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5 Attorneys for Petitioners 1005 MOUNTAIN
6 LLC AND THE TOSHIO TAKANO AND KUN
POU TAKANO TRUST
7

8
9 BEFORE THE
10 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

11 In the Matter of Los Angeles Regional
12 Water Quality Control Regional Board
Order Numbers R4-2025-0018 and R4-
13 2025-0017 (1001 and 1005 South
Mountain Avenue, Monrovia, California)

SWRCB/OCC File:

**1005 MOUNTAIN LLC AND THE TOSHIO
TAKANO AND KUN POU TAKANO
TRUST'S PETITION FOR REVIEW OF
THE LOS ANGELES REGIONAL WATER
QUALITY CONTROL BOARD'S ORDER
NUMBERS R4-2025-0018 AND R4-2025-
0017 [Wat. Code § 13320]; REQUEST
FOR STAY IF RELIEF IS NOT
PROMPTLY GRANTED [Wat. Code §
13320]**

**FILED CONCURRENTLY WITH THE
DECLARATION OF JOHN E. VAN
VLEAR IN SUPPORT.**

21
22 In accordance with Water Code section 13320, the first Petitioner 1005 Mountain
23 LLC ("LLC") and its Managing Member John W. Chadwick (and his wife Judy Kline)
24 hereby petition to the California State Water Board ("State Board") to review the Los
25 Angeles Regional Water Quality Control Regional Board's ("Regional Board") Order
26 number R4-2025-0018 dated March 6, 2025 ("LLC Order") with respect to the property
27 the LLC owns at 1005 S. Mountain Ave., Monrovia ("1005 Site"). Likewise, in
28 accordance with Water Code section 13320, the second Petitioner Toshio Takano and

Kun Pou Takano Trust, through its Trustees Toshio and Kun Po Takano – who are both in their 70s and trying to retire (collectively "Takano"), hereby petition to the State Board to review the Regional Board's Order number R4-2025-0017 dated March 6, 2025 ("Takano Order") with respect to the property it owns next door at 1001 S. Mountain Ave., Monrovia ("1001 Site").

As to terminology herein: (a) the LLC and Takano are collectively referred to as "Petitioners"; (b) the 1005 Site and 1001 Site are collectively referred to as "Sites" (see green highlights added to the 2025 Farallon figure); (c) the LLC Order (attached as Exhibit "A" to the Declaration of John E.

Van Vlear in Support – "Van Vlear Decl.") and the Takano Order (attached as Exhibit "B" Van Vlear Decl.) are collectively referred to as the "Orders"; (d) the former Anja Engineering/Scripto-Tokai pen facility is collectively referred to as "Scripto"; and (e) 1009,



1 1013, 1017 S. Mountain Ave. and 831 Huntington Ave., as depicted and labeled by
2 Farallon in their 2025 figure) are collectively referred to as "Scripto Parcels".

3 Petitioners respectfully request that the State Board find the Regional Board's
4 actions and inactions related to the Orders to be inappropriate and/or improper in that:

5 (a) The Regional Board would not temporarily remove the LLC from the LLC Order
6 so that Managing Member John W. Chadwick (and his wife Judy Kline) could concentrate
7 on his cancer and ongoing treatments at the City of Hope;

8 (b) The Regional Board would not rescind Orders or remove Petitioners from the
9 Orders;

10 (c) There is admittedly no evidence of any discharge of hazardous substances
11 from these small Sites to the subsurface;

12 (d) The Orders estimate that each of the Petitioners must incur an estimated
13 "\$75,000 to \$200,000" (*without* Regional Board oversight costs) to provide technical
14 reports – amounts not reasonably related to the need for the reports and benefits to be
15 obtained where there is no evidence of a discharges from the Sites;

16 (e) The Regional Board believes the Sites are within the footprint of the former
17 Scripto facility and this validates the Orders, yet:

18 (i) Title records back to the 1950s show that neither of the Sites was ever
19 owned by a Scripto-related entity;

20 (ii) Historic city directories back to the 1950s do not show any listing of a
21 Scripto-related business operating at either of the Sites while such **do** show Scripto-
22 related businesses operating from 1957-1990 at nearby 1017 Mountain Ave. ("1017
23 Mountain") and 831 Huntington Drive ("831 Huntington");

24 (iii) South Coast Air Quality Management District ("SCAQMD") solvent
25 degreaser, etc., permits issued to Scripto in 1964, 1979, and 1982 are for Scripto Parcel
26 1017, but not for either of the Sites;

27 (iv) A 1990 Regional Board inspection appears to indicate the Sites might
28 have been somehow associated with the former Scripto facility, yet the text and figure do

1 not identify a single suspect operation or indicia of a discharge from the Sites, instead
2 identifying all such operations and evidence of discharges from the Scripto Parcels –
3 resulting in the Regional Board requiring investigation at the Scripto Parcels but not at the
4 Sites;

5 (v) There is not a single piece of technical data evidence indicating a
6 discharge of solvents or other hazardous substances to the subsurface at the Sites: and

7 (f) The Regional Board should be estopped and has waived its right to unilaterally
8 order investigation at the Sites because:

9 i) There was no prior outreach to Petitioners - none;

10 ii) The Regional Board waited 35 years after the single 1990 inspection
11 letter which the Regional Board now claim is the basis for the Orders;

12 iii) The Regional Board's inactions caused the Petitioners to detrimentally
13 rely on such when they respectively purchased the Sites in the early 2000s; and

14 iv) The Regional Board caused financial burden, loss, and pain and
15 suffering by Petitioners.

16 As a result of these inappropriate and improper actions and inactions, the
17 Petitioners ask that the State Board instruct the Regional Board to forthwith remove each
18 of the Petitioners from the respective Orders.

19 Also, pursuant to CWC section 13321, if the State Board does not act promptly as
20 per the above request, Petitioners ask that the State Board stay implementation of the
21 Orders since (1) there will be substantial harm to Petitioners if a stay is not granted; (2)
22 there will be no substantial harm to other interested persons and to the public interest if a
23 stay is granted, and (3) there are substantial questions of fact and or law regarding the
24 disputed Orders and the Regional Boards actions and inactions.

25 Reservation of Rights: Given the extremely tight time frame here,
26 Petitioners reserve and request the right to file supplemental documentation, points and
27 authorities, and/or other evidence in support of the Petition for Review and/or if the
28 administrative record becomes available. Petitioners also reserve the right to submit

additional arguments or evidence responsive to the Regional Board's or other parties responses to this Petition.

I. NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS OF PETITIONERS

Petitioners' names and contact information are as follows:

1005 Mountain LLC

c/o John Van Vlear, Esq. - john.vanvlear@ndlf.com
Spencer Jensen, Esq. - spencer.jensen@ndlf.com
Newmeyer Dillion LLP
895 Dove Street, 2nd Floor
Newport Beach, CA 92660
(949) 854-7000

The Toshio Takano and Kun Pou Takano Trust

c/o John Van Vlear, Esq. - john.vanvlear@ndlf.com
Spencer Jensen, Esq. - spencer.jensen@ndlf.com
Newmeyer Dillion LLP
895 Dove Street, 2nd Floor
Newport Beach, CA 92660
(949) 854-7000

II. SPECIFIC ACTION OF THE REGIONAL BOARD WHICH THE STATE BOARD IS REQUESTED TO REVIEW

Petitioners request that the State Board review the history of the underpinnings for the Orders, the denials by the Regional Board's for relief to Petitioners below, and the inappropriate and improper actions by the Regional Board with respect to the Orders.

III. DATE ON WHICH THE REGIONAL BOARD ACTED AND FAILED TO ACT

First, on March 27, 2025, by email from State Board attorney Adriana Nunez (Exhibit "C" Van Vlear Decl.), the Regional Board denied 1005 Mountain LLC's humanitarian and health-based request to temporarily remove the LLC from the LLC

Order.¹ Second, on April 3, 2025, by further email from attorney Nunez ("Final Denial" - Exhibit "D" Van Vlear Decl.) the Regional Board denied Petitioners' April 1, 2025 written request to remove both Sites and Petitioners from the Orders ("April 1st Letter Request" – Exhibit "E" Van Vlear Decl.).

IV. STATEMENT OF REASONS WHY THE ACTION OF THE REGIONAL BOARD WAS INAPPROPRIATE OR IMPROPER

The Managing Member of the LLC – John Chadwick – has cancer and is enduring ongoing treatments at the City of Hope.² He and his wife wanted the Newmeyer Dillion ("ND") lawyers to try and see if the Regional Board would temporarily take the LLC off the order to allow them to focus on John's health instead of having to file an appeal to the Regional Board in such a short time. ND asked for a Teams call to address this single issue (see Attorney Van Vlear's March 20, 2025 email to the Regional Board – Exhibit "F" to Van Vlear Decl.). The Regional Board agreed to participate in that call which was held for 15 minutes on March 24th, with participants for the Regional Board being Arthur Heath (Section Chief), Anita Fang (Engineer), Norma Menjivar (Engineer), Adriana Nunez (Regional Board Attorney).

During the Teams call, ND asked the Regional Board to temporarily remove the LLC from the LLC Order on humanitarian grounds as outlined above. By email on March 27th, the Regional Board's denied the request (Exhibit "C" to Van Vlear Decl.). Given the decades-long saga for the Scripto facility – this denial over the life-threatening health concerns of Mr. Chadwick rises to highest level of "inappropriate and improper."

Returning to the Teams call, ND also asked for any map, figure, photograph, etc.,

¹ Petitioner LLC wished to make clear that the Regional Board and its attorney were gracious, professional, and polite throughout this process – including agreeing to participate in the expedited Teams call on March 24th. For this the LLC's Managing Member and his wife are appreciative.

² If the State Board wishes documents showing both the cancer diagnoses and overwhelming treatment regimes, Petitioners will gladly provide such – under seal.

1 showing that the 1005 Site was within the footprint of the former Scripto facility. Project
2 Manager Norma Menjivar responded that it "shouldn't be a problem" to find and provide
3 such. After the call, ND sent follow-up emails as to the requested figures, etc., and the
4 Regional Board responded they were looking. On March 27, 2025, Ms. Menjivar emailed
5 ND: "Unfortunately, a map was not found." (See Menjivar email attached as Exhibit "G"
6 Van Vlear Decl.). What Ms. Menjivar did provide was a June 8, 1990 inspection letter
7 (Exhibit "H" Van Vlear Decl.) by the Regional Board listing the addresses for both Sites in
8 some fashion connected with the Scripto facility.

9 To address the Orders substantively based upon the materials then made
10 available, by the April 1st Request Letter (Exhibit "E" to Van Vlear Decl.) Petitioners
11 requested they be removed from the Orders. Late on April 3rd, the Regional Board
12 denied the request (Exhibit "D" to Van Vlear Decl.) and provided some additional
13 materials. To meet the jurisdictional deadline, this appeal has now ensued.

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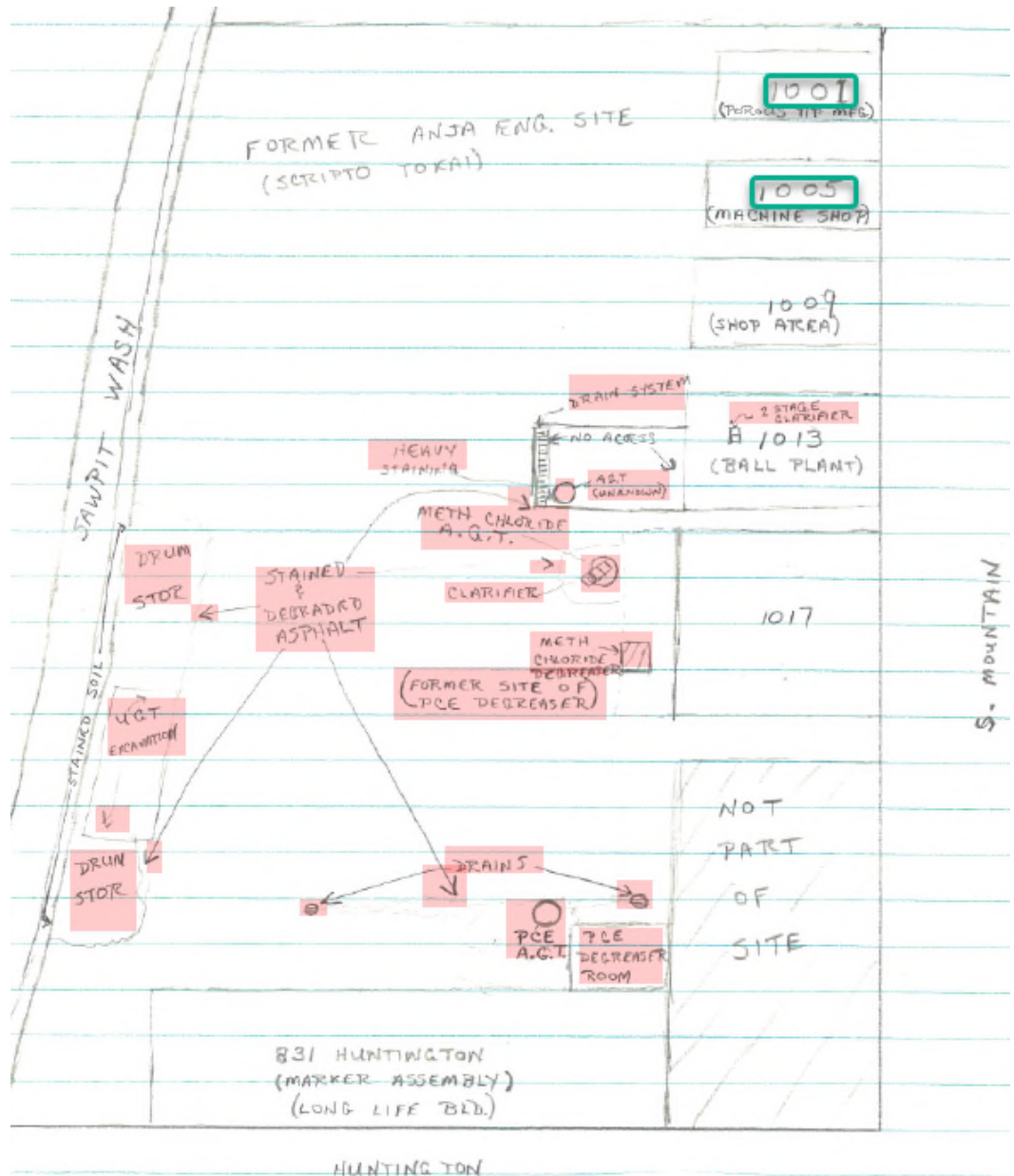
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28 [Cont.]

As part of the April 3rd denial of the April 1st Letter Request, Attorney Nunez provided the Inspection Checklist from the 1990 Regional Board inspection, which included a hand-drawn figure (Exhibit "I" to Van Vlear Decl.). Neither the Inspection

Report nor the Inspection Checklist from 1990 identified any suspect features or operations at the Sites, or noted any signs of a discharge. Instead, everything noted and drawn related to features and discharge



indicia were on the Scripto Parcels. The inspection letter then required Scripto to conduct subsurface investigations at and near these various areas on the Scripto Parcels, but not on either of the Sites. (Exhibit "H", to Van Vlear Decl., at pp. 2-3.)

While the Regional Board may think these 1990 documents help justify the Orders – they in fact do the opposite. The Regional Board's investigator Mr. Roy Sakaida, a

1 Senior Water Resource Control Engineer, apparently inspected the entire Scripto facility
2 including the Sites. He made detailed notes and even drew a figure showing all areas of
3 concern. In his eyewitness observation and professional opinion the areas of concern
4 that warranted documenting were only on the Scripto Parcels – not the Sites. Moreover,
5 the Inspection Letter demand for investigation only applied to the Scripto Parcels – not
6 the Sites. Essentially, Senior Engineer Sakadia's work on behalf of the Regional Board
7 ***failed to identify any discharge or suspected discharge*** at the Sites.

8 Each and every subsequent investigation under Regional Board oversight focused
9 on the Scripto Parcels and not the Sites. There is absolutely not one scintilla of
10 evidence, data, witness, document, or otherwise that indicates a discharge at the Sites.
11 In fact, even as of yesterday Regional Board attorney Nunez confirmed that the Scripto
12 Parcels are the discharge locations: (a) "the source areas on 1017 s. Mountain Avenue
13 extend to the 1001 and 1005 S. Mountain Avenue properties" and (b) "... the known
14 source areas at 1009, 1013, 1107, and 1017 S. Mountain Avenue and 831 Huntington
15 Avenue...." (Exhibit "E" to Van Vlear Decl., at p. 2).

16 The extent of any Scripto operations at the Sites is meager at best. In fact, brief
17 title research has confirmed that there is no ownership by Scripto for either of the Sites
18 going back to the 1950s:

19 1001 Site

- 20 • 1956 – J. K. Hamilton and Carol Hamilton, husband and wife, as joint tenants
(vesting from Bresnan Construction company)
- 21 • 1961 - J. K. Hamilton and Carol Hamilton, husband and wife, as community
22 property
- 23 • 1969 – Jack K. Hamilton and Carol Hamilton, Trustees of the John R. Stanton, Jr.
Irrevocable Trust dated 6/05/1961
- 24 • 1972 – Jack K. Hamilton and Carol Hamilton, husband and wife, as community
property
- 25 • 1975 - Jack K. Hamilton and Carol Hamilton, husband and wife & Security First
National Bank
- 26 • 1977 - Jack K. Hamilton and Carol Hamilton, husband and wife, as community
property
- 27 • 1986 – Gooseneck Enterprises, a CA corporation
- 28 • 1995 - Seidner Family Trust
- 2000 - Takano family and then to the Takano Trust

1005 Site

- 1952 – Art Concrete, a California corporation
- 1955 – Bresnan Construction Company, a partnership composed of Robert C. Bresnan and John Poulos
- 1956 – J. K. Hamilton and Carol Hamilton, husband and wife, as Joint Tenants
- 1961 – J. K. Hamilton and Carol Hamilton, husband and wife, as Community Property
- 1986 – Gooseneck Enterprises, a CA corporation
- 1994 – Joaquin De Silva
- 1995 – Joaquin De Silva and Perla De Silva, Trustors and Trustee of the De Silva Family Trust dated 2/21/1995
- 2000 – Maria Perla Mercade, a married woman and Victor Joaquin De Silva, as Tenants in Common
- * Sept. 12 – Joaquin De Silva and Perla De Silva, as Trustees of the De Silva Family Trust dated 2/21/1995
- 9/12/2000 – Kurt and Sarah Donohue, husband and wife as Joint Tenants
- 2003 – John Chadwick (personally)
- 2010 – John Chadwick (trust)
- 2012 – 1005 Mountain LLC

Similarly, historical directories from the EDR-City Directory Abstract show not a single mention of any Scripto company ever existing on either of the Sites:

MOUNTAIN AVE

1001 MOUNTAIN AVE

<u>Year</u>	<u>Uses</u>	<u>Source</u>		
2006	BODY SHOP	Haines Company	1995	Daw son F
	RENECO	Haines Company		DEALER S BODY SHOP
	TAKANOS AUTO	Haines Company		KEVIN SHAW PLUMBING
	a AZIEd	Haines Company, Inc.		Shaw Kevin Plumbing
2003	GONSER Richard	Haines & Company		Skeetmaster
2001	MCGINLEY James	Haines & Company, Inc.		t Dealers Body Shop
	TATEVOSIAN Emil	Haines & Company, Inc.		TDEALER S BODY SHOP
			1991	Daw son F
				If No Answer Calif
				Res
			1985	Daw son F
				SKEETMASTER
			1980	DAWSON F
				GONSER RICHARD L E MOUNTAIN VIEW AVE
				GLENDORA
				SMITH THOS S GLENDALE

[Cont.]

<u>Year</u>	<u>Uses</u>	<u>Source</u>			
1975	GONSER RICHARD L	Pacific Telephone	1957	ATKINSON J DUFFY	Pacific Telephone
1972	AUNE JAMES K	R. L. Polk & Co.		BUKLIN FRANK	Pacific Telephone
	DAWSON FRED T	R. L. Polk & Co.		MINNEAPOLIS-HONEYWELL REGULATOR CO ORDNANCE DIV	Pacific Telephone
1970	DAWSON FRED T	Pacific Telephone	1956	DAWSON FRED T	Pacific Telephone
1967	DAWSON FRED T	R. L. Polk & Co.		MASTERS EVA R	Pacific Telephone
	HARPER LELAND W	R. L. Polk & Co.	1955	DAWSON FRED T A	R. L. Polk & Co.
1966	H B ASSOCIATES	Pacific Telephone		MASTERS EVA MRS A	R. L. Polk & Co.
	MCS CORP	Pacific Telephone	1951	VACANT	R. L. Polk & Co.
1962	DAWSON FRED T	Pacific Telephone			
	Longlife Pen Co	Pacific Telephone			
	MASTERS EVA	Pacific Telephone			
1960	CLEMONS KENNETH	Pacific Telephone	1995	Kevin Shaw Plumbing	Pacific Bell
	PACIFIC ELECTRONIC CONTROLS CORP	Pacific Telephone		Shaw Kevin Plumbing	Pacific Bell
	DAWEON FRED T	R. L. Polk & Co.	1966	H B ASSOCIATES	Pacific Telephone
	MASTERS EVA MRS	R. L. Polk & Co.			

1005 MOUNTAIN AVE

<u>Year</u>	<u>Uses</u>	<u>Source</u>
2006	RENECO	Haines Company

1005 S MOUNTAIN AVE

<u>Year</u>	<u>Uses</u>	<u>Source</u>
2020	J CHADWICK CO	EDR Digital Archive
	JOHN CHADWICK	EDR Digital Archive
2014	JCHADWICK	Cole Information
2010	J CHADWICK	Cole Information
1995	KEVIN SHAW PLUMBING	Cole Information
1992	DEE GEE OF CA	Cole Information

As a truth test, the historic directories so clearly showed Scripto-related entities listed as operating *on the Scripto Sites*:

1017 MOUNTAIN AVE

<u>Year</u>	<u>Uses</u>	<u>Source</u>
1990	ANJA ENGINEERING CORP MONROVIA	Pacific Bell
1986	ANJA ENGINEERING CORP MONROVIA	Pacific Bell
	LONGLIFE PEN CO MONROVIA	Pacific Bell
1985	ANJA ENGINEERING CORP	Pacific Bell
1981	ANJA ENGINEERING CORP MONROVIA	Pacific Telephone
1980	ANJA ENGINEERING CORP S MOUNTAIN AVE MONROVIA	Pacific Telephone
1975	ANJA ENGINEERING CORP	Pacific Telephone
1966	ANJA ENGINEERING CORP	Pacific Telephone
	INK RESEARCH	Pacific Telephone
1960	ANJA ENGINEERING CORP	Pacific Telephone
	INK RESEARCH	Pacific Telephone
1957	ANJA ENGINEERING CORP	Pacific Telephone

831 HUNTINGTON DR

<u>Year</u>	<u>Uses</u>	<u>Source</u>
2006	SOCAL EXPRESS	Haines Company
1995	ALL AROUND SPORTS	Pacific Bell
	SOCAL EXPRESS	Pacific Bell
	All Around Sports	Pacific Bell
	All Around Termite & Pest Control Inc Covina	Pacific Bell
	Socal Express	Pacific Bell
1981	LONGLIFE PEN CO MONROVIA	Pacific Telephone
1980	LONGLIFE PEN CO E HUNTINGTON DR MONROVIA	Pacific Telephone
1975	LONGLIFE PEN CO MONROVIA	Pacific Telephone
1971	Longlife Pen Co	Pacific Telephone
1967	Longlife Pen Co	Pacific Telephone
1966	LONGLIFE PEN CO	Pacific Telephone

Further, various South Coast Air Quality Management District permits to Scripto, for the use of degreasers, etc., all list Script Parcel 1017 as the location of the operations (see collectively Exhibit "J" to Van Vlear Decl.):

Degreaser at 1017 S. Mountain (1964):

PERMIT TO OPERATE

P 5505

3/06-7

Operation under this permit must be conducted in compliance with all data and specifications included with the application under which this permit is issued. The equipment must be properly maintained and kept in good operating condition at all times. In accordance with Rule 10(e), this Permit to Operate must be posted or accessible.

LEGAL OWNER OR OPERATOR: ANJA ENGINEERING CORPORATION

Appl. No. A-25991

EQUIPMENT LOCATED AT: 1017 SOUTH MOUNTAIN AVENUE MONROVIA, CALIFORNIA

EQUIPMENT DESCRIPTION AND CONDITIONS: DEGREASER, BARON VAPOR-SPRAY TYPE, MODEL DB-5 D, 2'-6" W. x 5'-8" L. x 5'-0" H., SERIAL NO. D9044.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 20, Chapter 2, Article 3, of the Health and Safety Code of the State of California or the Rules and Regulations of the Air Pollution Control District. This permit cannot be considered as permission to violate existing laws, ordinances, regulation or statutes of other governmental agencies.

"Filing fee only - total cost of permit - filing fee paid on validation number 44785, dated 10/6/64."

VOID UNLESS VALIDATED

AIR POLLUTION CONTROL OFFICER

BY Beth Malin

Beth Malin, Permit Processing

DATE October 21, 1964

Solvent storage tank at 1017 S. Mountain (1979):

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

PERMIT to OPERATE

M 07384

METRO ZONE - 434 South San Pedro Street, Los Angeles, California 90013

SECTOR BE

Operation under this permit must be conducted in compliance with all information included with the initial application and the initial permit conditions. The equipment must be properly maintained and kept in good operating condition at all times. In accordance with Rule 206, this Permit to Operate or copy must be posted on or within 8 meters of equipment.

LEGAL OWNER OR OPERATOR: ANJA ENGINEERING, CORPORATION

Appl. No. C-12126

EQUIPMENT LOCATED AT: 1017 SOUTH MOUNTAIN AVENUE MONROVIA, CALIFORNIA

EQUIPMENT DESCRIPTION AND CONDITIONS: STORAGE TANK, 5'-0" DIA. X 7'-0" H.

-CONDITION-

THIS TANK MUST NOT BE USED TO STORE A PETROLEUM DISTILLATE HAVING A REID VAPOR PRESSURE OF 3.9 POUNDS OR GREATER.

This initial permit must be renewed by 5/8/80 or an earlier date if equipment is moved, altered, or changes ownership. If billing for annual renewal fee (Rule 301.f) not received by expiration date, contact Zone office above.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State of California or the Rules of the Air Quality Management District. This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other governmental agencies.

VOID UNLESS VALIDATED

AIR POLLUTION CONTROL OFFICER


HELEN THOMPSON

PERMIT SECTION

DATE 5/8/79

Solvent degreaser at 1017 S. Mountain (1982):

1
2
3
4
5
6
7
8
9
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11

 **SOLVENT DEGREASING DISTRICT**
PERMIT to OPERATE
9450 FLAIR DRIVE, EL MONTE, CALIFORNIA 91731

M 27923

Operation under this permit must be conducted in compliance with all information included with the initial application and the initial permit conditions. The equipment must be properly maintained and kept in good operating condition at all times. In accordance with Rule 26, this Permit to Operate or copy must be posted on or within 8 meters of equipment.

LEGAL OWNER OR OPERATOR: **ANJA ENGINEERING CORP.**
EQUIPMENT LOCATED AT: **1017 S. MOUNTAIN AVE. MONROVIA, CALIFORNIA**

APPL. NO. C-33909

EQUIPMENT DESCRIPTION AND CONDITIONS:
DEGREASING SYSTEM CONSISTING OF:
1. **DEGREASER**, BRANSON, VAPOR-SPRAY TYPE, MODEL NO. PSD 2024 R, 16 KW ELECTRICALLY HEATED, WITH 5 H.P. REFRIGERATION UNIT AND A 1/5 H.P. SPRAY PUMP.
2. SOLVENT STILL, BRANSON, MODEL OP-20G, 8.4 KVA.

THIS DEGREASER MUST USE ONLY METHYLENE CHLORIDE, 1,1,1 TRICHLOROETHANE, TRICHLOROTRIFLUOROETHANE OR A COMBINATION OF THESE SOLVENTS.

CONDITION

This initial permit must be renewed by **10/1/83** unless the equipment is moved, or changes ownership. If billing for annual renewal fee (Rule 301.7) not received by expiration date, contact office above.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State of California or the Rules of the Air Quality Management District. This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other government agencies.

EXECUTIVE OFFICER
BY **10/8/82**
DATE

VOID UNLESS VALIDATED

76P235M-REV. 2-81

FILE COPY

South Coast Air Quality Management District
Certified Copy

12 Overall then, all evidence known to Petitioners shows the Scripto Parcels to be
13 where there were actionable discharges, not at the Sites.

14 Regardless of this undeniable fact, the Regional Board tries to justify the Orders
15 through the bogus and overreaching "passive migration" theory. While this will be
16 explored further below in Section VII Points and Authorities, as set forth above, the
17 Regional Board admits "it is suspected that the plume [unspecified] from the source areas
18 on 1017 S. Mountain Avenue extended to..." the Sites. (Regional Board attorney Nunez
19 denial email from April 3rd, Exhibit "E" to Van Vlear Decl., p. 2). Because of this, the only
20 hook the Regional Board has to justify the Orders is a shocking passive migration theory:
21 "Since your clients are the current property owners, and would be responsible for any
22 passive migration of waste discharges..." (*Ibid.*) This is outrageous, inappropriate, and
23 improper under the California Water Code (CWC) or otherwise for a neighbor's property
24 that was given a clean bill of health by the Regional Board's own Senior Engineer.

25 **V. THE MANNER IN WHICH THE PETITIONERS ARE AGGRIEVED**

26 The Regional Board has taken no action related to the Sites in over 35 years. Had
27 Petitioners known that the Regional Board was concerned – in any fashion – with either
28 of their respective Sites, then they would not have purchased the properties in the early

2000s. Instead, the Regional Board's laches, at that point a decade-old at least, induced Petitioners' detrimental reliance in paying fair market value for the Sites and becoming owners. There was no Geo-Tracker files for the Site at that point and certainly nothing on title. After that point and until issuance of the Order, the Regional Board had NEVER reached out Petitioners with respect to what has apparently now become an urgent matter. This inaction, followed by the subsequent stealth issuance of the meritless Orders, has aggrieved Petitioners by causing unwarranted stress and incurrence of time and financial resources in defense – especially within the 30-day window for appeal to the State Board.

For the Takano trustees are both in their 70s and trying to retire, they don't need this huge burden and certainly don't have "75,000 to \$200,000" (plus Regional Board oversight costs) available. For the LLC, it likewise doesn't have "75,000 to \$200,000" (plus Regional Board oversight costs) available. Moreover, the Regional Board's actions and inactions are impacting the LLC even more dramatically in the midst of its Managing Member's fight for his life. This is shocking given the pure "fishing expedition" nature of the Orders. Not to put too fine a point on it, a turn for the worse by Mr. Chadwick, or heaven-forbid his death exacerbated by the baseless Orders and denial of temporary removal request, may result in claims by his wife and heirs against the Regional Board and/or State Board.

VI. SPECIFIC ACTION REQUESTED BY THE PETITIONERS OF THE STATE BOARD AND REQUESTED STAY IF NO PROMPT ACTION

Petitioners respectfully request the given the facts and law, the State Board direct the Regional Board to remove each Petitioner from its respective Order.

Also, if the State Board does not act promptly as per the above request, Petitioners ask that the State Board stay implementation of the Orders since, as outlined herein and the attached Van Vlear Decl.: (1) there will be substantial harm to Petitioners if a stay is not granted; (2) there will be no substantial harm to other interested persons and to the public interest if a stay is granted, and (3) there are substantial questions of

fact and or law regarding the disputed Orders and the Regional Boards actions and inactions.

VII. STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF LEGAL ISSUES RAISED IN THE PETITION

As required by 23 CCR Section 2050(a)(7), beyond what has already been referenced above, Petitioners further include here points and authorities addressing focused points in support of this Petition.

A. THE ORDERS ARE JURISDICTIONALLY IMPROPER AND INAPPROPRIATE GIVE THE LACK OF DISCHARGES BY PETITIONERS AND/OR FROM THE SITES AND UNREASONABLE RELATIONSHIP OF COSTS FOR THE WORK FROM THESE PETITIONERS.

The Orders proclaim statutory authority pursuant to CWC section 13267(b)(1). First, the Regional Board tries to enhance its importance and powers in the Orders by misquoting and embellishing the CWD. The Orders appear to quote the CWC verbatim as follows: "the Los Angeles Water Board may require ... shall furnish ... reports which the Los Angeles Water Board requires." (Orders, page 4, para. 4, emphasis added). Yet, the CWC doesn't actually read that way. Instead, the true CWC reads: "... the regional board may require ... shall furnish .. which the regional board required." (CA Water Code § 13267 (2024)). Petitioners object to this ploy and request the State Board void the Orders as defective on their face.

Second, the CWC provides: "... the regional board may require that any person ***who has discharged, discharges, or is suspected of having discharged or discharging*** ... shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires." (*Ibid.*, emphasis added.) Yet, as shown above, there is no evidence of a discharge from the Sites – NONE! In fact, the Regional Board's own Senior Engineer found none when he was inspecting the Sites – instead finding suspect operations and discharge indicia only from the Scripto Parcels. Petitioners thus object to the "passive migration" ploy now being tried by the Regional

Board and request the State Board direct the Regional Board remove each Petitioner from the respective Orders.

Third, as detailed above, it is unfair and brutal to try and extract from Petitioners "\$75,000 to \$200,000" (with agency oversight costs) to do investigation where there is no evidence of discharges from the Sites. On its face, such vast amounts for these small, family owned and operated properties, with elderly and ill principals, does not meet the requirements of the CWC: "The burdens, including costs, of these reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports." (*Ibid.*, emphasis added.) Petitioners object on this additional basis request the State Board direct the Regional Board remove each Petitioner from the respective Orders.

B. THE REGIONAL BOARD SHOULD BE ESTOPPED FROM PURSUING THE ORDERS AS SUCH ARE TIME-BARRED BY LACHES

The doctrine of laches is a time-honored equitable defense that ensures that an aggressor cannot wait on legal rights only to pursue such much later when evidence or witnesses have evaporated and the defending parties have detrimentally-relied upon the non-pursuit. In California, the elements of laches include: (1) an unreasonable delay in asserting a right, and (2) acquiescence in the act or prejudice resulting from the delay. *Johnson v. City of Loma Linda*, 24 Cal.4th 61 (2000).

The Regional Board has known of the Scripto facility and environmental issues associated with it since the late-1980s. The Orders admit that the Regional Board pursued Scripto through issuance of a 2009 order to investigate further "which had been discontinued in 2000." Regardless, as to the Sites, the Regional Board places great importance now as a foundation for the Orders on the 1990 inspection letter and inspection checklist related thereto. So why did the Regional Board wait nearly 35 years to issue the Orders? This is the epitome of an action that should be time-barred pursuant to laches for an unreasonable delay, and because of common sense, lack of due

process, and fair play. As explain above, the Petitioners have been aggrieved in many ways by this failure to act timely.

Moreover, laches is in place to ensure respondents have the ability to secure relevant evidence in a timely fashion to aid in defense. Yet, Petitioners have lost this ability day-by-day in the nearly 25 years since they became owners of the Sites in the early 2000s. At that point, historic evidence, witnesses, etc., from the 1950s, 1960s, and 1970s, were already getting remote – but at least there was a chance of finding such. Yet, after a quarter of a century, more, all that evidence is likely long gone. How many former Scripto employees would still be alive now? Even if they were, what can they remember half a century or more after possibly being on the Sites? This is the crux of why the laches defense is so strong here. In waiting 35 years to act, the Regional Board has stripped Petitioners of the ability to properly defend themselves. Thus, the Petitioners being named in the Orders is the epitome of an injustice and should be time-barred by laches. The State Board should direct the Regional Board to be estopped on that basis from pursuing Petitioners in the Orders.

C. PETITIONERS ARE PROTECTED BY CERCLA'S AND THE HSAA'S INNOCENT LANDOWNER DEFENSES.

California's Hazardous Substance Account Act ("HSAA") Section 25323.5, subd. (b) incorporates the federal Comprehensive Environmental Response Compensation and Liability Act of 1980's ("CERCLA") "innocent landowner" defense set forth in 42 U.S.C. §§ 9601(35)(a), 9607(b)(3). The defense applies where a landowner acquired the facility and "did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed of on, in, or at the facility." 42 U.S.C. § 9601(35)(a).

Here, when the LLC and Takano acquired the Sites, neither party had any notice that any hazardous substances had ever been released or disposed of on the Sites or that the Regional Board considered either of the Sties as being within the former Scripto facility footprint. Title was clear of any such references and there were no Geo-Tracker

entries supporting such an assertion. As a result, the State Board should direct the Regional Board to remove Petitioners from the Orders.

VIII, THIS PETITION HAS BEEN SENT TO THE REGIONAL BOARD

A true and correct copy of this Petition was sent electronically to the Regional Board on Friday, April 4, 2025 via email to the management team and legal counsel. (See ND email to Arthur Heath, Norma Menjivar, and Adriana Nunez, Esq. – attached as Exhibit "K" to Van Vlear Decl.).

IX. THE PETITIONERS RAISED THE ISSUE OR OBJECTION IN THIS PETITION TO THE REGIONAL BOARD

As detailed above, Petitioners have raised various issues addressed herein with the Regional Board through emails, a Teams call, further emails, and the April 1st Request Letter.

X. REQUEST TO THE REGIONAL BOARD FOR PREPARATION OF THE ADMINISTRATIVE RECORD

By copy of this petition to the Regional Board, if the State Board doesn't act immediately, Petitioners hereby request the preparation of the administrative record.

XI. REQUEST FOR EVIDENTIARY HEARING

If the State Board acts promptly to instruct the Regional Board to remove Petitioners from the Orders, Petitioners waive a request for an evidentiary hearing. If however, this is an extended process before the State Board, then Petitioners ask for an evidentiary hearing at which relevant and admissible evidence may be presented.

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Dated: April 4, 2025

Respectfully submitted,

NEWMAYER & DILLION LLP

By: 

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