

# Memorandum

To: CHAIR AND COMMISSIONERS  
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: April 25-26, 2012

Reference No.: 2.4a.(3)  
Action Item

From: NORMA ORTEGA  
Chief Financial Officer

Prepared by: Brent Green  
Chief  
Division of Right of Way and  
Land Surveys

Subject: **RESOLUTION OF NECESSITY - APPEARANCE**

## **RECOMMENDATION:**

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) adopt Resolution of Necessity (Resolution) C-20816 summarized on the following page. This Resolution is for widening the Interstate 5 Freeway in District 7 in the city of Norwalk, county of Los Angeles.

## **ISSUE:**

Prior to initiating Eminent Domain proceedings to acquire needed right of way for a programmed project, the Commission must first adopt a Resolution, stipulating specific findings identified under Section 1245.230 of the Code of Civil Procedure, which are:

1. The public interest and necessity require the proposed project.
2. The proposed project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury.
3. This property is necessary for the proposed project.
4. An offer to acquire the property in compliance with Government Code Section 7267.2 has been made to the owner of record.

In this case, the property owner is contesting the Resolution and has requested a written appearance before the Commission. At the request of the property owner, objections to the Resolution have been submitted in writing to be made part of the official record of the Commission meeting, in lieu of a personal appearance before the Commission. The owner's objections are included as Attachment A. The Department's responses to the owner's objections are contained in Attachment B.

## **BACKGROUND:**

Discussions have taken place with the owner, who has been offered the full amount of the Department's appraisal and, where applicable, advised of any relocation assistance benefits to which the owner may subsequently be entitled. Adoption of the Resolution will not interrupt the Department's efforts to secure an equitable settlement. In accordance with statutory requirements, the owner has been advised that the Department is requesting the Resolution at the Commission's

April 25-26, 2012 meeting. Adoption will assist the Department in the continuation of the orderly sequence of events required to meet construction schedules.

C-20816 - Gregory S. Jones, Trustee of the Gregory S. Jones Revocable Trust, dated October 11, 2001

07-LA-5-PM 3.6 - Parcel 79898-1, 2, 01-01 - EA 215939.

Right of Way Certification Date: 03/09/12; Ready to List Date: 03/23/12. Freeway - widen Interstate 5 to add high occupancy vehicle and mixed-flow lanes. Authorizes condemnation of land in fee for a State highway, a temporary easement for construction purposes, land in fee which is a remnant and would be of little market value, and underlying fee, if any. Located in the city of Norwalk at 12605 Rosecrans Avenue. APN 8082-001-003.

Attachments:

Attachment A - Owners Written Objections dated March 8, 2012

Attachment B - Department Response dated March 22, 2012

Attachment C - Fact Sheet

Exhibits A and B - Maps

Callanan  
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Dzida, LLP

*San Francisco, CA*

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OUR FILE NO.  
242820.0001

AUTHOR'S EMAIL ADDRESS  
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March 8, 2012

California Transportation Commission  
Attn. Bimla Rhinehart  
Executive Director  
P.O. Box 942873  
Mail Station 52  
Sacramento, CA 94273-0001

Re: ***07-LA-5-PM 3.6***  
***EA 215939***  
***Project #0700001833***  
***Parcel 79898-1, 2, 01-01***  
***Gregory S. Jones, Trustee of the Gregory Jones Revocable Trust, dated***  
***October 11, 2011***

Dear Bimla Rhinehart:

This firm represents Mr. Gregory S. Jones, trustee and owner of the property referenced above. Thank you for your letter of February 27, 2012, regarding the resolution of necessity. Please give copies of this letter to all the decision makers in regard to that resolution and place a copy of this letter in the official record.

Passage of a resolution of necessity at this time is improper and a violation of law. In order to pass a resolution of necessity, the decision makers must find that an offer in compliance with Government Code section 7262 et seq. has been made in good faith and has been rejected. No such finding can be made here without an abuse of discretion. If such a finding is made here, Caltrans will have failed to proceed in the manner required by law. Among other things:

1. Caltrans is only offering \$1,000 for this property.

Attachment A

**Project #0700001833**

March 8, 2012

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2. Caltrans' appraiser appraised the property for \$570,000; but Caltrans arbitrarily reduced its offer to \$1,000 from the appraised value ostensibly because of environmental conditions underneath the property. The basis for the reduction, however, is not reflected in any appraisal opinion or report.

3. Those conditions were described in a Caltrans' report (Exhibit 1 attached).

4. In response, we submitted our own report (Exhibit 2 attached).

5. The Exhibit 2 report demonstrated that the conditions described in Exhibit 1 originated outside of the subject property, were not caused by Jones, and did not impact his property's value.

6. I asked for a response to Exhibit 2 but did not receive any. Accordingly, it is apparent that Caltrans has NO EVIDENCE WHATSOEVER to the contrary.

7. Caltrans nevertheless made its \$1,000 offer.

8. I, then, objected to the offer, stating again that the conditions on which it was based originated elsewhere and that, therefore, my client was NOT responsible for clean up. I also stated that deductions from the appraised value were proper ONLY if the conditions were caused by my client and ONLY if they impacted market value. I pointed out that the \$1000 offer was less than the monthly rent my client received from the property despite the conditions described. The property obviously cannot have a market value LESS than that indicated by the rent it generated.

9. I asked Mr. Johnson to provide me with copies of any appraisal opinions reflecting that the conditions decreased the market value of the property. He did not do so. Apparently, then, the reduction in the offer to \$1000 from the appraised value IS NOT BASED ON ANY APPRAISAL, as required by law, and totally arbitrary.

10. We have not yet had time to obtain our own appraisal as Caltrans' has not provided funding for same as required by law and the matter has been in litigation.

11. In addition, Mr. Jones has suffered pre-condemnation damages including lost rentals as a result of Caltrans' actions. These are the subject of litigation. The Court of Appeal ruled on March 8, 2012, that a judgment entered in Caltrans' favor must be reversed in full on this point. The offer made by Caltrans (\$1,000) does not reflect these damages.

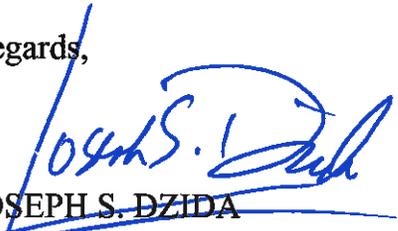
**Project #0700001833**

March 8, 2012

Page 3

Copies of my correspondence with Mr. Johnson are attached as Exhibit 3. If the resolution of necessity is passed on this flimsy premise, we will challenge Caltrans' right to take in court. Caltrans is trying to take this property by paying only \$1,000. I'd call that theft, not just compensation in eminent domain.

Regards,



JOSEPH S. DZIDA  
CALLANAN, ROGERS & DZIDA, LLP

JSD/cy

Cc: Steve Johnson (by email)





**SITE INVESTIGATION REPORT**  
Interstate 5/Segment 3 Improvement Project, PM 2.46/4.60  
Caltrans Contract 07A2730, Task Order No. 9  
Tune-Up Master  
12605 Rosecrans Avenue  
(APN: 8082-001-003)  
Norwalk, California

**EXECUTIVE SUMMARY**

AMEC Geomatrix, Inc. (AMEC), conducted a subsurface investigation on behalf of the California Department of Transportation (Caltrans) to evaluate if hazardous materials including petroleum hydrocarbons may have been released at the Tune-Up Master property located at 12605 Rosecrans Avenue, Norwalk, California (Site or investigation area). Caltrans proposes to improve and widen Interstate 5 from the Orange County Line (to the south) to the 605 Freeway (to the north). To improve the area, Caltrans needs to acquire parcels or portions of parcels located adjacent to the project through purchase in fee or easement.

The objectives of the investigation were to (1) evaluate if hazardous materials including petroleum hydrocarbons may have been released within the investigation area; (2) evaluate if impacts to soil vapor, surface and subsurface soil, and groundwater, if present, pose a risk to human health and the environment; (3) assess the vertical extent of lead-impacted soil, if present in selected areas; (4) provide data to support developing waste management protocols for construction-derived wastes such as excavation spoils and/or groundwater recovered during dewatering operation; and (5) collect quality data. The data collected from the investigation were compared to published screening criteria to evaluate if the presence of constituents of concern (COCs), if detected, are of potential concern. If COC impacts were identified to be of potential concern, the investigation results were used to identify an approach to remediate the COC impacts, if needed, and/or manage construction-derived wastes and costs associated with the remedial and/or waste-management approach were estimated.

The purpose of this report is to describe the procedures, technical approach, and sampling methodologies used to collect soil vapor, soil, and groundwater samples; to present and discuss the analytical results, to evaluate the soil vapor, soil, and groundwater conditions beneath the Site based on data collected during the investigation; and to present conclusions regarding chemical impacts to the investigation area.

AMEC Geomatrix, Inc.

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ES-1



### **Scope of Work**

The project scope of work included drilling soil borings at eight sampling locations within the proposed construction footprint of the project for collecting soil vapor, soil, and shallow groundwater samples. Soil vapor samples were collected at four of the eight boring locations and analyzed for volatile organic compounds (VOCs). Soil samples were collected at specific depths using either hand auger or direct-push drilling methods from all eight boring locations and were analyzed for VOCs, including fuel oxygenates, total petroleum hydrocarbons (TPH), and metals. One boring was advanced to a total depth of approximately 64 feet below grade to evaluate the depth and apparent thickness of a fine-grained interval that underlies the first encountered groundwater at the Site. Shallow groundwater samples were collected at four of the eight boring locations and were analyzed for VOCs, including fuel oxygenates, and TPH.

### **Investigation Findings**

The analytical results for each of the media collected for this investigation were evaluated as described below.

#### **Soil Vapor Results**

Soil vapor results were evaluated using California Human Health Screening Levels (CHHSLs) in Evaluation for Contaminated Properties (Cal/EPA, 2005) screening criteria. In the event that a detected COC did not have an established CHHSL, the Environmental Screening Levels (ESLs) for commercial/industrial land use reported in Screening for Environmental Concerns at Sites with Contaminated Soil and Groundwater (SFRWQCB, 2008) were used for screening evaluation.

The VOCs ethylbenzene, toluene, m,p-xylene, o-xylene, 1,2,4-trimethylbenzene (1,2,4-TMB), 1,3,5-trimethylbenzene (1,3,5-TMB), 4-isopropyltoluene, isopropylbenzene, n-butylbenzene, n-propylbenzene, sec-butylbenzene, and naphthalene were detected at or above the laboratory method detection limit (MDL) in one or more of the soil vapor samples analyzed. The VOCs ethylbenzene, 1,2,4-TMB, 1,3,5-TMB, and naphthalene were detected above their respective screening levels in one or more soil vapor samples collected from boring locations 1125-102, 1125-103, and 1125-106. VOCs were not detected in the soil vapor samples collected from boring 1125-104 at concentrations that exceeded their respective screening levels.

#### **Soil Results**

Soil sample analytical results were evaluated using CHHSLs as screening criteria (Cal/EPA, 2005). In the event that a detected COC did not have an established CHHSL, the result was compared to the screening level for protection of groundwater listed in the California Regional Water Quality Control Board, Los Angeles Region (LARWQCB, 2006), Maximum

AMEC Geomatrix, Inc.



Soil Screening Levels (MSSLs) for TPH, benzene, toluene, ethylbenzene, xylenes, and methyl tert-butyl ether above Drinking Water Aquifers. If a CHHSL or MSSL was not available for screening, the published U.S. Environmental Protection Agency Region IX (U.S. EPA Region IX, 2010) Regional Screening Levels (RSLs) listed for Protection of Groundwater Soil Screening Levels (SSLs) Risk-Based SSLs was used for screening. Finally, for soil analytes without CHHSLs, MSSLs, or RSLs, values were compared to their respective ESLs for commercial/industrial land use with groundwater as a current or potential source of drinking water. In conformance with the ESL document, the method reporting limits were not considered when developing the individual ESLs and advises the use of the reporting limit as the screening level.

The VOCs 1,2,4-TMB, 1,3,5-TMB, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,4-dichlorobenzene, 2-chlorotoluene, 4-isopropyltoluene, benzene, bromomethane, chlorobenzene, ethylbenzene, isopropylbenzene, m,p-xylene, naphthalene, n-butylbenzene, n-propylbenzene, o-xylene, sec-butylbenzene, tert-butanol, and toluene were detected at or above the laboratory MDL in one or more of the soil samples analyzed. The VOCs 1,2,4-TMB, 1,3,5-TMB, 1,4-dichlorobenzene, benzene, ethylbenzene, isopropylbenzene, m,p-xylene, naphthalene, n-propylbenzene, and o-xylene, were detected in one or more soil samples at a concentration that exceeded their respective screening levels in borings 1125-101, 1125-102, 1125-103, 1125-105, 1125-107, and 1125-108. VOCs were not detected in the soil samples analyzed that exceeded their respective screening levels in the samples collected from 1125-104 and 1125-106.

Nineteen of the 35 soil samples analyzed for TPH (carbon chain speciation) had reported TPH concentrations at or above the MDL. The concentrations of TPH detected in the soil samples did not exceed their respective MSSLs except in two samples (1125-103-10.5 and 1125-108-5.5) collected from boring locations 1125-103 and 1125-108, respectively. The detected TPH concentration in soil in the vicinity of boring location 1125-103 and 1125-108 at depths of 10.5 feet and 5.5 feet, respectively, is considered to be potential concern for the protection of groundwater.

Various concentrations of metals were detected at or above the MDL in all 35 soil samples analyzed. Metals were not detected at concentrations that exceeded their respective screening levels with the exception of arsenic and lead. One of the 35 soil samples analyzed (1125-103-10.5) had a reported lead concentration 1,000 milligrams per kilogram (mg/Kg) that exceeded the published commercial/industrial CHHSL value of 320 mg/Kg.

Twenty four of the 35 soil samples analyzed contained arsenic concentrations that exceeded the published RSL for Protection of Groundwater Risk-Based SSLs of 0.0013 mg/Kg. Because arsenic is a naturally occurring element, the detected arsenic concentrations were compared to regional background arsenic concentrations. The March 2008 Department of



Toxic Substances Control (DTSC) publication Determination of a Southern California Regional Background Arsenic Concentration in Soil (DTSC, 2008) establishes a regional background for arsenic within Southern California including Los Angeles County using naturally occurring and anthropogenic concentrations of arsenic. The report finds that the upper-bound background concentration for arsenic within Los Angeles County is 12 mg/Kg. None of the samples analyzed had reported arsenic concentrations that exceeded the DTSC upper-bound background concentration for arsenic within Los Angeles County. However, the arsenic concentrations in samples collected at the Site are considered to be consistent with background concentrations of arsenic in Los Angeles County or naturally occurring.

#### Groundwater Results

Shallow groundwater sample analytical results were evaluated using California Drinking Water Maximum Contaminant Levels (MCLs) as reported by the California Department of Public Health as screening criteria (California, 2010). In the event that a detected COC did not have an established MCL, the result was compared to the screening level for tap water as listed in the U.S. EPA Region IX (U.S. EPA, Region IX, 2010) RSLs. Finally, if a MCL or RSL was not available for screening, the applicable ESLs reported in Screening for Environmental Concerns at Sites with Contaminated Soil and Groundwater (SFRWQCB, 2008) were used for screening evaluation.

Groundwater was encountered at depths ranging from approximately 36 feet (1125-104) to 38 feet (1125-102) below ground surface (bgs). A total of five grab groundwater samples (including one duplicate sample) were collected from four borings (1125-102, 1125-103, 1125-104, and 1125-106). Field observations indicated that non-aqueous phase liquid (NAPL) was present in the grab groundwater sample collected from boring 1125-103. The groundwater samples were analyzed for VOCs and TPH in ranges as TPH (C4-C8), TPH (C8-C17), and TPH (C9-C32; with individual carbon chain speciation). The NAPL fraction present in the grab groundwater sample in boring 1125-103 also was analyzed for TPH in ranges as TPH (C4-C8), TPH (C8-C17) and TPH (C9-C32; with individual carbon chain speciation).

VOCs were detected at or above the MDL in each groundwater sample analyzed and included one or more of the following compounds: 1,2,4-TMB, 1,2-dichlorobenzene, 1,3,5-TMB, 1,3-dichlorobenzene, 1,4-dichlorobenzene, 4-isopropyltoluene, benzene, bromobenzene, chlorobenzene, cis-1,2-dichloroethene (cis-1,2-DCE), di-isopropyl ether, ethylbenzene, isopropylbenzene, m,p-xylene, methyl tert-butyl ether (MTBE), naphthalene, n-butylbenzene, n-propylbenzene, o-xylene, sec-butylbenzene, tert-amyl methyl ether (TAME), tert-butanol, tert-butylbenzene, and toluene. Reported concentration of VOCs 1,2,4-TMB, 1,4-dichlorobenzene, benzene, ethylbenzene, MTBE, and naphthalene exceeded their respective screening levels in one or more of the samples analyzed.



TPH was detected above the MDL in one or more of the carbon chain ranges in all five of the groundwater samples analyzed (including the one duplicate sample). TPH was detected in all five groundwater samples at concentrations that exceeded their respective ESLs in one or more of the carbon chain ranges.

#### **Conclusions and Recommendations**

The following conclusions for the soil vapor, soil, and groundwater impacts beneath the Site within the investigation area were made based on the data collected during this investigation. Soil vapor impacts beneath the Site are present in soil within the vicinity of boring locations 1125-102, 1125-103, and 1125-106.

Soil impacts beneath the Site are present within the upper 20.5 feet of the subsurface. The reported concentrations of VOCs, TPH and/or metals appear to decrease with depth which may be attributed to a release near the surface from former on-site underground fuel dispenser piping or from a nearby off-site source.

Excavation proposed as part of the I-5 improvements in the proximity of the Site is not expected to exceed 5 feet in depth. Soil near boring 1125-103 and 1125-108 in the depth interval of ground surface to about 5 feet in depth is not expected to require special management. AMEC recommends that any soil intended to be transported off-site be stockpiled on-site and characterized in accordance with applicable regulations before export.

Based on the reported VOC and TPH concentrations in soils residing at depths greater than 5 feet in proximity of borings 1125-103 and 1125-108, remediation may be required to mitigate the presence of these COCs in soil. Because the extent of soil impacts observed at these locations is not well defined, additional assessment is recommended to further assess the extent of soil impacts that may require remediation.

The grab groundwater sample collected from the southwest portion of the Site at boring location 1125-103 contained NAPL. The VOCs and TPH compounds detected in the groundwater samples analyzed are characteristic of petroleum hydrocarbon-product releases. Based on the fraction of TPH compounds detected in groundwater and NAPL in the C8-C17 range, the TPH speciation is likely consistent with jet fuel. The detections of TPH as gasoline, diesel fuel, jet fuel, as well as NAPL, are consistent with previously documented subsurface releases and/or conditions located near the Site.

Based on the reported VOC and TPH concentrations, it is likely that remedial action will be required to mitigate the presence of those COCs in groundwater. However, groundwater monitoring may be required to further evaluate the presence of VOCs during the post-construction groundwater period.

The following remedial recommendations are provided based on the results of the investigation reported herein.

AMEC Geomatrix, Inc.



**Stage I – Construction Footprint Remediation**

Based on the findings of the geophysical survey and field observations, subsurface structures including a suspected, approximate 1,000-gallon capacity, underground waste oil tank and a clarifier appear to be present in the northwest portion of the property. The top of the waste oil tank appears to be at a depth of approximately 3 feet bgs. The clarifier and related piping appear to be approximately 3-feet wide by 30-feet long and 8-feet deep and is connected to the northwest side of the Tune-Up Master building by underground piping. The dimensions of the northwest and southwest ends of the clarifier are approximately 6-feet wide by 6-feet long and 5-feet in diameter, respectively. In addition, two hydraulic lifts and a wash water containment tank are present within the service bay area of the existing building at the Site.

Before construction activities commence, both subsurface structures will likely require removal. Removal activities will likely include the following:

1. Suspected underground waste oil tank: permitting, removing the contents using vacuum methods, transporting the contents to an off-site disposal facility, tank removal with consultant and regulatory oversight, confirmation soil sampling, backfilling and compacting the excavation with clean import soil, and reporting. The approximate excavation depth for the underground tank and associated piping are estimated at approximately 10-feet bgs. The estimated cost for the above described activities is \$25,000.
2. Clarifier: removing the contents using vacuum methods, transporting the contents to an off-site disposal facility, removing clarifier and plugging related piping, confirmation soil sampling, and backfilling and compacting the excavation with clean import soil. The approximate excavation depth for the clarifier and associated piping is estimated at approximately 8-feet bgs. The estimated cost for the above described activities is \$10,000.
3. Two (2) in-ground hydraulic lifts and associated reservoirs located in the service bay require removal. Each structure will require excavation, removal, confirmation soil sampling and recycling. The estimated cost for the above described activities is \$15,000.
4. One in-ground wash water containment tank located within the service bay requires removal. The structure will require rinsing, excavation, removal, and confirmation soil sampling. The estimated cost for the above described activities is \$6,000.



These costs assume that soil beneath or adjacent to these structures is not impacted by a release of hazardous materials from these structures and do not require management or special handling. The total estimated costs for the pre-construction period are \$56,000.

#### **Stage II – Management of Construction-Derived Waste**

Caltrans construction plans indicate realignment and widening of Bloomfield and Rosecrans Avenues located adjacent to the Site to the west and south, respectively. As depicted in the construction plans, the widening of Rosecrans Avenue will require an approximate 30-foot wide area across the southern edge of the Tune-Up Master property. Additionally, the widening of Bloomfield Avenue will require approximately 200 square feet within the southwest corner of the property. Based on our conversations with Caltrans, excavation activities will extend to a total depth not to exceed 5 feet bgs and excavated soils will be reused and re-compacted within the construction footprint. Based on the assessment data obtained in this area, soil to a depth of five feet in the planned construction area will not require remediation or special handling.

#### **Stage III – Post-Construction Remediation**

Post-construction tasks may be required to mitigate the presence VOC and TPH impacted soils, the presence of NAPL, and to monitor groundwater quality. Based on the site investigation results, soil vapor extraction (SVE) would appear to be the most cost-effective method of remediating the deeper soils because of the apparent size and depth of VOC and TPH impacts in the vicinity of 1125-103 and 1125-108. Before SVE is implemented, additional Phase II site investigation is recommended to further delineate the area and depth of soil impacts that may require remediation. The elements of the additional Phase II site investigation include:

- Pre-field activities include the preparation of a health and safety plan and a work plan for additional Phase II site investigation.
- Phase II site investigation field activities include drilling approximately 10 step out soil borings to assess the vertical and lateral extent of impacted soils north, northeast, and east of 1125-103 and 1125-108. The soil borings will be drilled to a depth of approximately 30 feet bgs using direct push drilling and sampling equipment to collect soil samples to assess the extent of soil impacts in this area. In addition, a minimum of three (3) groundwater samples are recommended to be collected and analyzed to further delineate the lateral extent of NAPL impacts in this portion of the Site. Drilling, lithologic logging, and sampling activities are estimated to be performed in four



working days. Profiling and management of investigation derived waste and reporting also will be conducted as part of the Phase II site investigation.

The estimated cost for the additional Phase II site investigation is approximately \$50,000.

Remediation of VOC and TPH impacted soils may be performed by soil vapor extraction (SVE) for a one year period. We have assume that approximately seven (7) SVE wells will installed to depths ranging from 7 to 22 feet bgs. Piping and well boxes associated with the construction of the SVE system will be installed below grade. Soil will treated to remove VOCs and TPH using an electric catalytic oxidizer. The estimated cost for SVE remediation is \$350,500.

Post-construction tasks also may be required to mitigate the presence of NAPL and to monitor groundwater quality. Remediation of NAPL may be performed by groundwater extraction for a two year period. Groundwater would be treated to remove NAPL using an oil water separator and then treated using granular activated carbon before discharge. The estimated cost of NAPL remediation is \$292,240.

Groundwater monitoring will be necessary to assess the progress of NAPL extraction and is expected to be required for three years. The estimated cost of groundwater monitoring is \$102,500. Total estimated cost for the Stage III post-construction period is \$795,240.

The total estimated costs for Stage I and Stage III tasks identified above are \$851,240.



**EVALUATION OF ON-SITE AND  
SURROUNDING SITE CONTAMINATION**

**FOR**

**JONES REAL ESTATE**

**PROPERTY LOCATION:  
TUNE-UP MASTER  
12605 ROSECRANS AVENUE  
NORWALK, CALIFORNIA 90670**

**DATE: DECEMBER 2011**

*Prepared by*

**PHASE ONE INC.  
23282 Mill Creek Rd. Suite 160  
Laguna Hills, CA 92653  
(800) 524-8877**

***PHASE ONE INC.***

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**THE NATIONWIDE ENVIRONMENTAL SPECIALISTS**

*“Setting the Due Diligence Industry Standard”*

# ***PHASE ONE INC.***

ENVIRONMENTAL ASSESSMENT SPECIALISTS

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December 5, 2011

Greg Jones  
Jones Real Estate  
440 West Whittier Boulevard  
La Habra, California 90631

**RE:      *PHASE ONE INC. Project No. 7122***  
**Evaluation of On-site and Surrounding Site Contamination**  
**Subject Site Location: 12605 Rosecrans Avenue, Norwalk, California 90670**

Dear Mr. Jones:

Enclosed is the evaluation of on-site and surrounding site contamination completed by ***PHASE ONE INC.*** for the site referenced above (See Figure 1, ***Site Location Map***). The Evaluation of on-site and surrounding site contamination was undertaken at your request, in accordance with ***PHASE ONE INC.'s Standard Terms and Conditions*** and as outlined in ***PHASE ONE INC.'s Letters of Intent/Authorization*** for Project N<sup>o</sup>7122.

The findings and conclusions of this evaluation are based upon several report reviews and interviews of pertinent persons familiar with the known contamination. Our conclusions regarding the evaluation are summarized in the final section of this report, ***Section 4.0 Conclusions and Recommendations.***

Please do not hesitate to contact us should you have any questions regarding this report, or if we can be of additional assistance.

Sincerely,



Eric Kieselbach  
President

Enclosures

**1.0 INTRODUCTION**

**2.0 BACKGROUND INFORMATION**

**3.0 SUMMARY AND EVALUATION OF REPORTS**

**4.0 CONCLUSIONS AND RECOMMENDATIONS**

**5.0 LIMITATIONS**

**6.0 REPORT SIGNATURES**

**FIGURES**

- Figure 1 Site Location Map
- Figure 2 Site Plan
- Figure 2A Areal Distribution of Petroleum Hydrocarbons

**APPENDICES**

## 1.0 INTRODUCTION

This evaluation of environmental reports for on-site and surrounding site contamination presents **PHASE ONE INC.**'s conclusions, recommendations and identifies the main source(s) of contamination at the 12605 Rosecrans Avenue, Norwalk, California 90670 (Figure 1, *Site Location Map*). The objectives of this evaluation are listed below:

- Review and evaluate all environmental reports available for the subject site and adjacent sites.
- Isolate main contaminants with the highest risk and health concerns.
- Distinguish that the main contaminant (Jet Fuel) is the result of off-site sources.
- Contend that the Jet Fuel far outweighs the significance of any other on-site concerns and health concerns of any other contamination on or adjacent to the subject site.
- Provide documentation identifying the possible responsible parties relieving the subject site's owner of all liability of any and all remediation by DOT.

## 2.0 BACKGROUND INFORMATION

At the time of this evaluation, the site specifics were as follows:

- **Address:** 12605 Rosecrans Avenue, Norwalk, California 90670
- **Acres:** 1
- **Improvements:** Service bays building and attached office
- **Current Site Use:** Automotive (Tune up Masters)
- **Proposed Site Use:** Southern Portion of Site, Caltrans Easement-Improvements to Freeway I-5
- **Site Contact:** Greg Jones

The subject site (Site), a triangular parcel, is a former gasoline service station located at the intersection of Firestone Boulevard, Rosecrans Avenue and Bloomfield Avenue. An automotive oil and lube service (Tune-Up Masters) is currently operated at the Site. The Site had a closed case (T0603705247) in 1989. An underground waste oil tank (WOT) was removed and replaced with an above ground WOT. The closed case number was R-15108 and closure date is December 4, 1990.

An ARCO service station (#5061 located at 12606 Rosecrans Avenue) is located directly across the street from the Site. A closed case is associated with the ARCO site (T0603701557). The case was opened on February 9, 1988, and closed on September 28, 2010. Case closure was achieved despite several inches of free product still present (determined to be jet fuel) in the onsite and offsite groundwater monitoring wells. The source of jet fuel was determined to be

from a leaking underground fuel conveyance pipeline on Rosecrans Avenue operated by the Powerine Refinery.

Powerine Refinery Pipeline (CASE ID: SLT5FR232328) is located at 12606 Rosecrans Avenue, Santa Fe Springs. A fuel leak was reported January 2, 1965. The pipeline was previously operated by Former Esso/Thrifty/Golden West Refinery and the refinery was closed in 1997. A case was opened for the leaking pipeline on August 24, 2000, and the case is still currently open. Jet fuel types JP-5, JP-8 or Jet-A were reportedly detected through analyses of free product samples by ARCOs consultants.

An El Pollo Loco, a fast food restaurant, (12551 Rosecrans Avenue) is located to the west of the Site across Bloomfield Avenue. The restaurant property is reportedly a former service station site.

### 3.0 SUMMARY AND/OR EVALUATION OF REPORTS

The following is a table listing the reports that have been reviewed:

#### ENVIRONMENTAL REPORTS REVIEWED

ID #	Date of Document	Author Name and Company	Document Type	Document Title
1	5/28/1997	Kent Green Green Environmental Inc. (GEI)	Soils Investigation Report	Limited Soils Investigation Report
2	9/12/2003	Robin Chang Robin Environmental Management	Opinion Letter	Opinion on Environmental Conditions of 12605 E. Rosecrans Ave. Norwalk, CA
3	9/15/2009	Scott Edblad Stantec Consulting Corp.	Contamination Model Update (ARCO Site)	Site Conceptual Model Update
4	8/25/2010	Nhan Bao State of California EPA	Case Review Form	Underground Storage Tank Low Risk Case Review Form
5	3/30/2011	Unknown Author AMEC Geomatrix, Inc.	Investigation Report	Site Investigation Report Tune-Up Master
6	10/04/2011	Eric Kieselbach & Jay Badiel <b>PHASE ONE INC.</b>	Phase II Report	Limited Phase II Environmental Site Assessment

**DOCUMENT ID #1, LIMITED SOILS INVESTIGATION REPORT**

**Summary:**

In a May 1997 report, GEI reported the waste oil tank (WOT) closure of 1989; maximum sampling depths were 15 feet bgs, no significant levels of TRPH were found; including no TPH was identified under the WOT or the lifts. One sample from the eastern lift at 10' bgs was run for carbon-chain. Results were non-detectable for the sample for carbon ranging from C6 to C44 (by USEPA method 8015M).

**DOCUMENT ID #2, OPINION ON ENVIRONMENTAL CONDITIONS OF 12605 E. ROSECRANS AVE. NORWALK, CA**

**Summary:**

In 2003 Robin Environmental Management concluded no further action is needed as to the Environmental Condition of the subject site, after reviewing all available documents on the subject site.

**DOCUMENT ID #3, SITE CONCEPTUAL MODEL UPDATE (ARCO SITE)-2009**

**Summary:**

**Regional Geology And Hydrogeology**

The Site is located on the Main Coastal Basin within the Coastal Plain of Los Angeles County. The Main Coastal Basin is approximately 59 miles long and 15 miles wide. The Main Coastal Basin is bounded to the north by the Puente Hills, to the west by the Santa Monica Mountains, to the south by the Newport-Inglewood Structural Zone, and to the east by the Santa Ana Mountains and San Joaquin Hills (CDWR, 1988). The dominant geologic formations of the Main Coastal Basin are older, deeper Tertiary-age and younger, shallower Quaternary-age sedimentary rocks. These rocks overlie Mesozoic-age metamorphic and igneous rocks.

Two significant geologic structures are present in the area of the Site: the Norwalk Fault located ~1.3 miles southwest of the Site, and the Norwalk Syncline located ~2 miles west of the Site trending northwest to southeast (CDWR, 1961a). In the vicinity of the Site, recent-aged alluvium including gravel, sand, silt, and clay extends to approximately 80 feet bgs (CDWR, 1961b). The Lakewood Formation (Exposition, Gardena, and Gage Aquifers) is encountered at approximately 80 feet bgs in the Site vicinity and extends to a depth of approximately 240 ft. bgs. The San Pedro Formation (including from top to bottom the following aquifers: Hollydale, Jefferson, Lynwood, Silverado, and Sunnyside) occurs from approximately 240 feet bgs to approximately 1,230 feet bgs with the Pico Formation continuing beyond (CDWR, 1961a).

The Norwalk Defense Fuels Support Point is located approximately 2,800 feet to the south-southwest, and maintains groundwater monitoring wells installed into both the shallow perched aquifer (Recent Alluvium) and underlying Exposition Aquifer. Groundwater in the perched

aquifer reportedly flows to the north-northwest. Groundwater in the underlying Exposition Aquifer reportedly flows to the southeast (AMEC, 2009).

The former Golden West Refining Company (Golden West) refinery and tank farm is located approximately 5,000 feet to the northeast, and maintains off-site groundwater monitoring wells located as close as 2,500 feet northeast of ARCO Station No. 5061. Golden West groundwater monitoring wells are installed into both the perched and deeper (reported as the Artesia Aquifer at their property) aquifers. Groundwater in the perched aquifer reportedly flows predominantly to the southwest. Groundwater in the underlying Artesia Aquifer reportedly flows to the southeast (Golden West, 2009).

#### **Site Specific Geology And Hydrogeology**

Subsurface soils consist of inter-bedded and laterally discontinuous layers of silt, clay, silty sand, and sand from near surface grade to the total depth explored of 65 feet bgs.

Depth to groundwater has generally been approximately 37 to 38 feet bgs, and is considered to be a perched aquifer within the Recent Alluvium. Free Product or separate-phase hydrocarbons (SPH) have been identified in all on site and several off-Site monitoring wells at the station. A maximum SPH thickness of 10.39 feet was identified in VW-1 (June 2, 1994). Most maximum thickness measurements were identified between 1993 and 1996.

#### **Free Product Speciation/ Forensic Analyses**

To date, Atlantic Richfield (ARCO) has submitted 11 product, 3 groundwater, and 58 soil samples for forensic analyses/speciation. All product samples were identified by the laboratories as jet fuel (JP-5, JP-8, or Jet-A). Chromatograms of the groundwater samples indicate a pattern closely resembling that of the associated jet fuel product sample chromatograms and not that of gasoline. Forensic analyses/speciation work is summarized below:

#### **Product Speciation Conclusions**

All product samples submitted for speciation/forensic analyses (product holding tank, VW-2, VW-4, VW-6, TC-1, TC-2, and TC-4) have consistently been reported as jet fuel (primarily either Jet A, Jet A-1, JP-5, or JP-8). Product samples collected in January 1997 were analyzed by GC/FID, GC/ECD, as well as GC/MS. The presence of n-alkanes supported evidence of a recent release. The laboratory concluded that the JP-5, JP- 8, or Jet A appeared to have been released within the years 1995-1997. Product samples collected in March 2008 from wells VW-2, VW-4, and BH-4 were submitted to Torkelson Geochemistry in Tulsa, Oklahoma for characterization. Interpretation of the laboratory chromatograms identified the product as highly to severely degraded jet fuel, with samples noted to not appear to contain any other hydrocarbon constituents. The estimated date of jet fuel releases from the 2008 fuel fingerprinting analyses is, therefore, between 1989 and 1995. This correlates with the 1997 estimate (at time, release date was estimated at two years).

### **Potential Sources Of Jet Fuel**

The jet fuel source is believed to be a leaking (or formerly leaking) pipeline in Rosecrans Avenue or Bloomfield Avenue. Updated information regarding potential sources of jet fuel beneath the Site was presented in Stantec's Pipeline and Jet Fuel Source Investigation report dated September 2, 2009. Conclusions from that report are presented below:

Jet fuels were historically produced or stored at three primary locations within the general Site vicinity, and transported through numerous pipelines. The primary identified sources are:

- Former Powerine Corporation (Powerine)/Cenco Refining Company (CENCO) Refinery and Tank Farm
- Former Golden West Refining Company (Golden West) Refinery and Tank Farm
- Defense Fuels Support Point (DFSP), Norwalk facility
- Santa Fe Pacific Pipeline Partners (SFPP), Norwalk Pump Station
- Both Golden West and Powerine/CENCO delivered refined products including aviation/jet fuels to the DFSP Norwalk facility through subsurface pipelines connecting the facilities. The DFSP also received fuel products through pipelines connecting other southern California area refineries and marine terminals in the San Pedro area. Pipelines leaving the DFSP delivered fuel products to other Department of Defense (DOD) facilities including those in Nevada and Arizona.

SFPP operated a pump station on a 2-acre easement within the DFSP tank farm property to boost products passing through existing pipelines. The pump station was decommissioned in 2001, but three pipelines heading eastward along the southern boundary of the DFSP facility remain in service and continue to convey refined petroleum fuels including gasoline, diesel, and jet fuel (AMEC, 2009).

A total of three pipelines have been identified located within the intersection of Rosecrans Avenue and Bloomfield Avenue (adjacent to ARCO Station No. 5061) that are reported to have conveyed jet fuel (POC Line #2, POC Line #9, and the Golden West Air Force Line). The approximate pipeline locations are indicated on Figures 1 and 2 of the ARCO report.

The Golden West Air Force Line was reportedly used to convey JP-4 (Jet Fuel) in the 1960's and early 1970's when the refinery was operated by Gulf Oil. It is not clear whether the line was being operated by Gulf or the U.S. Government during this time period as it has also been reported that the U.S. Government may have used this pipeline between the 1940's and 1960's to convey jet fuel to the DFSP Norwalk facility. Golden West stated the pipeline had more recently been used to convey diesel and for some product-re-routing (Stantec, 2009b). Golden West stated there were no known releases from the pipeline and it was filled with slurry and abandoned in the late 1990's. Considering the documented jet fuel use, operation time period, and lack of available hydro-static testing data, the Golden West Air Force Line is considered a suspect source of jet fuel observed at ARCO Station No. 5061.

Powerine/CENCO POC Line #2 was used to convey jet fuel and reported to be primarily in operation from 1978 through suspension of refining operations at the Powerine refinery in 1995. POC Line #2 has reportedly not been operated since 1995. Considering the documented jet fuel use, operational time period, and lack of available hydro-static testing data, POC Line #2 is considered a suspect source of jet fuel observed at ARCO Station No. 5061.

Powerine/CENCO POC Line #9 was used to convey jet fuel, and was reported to be primarily in operation from 1969 through 1982. POC Line #9 was taken out-of-service from 1982 through 1992, then re-activated from 1992 through 1995 until suspension of refining operations at the Powerine refinery in 1995. POC Line #9 has not been operated since 1995. Considering the documented jet fuel use, operation time period, and lack of available hydro-static testing data, Line #9 is considered a suspect source of jet fuel observed at ARCO Station No. 5061.

Based on forensic analyses, the estimated date of jet fuel releases is between 1989 and 1995. This correlates with the operational time frame of POC Line #2 and POC Line #9, active up until 1995, and documented to transport jet fuel. The Golden West Air Force Line is also a suspected source as it was not abandoned until the late 1990's and was reported to be more recently used to convey diesel and for re-routing product (type non stated).

### Summary/Conclusions

Extensive soil and groundwater assessments were completed both on and off-Site from 1987 through 1993, and in 2009.

Floating (free) product (SPH) was encountered at approximately 37-38 feet bgs during installation of initial assessment borings (BH-1, BH-2, BH-3) installed peripheral to the underground storage tanks in November 1987. BH-1, installed closest to the USTs, contained the least amount of SPH. BH-2, installed northwest of the USTs and closest to the intersection of Bloomfield Avenue and Rosecrans Avenue *contained the largest thickness of SPH*. The product was initially thought to be related to a release at the gasoline USTs. Assuming that floating product beneath the Site was associated with a release at the gasoline USTs, Atlantic Richfield implemented removal of free product. A total of 3,735 gallons of free product were removed from beneath the site prior to speciation of the product as jet fuel.

Product recovery activities stopped after the product was identified as jet fuel in August 1992. To date, Atlantic Richfield has submitted 11 product, 3 groundwater, and 58 soil samples for forensic analyses/speciation. The product samples were identified by the laboratories as jet fuel JP-5, JP-8, or Jet-A. Atlantic Richfield has conducted monitoring/gauging of jet fuel beneath the site since 1987, with biannual gauging conducted since 1993. Jet fuel product has historically been, and continues to be identified in all on and off-site wells. The wells were last gauged on June 25, 2009, and jet fuel product thicknesses ranged from 3.30 to 4.92 feet.

Only soil samples collected directly beneath the base of the former USTs, and soil borings installed directly within the confines of the former USTs (BH-7, BH-8, and SB-2) identified notable gasoline related vadose zone impacts, with the highest concentrations located from approximately 15 to 35 feet bgs. Jet fuel related soil impacts were identified in soil within the capillary fringe and below.

Soil borings installed peripheral to the USTs and dispenser islands (potential source areas) indicated non detectable or low gasoline related constituents in soil until approximately 37 feet bgs, at which point soils impacted or saturated by jet fuel perched on groundwater were encountered.

The jet fuel source is believed to be a leaking (or formerly leaking) pipeline in Rosecrans Avenue or Bloomfield Avenue. Updated information regarding potential sources of jet fuel beneath the Site was presented in Stantec's Pipeline and Jet Fuel Source Investigation report dated September 2, 2009.

Three pipelines have been identified located within the intersection of Rosecrans Avenue and Bloomfield Avenue (adjacent to ARCO Station No. 5061) that are reported to have conveyed jet fuel (POC Line #2, POC Line #9, and the Golden West Air Force Line.

Based on forensic analyses, the estimated date of jet fuel releases is between 1989 and 1995. This correlates with the operational time frame of POC Line #2 and POC Line #9, active up until 1995, and documented to transport jet fuel. The Golden West Air Force Line is also a suspected source as it was not abandoned until the late 1990's and was reported to be more recently used to convey diesel and for re-routing product (type non stated).

A hydropunch assessment conducted by Atlantic Richfield in 1992 (11 off-Site locations) identified elevated concentrations of dissolved-phase hydrocarbons to the north and northwest, in the areas of POC Lines #2 and #9, and the Golden West Air Force Line. However, groundwater samples were only analyzed for gasoline range hydrocarbons, and not the jet fuel extractable range.

The CRWQCB-LA issued directive letters to both CENCO and Golden West in relation to requested investigations of their pipelines located at the intersection of Rosecrans and Bloomfield Avenues. CENCO submitted a "Workplan and Report for Assessment of Petroleum Hydrocarbon Contamination in Soil and Groundwater" to the CRWQCB-LA dated January 22, 2002. Golden West received a letter from the CRWQCB-LA dated January 22, 2002, requesting submittal of a "workplan for soil and groundwater investigation" due July 31, 2002.

A file review of the above two cases conducted at the CRWQCB-LA in March 2007, and recent review of available documents in Geotracker, did not identify documentation indicating any assessment work had been implemented by CENCO or Golden West to investigate their pipelines within the intersection of Rosecrans and Bloomfield Avenues.

Based on current available information, only Atlantic Richfield has conducted assessment of the jet fuel impacts associated with a likely pipeline leak in the vicinity of Rosecrans Avenue and Bloomfield Avenue, of which Atlantic Richfield is not the source.

**Document ID #4, Underground Storage Tank Low Risk Case Review Form**

**Summary:**

This document dated August 25, 2010, prepared by the California Regional Water Control Board (CRWQCB) and Cal EPA, provides a detailed analysis of the Low Risk Closure of the ARCO site directly across the street from our subject site. The following is a summary of the factors supporting Low Risk Closure:

1. The extent of the soil contamination is defined.
2. Low concentrations of petroleum contamination exist in the vadose zone.
3. The groundwater beneath the site is contaminated with Jet Fuel.
4. The Jet fuel came from off site sources.
5. The Regional Board issued investigation orders on May 18, 2010 to the pipelines (Golden West Refining Company and Lakeland Development Company).

**Document ID #5, Site Investigation Report Tune-Up Master**

**Summary:**

The consulting firm of AMEC Geomatrix, Inc. performed a site assessment of Tune-up Masters property for Caltrans (March 30, 2011); however, the complete report was not transmitted to our Client or Phase One; we did not receive the actual laboratory results or the exact sampling locations. The report has a narrative that 8 soil borings were installed with depths ranging from hand auger depth (may be 5-10 feet) to Geoprobe depths. A maximum depth reported was 64 feet bgs. A summary of the results are as follows:

1. Two (2) of 35 soil samples (depths 5 and 10 feet bgs) contained TPH (carbon chain) above MSSSLs,
2. Some vapor samples contained VOCs above screening levels (no numbers).
3. One soil sample had a 1000 mg/kg lead content.
4. Four groundwater samples were collected at 36 to 38 feet bgs. One sample had free product.
5. VOCs were detected in all water samples.

The Report concluded that soil vapor impact was present in three borings: 102, 103, and 106. Site soil impact is detected only in the upper 20.5, but below 5 feet; TPH in groundwater is determined to be **Jet fuel**.

**Document ID #6, Limited Phase II Environmental Site Assessment**

**Summary:**

*Phase One, Inc.*'s investigation results of September 2011 at Tune-Up Masters indicates that soil, groundwater, and soil vapor was impacted by fuel hydrocarbons (likely Jet Fuel). Maximum soil impact was found at the soil/water interface (capillary fringe) at a depth of 38-40 feet bgs. Boring GP2 (southwest corner) had the highest impact, clearly pointing to an offsite source (Jet Fuel Transmission Lines). GP2 boring is the closest to the underground pipeline traversing Rosecrans Ave. and Bloomfield Ave. For the investigated areas, maximum impacted area, and the soil boring locations, see **Figure 2A, Areal Distribution of Petroleum Hydrocarbons**.

**SUMMARY OF ANALYTICAL RESULTS**

**Samples Collected 9/13/2011**

**Soil Samples**

Sample ID#	EPA 8260B (VOCs & Oxygenates) mg/kg	EPA 8015M (Carbon Chain) mg/kg	Pertinent Screening Levels * mg/kg
7122-GP1-10	0.023 Naphthalene	ND	4.8 naphthalene
7122-GP1-20	ND	ND	
7122-GP1-35	ND	ND	
7122-GP1-40	0.002 Benzene, 0.016 Ethyl benzene, 0.003 Isopropyl Benzene, 0.004 n-Propyl Benzene, 0.114 Naphthalene	0.2 Gasoline (C4-C12), 71.2 Diesel (C13-C24)	2.0 benzene 4.7 ethyl benzene 1.1 ** isopropyl benzene 2.5 ** n-propyl benzene 4.8 naphthalene
7122-GP2-10	0.112 Ethyl benzene, 0.004 Total Xylenes, 0.022 Isopropyl Benzene, 0.155 n-Propyl Benzene, 0.006 p-Isopropyl -Toluene, 0.31 1, 2, 4-Trimethyl - Benzene, 0.041 sec-Butyl benzene, 0.141 n-Butyl benzene, 2.96 Naphthalene	18.5 Gasoline (C4-C12), 108 Diesel (C13-C24)	4.7 ethyl benzene 11 xylenes 1.1 ** isopropyl benzene 2.5 ** n-propyl benzene NL p-isopropyl toluene 0.021 ** 1, 2, 4- trimethyl - benzene NL sec-butyl benzene NL n-butyl benzene 4.8 naphthalene
7122-GP2-20	0.002 Benzene, 0.127 Ethyl benzene, 0.008 Isopropyl Benzene, 0.035 n-Propyl Benzene, 0.048 Naphthalene	1.45 Gasoline (C4-C12)	2.0 benzene 4.7 ethyl benzene 1.1 ** isopropyl benzene 2.5 ** n-propyl benzene 4.8 naphthalene
7122-GP2-35	0.003 Benzene, 0.006 Naphthalene	ND	2.0 benzene 4.8 naphthalene

Sample ID#	EPA 8260B (VOCs & Oxygenates) mg/kg	EPA 8015M (Carbon Chain) mg/kg	Pertinent Screening Levels * mg/kg
7122-GP2-40	13.3 Benzene, 0.5 Toluene, 27.2 Ethyl benzene, 67.5 Total Xylene, 9.71 Isopropyl Benzene, 14 n-Propyl Benzene, 39.3 4-Chlorotoluene, 29.7 p- Isopropyl Toluene, 130 1, 2, 4-Trimethyl -Benzene, 12.7 sec-Butyl benzene, 29.1 n-Butyl benzene, 163 Naphthalene	13,700 Gasoline (C4-C12), 28,000 Diesel (C13-C24)	2.0 benzene 9.3 toluene 4.7 ethyl benzene 11 xylenes 1.1 ** isopropyl benzene 2.5 ** n-propyl benzene 2.5 ** 4-chlorotoluene NL p-isopropyl toluene 0.021 ** 1, 2, 4-trimethyl - benzene NL sec-butyl benzene NL n-butyl benzene 4.8 naphthalene
7122-GP3-10	ND	ND	
7122-GP3-20	ND	ND	
7122-GP3-35	ND	ND	
7122-GP3-40	0.011 Benzene, 0.033 Ethylbenzene, 0.028 Total Xylene, 0.005 Isopropyl Benzene, 0.005 n-Propyl Benzene, 0.007 1, 3, 5-Trimethyl- Benzene, 0.02 1, 2, 4-Trimethyl- Benzene, 0.143 Naphthalene	1.53 Gasoline (C4-C12)	2.0 benzene 4.7 ethyl benzene 11 xylenes 1.1 ** isopropyl benzene 2.5 ** n-propyl benzene 0.021 ** 1, 2, 4-trimethyl - benzene 0.52 ** 1, 3, 5-trimethyl - benzene 4.8 naphthalene
7122-GP4-10	ND	ND	
7122-GP4-20	ND	ND	
7122-GP4-35	ND	ND	
7122-GP4-40	0.004 Benzene, 0.024 Ethyl benzene, 0.003 Isopropyl Benzene, 0.003 n-Propyl Benzene, 0.12 Naphthalene	0.28 Gasoline (C4-C12)	2.0 benzene 4.7 ethyl benzene 1.1 ** isopropyl benzene 2.5 ** n-propyl benzene 4.8 naphthalene

\* Source = deep soil (>10 feet) screening levels for non-drinking groundwater areas  
(Table D-2 commercial industrial land use Bay Area RWQCB Nov.2007)

\*\* Source = USEPA Regional Screening Levels – Risk based soil screening level

ND Non-Detect

NL No Screening Level mg/kg= milligrams per kilogram

**Samples Collected 9/13/2011  
Water Samples**

Sample ID#	EPA 8260B (VOCs & Oxygenates) ug/L	EPA 8015M ug/L (Carbon Chain)	Pertinent Screening Levels* ug/L
7122-GP1-W	176 Benzene, 537 Ethylbenzene, 2,830 Total Xylene, 503 Isopropyl Benzene, 1,060 n-Propyl Benzene, 4,970 1, 3, 5-Trimethyl- Benzene, 2,120 p-Isopropyl- Toluene, 14,400 1, 2, 4-Trimethyl- Benzene, 1,500 sec-Butylbenzene, 5,000 n-Butylbenzene, 25,200 Naphthalene	2,800 Gasoline (C4-C12), 245 Diesel (C13-C24)	1.0 benzene 150 toluene 300 ethyl benzene 1750 xylenes
7122-GP2-W	2,480 Benzene, 40 Toluene, 2,220 Ethylbenzene, 7,060 Total Xylene, 820 Isopropyl Benzene, 1,350 n-Propyl Benzene, 4,160 1, 3, 5-Trimethyl - Benzene 3,430 p-Isopropyl -Toluene, 12,700 1, 2, 4-Trimethyl -Benzene, 1,230 sec-Butylbenzene, 3,420 n-Butylbenzene, 19,600 Naphthalene	2,100 Gasoline (C4-C12), 409 Diesel (C13-C24)	1.0 benzene 150 toluene 300 ethyl benzene 1750 xylenes
7122-GP3-W	102 Benzene, 67.5 Ethylbenzene, 232 Total Xylene, 15.5 Isopropyl Benzene, 21.6 n-Propyl Benzene, 73.9 1, 3, 5-Trimethyl - Benzene, 15.8 p-Isopropyl Toluene, 246 1, 2, 4-Trimethyl -Benzene, 12 sec-Butylbenzene, 12.7 n-Butylbenzene, 594 Naphthalene	7.76 Gasoline (C4-C12), 31.5 Diesel (C13-C24)	1.0 benzene 300 ethyl benzene 1750 xylenes
7122-GP4-W	149 Benzene, 210 Ethylbenzene, 740 Total Xylene, 54 Isopropyl Benzene, 87.2 n-Propyl Benzene, 422 1, 3, 5-Trimethyl - Benzene, 172 p-Isopropyl Toluene, 1,130 1, 2, 4-Trimethyl -Benzene, 85.8 sec-Butylbenzene, 325 n-Butylbenzene, 2,960 Naphthalene	246 Gasoline (C4-C12), 15.9 Diesel (C13-C24)	1.0 benzene 300 ethyl benzene 1750 xylenes

\* Source = CA Title 17 Maximum Contaminant Levels (MCLs) for drinking water

Note: Chemicals not listed have no MCL

ND Non-Detect  
mg/l milligrams per liter  
µg/L micrograms per liter  
N/A Not applicable, Not Analyzed

**Samples Collected 9/13/2011  
Vapor Samples**

<b>Sample ID#</b>	<b>EPA 8260B (VOCs &amp; Oxygenates)ug/L</b>	<b>EPA 8015 M (TPH-Gasoline)ug/L</b>	<b>Pertinent Screening Levels* ug/L</b>
7122-GP1-VAP	0.58 Toluene, 3.13 Ethylbenzene, 4.82 Total Xylene, 0.93 n-Propyl Benzene	1.020 Gasoline (C4-C12)	378 toluene 887 Xylenes
7122-GP2-VAP	2.14 Benzene, 71.1 Ethylbenzene, 9.51 Total Xylene, 4.41 Isopropyl Benzene, 11.2 n-Propyl Benzene, 1.81 1, 3, 5- Trimethyl - Benzene, 0.82 p-Isopropyl Toluene, 6.81 1, 2, 4-Trimethyl -Benzene, 1.19 sec-Butylbenzene, 1.4 n- Butylbenzene, 0.91 Naphthalene	7,140 Gasoline (C4-C12)	0.122 benzene 887 Xylenes 0.106 naphthalene
7122-GP3-VAP	0.64 Ethylbenzene, 0.68 Total Xylene	344 Gasoline (C4-C12)	887 total xylenes
7122-GP4-VAP	ND	171 Gasoline (C4-C12)	

\* Source = CHHSL's - California Human Health Screening Levels, CALEPA  
Commercial industrial land use, shallow soil gas HHSLs Table-2 values were used  
Note: Chemicals not listed have no MCL

**ND** Non-Detect  
**µg/L** micrograms per liter

#### 4.0 CONCLUSIONS AND RECOMMENDATIONS

As seen and demonstrated by the above listed and reviewed documents, the subject site has been extensively investigated over the years for various environmental contamination. Based on the following key points compiled from all the available data, both from on-site investigations to a very extensive off-site (adjacent, ARCO) investigation and site cleanup, the subject site's (12605 Rosecrans Ave. Norwalk, CA) southern property line is contaminated by Jet Fuel. It appears that all identified significant impacts of the vadose zone; soil and groundwater are the result of pipeline leakage of Jet Fuel from the lines currently and previously running within the road bed adjacent to the subject site along Rosecrans and Bloomfield Avenues. The subject site has never stored, handled, or dispensed Jet Fuel in any way; therefore, Caltrans needs to identify the responsible parties and require them to address the contamination within the foot print of construction.

##### SOIL

- No levels of VOCs (USEPA Method 8260B) or Fuels (USEPA Method 8015) were detected that are a concern or that exceed their respective reporting limits and/or any identified action levels except in the southern area of the Site (Jet Fuel).

##### GROUNDWATER

- Elevated concentrations of VOCs (USEPA Method 8260B) and fuels (USEPA Method 8015M Carbon Chain) were detected that are a concern and/or exceed their respective reporting limits or any identified action levels in all four groundwater samples. This is an indication that the local perched water in the site area has been degraded due to area-wide subsurface source(s). A known leaking pipeline (Powerine, Jet Fuel) exists in the close proximity of the Site.

##### SOIL VAPORS

- Low concentrations of VOCs (USEPA Method 8260B) were detected in three of the vapor samples from borings GP1, GP2, and GP3. No levels of VOCs were detected in GP4.
- Elevated gasoline range (C4-C12) fuel hydrocarbons (USEPA 8015M carbon chain) were reported from the GP1 and GP2 vapor samples, while moderately low level of gasoline range are reported from the GP3 and GP4 vapor samples. Using shallow soil screening levels (from CHHSLs) for industrial/commercial land use, VOCs and fuels in soil vapor are not a concern except for the following:
  - Vapor sample 7122-GP2-VAP exceeds the screening levels for benzene. The gasoline range fuel hydrocarbons in this sample are also the highest among the vapor samples (jet Fuel).

Low VOCs in the collected vapor samples indicate that the fuel source is either a fuel type with low volatile compounds (such as Jet fuel or diesel) or the source is an older leak that has lost its volatile compounds.

Based on the soil, groundwater, and soil vapor samples results collected at the project Site and presented in this report, **PHASE ONE INC.** finds evidence of contamination beneath the Site.

However:

- No fuels, including gasoline or diesel fuel, have been stored, dispensed or used at the Site in over 20 years.
- Jet fuel has been reported in the subsurface area of the Site and the neighboring properties. Source of the jet fuel is reportedly a leaking fuel conveyance pipeline belonging to Powerine Refinery in Santa Fe Springs. It appears that an offsite source has caused the impact to soil/soil vapor and groundwater at the Site and its immediate vicinity.
- Extensive soil and groundwater investigations at ARCO Service Station No.5061 located at 12606 Rosecrans Avenue (across from the Site) have demonstrated that the source of soil and groundwater impact in the immediate Site vicinity is an underground jet fuel pipeline.
- The laboratory has determined that the fuels in the soil and perched groundwater samples match jet fuel based on the chromatogram review.
- The proposed use of the Site by Caltrans is an addition to the I-5 Freeway ingress or egress ramp. The street will be capped with asphalt or concrete. As such, there will be no human health risk associated with the proposed property use.

## 5.0 LIMITATIONS

To achieve the study objectives stated in this report, we were required to base **PHASE ONE INC.**'s conclusions and recommendations on the best information available during the period the investigation was conducted and within the limits prescribed by **PHASE ONE INC.**'s client in the contract/authorization agreement and standard terms and conditions.

**PHASE ONE INC.**'s professional services were performed using that degree of care and skill ordinarily exercised by environmental consultants practicing in this or similar fields. The findings were mainly based upon examination of historic records, governmental agencies lists, and laboratory analytical reports. Recommendations are based on the historic land use of the subject property, as well as features noted during the site walk and Phase II assessment. The absence of potential gross contamination sources, historic or present, does not necessarily imply that the subject property is free of any contamination. This report only represents a "due diligence" effort as to the integrity of the subject property. No other warranty or guarantee, expressed or implied, is made as to the professional conclusions or recommendations contained in this report. The limitations contained within this report supersede all other contracts or scopes of work, implied or otherwise, except those stated or acknowledged herewith.

This report is not a legal opinion. It does not necessarily comply with requirements defined in any environmental law such as the "innocent landowner defense" or "due diligence inquiry." Only legal counsel retained by the client is competent to determine the legal implications of any information, conclusions, or recommendations in this report.

The findings, conclusions, recommendations, and professional opinions contained in this report have been prepared by the staff of **PHASE ONE INC.**, in accordance with generally accepted professional practices.

Sample results should not be construed as conclusive and binding in any way. All sampling conducted is only for the purposes of general screening and does not imply that all materials, locations, or hazardous materials have been identified nor was the sampling intended to identify every instance of the materials sampled. **PHASE ONE INC.** only relays the information supplied by the laboratory conducting the analysis.

## 6.0 REPORT SIGNATURE AND CERTIFICATION

### The undersigned hereby certifies that:

The following people have prepared, written, and/or reviewed the report for Project #7122 Evaluation. All the below parties have, in good faith, conducted their respective project responsibilities using that degree of care and skill ordinarily exercised by environmental consultants practicing in this or similar fields.

All parties have acted in good faith and have no known relationship with the subject site, owners, buyers, or any other entity associated with the subject site. All respective project responsibilities have been conducted independently, and with no conflict of interest.

The statements of fact contained in this report are true and correct based on materials reviewed to the best of our abilities.

The reported analyses, opinions, and conclusions are personal, unbiased, professional, and limited only by the assumptions and qualifications stated herein. Compensation is not contingent upon an action or an event resulting from the analyses, opinions, or conclusions included in this report nor is it contingent upon the use of this report.

The investigation has been performed in accordance with all applicable legal requirements and in accordance with accepted practices prevailing in the environmental assessment and environmental consulting industries. The personnel who performed the investigation (or are under the direct supervision of personnel) whom are properly licensed and certified in accordance with the requirements of all federal, state, and local laws, rules, and regulations.

We have no present or prospective interest in the subject property or the parties involved.

If necessary, expert testimony and other legal appearances will be provided at our current Standard Schedule of Rates.



Eric Kieselbach President

Jay Badiei, PG #6744

## FIGURES

## **APPENDICES**



**From:** [Mark Berkebile](#)  
**To:** [Joseph Dzida](#)  
**Subject:** RE: FW: Jones v. Caltrans  
**Date:** Friday, May 06, 2011 1:46:41 PM  
**Attachments:** [Site Investigation Report - 03302011.pdf](#)

---

Joe,

Attached is the summary of results from the State's consultant.

(See attached file: Site Investigation Report - 03302011.pdf)

Mark Berkebile  
Deputy Attorney  
State of California  
Department of Transportation  
(213) 687-6000

\*\*\*\*\*  
Confidentiality Notice: This e-mail message, including any attachments, are protected by the attorney-work product doctrine and the attorney-client privilege and is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.  
\*\*\*\*\*

Joseph Dzida  
<jdzida@crdattorn  
eys.com>  
04/29/2011 10:11  
AM

To  
Mark Berkebile  
<mark\_berkebile@dot.ca.gov>  
cc

Subject  
RE: FW: Jones v. Caltrans

Would it be possible to get these results so that the problem can be addressed if there is one?

Joe

-----Original Message-----

From: Mark Berkebile [mailto:mark\_berkebile@dot.ca.gov]  
Sent: Friday, April 29, 2011 9:11 AM  
To: Joseph Dzida  
Cc: eric\_fleetwood@dot.ca.gov  
Subject: Re: FW: Jones v. Caltrans

Joe,

My understanding is that the test results indicated that there is environmental contamination on the property.

Mark Berkebile  
Deputy Attorney  
State of California  
Department of Transportation  
(213) 687-6000

\*\*\*\*\*  
Confidentiality Notice: This e-mail message, including any attachments, are protected by the attorney-work product doctrine and the attorney-client privilege and is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.  
\*\*\*\*\*

Joseph Dzida  
<jdzida@crdattorneys.com>  
To  
Mark Berkebile  
<mark\_berkebile@dot.ca.gov>,  
"eric\_fleetwood@dot.ca.gov"  
<eric\_fleetwood@dot.ca.gov>  
cc  
04/28/2011 03:59 PM  
Subject  
FW: Jones v. Caltrans

Have not received a reply to the following. Please advise.

Joe

From: Joseph Dzida  
Sent: Friday, April 22, 2011 3:20 PM  
To: Mark Berkebile  
Subject: RE: Jones v. Caltrans

Mark: Did the property test clean?

Joe

-----Original Message-----

From: Mark Berkebile [mailto:mark\_berkebile@dot.ca.gov]  
Sent: Friday, April 22, 2011 2:22 PM  
To: Joseph Dzida  
Subject: Re: Jones v. Caltrans

Joe,

The environmental testing has been completed and the next step is to appraise the property interest(s) to be acquired. As far as I know, the anticipated schedule for completing the appraisal and getting it approved is generally the same as what we discussed at the mediation.

Mark Berkebile  
Deputy Attorney  
State of California  
Department of Transportation  
(213) 687-6000

\*\*\*\*\*  
Confidentiality Notice: This e-mail message, including any attachments, are protected by the attorney-work product doctrine and the attorney-client privilege and is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.  
\*\*\*\*\*

Joseph Dzida  
<jdzida@crdatton  
eys.com>  
04/20/2011 09:21 AM  
To  
"mark\_berkebile@dot.ca.gov"  
<mark\_berkebile@dot.ca.gov>,  
"eric\_fleetwood@dot.ca.gov"  
<eric\_fleetwood@dot.ca.gov>  
cc  
Subject  
Jones v. Caltrans

Mark and Eric:

Have not heard back from you since the mediation. Has any progress been made?

Our brief is due on Monday and I am prepared to file it. Was hoping that there would be no need, however.

What is the status on your end?

Regards,

Joe Dzida

Joseph S. Dzida  
Callanan, Rogers & Dzida, LLP  
800 South Figueroa Street, Suite 1100  
Los Angeles, California 90017-2521  
Phone: 213-599-7595  
Fax: 213-599-7596  
Cell: 310-780-0902  
E-mail: [jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)  
Websites: [www.crdattorneys.com](http://www.crdattorneys.com); [www.eminentdomainlegal.com](http://www.eminentdomainlegal.com)

**From:** Joseph Dzida  
**To:** Mark Berkebile; eric.fleetwood@dot.ca.gov  
**Bcc:** Greg Jones  
**Subject:** Jones v. Caltrans -- environmental  
**Date:** Tuesday, May 10, 2011 7:08:46 PM  
**Attachments:** Site Investigation Report - 03302011.pdf

---

**Mark:**

Thank you for the attached summary. Among other things:

- a. The summary does not specify or make any findings concerning whether the purported contamination arose due to activity on my client's property. In fact, the summary states on page 2 that the borings were made "within the construction footprint of the project." That would include a part of my client's property; but also other properties not owned by my client and public right of way. In this regard, the summary also does not specifically identify if the findings come from the areas Caltrans is proposing to take from my client's property, or from under the remainder property they are suggesting my client retain, or from the adjacent property that Caltrans has suggested my client take as partial compensation.
- b. The summary refers to ground water contamination but does not describe any investigation to determine the source of the contamination. In fact, at the bottom of page 7 the consultant describes such an investigation confirming that it has not already been performed, and at page 5 the summary states that the contamination is "consistent with" jet fuel (which has never been on my client's property to our knowledge) and that it is "consistent with" "previously documented subsurface releases and/or conditions located near the site," not on it or under it.
- c. The summary includes costs for removal of tenant equipment. What authority does Caltrans have for the proposition that this is chargeable to the owner in a condemnation situation?
- d. There is nothing in the report that contains any evidence that the possible conditions described ACTUALLY affect in any way the market value of the subject property or its capacity to generate income for

the owners.

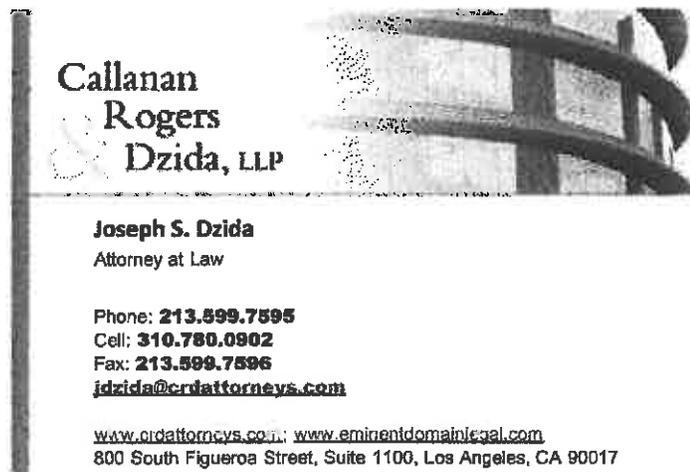
Is it Caltrans' position that the \$851,240 described on page 8 or any other sum should be deducted from the compensation to be paid to my client or any occupant of the property? If so, what is the basis for that contention? If that is Caltrans' position is there any reason at all to proceed with the scheduled second session of the mediation in light of the fact that such a demand makes mediation totally impractical and unproductive? Please advise immediately.

We will probably have more questions once these questions are answered and we reserve the right to retain our own consultant to review these findings and the scope of proposed work. In that regard, we would also like to have a copy of the full report, and not just the summary you sent, so it can be analyzed in detail. Would it be possible for your consultant to mail me a disc with a full copy?

Let's discuss.

Regards,

Joe Dzida



**Callanan  
Rogers  
Dzida, LLP**

**Joseph S. Dzida**  
Attorney at Law

Phone: **213.599.7595**  
Cell: **310.780.0902**  
Fax: **213.599.7596**  
[jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)

[www.crdattorneys.com](http://www.crdattorneys.com); [www.eminentdomainlegal.com](http://www.eminentdomainlegal.com)  
800 South Figueroa Street, Suite 1100, Los Angeles, CA 90017

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**From:** Joseph Dzida  
**To:** Greg Jones  
**Subject:** FW: Jones v. Caltrans  
**Date:** Wednesday, December 14, 2011 5:41:47 PM  
**Attachments:** 7122Evaluation.doc

---

**Fyi**

---

**From:** Joseph Dzida  
**Sent:** Wednesday, December 14, 2011 5:41 PM  
**To:** mark\_berkebile@dot.ca.gov; eric\_fleetwood@dot.ca.gov  
**Subject:** Jones v. Caltrans

**Mark and Eric:**

Sometime ago you sent a purported environmental evaluation of the subject property to us and suggested that any compensation paid to my client would be reduced by clean up costs. Of course, that is disputed by us and my client has obtained his own evaluation attached, which demonstrates that the source of contamination in the area is elsewhere and must be tackled on an area wide basis and not from my client's specific property. Please call if you have any questions.

Regards,

Joe Dzida

**Joseph S. Dzida**  
**Callanan, Rogers & Dzida, LLP**  
**800 South Figueroa Street, Suite 1100**  
**Los Angeles, California 90017-2521**

Phone: 213-598-7595

Fax: 213-598-7596

Cell: 310-780-0902

E-mail: [jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)

Websites: [www.crdattorneys.com](http://www.crdattorneys.com); [www.eminentdomainlegal.com](http://www.eminentdomainlegal.com)

**Joseph Dzida**

---

**From:** Steven Johnson [steven\_johnson@dot.ca.gov]  
**Sent:** Friday, February 10, 2012 1:28 PM  
**To:** Joseph Dzida  
**Subject:** RE: Jones Rosecrans Property

Mr. Dzida,

I will share your concerns with our legal team.



Steven Johnson  
Division of Right of Way  
100 South Main Street  
Los Angeles, CA 90012  
Office: (213) 897-0698  
Fax (213) 897-0656

Joseph Dzida <jdzida@crdattorneys.com>

02/10/2012 11:28 AM

To Steven Johnson <steven\_johnson@dot.ca.gov>  
cc Greg Jones <greg@jonesre.net>  
Subject RE: Jones Rosecrans Property

**Steve:**

**Disagree with your first paragraph completely. It is now apparent that you have no appraisal or other opinion that the fair market value of the property has been impacted at all by the contamination you claim. Please provide legal authority for your position that my client must pay clean up costs for a condition caused by others and originating off site. Please provide legal authority for your position that my client must pay clean up costs for a condition, even if it originated on site, if that condition did not affect the market value of the property. If you have no such authority, please so state.**

**Thank you for the information on the \$5000 reimbursement. I will consult with Mr. Jones regarding it.**

**Joe**

**From:** Steven Johnson [mailto:steven\_johnson@dot.ca.gov]  
**Sent:** Friday, February 10, 2012 8:33 AM  
**To:** Joseph Dzida  
**Subject:** RE: Jones Rosecrans Property

Mr. Dzida,

I appreciate the concerns you have for your client's position. The appraisal that was provided to you was completed by certified appraiser whose qualifications are presented within the appraisal report. Next, as I am sure you are aware, when purchasing a property all exiting liabilities must be taken into consideration. In this case, the cost to clean up the hazardous waste exceeds the fair market value of the property. Again, I refer you to the information that has been provided to you regarding the hazardous waste findings. Specific information can be found within the appraisal report. Lastly, I believe that your question regarding reimbursement was adequately answered. However, in the interest of good will, I will provide you with the information that you are requesting.

5. Pursuant to Civil Code of Procedure Section 1263.025 should you elect to obtain an independent appraisal, the Department will pay for the actual reasonable costs up to \$5,000 subject to the following conditions;

a) You, not the Department, must order the appraisal. Should you enter into a contract with the selected appraiser, the Department of Transportation will not be a party to the contract.

b) The selected appraiser must be licensed with the Office of Real Estate Appraisers (OREA)

Appraisal cost reimbursement requests must be made in writing, and submitted to the Department of Transportation, Right of Way Acquisition, 100 South Main Street MS-6, Los Angeles, CA 90012 within 90 days of the earliest of the following dates: (1) the date the selected appraiser requests from you for the appraisal; or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal. Copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the Department of Transportation concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.

Again, thank you for sharing your concerns. I hope that this information was helpful to you.



Joseph Dzida <[jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)>

02/09/2012 03:39 PM

To Steven Johnson <[steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)>  
cc Greg Jones <[greg@jonesre.net](mailto:greg@jonesre.net)>  
Subject RE: Jones Rosecrans Property

Steve:

**This does not get it done. Your offer must be based on expert appraisal and, if necessary, other expert opinion. I have received a report that says there is contamination, and I have received an appraisal; but I have received NOTHING that says the contamination reduces the value of the property at all, let alone as drastically as you claim. Please send me the opinion and analysis on which the reduction was based, IF IT EXISTS. If it does not exist, please advise immediately.**

**Since my client collected rent on this property in excess of your purported value for many years until Caltrans created a cloud of condemnation over it, the valuation you have provided to me is plainly in bad faith and it does not comply with the requirements of law.**

**Finally, you did not answer my question about the \$5000 reimbursement other than to refer to a pamphlet. Please do so immediately. My client is entitled to know if Caltrans will pay in this case; not just generally, before he expends funds for an appraisal.**

**Joe Dzida**

**From:** Steven Johnson [[mailto:steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)]  
**Sent:** Thursday, February 09, 2012 3:34 PM  
**To:** Joseph Dzida  
**Subject:** RE: Jones Rosecrans Property

Mr. Dzida,

Thanks for getting back to me. Mr. Jones' rights regarding reimbursement can be found under section 5 of the form titled "Summary Statement Relating To The Purchase of Real Property or Interest Therein." With regards to the parcel, Caltrans will be requiring the entire property for this project. Currently, the property has a fair market value of \$570,000.00. Unfortunately there is hazardous waste present with a remediation cost that exceeds the fair market value of the property. As a result, Caltrans made the decision to present your client with a nominal offer of \$1,000.00 as stated in the appraisal.

 **Steven Johnson**  
Division of Right of Way  
100 South Main Street  
Los Angeles, CA 90012  
Office: (213) 897-0698  
Fax (213) 897-0656

Joseph Dzida <[jdzida@crdatorneys.com](mailto:jdzida@crdatorneys.com)>

02/09/2012 02:55 PM

To Steven Johnson <[steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)>  
cc  
Subject RE: Jones Rosecrans Property

**Steve:** I received the additional copy you sent today. So far, we have not found the earlier copy. In any event, I am sure my client has a nice round "file" in which to place Caltrans' \$1000 offer. Will Caltrans reimburse my client up to \$5000 as required by law if he obtains his own appraisal? Also, I am wondering about the "partial fee," as we were informed that Caltrans would acquire the entire property. Please advise.

Regards,

Joe Dzida

**From:** Steven Johnson [[mailto:steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)]  
**Sent:** Thursday, February 09, 2012 10:11 AM  
**To:** Joseph Dzida  
**Subject:** RE: Jones Rosecrans Property

Mr. Dzida,

Please be advised that I have received a return receipt from the post office indicating that the appraisal I forwarded to your office was signed for on January 27, 2012 by Judy Lock. I hope that you now have the document in your possession. I attempted to send an electronic copy, however the file size was too large to allow the transmission to be completed. As such I sent an additional copy to you on 2/8/12. If you have any questions please feel free to call me, have a great day.

 Steven Johnson  
Division of Right of Way  
100 South Main Street  
Los Angeles, CA 90012  
Office: (213) 897-0698  
Fax (213) 897-0656

Joseph Dzida <[jdzida@crdatorneys.com](mailto:jdzida@crdatorneys.com)>

02/03/2012 06:34 PM

To Steven Johnson <[steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)>  
cc  
Subject RE: Jones Rosecrans Property

**Steve:** This has not as yet been received apparently. Could you email to me?

**Joe**

**From:** Steven Johnson [[mailto:steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)]  
**Sent:** Tuesday, January 31, 2012 9:38 PM  
**To:** Joseph Dzida  
**Subject:** Re: Jones Rosecrans Property

Mr. Dzida,

The appraisal was mailed to you on Thursday via certified mail.

-----Joseph Dzida <[jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)> wrote: -----  
**To:** "steven.johnson@dot.ca.gov" <[steven.johnson@dot.ca.gov](mailto:steven.johnson@dot.ca.gov)>  
**From:** Joseph Dzida <[jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)>  
**Date:** 01/31/2012 01:35PM  
**Subject:** Jones Rosecrans Property

**Steve:** Have not heard from you re the following. Please send me the appraisal. Joe Dzida

**From:** Joseph Dzida  
**Sent:** Tuesday, January 24, 2012 2:21 PM  
**To:** [steven.johnson@dot.ca.gov](mailto:steven.johnson@dot.ca.gov)  
**Cc:** Greg Jones  
**Subject:** Greg Jones Property on Rosecrans

TO STEVE JOHNSON

Steve:

You called me today and said you were the "right of way agent" in regard to the acquisition of the property owned by Greg Jones on Rosecrans Avenue. You asked me to confirm my

representation of Mr. Jones; stating that you were unaware of such representation. By this email, I confirm my representation, and, as we discussed, Caltrans' and its attorneys are aware of such representation as we have been in litigation over the property for some time. You stated that you would send me the appraisal for the property commissioned by Caltrans. Please do so. As we discussed, upon receipt I will send you a copy of the environmental report obtained by Mr. Jones (which has already been provided to Caltrans' attorneys).

Please call if you have any questions.

Regards,

Joe Dzida

**Joseph S. Dzida**  
**Callanan, Rogers & Dzida, LLP**  
**800 South Figueroa Street, Suite 1100**  
**Los Angeles, California 90017-2521**  
Phone: 213-599-7595  
Fax: 213-599-7596  
Cell: 310-780-0902  
E-mail: [jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)  
Websites: [www.crdattorneys.com](http://www.crdattorneys.com); [www.eminentdomainlegal.com](http://www.eminentdomainlegal.com)

**Joseph Dzida**

---

**From:** Joseph Dzida  
**Sent:** Friday, February 03, 2012 6:34 PM  
**To:** 'Steven Johnson'  
**Subject:** RE: Jones Rosecrans Property

**Steve: This has not as yet been received apparently. Could you email to me?**

**Joe**

**From:** Steven Johnson [[mailto:steven\\_johnson@dot.ca.gov](mailto:steven_johnson@dot.ca.gov)]  
**Sent:** Tuesday, January 31, 2012 9:38 PM  
**To:** Joseph Dzida  
**Subject:** Re: Jones Rosecrans Property

Mr. Dzida,

The appraisal was mailed to you on Thursday via certified mail.

-----Joseph Dzida <[jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)> wrote: -----

To: "steven.johnson@dot.ca.gov" <[steven.johnson@dot.ca.gov](mailto:steven.johnson@dot.ca.gov)>  
From: Joseph Dzida <[jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)>  
Date: 01/31/2012 01:35PM  
Subject: Jones Rosecrans Property

**Steve: Have not heard from you re the following. Please send me the appraisal. Joe Dzida**

**From:** Joseph Dzida  
**Sent:** Tuesday, January 24, 2012 2:21 PM  
**To:** [steven.johnson@dot.ca.gov](mailto:steven.johnson@dot.ca.gov)  
**Cc:** Greg Jones  
**Subject:** Greg Jones Property on Rosecrans

**TO STEVE JOHNSON**

**Steve:**

You called me today and said you were the "right of way agent" in regard to the acquisition of the property owned by Greg Jones on Rosecrans Avenue. You asked me to confirm my representation of Mr. Jones; stating that you were unaware of such representation. By this email, I confirm my representation, and, as we discussed, Caltrans' and its attorneys are aware of such representation as we have been in litigation over the property for some time. You stated that you would send me the appraisal for the property commissioned by Caltrans. Please do so. As we discussed, upon receipt I will send you a copy of the environmental report obtained by Mr. Jones (which has already been provided to Caltrans' attorneys).

Please call if you have any questions.

Regards,

Joe Dzida

**Joseph S. Dzida**  
**Callanan, Rogers & Dzida, LLP**  
**800 South Figueroa Street, Suite 1100**  
**Los Angeles, California 90017-2521**

Phone: 213-599-7595

Fax: 213-599-7596

Cell: 310-780-0902

E-mail: [jdzida@crdattorneys.com](mailto:jdzida@crdattorneys.com)

Websites: [www.crdattorneys.com](http://www.crdattorneys.com); [www.eminentdomainlegal.com](http://www.eminentdomainlegal.com)

**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF RIGHT OF WAY**  
100 SOUTH MAIN STREET  
P. O. BOX 942873  
Los Angeles, CA 90012  
PHONE (213) 897-1901  
FAX (213) 897-1802



*Flex your power!  
Be energy efficient!*

**VIA U.S. MAIL AND ELECTRONIC MAIL**

March 22, 2012

Mr. Joseph Dzida  
Law Offices of Callanan, Rogers, & Dzida  
800 South Figueroa Street, Suite 1100  
Los Angeles, CA 90017-2521

**WRITTEN APPEARANCE RESPONSE**

File: 7-LA -LA-PM 5.3  
E.A. 215939 Project ID: 0700001833  
Parcel No. 79898 APN: 8082-001-003  
Grantor: Gregory S. Jones, Trustee

Dear Mr. Dzida:

This letter is in response to your letter dated March 8, 2012 addressed to the Executive Director of the California Transportation Commission (the "Commission") for property located at 12605 Rosecrans Avenue, in the city of Norwalk (the "Property").

Your letter, addressed specific concerns and objections to the Commission's proposed action on several grounds regarding the above referenced parcel and as requested your letter will be submitted to the Commission in lieu of a personal appearance and will be part of the official record presented to the Commission at its April 25-26, 2012, meeting to be held in Orange County, California.

The following is the State of California, Department of Transportation's ("Department") response to the concerns and objections set forth in your letter.

**1. Caltrans is only offering \$1,000.00 for this property**

The offer being made by the State reflects the effect contamination and required cleanup has on the current market value of the property. Per the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) "a current or former property owner can be found responsible for remediation even if they did not contaminate the property."

**2. Caltrans' appraiser appraised the property for \$570,000 but Caltrans arbitrarily reduced its offer to \$1,000 from the appraised value ostensibly because of environmental conditions underneath the property. The basis for the reduction, however, is not reflected in any appraisal opinion or report.**

A hazardous waste report that includes a "Remediation Cost Estimate" was attached to the State's property valuation report that was provided to you.

Attachment B

**3. Those conditions were described in Caltrans' report (Exhibit 1).**

A careful review of this document (Exhibit 1) will clearly show that an estimated cost of remediation has been provided to you. This is the basis for the reduction in the appraised value which you contend that was not provided by the Department.

**4. In response we submitted our own report.**

A review of the environmental report you have provided confirms the existence of hazardous waste materials on the subject property. Although the report questions the source of the hazardous waste, it does not definitively assign responsibility for said waste.

**5. The "Exhibit 2" report demonstrates that the conditions described in "Exhibit 1" originated outside of the subject property, were not caused by Jones, and did not impact his property's value.**

The fact that the contamination did not originate on the subject property (nor was it caused by Mr. Jones or his activity) is irrelevant. Counsel cites no authority that requires the condemning agency to pay 'clean' Fair Market Value for contaminated property if/when it is demonstrated that the owner was not the generator. The Fair Market Value of contaminated property may be impacted by the presence of contamination even when the contamination was generated off site, and even where it was not caused by the property owner. An appraisal which takes the cost of clean up into consideration and deducts it, dollar for dollar, from the 'clean' Fair Market Value is the only approach accepted in the published cases thus far. (See Redevelopment Agency vs Thrifty Oil Co. at 4 Cal.App. 4th 469, 1992). The Department applied this appraisal methodology and arrived at a \$1,000 nominal value for the acquisition.

Notwithstanding the origins of the hazardous waste, pursuant to CERCLA, "a current or former property owner can be found responsible for remediation even if they did not contaminate the property."

**6. I asked for a response to "Exhibit 2" but did not receive any. Accordingly, it is apparent that Caltrans has no evidence whatsoever to the contrary.**

Agent Steven Johnson spoke with you on January 24, 2012, regarding the parcel in question. During that conversation the agent committed to providing you with a copy of the appraisal and the State's hazardous waste report. For your part, you stated that you would provide the agent with a copy of the environmental report conducted on behalf of the grantor. You did not provide said copy of the environmental report to the agent, however it was included with your March 8, 2012 letter to the Commission.

**7. Caltrans nevertheless made its \$1,000 offer.**

The offer being made by the State reflects the effect contamination and required cleanup has on the current market value of the property. Per the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), "a current or former property owner can be found responsible for remediation even if they did not contaminate the property."

8. I, then, objected to the offer, stating again that the conditions on which it was based originated elsewhere and that, therefore, my client was not responsible for clean up. I also stated that deductions from the appraised value were proper only if the conditions were caused by my client and only if they impacted market value. I pointed out that the \$1,000 offer was less than monthly rent my client received from the property despite the conditions described. The property obviously cannot have a market value less than that indicated by the rent it generates.

Mr. Jones has sufficient recourse if he believes that the offer/deposit is too low; he can and should move to increase the amount of the deposit pursuant to CCP section 1255.030 (a). There is no authority to oppose the Resolution of Necessity on the basis that the offer is based on the wrong appraisal methodology or that it is too low. "If there is a dispute between plaintiff and defendant over an evidentiary or other legal issue affecting the determination of compensation, either party may move the court for a ruling on the issue." (CCP section 1260.040). Neither party has the 'burden of proof' on the issue of compensation (CCP Section 1260.210), and the Department is not now required to make a showing that it will prevail on its appraisal methodology.

9. I asked Mr. Johnson to provide me with copies of any appraisal opinions reflecting that the conditions decreased the market value of the property. He did not do so. Apparently then, the reduction in the offer to \$1,000 from the appraised value is not based on any appraisal, as required by law, and totally arbitrary.

A hazardous waste report that included a "Remediation Cost Estimate" was attached to the State's property valuation report that was provided to you, and was the basis for the "dollar for dollar" deduction from the value before remediation for contamination. Because the cost of remediation exceeded the value of the parcel, Departmental policy dictates that a "nominal offer" be made prior to condemnation

Eminent domain law provides that under these circumstances the parties may employ any 'reasonable appraisal methodology' (Code Civil Procedure section 1263.320) and that the reasonableness of the applied methodology is not an issue at the application for a Resolution of Necessity. (CCP section 1245.230) The amount of compensation to be paid Mr. Jones is solely for the jury to determine based on opinion testimony at time of trial. (Ev. Code section 813). The conclusion of counsel that the contamination "does not impact his property value" is a closing argument in an eminent domain proceeding.

10. We have not yet had time to obtain our own appraisal as Caltrans has not provided funding for same as required by law and the matter has been in litigation.

Counsel contends that the Department has not yet provided funding for him to obtain an appraiser and thus he has not yet obtained one (and therefore has no basis to support his contention that his property is unaffected by the contamination). CCP 1263.025 (a) provides that: "A public entity shall offer to pay the reasonable costs, not to exceed five thousand dollars (\$5,000) of an independent appraisal ordered by the owner of a property ..... (T)he independent appraisal shall be conducted by an appraiser licensed by the Office of Real Estate Appraisers." In effect this section provides for *reimbursement* of costs incurred by the owner who has in fact 'ordered' an appraisal, so that the State may confirm that a licensed appraiser was retained and that the costs are reasonable (not to exceed the \$5,000). The State notified Mr. Jones on

February 9, 2012, in writing that he had this right; but thus far Mr. Jones has failed to notify the State that he has in fact ordered such an appraisal or plans to do so. You confirmed your understanding that this cost is reimbursable in your email response to the agent wherein you stated the following: "thank you for the information on the \$5000 reimbursement. I will consult with Mr. Jones regarding it." This is a clear confirmation of your understanding that the State's requirement is for reimbursement only.

**11. In addition, Mr. Jones has suffered pre-condemnation damages including lost rentals as a result of Caltrans' actions. These are subject to litigation. The Court of Appeal ruled on March 8, 2012, that the judgment entered in Caltrans' favor must be reversed in full on this point. The offer made by Caltrans (\$1,000) does not reflect these damages.**

Counsel refers to the case of Jones vs. Department of Transportation; Los Angeles County Superior Court Case No. B226430. In this inverse condemnation lawsuit Mr. Jones alleges that he lost income because his tenant on the parcel (which is the subject of the pending request for Resolution of Necessity) negotiated a 50% reduction in rent based on future uncertainties involved with the widening of I-5.

The State filed an Anti SLAPP motion (pursuant to CCP section 425.16) on the grounds that the State had not unreasonably delayed the eminent domain process but rather was engaging in authorized/required pre-condemnation activities. Upon filing the Anti SLAPP motion Mr. Jones had the burden of proving a likelihood that he would prevail and discovery was tolled upon such time as he could meet his burden. The Superior Court granted the State's motion; but it was recently reversed on appeal. In reversing, the Court of Appeal noted that: "We do not weigh credibility, nor do we evaluate the weight of the evidence. Instead, we accept as true all evidence favorable to the plaintiff [here, Jones] and assess the defendant's [here Caltrans'] evidence only to determine if it defeats the plaintiff's submission as a matter of law. ... Only a cause of action that lacks 'even minimal merit' constitutes a SLAPP".

The evidentiary test on an Anti SLAPP motion is quite different than that in an eminent domain trial. In an eminent domain trial neither side has the burden of proof; neither side's evidence is summarily accepted as true and all the evidence is evaluated by the judge and jury.

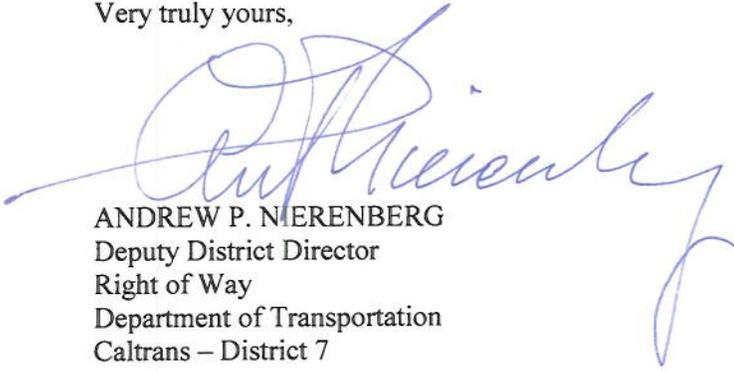
The only effect of the current decision is that Mr. Jones' Inverse Condemnation lawsuit may proceed. There is no ruling that the State is liable in inverse. There is no ruling that Mr. Jones has suffered damages of any kind. There is no ruling that Mr. Jones is entitled to recover 50% loss rents. There is no determination of how much Mr. Jones has lost, if any. There is no ruling that the State has acted unreasonably. There is no ruling that impacts the Fair Market Value of the parcel to be acquired. There is no ruling that impacts the amount the State is required to put on deposit. There is no ruling regarding the appropriate appraisal methodology.

Furthermore, the property in question is currently rented and being operated as "Sal's Fast Lube #2." This is further evidence that the actions of the State have in no way damaged Mr. Jones' ability to rent the property in question. The previous lessee, Tune-up Masters, cancelled their license with the Bureau of Automotive Repair on December 31, 2006.

Mr. Joseph Dzida  
March 22, 2012  
Page 5

If you have any questions, please feel free to contact Steven Johnson at (213) 897-0698.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Andrew P. Nierenberg". The signature is fluid and cursive, with a large initial "A" and a long, sweeping tail.

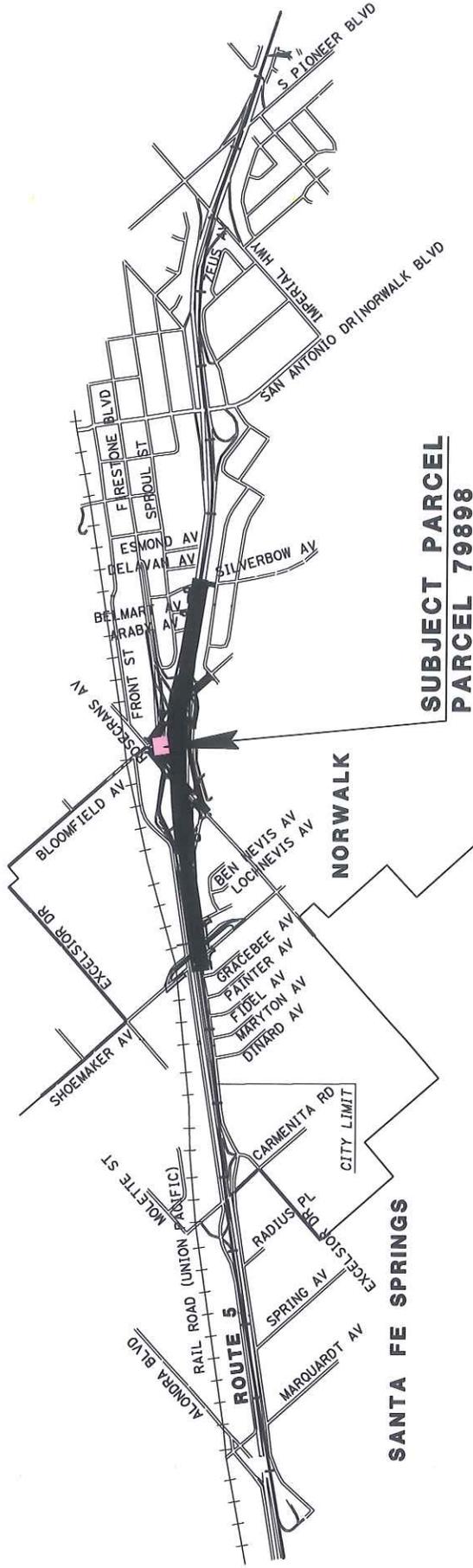
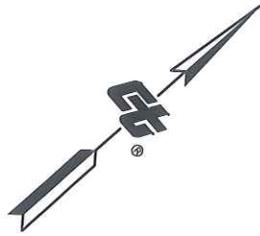
ANDREW P. NIERNBERG  
Deputy District Director  
Right of Way  
Department of Transportation  
Caltrans – District 7

## Resolution of Necessity Appearance Fact Sheet

<b>PROJECT DATA</b>	07-LA-5-PM 2.4/4.0 Expenditure Authorization 215939
<u>Location:</u>	Interstate 5 (I-5) in Los Angeles County in the cities of Santa Fe Springs and Norwalk
<u>Limits:</u>	Between the Orange County Line limit to 0.7 miles north of the 605 Freeway
<u>Contract Limits:</u>	Between 0.1 miles north of Carmenita Road Overcrossing to 0.1 miles north of Silverbow Avenue Pedestrian Overcrossing
<u>Cost:</u>	Programmed construction cost: \$120,000,000.00 Current right of way cost estimate: \$98,000,000.00
<u>Funding Source:</u>	Corridor Mobility Improvement Account, Traffic Congestion Relief Program, State Transportation Improvement Program, State-Local Transportation Partnership Program, Transportation Equity Act for the 21 <sup>st</sup> Century, and Local Proposition C
<u>Number of Lanes:</u>	Existing: three mixed-flow lanes in each direction Proposed: four mixed-flow lanes plus one high occupancy vehicle lane in each direction
<u>Proposed Major Features:</u>	Reconfigure interchange at Rosecrans Avenue to Tight Diamond type; replace Shoemaker Avenue Overcrossing and Silverbow Avenue Pedestrian Overcrossing; replace Rosecrans Avenue Undercrossing; construct new Undercrossing at Bloomfield Avenue; re-align Bloomfield Avenue and Firestone Boulevard; and reconstruct local streets and frontage roads
<u>Traffic:</u>	Existing I-5 (year 2005): 171,000 Annual Daily Traffic (ADT) Proposed I-5 (year 2030): 281,000 ADT
<b>PARCEL DATA</b>	
<u>Property Owner:</u>	Gregory S. Jones, Trustee of the Gregory S. Jones Revocable Trust, dated October 11, 2001
<u>Parcel Location:</u>	12605 Rosecrans Avenue, Norwalk Assessor's Parcel Number 8082-001-003
<u>Present Use:</u>	Auto Service Building - Zoned C3 (General Commercial Zone)
<u>Area of Property:</u>	11,588 Square Feet (SF)
<u>Area Required:</u>	Parcel 79898-1 - 4,343 SF - Fee Parcel 79898-2 - 7,245 SF - Temporary Construction Easement Parcel 79898-01-01 - 7,245 SF - Excess Land

# CITY OF NORWALK COUNTY OF LOS ANGELES

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



**SUBJECT PARCEL  
PARCEL 79898**

STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

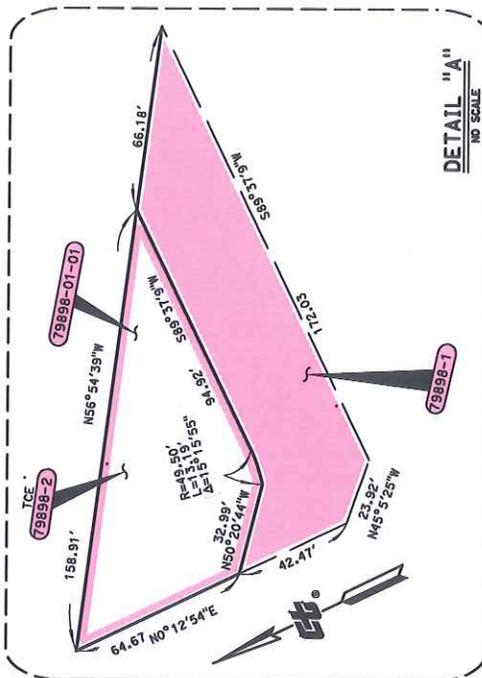
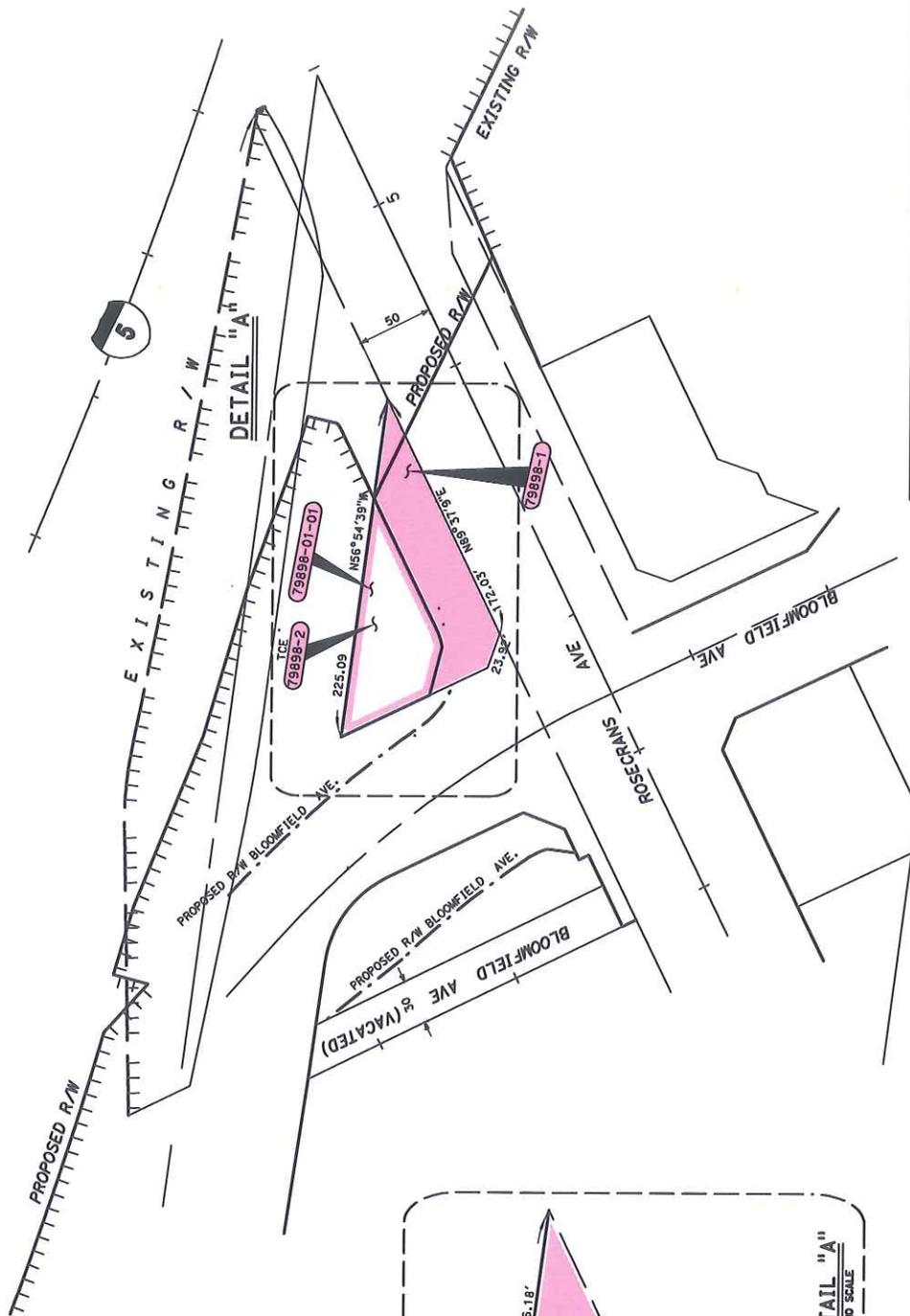
## RIGHT OF WAY RESOLUTION OF NECESSITY

**EXHIBIT A**  
NOT TO SCALE

DISTRICT	COUNTY	ROUTE	SHEET	PM	SHEET NO.	TOTAL SHEETS
7	LA	5	3.6		1	1

# CITY OF NORWALK COUNTY OF LOS ANGELES

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STATE OF CALIFORNIA  
BUSINESS, TRANSPORTATION AND HOUSING AGENCY  
DEPARTMENT OF TRANSPORTATION

**RIGHT OF WAY  
RESOLUTION OF NECESSITY  
EXHIBIT B**

NOT TO SCALE

DISTRICT	COUNTY	ROUTE	SHEET	PM	SHEET NO.	TOTAL SHEETS
7	LA	5	3.6	1	1	1