

December 30, 2008

Ms. Maureen F. Gorsen, Director
Department of Toxic Substances Control
1001 "I" Street, 25th Floor
P.O. Box 806
Sacramento, California 95812-0806

Dear Ms. Gorsen:

**PUBLIC RECORDS ACT REQUEST FOR REPORT REQUIRED TO BE
PREPARED UNDER HEALTH AND SAFETY CODE SECTION 25355.2**

This is a request under the provisions of California Government Code §6250 et seq., California Health and Safety Code §25152.5, and as applicable, §3007(b) of RCRA [42 U.S.C. §66927 (b)] to the Department of Toxic Substances Control (DTSC) requesting that the agency provide an electronic copy of the report that DTSC was required to make to the Legislature as per Health and Safety Code (H&SC) §25355.2. This report was required to contain: (a) the number of waivers from requirement of financial assurance received by DTSC and the various regional boards; (b) the disposition of those waivers; (c) the total number of businesses or other entities that were required by this section to demonstrate and maintain financial assurance, the number that were able to comply with the requirement, the number that were unable to comply, and the history of compliance with Chapters 6.5 and 6.8 by responsible parties that requested waivers. The statute cited above requires financial assurance for purposes of completing all operation and maintenance (O&M), prior to O&M being implemented.

Since H&SC §25355.2 only required that the report represent that slice of time between May 26, 1999 and January 1, 2001, I further request financial assurance related information on several specific sites that I have either made public comments on or have a present interest in: (1) North Shore at Mandalay Bay site in Oxnard; (2) Raytheon Systems Company aka Hughes Missile Systems Company former facility (EPA ID NO. CAD 041 162 124) in West Hills (formerly Canoga Park); and, (3) Whittaker Bermite (U.S. EPA ID Number CAD 064 573 108) former facility in Santa Clarita.

Recently, the developers on the "Mandalay Bay" project, which was being overseen by DTSC, went into bankruptcy after considerable work at the site and after consolidation of contaminated materials into a subarea of the site. Moreover, there remains significant volatile organic compound (VOC) contamination at the site. Please explain whether or not DTSC requested that O&M be implemented and financial assurance be established to maintain the area of consolidated contamination and to cover the continuing need for remediation and monitoring of the VOCs in soil and ground water prior to the

bankruptcy. Has the remediation and any O&M ceased at this site due to the bankruptcy? What does DTSC plan to do about the situation?

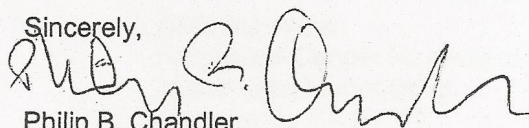
The Raytheon Systems Company former facility has been a site where there has been joint responsibilities by the Los Angeles Regional Water Quality Control Board (LARWQCB) [underground storage tank remediation] and DTSC [RCRA Permitting and Corrective Action processes]. The LARWQCB has overseen operation of pump and treat, air sparging, soil vapor extraction, and groundwater monitoring systems related to former underground tanks at this site since before 1999. Was any financial assurance ever required for O&M of any of these systems? DTSC has been responsible for RCRA compliance with respect to operation two hazardous waste management units that discharged waste into the soil and ground water underlying the units since before the LARWQCB underground tank clean-up. What is the amount of the assurance of financial responsibility (AFR) required by DTSC and that is currently in place for the RCRA closure of these two units---presumably uncompleted after 10 or more years? Please explain the AFR mechanism that has been used and its relationship to the current owners/developers of the site? Since both units have contaminated ground water and closure has been on-going for so many years, it is presumed that AFR for contingent post-closure care has also been required. What is the amount? In addition to closure and post-closure care, DTSC has active responsibility for RCRA corrective action at this site for over 15 years. Please explain why there is no executed mechanism for corrective action such as a Corrective Action Order yet. Please explain the amount of AFR that DTSC has or has not required at this site.

Whittaker Bermite is a former Interim Status facility which has been undergoing closure and corrective action for many years. However, this work has been performed by the former Site Mitigation Program, presumably under Chapter 6.8. It would therefore seem to be subject to both Chapter 6.5 requirements for assurance of financial responsibility for uncompleted closure and contingent post-closure care and Chapter 6.8 requirements for O&M financial assurance. Note, the facility has undergone closure for at least one unit over 15 years and others were closed without all waste constituents or environmental media being adequately addressed. The former facility has been sold on several occasions and various cleanup agreements entered into. During the period in which various investigations and cleanups were being evaluated, Whittaker's purchasers have filed for bankruptcy. Please explain how much financial assurance or assurance of financial responsibility is in place under the requirements of Chapters 6.5 and 6.8. Please include the value of the cost estimate that the Department of Justice used to establish the States previous claims in bankruptcy court. Was any financial assurance required after the bankruptcies?

If you have questions regarding the foregoing, please call me at (310)455-1962 [evening] or (818) 717-6608 [daytime].

Sincerely,

Philip B. Chandler



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