully requests that the SWRCB grant this petition for review of the Regional Board's action in issuing Order No. R4-2010-0044. Petitioner further respectfully. requests that a stay be issued pending this appeal and an evidentiary hearing before the SWRCB.

Respectfully submitted,

DATED: 8/25, 2010

EDWARD H. STONE, A LAW CORPORATION

By: 

EDWARD H. STONE
Attorney for Administrator of the Estate of
James W. Patrick

1 **PROOF OF SERVICE**
2 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF ORANGE:)

6 I am employed in the County of Orange, State of California. I am over the age of 18 and not
7 a party to the within action; my business address is 18201 Von Karman, Suite 1160, Irvine,
8 California, 92612.

9 On August 25, 2010, I served the foregoing document described as:

10 **PETITION FOR REVIEW AND REQUEST FOR STAY; REQUEST FOR EVIDENTIARY**
11 **HEARING; DECLARATION OF EDWARD H. STONE**

12 on the interested part(ies) in this action.

13 VIA MAIL

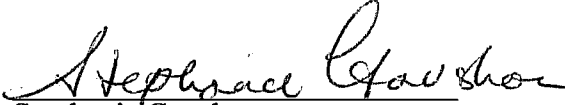
14 XX I am "readily familiar" with the firm's practice of collection and processing correspondence for
15 mailing. Under that practice it would be deposited with U. S. Postal Service on that same day with
16 postage thereon fully prepaid at Irvine, California, in the ordinary course of business. I am aware
17 that on motion of the party served, service is presumed invalid if postal cancellation date or postage
18 meter date is more than one day after date of deposit for mailing in affidavit.

19 VIA FACSIMILE

20 XX From facsimile number (949) 833-7583, I caused such above-referenced document to be
21 transmitted by facsimile machine, to the California Regional Water Quality Control Board
22 at (916) 341-5199 indicated on the attached mailing list, pursuant to Rule 2008. The
23 facsimile machine I used complied with Rule 2003(3) and no error was reported by the
24 machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a transmission record
25 of the transmission, a copy of which is attached to the original of this declaration.

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

28 Executed on August 25, 2010, at Irvine, California.


Stephanie Gavshon

1
2 **SERVICE LIST**

3 *By Facsimile (916) 341-5199*

4 State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
1001 "T" Street, 22nd Floor
5 Sacramento, CA 95814

6 *Via Mail*

7 State Water Resources Control Board
Office of Chief Counsel
Jeannette L. Bashaw, Legal Analyst
8 P.O. Box 100
Sacramento, CA 95812-0100

9
10 Diane R. Smith, Esq.
Summer L. Nastich, Esq.
11 Smith Trager LLP
2192 Martin, Suite 270
12 Irvine, CA 92612

13 Montri and Chiravan Keyuranggul
PJK Properties LLC
14 14650 Firestone Boulevard
La Mirada, CA 90638

15 Geraldine Frank
16 71 21 Western Avenue
Buena Park, CA 90620

17 Harland and Betty Eakens
18 681 1 Riverside Drive
Redding, CA 96001

19 Faithe Trust
20 c/o Emil Faithe, Trustee
8015 LaCavernaAve., NE
21 Albuquerque, NM 87122

22 Mr. Raj Mehta
Western Chemical and Soco West, Inc.
23 100 First Stamford Place, Mail Box # 14
Stamford, CT 06902

24 Thaddeus Smith, James Turner and
25 Ronald J. Patrick as Co-Trustees of
The James W. Patrick Trust
26 c/o Thierry R. Montoya, Esq.
Adorno Yoss Alvarado & Smith
27 1 MacArthur Place
Suite 200
28 Santa Ana, CA 92707

EXHIBIT A

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

CLEANUP AND ABATEMENT ORDER NO. R4-2010-0044
REQUIRING

MONTRI AND CHIRAVAN KEYURANGGUL;
PJK PROPERTIES, LLC;
GERALDINE FRANK;
HARLAND EAKENS;
FAITHE TRUST;
TECT, INC.;
JAY PATRICK;
PATRICK TRUST;
WESTERN CHEMICAL; AND
SOCO WEST, INC.

TO ASSESS, CLEANUP, AND ABATE
WASTE DISCHARGED TO WATERS OF THE STATE
(PURSUANT TO CALIFORNIA WATER CODE SECTION 13304¹)
AT 14650 FIRESTONE BOULEVARD
LA MIRADA, CALIFORNIA 90638
(SITE CLEANUP PROGRAM CASE NO. 0909)

You are legally obligated to respond to this Order. Please read this carefully.

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds that:

BACKGROUND

1. **Dischargers²:** Montri and Chirivan Keyuranggul; PJK Properties, LLC; Geraldine Frank, Harland Eakens; the Faithe Trust; Tect, Inc.; Jay Patrick; the Patrick Trust; Western Chemical; and Soco West, Inc. (hereinafter called Dischargers) are Responsible Parties (RPs) due to their: (a) current or past ownership of the property located at 14650 Firestone Boulevard in La Mirada, California (the Site), (b) prior operation of a business at the Site, and/or (c) being a surviving asset of other RPs.

¹ 13304-(a): Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.

² Joe Valles, Augustina Valles, Elmer Teel, Fern Teel, Donald Frank, David Faithe, Sally Faithe, and Betty Eakens were named as dischargers and Responsible Parties in draft Cleanup and Abatement Order R4-2009-0049 due to their past ownership of the Site. They are not named here because they are believed by the Regional Board to be deceased and their estates are believed to be closed.

July 30, 2010

Primary Responsible Parties

Specifically, the following Dischargers are named as Primary Responsible Parties due to past operations of solvent reclamation, solvent recycling, and/or solvent manufacturing businesses at the Site:

- Tect, Inc.
- Western Chemical

The following Dischargers are named as Primary Responsible Parties due to their relationship to either Tect, Inc. or Western Chemical, who are both Primary Responsible Parties:

- James Warren Patrick³
- Patrick Trust⁴
- Soco West, Inc.⁵

The following Dischargers are named as Primary Responsible Parties due to their ownership of the Site during the tenancies of either Tect, Inc. or Western Chemical:

- Geraldine Frank
- Harland Eakens

Secondary Responsible Parties

The following Dischargers are named as Secondary Responsible Parties due to either current ownership of the Site and/or ownership of the Site following the tenancy of Tect, Inc. and Western Chemical:

- Montri and Chirivan Keyuranggul
- PJK Properties, LLC
- The Faithe Trust

The Dischargers have caused or permitted waste to be discharged or deposited where it is, or probably will be discharged into the waters of the state which creates a condition of pollution or nuisance.

Obligations of Responsible Parties

Primary Responsible Parties, as identified herein, have primary responsibility for fulfilling the obligations imposed by this Cleanup and Abatement Order and any future orders that may be issued by the Regional Board.

Secondary Responsible Parties, as identified herein, have responsibility for fulfilling the obligations imposed by this Cleanup and Abatement Order in the event that the Primary Responsible Parties fail to fulfill their obligations. Those Secondary Responsible Parties who are currently property owners and/or tenants of the Site must also provide necessary and

³ James Warren Patrick is named as a Primary Responsible Party due to his ownership of Tect, Inc.

⁴ The Patrick Trust is named as a Primary Responsible Party because it is a surviving asset of Mr. Patrick.

⁵ Soco West, Inc. is named as a successor to Western Chemical.

reasonable access to the Site by the Primary Responsible Parties and their representatives, to Regional Board staff for assessment and/or remediation activities, and for any infrastructure that may be necessary for assessment and/or remediation activities.

2. **Location:** The Site is located at 14650 Firestone Boulevard, La Mirada, California. Attachment A, Figure 1, Site Location Map, attached hereto and incorporated herein by reference, depicts the location of the Site. Additionally, Figure 2 of Attachment A, also attached hereto and incorporated herein, is a Site Vicinity Map depicting the building occupying the Site and the surrounding area. The Site lies between Firestone Boulevard and Union Pacific Railroad tracks, south of Interstate-5. Coyote Creek is located approximately 850 feet east of the Site; it drains into the San Gabriel River, which discharges into the Pacific Ocean at Alamitos Bay.
3. **Groundwater Basin:** The Site is located within the Los Angeles Coastal Plain (Central Basin) which, at the Site vicinity, is underlain by the eastern limb of the Norwalk Syncline. Subsurface materials are comprised of alluvial sediments, including the Lakewood and San Pedro formations. Beneath the Site location, from surface to depth, the Lakewood formation includes the Artesia and Gage aquifers and the San Pedro formation which includes the Hollydale, Jefferson, Lynwood, and Silverado aquifers (Note: the Hollydale and Jefferson aquifers are discontinuous within the Site area and it is unknown whether they directly underlie the Site). As set forth in the *Water Quality Control Plan* for the Los Angeles Region (Basin Plan), which was adopted on June 13, 1994, the Regional Board has designated beneficial uses for groundwater (among which include municipal and domestic drinking water supplies) in the Central Basin and has established water quality objectives for the protection of these beneficial uses.
4. **Water Quality in the Basin:** Water Quality Objectives (WQOs) listed in the Basin Plan include numeric WQOs [e.g., state drinking water maximum contaminant levels (MCLs)], and narrative WQOs, including the narrative toxicity objective and the narrative taste and odor objective for surface and groundwater. The MCLs for volatile organic compounds (VOCs) in drinking water by the State of California Department of Public Health (DPH) and the United States Environmental Protection Agency (USEPA) are 5 µg/L for PCE, 5 µg/L for TCE, and 6 µg/L for 1,1-DCE, among others. The detected VOCs levels in the groundwater beneath the Site and its vicinity have significantly exceeded the MCLs, thus impairing the beneficial uses of the groundwater.
5. As detailed in the findings below, the Dischargers' activities at the Site have caused the release of waste resulting in soil, soil vapor, and groundwater contamination and discharge to the waters of the state.

SITE HISTORY

6. **Site Description and Activities:** The Site is currently owned by PJK Properties, LLC. It includes one parcel encompassing approximately 0.33 acre. The Site has a 1-story building that is currently occupied by All-Tex Inks Corporation, a silkscreen inks and supply company.

Site Ownership Timeline:

The historical Site ownership is summarized in the following outline:

- a. Prior to May 1960

- i. Owned by Casper Ferrando Valles
 1. Unknown acquisition date
- b. May 1960
 - i. Sold to Joe Valles
 1. Augustina Valles, Elmer and Fern Teel, Donald and Geraldine Frank, and Harland and Betty Eakens took ownership upon Mr. Joe Valles' death on an unknown date
- c. February 23, 1973
 - i. David Faithe and Sally Faithe took 100 percent ownership of the Site
- d. May 12, 1997
 - i. Property transferred to David Faithe and Sally Faithe, Co-Trustees of the Faithe Family Trust (Faithe Trust)
- e. October 6, 1998
 - i. Faithe Trust transferred ownership to Mr. Montri Keyuranggul and Mrs. Chiravan Keyuranggul
- f. October 9, 2008
 - i. The Keyurangguls quitclaimed the property to PJK Properties, LLC
 1. PJK Properties, LLC's principals are Mr. Montri Keyuranggul and Mrs. Chiravan Keyuranggul

Site Operations Timeline

Historical Site operations are summarized in the following outline:

- a. Approximately 1963 to early 1970s
 - i. Tect, Inc. operated a solvent reclaiming and manufacturing operation
 1. Tect, Inc. filed bankruptcy in 1972
 - a. Tect, Inc.'s founder Jay Patrick created Alacer Corporation, a viable entity today
 - b. 1972 to 1979
 - i. Western Chemical purchased some of Tect, Inc.'s assets in 1972
 - ii. Western Chemical operated a solvent recycling and reclamation plant onsite
 - iii. November 8, 1973, "Notice of Violation and Order to Comply" letter issued by the County of Los Angeles, Dept. of County Engineer to Western Chemical for an unauthorized release of waste materials
 - c. 1979 to 1998
 - i. Various tenants including a machine shop and diaper service
 - d. 1998 to present
 - i. All-Tex Inks Corporation operates as a silk-screening inks and supply business onsite
7. **Chemical Usage:** During their operations at the Site, Tect, Inc. and Western Chemical handled various solvents for reclamation, recycling, and/or manufacturing purposes. These

chemicals reportedly included at least methylene chloride, tetrachloroethylene (PCE), trichloroethylene (TCE), and 1,1,1-trichloroethane (1,1,1-TCA).

EVIDENCE OF CONTAMINATION AND BASIS FOR ORDER

8. **Waste Releases:** According to a November 8, 1973, *Notice of Violation and Order to Comply* letter issued by the County of Los Angeles, Department of County Engineer (DCE) to Western Chemical (whose successor is Soco West, Inc.), a waste water discharge was observed in a pond located between the south end of an onsite building and a railroad track located south of the Site. This discharge was determined to be an unauthorized release of waste materials.

Subsequently, site investigation work has been performed on behalf of Soco West, Inc. to delineate the extent of subsurface contaminants. The investigation work demonstrates that the highest concentrations of volatile organic compound contaminants in soil, soil vapor, and groundwater are located at the south end of the onsite building, at approximately the same location where the November 8, 1973, waste water discharge was observed. Site investigation activities are summarized in the following reports, all of which were submitted by JPR Technical Consultants, Inc. on behalf of Soco West, Inc.:

- *Interim Report, Off-Site Soil and Groundwater Investigation, Former Western Chemical Facility, 14650 Firestone Boulevard, La Mirada, California, June 1, 2008;*
- *Membrane Interface Probe and Additional Soil and Groundwater Investigation Report, Former Western Chemical Facility, 14650 E. Firestone Boulevard, La Mirada, California, February 15, 2007;*
- *Update Report, Off-Site Soil and Groundwater Investigation, Former Western Chemical Facility, 14650 E. Firestone Boulevard, La Mirada, California, October 30, 2008;*
- *Update Report, Off-Site Soil and Groundwater Investigation, Former Western Chemical Facility, 14650 E. Firestone Boulevard, La Mirada, California, April 15, 2009;* and
- *Quarterly Monitoring Report, Fourth Quarter 2009, Former Western Chemical Facility, 14650 E. Firestone Boulevard, La Mirada, California, January 15, 2010;*

Investigations offsite are in progress. A summary of contaminants detected to date are provided in the following subsections⁶. The data in these subsections are compiled from the above-listed reports and from other technical reports within Regional Board files. The above-listed reports are a subset of reports submitted to the Regional Board on behalf of Soco West, Inc. from 2000 to present.

Soil Matrix Data

Following the 1973 release, and beginning in 2000, several rounds of environmental investigation have occurred at and around the Site. According to *Membrane Interface Probe and Additional Soil and Groundwater Investigation Report, Former Western Chemical Facility* (dated February 16, 2007, written by JPR Technical Services, Inc.), *Update Report, Off-Site Soil and Groundwater Investigation, Former Western Chemical Facility* (dated April 15, 2009, written by JPR Technical Services, Inc.), and Appendix A in *Interim Remedial Action Plan, Former Western Chemical Facility* (dated October 30, 2008, written by JPR

⁶ Since work is ongoing, the status of investigation work may have changed since the preparation of this document. Except as noted as being more recent, the conditions described herein are believed to be current as of approximately September 2009.

Technical Services, Inc.), the following 46 contaminants were detected in soil at the following maximum concentrations:

Table 1

Contaminant	Maximum Concentration Detected (Onsite) ($\mu\text{g}/\text{kg}$)	USEPA RSL ² Risk-based SSL ³ ($\mu\text{g}/\text{kg}$)	USEPA RSL ² MCL-based SSL ³ ($\mu\text{g}/\text{kg}$)
Acetone	16,000	4,400	---
Benzene	280	0.23	2.8
Bromochloromethane	460	---	---
Bromomethane	750	2.2	---
2-Butanone	13,000	1,500	---
n-Butylbenzene	1.6	---	---
sec-Butylbenzene	1	---	---
Carbon Disulfide	620	270	---
Carbon Tetrachloride	7.9	0.079	2
Chlorobenzene	3.5	68	75
Chloroethane	2.1	6,000	---
Chloroform	1,600	0.055	---
4-Chlorotoluene	0.19	---	---
1,2-Dichlorobenzene	110	400	660
1,3-Dichlorobenzene	0.69	---	---
1,4-Dichlorobenzene	170	0.46	81
1,1-Dichloroethane (1,1-DCA)	3,900	0.7	---
1,2-Dichloroethane (1,2-DCA)	160	0.044	1.5
1,1-Dichloroethene (1,1-DCE)	38,000	120	2.6
<i>cis</i> 1,2-Dichloroethene (<i>cis</i> 1,2-DCE)	10,000	110	21
1,2-Dichloropropane	0.46	0.13	1.7
1,4-Dioxane	57,000	1.2	---
Ethylbenzene	1,100	1.9	890
Isopropylbenzene	350	1,300	---
Methyl t-Butyl Ether (MTBE)	15	2.7	---
Methylene Chloride	89,000	1.2	1.3
4-Methyl-2-Pentanone	3	440	---
Naphthalene	3.6	0.55	---
n-Propylbenzene	0.47	---	---
Styrene	0.28	2,000	120
1,1,1,2-Tetrachloroethane	25	0.21	---
PCE	4,800,000	0.052	2.4
Tetrahydrofuran (THF)	1,040	---	---

Contaminant	Maximum Concentration Detected (Onsite) ($\mu\text{g}/\text{kg}^1$)	USEPA RSL ² Risk-based SSL ³ ($\mu\text{g}/\text{kg}$)	USEPA RSL ² MCL-based SSL ³ ($\mu\text{g}/\text{kg}$)
Toluene	2,200	1,700	760
1,1,1-TCA	630,000	3,300	72
1,1,2-Trichloroethane (1,1,2-TCA)	590	0.082	1.7
1,1,2-Trichloro-1,2,2-Trifluoroethane (Freon 113)	12,000	150,000	---
trans-1,2-DCE	32	34	32
TCE	690,000	0.61	1.9
Trichlorofluoromethane (TCFM)	3.7	840	---
1,2,3-Trichloropropane	1,100	0.0044	---
1,2,4-Trimethylbenzene	410	24	---
1,3,5-Trimethylbenzene	0.57	20	---
Vinyl Chloride	210	0.0056	0.7
o-Xylene	1,300	1,600	---
p/m-Xylene	4,100	1,600	---

¹ $\mu\text{g}/\text{kg}$ -- micrograms per kilogram

² RSL -- Regional Screening Levels (RSLs) for Chemical Contaminants at Superfund Sites. RSL Table Update April 2009.

³ SSL -- Soil Screening Levels (SSLs) use a dilution attenuation factor (DAF) of one.

--- No MCL value exists.

Detected values that exceed United States Environmental Protection Agency (USEPA) SSLs are in bold.

In addition to these 46 contaminants, Table 2 lists additional contaminants that have been detected at least once, but which have been detected infrequently, and are not included in Table 1.

Table 2

Contaminant	Maximum Concentration Detected ($\mu\text{g}/\text{kg}$)	Detection Frequency (detections / analyses completed)	Date Sampled	Sample Identification
Dichlorodifluoromethane	0.44 J	1 / 216	9/6/2006	B20-19
Dieldrin	2.9 J	1 / 4	4/3/2007	DPE1-15
Diethyl Phthalate	0.35 J	1 / 4	4/3/2007	DPE3-15
Bis(2-Ethylhexyl) Phthalate	0.48 J	3 / 4	4/3/2007	DPE1-15
4,4'-DDD	4.1 J	1 / 4	4/3/2007	DPE1-2
4,4'-DDE	5.5	1 / 4	4/3/2007	DPE1-2
Aroclor 1254	430	1 / 4	4/4/2007	DPE3-15

J - Estimated value above the method detection limit, but below the reporting limit.

Groundwater Data

Soil and groundwater investigation began in July 2000. Groundwater monitoring and sampling at the Site began in April 2001 using three groundwater monitoring wells. The groundwater monitoring program has recently been expanded to include 12 groundwater monitoring wells. Based upon a review of *Quarterly Monitoring Report, Third Quarter 2009* (dated October 15, 2009, written by JPR Technical Services, Inc.); *Interim Report, Off-Site Soil and Groundwater Investigation, Former Western Chemical Facility* (dated June 1, 2008, written by JPR Technical Services, Inc.); *Membrane Interface Probe and Additional Soil and Groundwater Investigation Report, Former Western Chemical Facility* (dated February 16, 2007, written by JPR Technical Services, Inc.); and Appendix A in the *Interim Remedial Action Plan, Former Western Chemical Facility* (dated October 30, 2008, written by JPR Technical Services, Inc.) the following 27 contaminants have been detected in groundwater samples at the indicated maximum concentrations since 2000:

Table 3

Contaminant	Revised Maximum Concentration Detected (Onsite) ($\mu\text{g/L}$) ¹	Maximum Contaminant Level (MCL) ($\mu\text{g/L}$)
Acetone	14,000	---
Benzene	1,700	1
2-Butanone	23,000	---
Carbon Tetrachloride	70	0.5
Chloroform	4,300	80
1,1-DCA	9,000	5
1,2-DCA	4,200	0.5
1,1-DCE	89,000	6
<i>cis 1,2-DCE</i>	32,000	6
<i>trans 1,2-DCE</i>	110 J	10
1,4-Dioxane	730,000	---
Ethylbenzene	350	300
Freon 113	7,500	1,200
Isopropylbenzene	11	---
Methylene Chloride	370,000	5
MTBE	41	13 (primary MCL) 5 (secondary MCL)
PCE	240,000	5
1,1,1-TCA	270,000	200
1,1,2-TCA	2,900	5
TCE	580,000	5
TCFM	2,100	150
THF	11,000	---
Toluene	2,500	150
1,2,3-Trichloropropane	28	---
Vinyl Chloride	28,000	0.5
<i>o</i> -Xylene	490	1,750 (total xylenes)
<i>p/m</i> -Xylene	1000	

--- micrograms per liter ($\mu\text{g/L}$)

- ² - State maximum contaminant level (MCL)
J - Estimated value above the method detection limit, but below the reporting limit.
--- No MCL value exists.
Detected values that exceed MCLs are in bold.

Table 4 lists additional contaminants that have been detected at least once, detected infrequently, and are not included in Table 3. Those contaminants that were also detected along with their maximum concentrations and detection frequency are as follows:

Table 4

Contaminant	Maximum Concentration Detected (µg/kg)	Detection Frequency (detections / analyses completed)	Date Sampled	Sample Identification
1,1,1,2-Tetrachloroethane	110	2 / 108	9/6/2006	B21-W
1,1,-Dichloropropene	1200 J	2 / 107	8/16/2007	MW-3
1,2,4-Trimethylbenzene	400 J	4 / 108	3/30/2007	MW-2
1,2,-Dichlorobenzene	19 J	5 / 110	9/7/2006	B15-W
1,2-Dichloropropane	13	1 / 123	9/6/2006	B21-W
1,3,5-Trimethylbenzene	32	2 / 108	9/6/2006	B21-W
4-Methyl-2-Pentanone	110	1 / 121	9/6/2006	B21-W
Bromochloromethane	37	3 / 108	9/6/2006	B21-W
Bromodichloromethane	1.8 J	1 / 124	9/6/2006	B21-W
Butyl Benzyl Phthalate	4.4 J	1 / 3	3/30/2007	MW-3
Carbon Disulfide	100 J	3 / 123	5/1/2008	MW-1
Chlorobenzene	12	1 / 123	9/6/2006	B21-W
Chloroethane	0.8 J	1 / 123	9/6/2006	B20-W
Chloromethane	250 J	1 / 123	7/31/2008	MW-1
Naphthalene	10 J	2 / 111	9/6/2006	B21-W
n-Butylbenzene	4.7 J	1 / 107	9/6/2006	B21-W
n-Propylbenzene	15	1 / 107	9/6/2006	B21-W
Isophorone	7.4 J	1 / 3	3/30/2007	MW-3
Isopropylbenzene	11	1 / 107	9/6/2006	B21-W
p-Isopropyltoluene	4.5 J	1 / 107	9/6/2006	B21-W
Sec-Butylbenzene	3.4 J	1 / 107	9/6/2006	B21-W

J - Estimated value above the method detection limit, but below the reporting limit.

The Membrane Interface Probe and Additional Soil and Groundwater Investigation Report, Former Western Chemical Facility report concluded that the highest concentrations of contaminants are in the southern one-third of the property at depths of approximately 7, 10 to 14, and 19 feet below the ground surface (bgs). It further states that there is a general decline in concentrations from 19 to 25 feet bgs and that a continuous basal clay bed exists at 23 to 25 feet bgs. Assessment activities have not yet been performed significantly into the basal clay to determine its thickness. In addition, assessment has not been performed below the basal clay to determine if groundwater beneath it has been impacted by contaminants.

Indoor Vapor Intrusion

An indoor air quality (IAQ) survey was performed at the Site in February 2007 which was documented in *Indoor Air Survey, Onsite Building, Former Western Chemical Facility*, dated

April 2007, which was prepared by Dr. C.E. Schmidt and Ms. Teri L. Copeland. This work proceeded after verbal approvals from Regional Board staff were granted to implement the work described in *Workplan for Onsite Indoor Air Survey, Onsite Building, Former Western Chemical Facility*, dated February 2007, prepared by Dr. C.E. Schmidt, Ph.D. and Teri L. Copeland, D.A.B.T. Results for the initial IAQ report and subsequent surveys (2008 and 2009) indicate the following maximum concentrations, along with most current concentrations (2009) of 21 VOCs that were detected in at least one sample in ambient indoor air above their respective reporting limits:

Table 5

Contaminant	Revised Maximum Concentrations Detected, Onsite Ambient Air ($\mu\text{g}/\text{m}^3$)	Maximum Concentrations Detected, Onsite Ambient Air-July 2009 ($\mu\text{g}/\text{m}^3$)	Indoor Air Commercial/Industrial Land Use CHHSL ¹ ($\mu\text{g}/\text{m}^3$)	USEPA RSL ² Industrial Air ($\mu\text{g}/\text{m}^3$)
Acetone	330	230	---	140,000
Benzene	11.84	3	0.141	1.6
2-Butanone	12	6.2 J	---	22,000
Chloromethane	5.2	5.2 J	---	390
1,2-DCA	0.44 J	<3	0.195	0.47
Dichloromethane (Methylene Chloride)	1,500	140	---	26
1,4-Dioxane	0.76 (0.88J)	<54	---	1.6
Ethylbenzene	10.97	5.2	---	4.9
4-Ethyltoluene	11.41	7.2	---	---
Hexane	14.53	6 J	---	---
1,1,2,2-Tetrachloroethane	0.9J	<10	---	0.21
PCE	34.93	<5.1	0.693	2.1
THF	5.79	1.3 J	---	---
Toluene	66.14	34	438	22,000
TCE	46	22	2.04	6.1
1,2,4-Trimethylbenzene	20	20	---	31
1,3,5-Trimethylbenzene	7.6	7.6	---	26
1,1,2-TCA	2.65J	<4.1	---	0.77
Vinyl Chloride	1.69J	<1.9	0.0524	2.8
m- & p-Xylene	35.84	19	1,020	3,100
o-Xylene	12.41	7.1		

¹ CHHSL = California Human Health Screening Levels

² RSL = Regional Screening Levels published by USEPA, April 2009

J Estimated value above the method detection limit, but below the reporting limit.

--- No value is available.

Detected values that exceed CHHSLs or RSLs are in bold.

Of the VOCs detected during the IAQ, three were contaminants detected within a shallow soil vapor extraction (SVE) system [a.k.a. "Slab Isolation System" (SIS)] currently operated beneath the building slab to reduce indoor vapor intrusion of contaminants from the subsurface. The three contaminants were PCE, TCE, and dichloromethane (methylene chloride). Of these, neither PCE nor TCE were used within the building on the date the IAQ

surveys were performed. As a result, the report concluded that "the detection of PCE and TCE, both of which were present in the subsurface at elevated concentrations, in indoor air at concentrations higher than outdoor air qualitatively supports the potential of a subsurface vapor intrusion pathway at the site."

Two more-recent indoor air quality surveys were performed at the Site which indicated a generally downward trend in the concentrations of VOCs present in ambient indoor breathing space at the Site. These results are documented in two reports written by JPR Technical Services, Inc., *Engineering Controls Evaluation, Former Western Chemical Facility* (dated October 30, 2008); and *Semi-Annual Indoor Air Sampling, Former Western Chemical Facility* (dated September 25, 2009).

Table 6 lists additional contaminants that have been detected at least once, detected infrequently, and are not included in Table 5. Those contaminants that were also detected along with their maximum concentrations and detection frequency are as follows:

Table 6

Contaminant	Maximum Concentration Detected ($\mu\text{g}/\text{m}^3$)	Detection Frequency (detections / analyses completed)	Date Sampled	Sample Identification
1,1,2-Trichloro-1,2,2-Trifluoroethane	1.18 J	1 / 30	2/7/2007	AAI-06-01
1,1-Dichloroethene	2.76 J	4 / 30	2/7/2007	AAI-06-01
1,2-Dichlorobenzene	1.76 J	1 / 30	2/8/2007	AAI-05-02
1,3-Dichlorobenzene	0.79 J	3 / 30	2/7/2007	AAI-04-01
1,4-Dichlorobenzene	2.25 J	4 / 30	2/8/2007	AAI-05-02
Benzyl Chloride	15 J	6 / 18	7/16/2009	AAI-03-1
Chlorobenzene	0.5 J	1 / 30	2/8/2007	AAI-05-2
Chloroethane	1.19 J	6 / 30	2/7/2007	AAI-05-2
Chloromethane	5.2 J	28 / 30	7/16/2009	AAI-03-1
Dichlorodifluoromethane	6.3	17 / 30	7/16/2009	AAI-06-1
Ethanol	81	18 / 18	8/14/2008	AAI-06-1
Ethyl Acetate	9.4 J	2 / 18	8/15/2008	AAI-06-2
4-Methyl-2-pentanone	1.09 J	8 / 30	2/8/2007	AAI-05-2
Styrene	3.13 J	5 / 30	2/8/2007	AAI-02-2
Trichlorofluoromethane	2.26 J	12 / 30	2/7/2007	AAI-06-1
Vinyl Acetate	94	15 / 18	7/16/2009	AAI-05-1

J Estimated value above the method detection limit, but below the reporting limit.

A slab isolation system (SIS) is currently being operated at the Site. The SIS is a vapor extraction system that is connected to wells with shallow screen intervals within the vadose zone and directly beneath the Site's building foundation. The SIS is designed and operated to reduce indoor vapor intrusion from the subsurface. Based upon results presented in the *Quarterly Monitoring Report, Third Quarter 2009, Former Western Chemical Facility*, dated October 15, 2009, prepared by JPR Technical Services, Inc., 27 contaminants were reported in soil gas vapor samples collected at the influent of the SIS. These samples represent composite values of influent concentrations from multiple wells connected to the SIS. Table

7 presents the maximum and most current concentrations of the 27 contaminants that were detected since the SIS began operating in 2005:

Table 7

Contaminant	Maximum Concentration Detected ($\mu\text{g/L}$)	Maximum Concentration Detected ($\mu\text{g/m}^3$)	Maximum Concentration Detected-3rd Qtr 2009 ($\mu\text{g/L}$)	Maximum Concentration Detected-3rd Qtr 2009 ($\mu\text{g/m}^3$)	Shallow Soil Gas Commercial/Industrial Land Use CHHSL ¹ ($\mu\text{g/m}^3$)
Acetone	32	32,000	5.9	5,900	---
Benzene	2.6	2,600	0.19J	190J	122
2-Butanone	1.1J	1,100J	0.25J	250J	---
Carbon Disulfide	19	19,000	2	2,000	---
Carbon Tetrachloride	0.16	160	0.025J	25J	84.6
Chloroform	4.5	4,500	0.04J	41	---
1,1-DCA	11	11,000	1.40	1,400	---
1,1-DCE	400	400,000	12	12,000	---
1,2-DCA	8.8	8,800	0.2J	200J	167
<i>cis</i> 1,2-DCE	4.7	4,700	4.7	4,700	44,400
<i>trans</i> 1,2-Dichloroethene (<i>trans</i> 1,2-DCE)	2.5	2,500	0.013J	13J	88,700
1,4-Dioxane	7.6	7,600	<0.58	<580	---
Ethylbenzene	0.54	540	0.037	37	---
4-Ethyl-toluene	0.06	60	<0.039	<39	---
MTBE	10	10,000	<0.12	<120	13,400
Methylene Chloride (Dichloromethane)	140	140,000	1.1J	1,100J	---
PCE	7,100	7,100,000	180	180,000	603
THF	3.2	3,200	<0.047	<47	---
Toluene	10	10,000	1.40	1,400	378,000
1,1,1-TCA	1,200	1,200,000	50	50,000	2,790,000
1,1,2-TCA	6.6	6,600	0.28J	280J	---
TCE	4,400	4,400,000	150	150,000	1,770
TCFM	0.32	320	0.035J	35J	---
1,1,2-Trichloro-1,2,2-Trifluoroethane (Freon 113)	230	230,000	8.6	8,600	---
1,2,4-Trimethylbenzene	0.64J	640J	<0.079	<79	---
Vinyl Chloride	2.2	2,200	2.2	2,200	44.8
<i>o</i> -Xylene	0.53	530	0.19	190	879,000
<i>p/m</i> -Xylene	1.7	1,700	0.074	74	887,000

¹ CHHSL = California Human Health Screening Levels

J Estimated value above the method detection limit, but below the reporting limit.

--- No value is available.

Detected values that exceed CHHSLs are in bold.

Table 8 lists additional contaminants that have been detected at least once, detected infrequently, and are not included in Table 7. Those contaminants that were also detected along with their maximum concentrations and detection frequency are as follows:

Table 8

Contaminant	Maximum Concentration Detected ($\mu\text{g}/\text{m}^3$)	Detection Frequency (detections / analyses completed)	Date Sampled	Sample Identification
1,2,4-Trichlorobenzene	870 J	1 / 47	12/26/2006	SIS Influent
1,3,5-Trimethylbenzene	33 J	4 / 47	8/16/2007	SIS Influent
4-Methyl-2-Pentanone	5.1 J	2 / 47	4/23/2009	SIS Influent
Bromodichloromethane	1,400	1 / 47	8/26/2006	SIS Influent
Chlorobenzene	5.6	1 / 47	6/18/2009	SIS Influent
Chloroethane	4.2	1 / 47	6/18/2009	SIS Influent
Chloromethane	1.1 J	1 / 47	6/18/2009	SIS Influent
Cyclohexane	280	4 / 4	6/20/2007	SIS Influent
Dichlorodifluoromethane	5.5	1 / 47	6/18/2009	SIS Influent
Ethanol	2,500	5 / 9	3/13/2009	SIS Influent
Ethyl Acetate	29 J	1 / 6	6/18/2009	SIS Influent
Ethylbenzene	540	10 / 47	1/28/2009	SIS Influent
Heptane	200 J	3 / 4	6/20/2007	SIS Influent
Hexachloro-1,3-Butadiene	5,000	3 / 47	12/26/2006	SIS Influent
Hexane	400 J	4 / 8	5/21/2009	SIS Influent
Isopropanol	210	1 / 4	9/26/2007	SIS Influent
Styrene	960 J	10 / 47	7/24/2007	SIS Influent
Teri-Butyl-Alcohol	930	3 / 9	1/28/2009	SIS Influent
Trichlorofluoromethane	320	11 / 47	6/20/2007	SIS Influent
Vinyl Acetate	53	1 / 47	9/29/2006	SIS Influent

J Estimated value above the method detection limit, but below the reporting limit.

Soil Vapor Remediation

Except for the operation of the SIS, remediation efforts have not been implemented. The impact of the SIS is limited to the approximate footprint of the Site building within the shallow vadose zone beneath the Site.

- Regulatory Status:** Prior to issuance of this Cleanup and Abatement Order (CAO), there were two active Orders associated with this Site, dated September 3, 2008, and September 11, 2008. In addition, modifications to these orders were made in correspondence dated between November 13, 2008, and July 7, 2010. These Orders with modifications required investigation reports, an evaluation of engineering controls, indoor air sampling work plans and reports, work plans and reports for the assessment of soil, groundwater, and soil vapor, work plans and reports for the installation of additional groundwater monitoring wells, and electronic submittals of data to the GeoTracker geographic information system. There have been no documented regulatory violations associated with these Orders.
- Sources of Information:** The sources for the evidence summarized above include but are not limited to: reports and other documentation in Regional Board files, telephone calls and e-mail communication between responsible party attorneys and consultants, and Site visits.

CONCLUSIONS

11. **Pollution of Waters of the State:** The Dischargers have caused or permitted, or threatens to cause or permit, waste to be discharged where it is or probably will be discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance.
12. Regional Board staff will consider cleanup goals in accordance with the following State Policies:
 - a. *"Antidegradation Policy"* (State Board Resolution No 68-16) which requires attainment of background levels of water quality, or the highest level of water quality that is reasonable in the event that background levels cannot be restored. Cleanup levels other than background must be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of water, and not result in an exceedance of water quality objectives in the Basin Plan.
 - b. *"Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304"* (State Board Resolution No. 92-49) which sets forth criteria to consider for those cases of pollution wherein restoration of water quality to background levels may not be reasonable.
13. Pursuant to section 13304 of the California Water Code, the Regional Board may seek reimbursement for all reasonable costs to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action.
14. This action is being taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq.) in accordance with California Code of Regulations, title 14, section 15308.

THEREFORE, IT IS HEREBY ORDERED, pursuant to section 13304 of the California Water Code, that Dischargers shall cleanup and abate waste emanating from 14650 Firestone Boulevard, La Mirada, California in accordance with the following requirements:

1. **Develop and Update a Site Conceptual Model:** The Site Conceptual Model (SCM) should include a written presentation with graphic illustrations of the release scenario and the dynamic distribution of wastes from the Site and vicinity. The SCM shall be constructed based upon actual data collected from the Site and any other nearby sites that add to the accuracy of the SCM.
 - a. The SCM shall be updated as new information becomes available. Updates to the SCM should be included in all future technical reports submitted.
2. **Complete Delineation of Contamination:** Completely delineate the extent of soil, soil vapor, and groundwater contamination caused by the release of VOCs and any other contaminants of concern from the Site.
 - a. The delineation shall be completed both vertically and laterally. Groundwater and soil assessment for shallow zones (above the "basal clay") has been ongoing under Regional Board-approved work plans.
 - i. After sufficient interim remedial action has occurred in the shallow zone (see Item #3

such that the potential for downward migration of contaminants would be minimized, the deeper zones shall be delineated to determine the extent of contamination into these zones, if any.

- b. If ongoing reinterpretation of new assessment data derived from the tasks performed suggest that modification or expansion of the tasks proposed in the Work Plan is necessary for complete assessment, one or more Work Plan addendums shall be submitted to the Regional Board to provide for full assessment.
3. **Conduct Remedial Action:** Initiate a phased cleanup and abatement program with the cleanup of any remaining soil, soil vapor, and groundwater contamination and the abatement of threatened beneficial uses of water and pollution sources as highest priority. Specifically, you shall:
- a. Perform interim remedial action to remediate the vadose zone and shallow aquifer onsite and near the site where the highest concentrations of contaminants are detected.
 - b. Develop a comprehensive Remedial Action Plan (RAP) for all remaining shallow-zone contamination originating from the Site and submit it for Regional Board review and approval. The RAP shall include, at a minimum:
 - i. A program for preventing the continuing spread of existing contaminant plumes in groundwater;
 - ii. Proposed cleanup goals with a protocol and schedule to reach them. The cleanup goals shall be based on:
 1. Soil cleanup levels set forth in the Regional Board's *Interim Site Assessment and Cleanup Guidebook, May 1996*.
 2. Human health protection levels set forth in the current *USEPA Soil Screening Levels*.
 3. Protection from vapor intrusion and protection of indoor air quality based on the California Environmental Protection Agency's January 2005 (or later version) *Use of Human Health Screening Levels (CHHSLs) in Evaluation of Contaminated Properties*. Soil vapor sampling requirements are stated in the Department of Toxic Substances Control (DTSC) and Regional Board January 2003 *Advisory - Active Soil Gas Investigations*, and the DTSC February 2005 (or latest version) *Guidance for the Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air*.
 4. Groundwater cleanup goals shall consider California's MCLs, Notification Levels for drinking water as established by the State Department of Public Health, Ocean Plan, or the California Toxic Rules, affected water resources, and current and anticipated future land uses.
 - iii. Submit quarterly remediation progress reports to this Regional Board. The quarterly remediation progress reports shall document all performance data associated with operating systems. Remediation progress reports shall be submitted according the following schedule:

Monitoring Quarter	Monitoring Period	Report Due Date
First Quarter	January - March	April 15
Second Quarter	April - June	July 15
Third Quarter	July - September	October 15
Fourth Quarter	October - December	January 15

- c. Develop a comprehensive RAP for deeper-zone contamination originating from the Site, if future assessment indicates that this is necessary, and submit it for Regional Board review and approval. The RAP shall include the same minimum requirements specified in Item 3b.
4. **Conduct Groundwater Monitoring:** Continue the existing quarterly groundwater monitoring program.
- a. New wells shall be installed in order to complete the groundwater monitoring well network. The intention of these wells is to monitor plume movement and to evaluate remediation progress. Submit proposed well location and construction specifications for Regional Board consideration.
- b. As new wells are installed they are to be incorporated into the groundwater monitoring program. The quarterly groundwater monitoring reports shall be submitted according to the following schedule with the next report due by **October 15, 2010**.

Monitoring Quarter	Monitoring Period	Report Due Date
First Quarter	January - March	April 15
Second Quarter	April - June	July 15
Third Quarter	July - September	October 15
Fourth Quarter	October - December	January 15

5. **Involvement of the Public:** Encourage public participation. Prepare and submit for review a *Public Participation Plan*, with the goal of providing the stakeholders with:
- a. Information, appropriately targeted to the literacy and translational needs of the community, about contamination investigation and remedial activities; and
- b. Periodic, meaningful opportunities to comment upon and to influence investigation and cleanup activities.
- Public participation activities shall coincide with key decision-making points throughout the process as specified or as directed by the Executive Officer.
6. **Time Schedule:** The Dischargers shall submit all required work plans and reports within the time schedule listed in Attachment B attached hereto and incorporated herein by reference.
7. The Regional Board's authorized representative(s) shall be allowed:
- a. Entry upon premises where a regulated facility or activity is located, conducted, or where records are stored, under the conditions of this CAO;
- b. Access to copy any records that are stored under the conditions of this CAO;

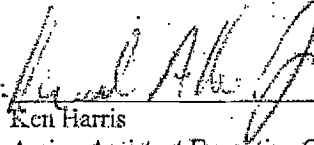
- c. Access to inspect any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this CAO; and
 - d. The right to photograph, sample, and monitor the Site for the purpose of ensuring compliance with this CAO, or as otherwise authorized by the California Water Code.
8. **Contractor/Consultant Qualification:** A California licensed professional civil engineer or geologist, or a certified engineering geologist or hydrogeologist shall conduct or direct the subsurface investigation and cleanup program. All technical documents shall be signed by and stamped with the seal of the above-mentioned qualified professionals that reflects a license expiration date.
 9. This CAO is not intended to permit or allow the Dischargers to cease any work required by any other CAO issued by the Regional Board, nor shall it be used as a reason to stop or redirect any investigation or cleanup or remediation programs ordered by the Regional Board or any other agency. Furthermore, this CAO does not exempt the Dischargers from compliance with any other laws, regulations, or ordinances which may be applicable, nor does it legalize these waste treatment and disposal facilities, and it leaves unaffected any further restrictions on those facilities which may be contained in other statutes or required by other agencies.
 10. The Dischargers shall submit 30-day advance notice to the Regional Board of any planned changes in name, ownership, or control of the Site and shall provide 30-day advance notice of any planned physical changes to the Site that may affect compliance with this CAO. In the event of a change in ownership or operator, the Dischargers also shall provide 30-day advance notice, by letter, to the succeeding owner/operator of the existence of this CAO, and shall submit a copy of this advance notice to the Regional Board.
 11. Abandonment of any groundwater well(s) at the Site must be approved by and reported to the Executive Officer at least 30 days in advance. Any groundwater wells removed must be replaced within a reasonable time, at a location approved by the Executive Officer. With written justification, the Executive Officer may approve of the abandonment of groundwater wells without replacement. When a well is removed, all work shall be completed in accordance with California Department of Water Resources Bulletin 74-90, "California Well Standards," Monitoring Well Standards Chapter, Part III, Sections 16-19.
 12. The Regional Board, through its Executive Officer, may revise this CAO as additional information becomes available. Upon request by the Dischargers, and for good cause shown, the Executive Officer may defer, delete or extend the date of compliance for any action required of the Dischargers under this CAO. The authority of the Regional Board, as contained in the California Water Code, to order investigation and cleanup, in addition to that described herein, is in no way limited by this CAO.
 13. Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Former Western Chemical Site
July 30, 2010

SCP CASE 0909
Order No. R4-2010-0044

14. Failure to comply with the terms or conditions of this CAO may result in imposition of civil liabilities, imposed either administratively by the Regional Board or judicially by the Superior Court in accordance with sections 13304, 13308, and/or 13350 of the California Water Code, and/or referral to the Attorney General of the State of California.
15. None of the obligations imposed by this CAO on the Dischargers are intended to constitute a debt, damage claim, penalty or other civil action which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of California intended to protect the public health, safety, welfare, and environment.

Ordered by:



Ken Harris

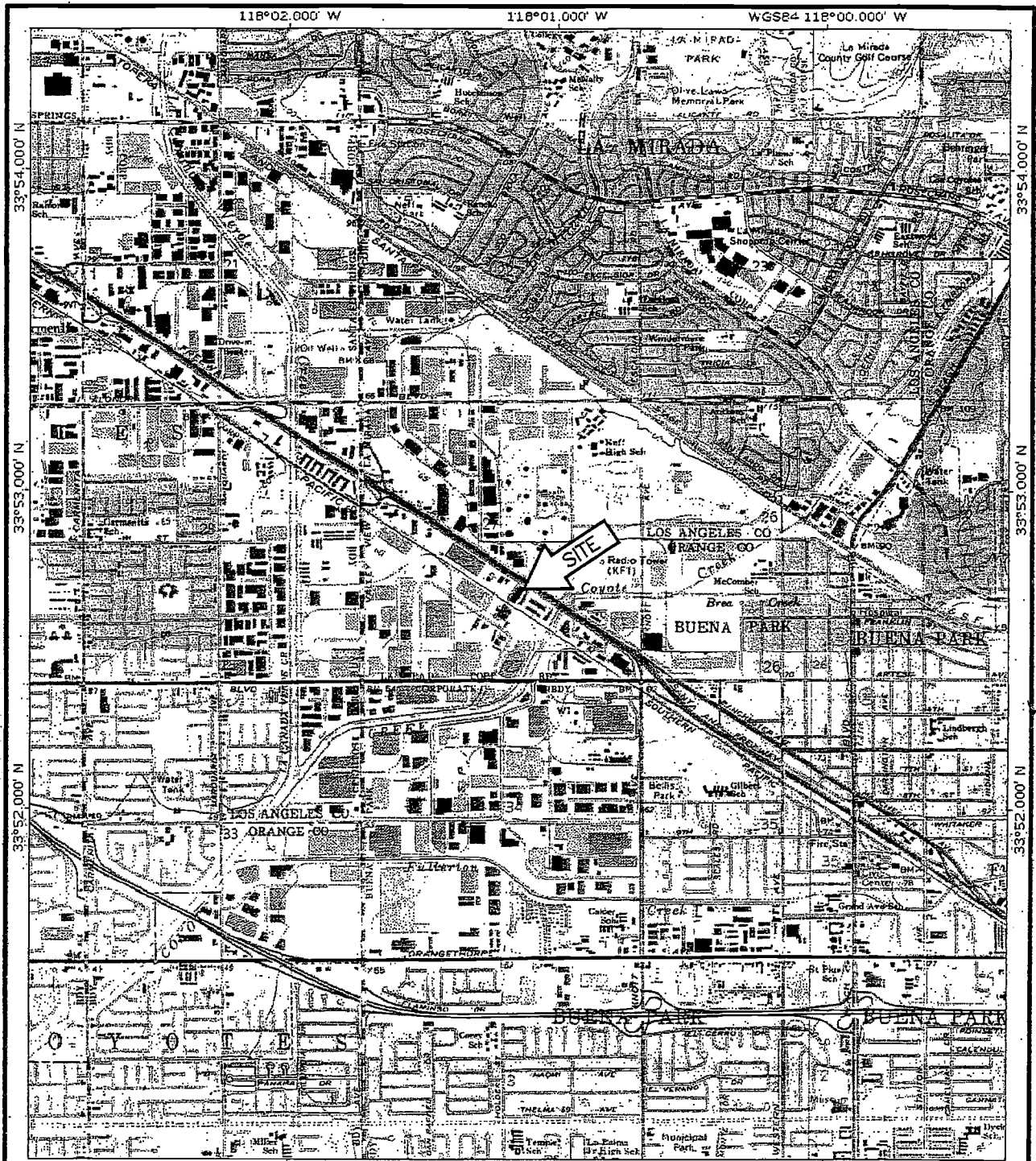
Acting Assistant Executive Officer

Date: July 30, 2010

Attachment A (Maps)

FIGURE 1: SITE LOCATION MAP

FIGURE 2: SITE VICINITY MAP



TH/MN
139°

118°02.000' W 118°01.000' W WGS84 118°00.000' W

0 1000 FEET 0 500 1000 METERS

Map created with TOPO! © 2001 National Geographic (www.nationalgeographic.com/topo)

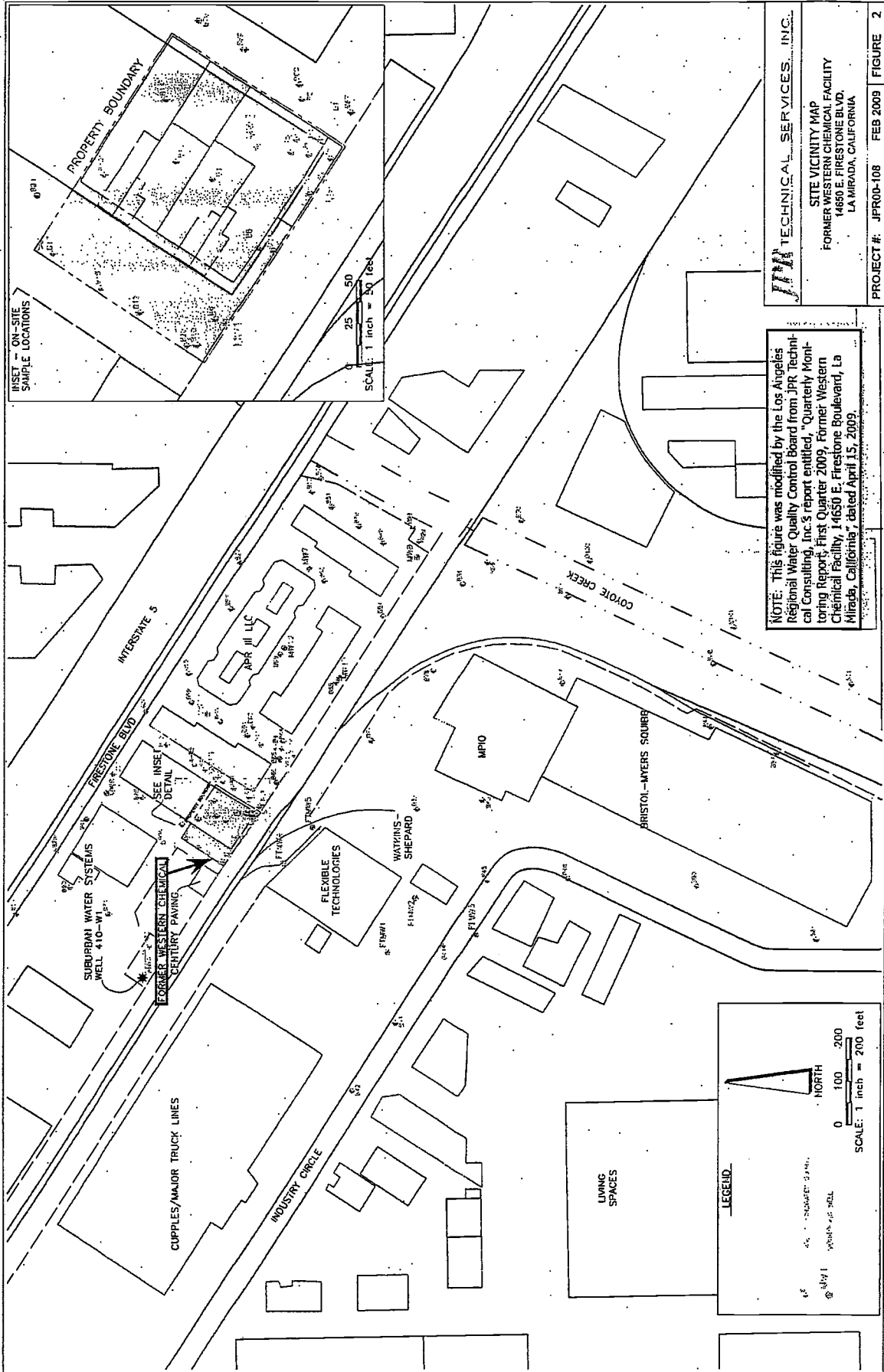
NOTE: This figure was modified by the Los Angeles Regional Water Quality Control Board from JPR Technical Consulting, Inc.'s report entitled, "Quarterly Monitoring Report, First Quarter 2009, Former Western Chemical Facility, 14650 E. Firestone Boulevard, La Mirada, California", dated April 15, 2009.

JPR TECHNICAL SERVICES, INC.

SITE LOCATION MAP
FORMER WESTERN CHEMICAL FACILITY
14650 E. FIRESTONE BLVD.
LA MIRADA, CALIFORNIA

PROJECT #: JPR00-108

FIGURE 1



NOTE: This figure was modified by the Los Angeles Regional Water Quality Control Board from JPR Technical Consulting, Inc.'s report entitled, "Quarterly Monitoring Report, First Quarter 2009, Former Western Chemical Facility, 14650 E. Firestone Boulevard, La Mirada, California", dated April 15, 2009.

JPR TECHNICAL SERVICES, INC.
 SITE VICINITY MAP
 FORMER WESTERN CHEMICAL FACILITY
 14650 E. FIRESTONE BLVD.
 LA MIRADA, CALIFORNIA

PROJECT #: JPR00-108 FEB 2009 FIGURE 2

Attachment B: Time Schedule

Directive		Due Date
1	Develop and Update a Site Conceptual Model: Provide updates to the existing Site Conceptual Model in all future technical reports. Updates shall be complete, stand-alone Site Conceptual Models, as opposed to addendums.	Required in all future technical reports

Directive		Due Date
2	Complete Delineation of Contamination	
2a	Delineation of the shallow-zone (above the "basal clay") shall be completed. A report documenting the full extent of VOCs within the shallow-zone soil, soil vapor, and groundwater shall be submitted to this Regional Board.	January 20, 2011
2ai	Delineation of deeper zones (below the "basal clay"). Work plans and reports associated with deeper zone assessment will be required following remediation of the shallow zone.	To Be Determined by the Regional Board
2b	Work Plan Addendums: Iterative additional assessment work plans and associated reports may be needed if near-term assessment work does not accomplish full delineation of the shallow zone. The Regional Board will consider designating new due dates if additional work is needed.	To Be Determined by the Regional Board

Directive		Due Date
3	Conduct Remedial Action	
3a	Submit the final plan for elements of the interim remedial action plan or an alternative interim approach for review by this Regional Board.	September 10, 2010
3b	Develop and submit a full-scale shallow-zone Remedial Action Plan.	January 31, 2011
3c	Submit a deeper zone Remedial Action Plan, if necessary, following deeper zone assessment.	To Be Determined by the Regional Board

Directive		Due Date
4	Conduct Groundwater Monitoring	
4a	Complete installation of offsite groundwater monitoring wells.	Proposed well locations and specifications are due by August 31, 2010 All shallow-zone groundwater monitoring wells shall be installed by December 15, 2010
4b	Groundwater Monitoring Reports <u>Monitoring Period</u> January to March April to June July to September October to December	Quarterly each year The first report due under this CAO is due October 15, 2010 <u>Report Due Date</u> April 15th July 15th October 15th January 15th

Directive		Due Date
5	Involvement of the Public: Prepare and submit a <i>Public Participation Plan</i> for Regional Board review.	October 29, 2010

EXHIBIT B



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

July 30, 2010

Montri and Chiravan Keyurangkul
PJK Properties, LLC
14650 Firestone Boulevard
La Mirada, CA 90638

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 8407

Geraldine Frank
7121 Western Avenue
Buena Park, CA 90620-1828

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 8391

Harland Eakens
6811 Riverside Drive
Redding, CA 96001-5427

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 8384

Faithe Trust
c/o Emil Faithe, Trustee
8015 La Caverna Ave. NE
Albuquerque, NM 87122

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 8377

Tect, Inc.¹, James Warren Patrick² (aka Jay Patrick), and Patrick Trust
c/o Edward H. Stone, Esq.
18201 Von Karmian Avenue, Suite 1160
Irvine, CA 92612

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 8360

Mr. Raj Mehta
Western Chemical³ and Soco West, Inc.
100 First Stamford Place, Mail Box #14
Stamford, CT 06902

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7009 0820 0001 6811 8414

CLEANUP AND ABATEMENT ORDER NO. R4-2010-0044 – PURSUANT TO CALIFORNIA WATER CODE SECTION 13304 – ALL-TEX INKS CORPORATION, 14650 EAST FIRESTONE BOULEVARD, LA MIRADA, CALIFORNIA (SCP CASE NO. 0909; SCP ID NO. 204CA00)

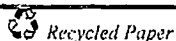
The California Regional Water Quality Control Board, Los Angeles Region (Regional Board) is the public agency with primary responsibility for the protection of ground and surface water quality for all beneficial uses within major portions of Los Angeles County and Ventura County, including the above-referenced site. In accordance with these responsibilities, enclosed is Cleanup and Abatement Order No. R4-2010-0044 (CAO), directing you to assess, monitor, cleanup, and abate the effects of contaminants discharged to the soil and groundwater at 14650 East Firestone Boulevard, La Mirada, California. This Order is prepared pursuant to section 13304 of the California Water Code.

¹ Tect, Inc. is a corporation that was suspended on September 3, 1973.

² Based upon Regional Board records, James Warren Patrick is believed to be deceased.

³ Soco West, Inc. is the successor company to Western Chemical.

California Environmental Protection Agency



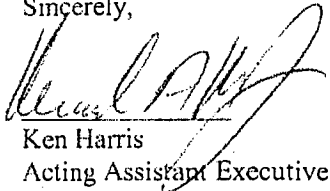
Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

A draft of this CAO was provided to you on September 30, 2009, inviting comments. The attached CAO No. R4-2010-0044 contains changes based upon the comments we received. Our responses to comments received are provided in the enclosed table, *Responsiveness Summary – Draft Cleanup and Abatement Order R4-2009-0049*.

Any person aggrieved by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

Should you have any questions, please contact Mr. Greg Bishop at (213) 576-6727 or gbishop@waterboards.ca.gov.

Sincerely,

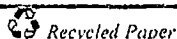


Ken Harris
Acting Assistant Executive Officer

Enclosure: *Responsiveness Summary – Draft Cleanup and Abatement Order R4-2009-0049*

Cc: Mr. Mustapha Balkis, County of Orange, OC Public Works, County Property Permits
Ms. Serena Elliot Benson, Southern California Real Estate Services
Mr. Gary Boettcher, JPR Technical Services, Inc.
Mr. Joe Bolton
Mr. Richard Chiang, Caltrans
Mr. Jack Cline, Lee & Associates
Ms. Janet Frentzel, AMB-AMS Operating Partnership, L.P.
Mr. Ray Jarvis and Mr. Salvador R. Carjabal c/o Gregory D. Trimarche, Brian Cave, LLP
Ms. Jantira Keyuranggul, All Tex Inks Corporation
Mr. Ted Koelsch, JPR Technical Services, Inc.
Mr. Louis W. Leseburg and Ms. Linda L. Leseburg, Trustees for Leseburg Trust
Mr. Dennis Loput, The Abbey Company
Ms. Phuong Ly, Water Replenishment District of Southern California
Ms. Nancy Matsumoto, Water Replenishment District of Southern California
Mr. Mike Milhifer, City of La Mirada, Department of Public Works
Mr. Thierry R. Montoya, Adorno Yoss Alvarado & Smith
Mr. Marlin Munoz, City of La Mirada, Department of Public Works
Ms. Summer Nastich, SmithTrager, LLP for Soco West, Inc.
Mr. Jeff Ogata, State Water Resources Control Board, Office of the Chief Counsel
Ms. Loretta Pollack, LBA Realty

California Environmental Protection Agency



Ms. Michele Powers, Alston & Bird LLP
Mr. Brian E. Qualls, Dowling, Aaron & Keeler, Inc.
Mr. Jeff Raumin, Environ International Corporation
Ms. Carol Serlin, Environ International Corporation
Mr. David L. Shrader, Morgan, Lewis & Bockius LLP
Ms. Diane R. Smith, SmithTrager, LLP for Soco West, Inc.
Mr. Mike J. Stiles, Stiles Law Group
Mr. Harold M. Stuhl, Cupples Company
Mr. John Svet
Mr. John Voss



EXHIBIT C

1 **DECLARATION OF EDWARD H. STONE**

2 I, EDWARD H. STONE, declare as follows:

3 1. I am employed by the law firm of Edward H. Stone, A Law Corporation, attorney of
4 record herein for Petitioner, Ronald Patrick, Administrator of the Estate of James W. Patrick
5 ("Petitioner") in the above-captioned action. I submit this declaration in support of the Petition for
6 Review of Cleanup and Abatement Order No. R4-2010-0044 ("Order R40044") and Request for
7 Stay. I have been duly admitted to practice law in the State of California. If called as a witness in this
8 action, I am competent to testify of my own personal knowledge, to the best of my recollection, as
9 to the matters set forth in this Declaration.

10 2. Petitioner will likely suffer substantial harm if a stay is not granted. Petitioner has
11 been erroneously identified as a discharger and responsible party under Order R4-2010-0044 issued
12 by the California Regional Water Quality Board, Los Angeles Region ("Regional Board") on July
13 30, 2010. Neither Mr. James Patrick nor Ronald J. Patrick, Administrator of the Estate of James W.
14 Patrick are liable personally for the liabilities arising out of the alleged wrongful conduct by Tect,
15 Inc. therefore it is improper to burden them with the significant costs and expenses associated with
16 Order R4-2010-0044.

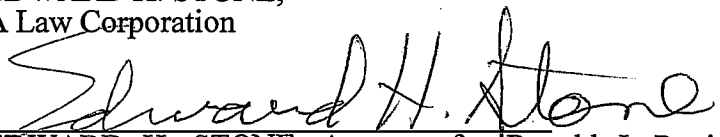
17 3. Other interested persons and the public interest will not suffer substantial harm. The
18 withdrawal and removal of Petitioner as a responsible party will not eviscerate the Regional Board's
19 efforts to cleanup and abate waste substances on the Subject Property. A stay will further the
20 objectives of Water Code § 13304 and 23 Cal. Code of Regs. § 2050 because only those parties
21 properly identified as dischargers and responsible parties will be required to comply with Order R4-
22 2010-0044. A stay period will allow a reasonable time for the SWRCB to adequately consider
23 evidence to support that Petitioner is improperly identified. The benefits afforded from protecting
24 Petitioner's interests from substantial and undue harm far outweigh any risk of nominal harm to
25 other interested persons.

26 4. Substantial questions of fact and law exist regarding the action by the Regional Board.
27 Order R4-2010-0044 identifies Petitioner as a discharger and responsible party without adequate
28 evidence that Mr. James Patrick was an alleged owner-shareholder of Tect, Inc.; however, he is not
personally liable for the improper conduct of the corporation without sufficient evidence to disregard

1 Tect, Inc. as a distinct and separate legal entity from its shareholders. A lack of any evidence to
2 support the application of alter ego liability principles precludes Mr. James Patrick's personal
3 liability for corporate acts. Moreover, Ronald J. Patrick, Administrator of the Estate of James W.
4 Patrick cannot be held liable for the conduct of Tect, Inc. because liability does not extend to Mr.
5 James Patrick's estate, unless a timely filed Creditor's Claim or any Creditor's Claim is filed. Order
6 No. R4-2010-0044 is an unavailing attempt to expand the asset pool to identify responsible parties
7 without adequately exploring well-settled California Law, which stands to protect Mr. James Patrick
8 and/or the Ronald J. Patrick, Administrator of the Estate of James W. Patrick, from liability arising
9 from Tect, Inc.'s alleged wrongful conduct.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing
11 is true and correct, and that this declaration is executed on August 25, 2010 at Irvine, California.

12
13 EDWARD H. STONE,
A Law Corporation

14
15 By: 
16 EDWARD H. STONE, Attorney for Ronald J. Patrick,
Administrator for the Estate of James W. Patrick