



Alan C. Lloyd, Ph.D.
Agency Secretary
Cal/EPA



Department of Toxic Substances Control

8800 Cal Center Drive
Sacramento, California 95826-3200



Arnold Schwarzenegger
Governor

January 19, 2005

The following letter was sent on January 19, 2005 to Laidlaw International, Pacific Coast Drum, Powerine Oil Company, Todd Pacific Shipyards Corporation, and US Filter Recovery Services.

Dear XXX-XXX:

NOTICE OF PROPOSED DETERMINATION OF NONCOMPLIANCE WITH ORDER I&SE-D 04/05-004

The Department of Toxic Substances Control (DTSC) sent you an Imminent and Substantial Endangerment Determination and Order and Remedial Action Order (number 04/05-004) (Order) addressing the BKK facilities that was effective on December 9, 2004. This Order required you to submit a written Notice of Intent to Comply (NOI) by January 4, 2005 (as extended by DTSC). As of January 19, 2005, our records show that you have not submitted the required NOI. Based on this fact, pursuant to Health and Safety Code Section 25355.5(a)(2), we are hereby notifying you that DTSC intends to determine your company to be out of compliance with the terms of the Order.

If within ten (10) calendar days from the date of this letter, you submit to DTSC the required NOI, DTSC will withdraw this notice. If you believe DTSC should modify the Order, you may submit an explanation of your position to DTSC in writing within ten (10) calendar days from the date of this letter. This explanation must include your reasons for the modification as well as a thorough description of the actual modification and proposed Order amendment language. DTSC, at its sole discretion, will make a determination on the merits of the proposed changes. If your request is rejected, DTSC will issue a Notice of Final Determination of Noncompliance. If your request is accepted, the Order will be amended and reissued as appropriate. Failure to submit the required NOI or to request changes to the Order will result in the issuance of a Final Determination of Noncompliance. If DTSC issues a Final Determination of Noncompliance, DTSC will perform the work stipulated in the Order. In addition, DTSC will seek cost recovery for all costs incurred including administrative costs, penalties, and treble damages allowed under the law. Please submit all documentation to:

**Don Plain, Branch Chief
Attention: Andy Burow
Emergency Response and Special Projects Branch
Site Mitigation and Brownfields Reuse Program
Department of Toxic Substances Control
8810 Cal Center Drive
Sacramento, California 95826-3200**

Please contact Ms. Marilee Hanson, Senior Staff Attorney at 916-327-0979 if you have any legal questions regarding this matter. You may also call me at 916-255-6565 with questions or comments.

Sincerely,

Signature on original letter.

Donald R. Plain, Chief
Emergency Response and Special Projects Branch