26. Chloroform	67663					[Reserved]	[Reserved]
27. Dichlorobromomethane	75274					0.56 a,c	46 a,c
28. 1,1-Dichloroethane	75343						
29. 1,2-Dichloroethane	107062					0.38 a,c,s	99 a,c,t
30. 1,1-Dichloroethylene	75354					0.057 a,c,s	3.2 a,c,t
31. 1,2-Dichloropropane	78875					0.52 a	39 a
32. 1,3-Dichloropropylene	542756					10 a,s	1,700 a,t
33. Ethylbenzene	100414					3,100 a,s	29,000 a,t
34. Methyl Bromide	74839					48 a	4,000 a
35. Methyl Chloride	74873					n	n
36. Methylene Chloride	75092					4.7 a,c	1,600 a,c
37. 1,1,2,2-Tetrachloroethane	79345					0.17 a,c,s	11 a,c,t
38. Tetrachloroethylene	127184					0.8 c,s	8.85 c,t
39. Toluene	108883					6,800 a	200,000 a
40. 1,2-Trans-Dichloroethylene	156605					700 a	140,000 a
41. 1,1,1-Trichloroethane	71556					n	n
42. 1,1,2-Trichloroethane	79005					0.60 a,c,s	42 a,c,t
43. Trichloroethylene	79016					2.7 c,s	81 c,t
44. Vinyl Chloride	75014					2 c,s	525 c,t
45. 2-Chlorophenol	95578					120 a	400 a
46. 2,4-Dichlorophenol	120832					93 a,s	790 a,t
47. 2,4-Dimethylphenol	105679					540 a	2,300 a
48. 2-Methyl-4,6-Dinitrophenol	534521					13.4 s	765 t
49. 2,4-Dinitrophenol	51285					70 a,s	14,000 a,t
50. 2-Nitrophenol	88755						
51. 4-Nitrophenol	100027						
52. 3-Methyl-4-Chlorophenol	59507						
53. Pentachlorophenol	87865	19 f,w	15 f,w	13	7.9	0.28 a,c	8.2 a,c,j
54. Phenol	108952					21,000 a	4,600,000 a,j,t
55. 2,4,6-Trichlorophenol	88062					2.1 a,c	6.5 a,c
56. Acenaphthene	83329					1,200 a	2,700 a
57. Acenaphthylene	208968						
58. Anthracene	120127					9,600 a	110,000 a

59. Benzidine	92875					0.00012 a,c,s	0.00054 a,c,t
60. Benzo(a)Anthracene	56553					0.0044 a,c	0.049 a,c
61. Benzo(a)Pyrene	50328					0.0044 a,c	0.049 a,c
62. Benzo(b)Fluoranthene	205992					0.0044 a,c	0.049 a,c
63. Benzo(ghi)Perylene	191242						
64. Benzo(k)Fluoranthene	207089					0.0044 a,c	0.049 a,c
65. Bis(2-Chloroethoxy)Methane	111911						
66. Bis(2-Chloroethyl)Ether	111444					0.031 a,c,s	1.4 a,c,t
67. Bis(2-Chloroisopropyl)Ether	39638329					1,400 a	170,000 a,t
68. Bis(2-Ethylhexyl)Phthalate	117817					1.8 a,c,s	5.9 a,c,t
69. 4-Bromophenyl Phenyl Ether	101553						
70. Butylbenzyl Phthalate	85687					3,000 a	5,200 a
71. 2-Chloronaphthalene	91587					1,700 a	4,300 a
72. 4-Chlorophenyl Phenyl Ether	7005723						
73. Chrysene	218019					0.0044 a,c	0.049 a,c
74. Dibenzo(a,h)Anthracene	53703					0.0044 a,c	0.049 a,c
75. 1,2 Dichlorobenzene	95501					2,700 a	17,000 a
76. 1,3 Dichlorobenzene	541731					400	2,600
77. 1,4 Dichlorobenzene	106467					400	2,600
78. 3,3'-Dichlorobenzidine	91941					0.04 a,c,s	0.077 a,c,t
79. Diethyl Phthalate	84662					23,000 a,s	120,000 a,t
80. Dimethyl Phthalate	131113					313,000 s	2,900,000 t
81. Di-n-Butyl Phthalate	84742					2,700 a,s	12,000 a,t
82. 2,4-Dinitrotoluene	121142					0.11 c,s	9.1 c,t
83. 2,6-Dinitrotoluene	606202						
84 Di-n-Octyl Phthalate	117840						
85. 1,2-Diphenylhydrazine	122667					0.040 a,c,s	0.54 a,c,t
86. Fluoranthene	206440					300 a	370 a
87. Fluorene	86737					1,300 a	14,000 a
88. Hexachlorobenzene	118741					0.00075 a,c	0.00077 a,c
89. Hexachlorobutadiene	87683					0.44 a,c,s	50 a,c,t
90. Hexachlorocyclopentadiene	77474					240 a,s	17,000 a,j,t
91. Hexachloroethane	67721					1.9 a,c,s	8.9 a,c,t

92. Indeno(1,2,3-cd) Pyrene	193395					0.0044 a,c	0.049 a,c
93. Isophorone	78591					8.4 c,s	600 c,t
94. Naphthalene	91203						
95. Nitrobenzene	98953					17 a,s	1,900 a,j,t
96. N-Nitrosodimethylamine	62759					0.00069 a,c,s	8.1 a,c,t
97. N-Nitrosodi-n-Propylamine	621647					0.005 a	1.4 a
98. N-Nitrosodiphenylamine	86306					5.0 a,c,s	16 a,c,t
99. Phenanthrene	85018						
100. Pyrene	129000					960 a	11,000 a
101. 1,2,4-Trichlorobenzene	120821						
102. Aldrin	309002	3 g		1.3 g		0.00013 a,c	0.00014 a,c
103. alpha-BHC	319846					0.0039 a,c	0.013 a,c
104. beta-BHC	319857					0.014 a,c	0.046 a,c
105. gamma-BHC	58899	0.95 w		0.16 g		0.019 c	0.063 c
106. delta-BHC	319868						
107. Chlordane	57749	2.4 g	0.0043 g	0.09 g	0.004 g	0.00057 a,c	0.00059 a,c
108. 4,4'-DDT	50293	1.1 g	0.001 g	0.13 g	0.001 g	0.00059 a,c	0.00059 a,c
109. 4,4'-DDE	72559					0.00059 a,c	0.00059 a,c
110. 4,4'-DDD	72548					0.00083 a,c	0.00084 a,c
111. Dieldrin	60571	0.24 w	0.056 w	0.71 g	0.0019 g	0.00014 a,c	0.00014 a,c
112. alpha-Endosulfan	959988	0.22 g	0.056 g	0.034 g	0.0087 g	110 a	240 a
113. beta-Endosulfan	33213659	0.22 g	0.056 g	0.034 g	0.0087 g	110 a	240 a
114. Endosulfan Sulfate	1031078					110 a	240 a
115. Endrin	72208	0.086 w	0.036 w	0.037 g	0.0023 g	0.76 a	0.81 a,j
116. Endrin Aldehyde	7421934					0.76 a	0.81 a,j
117. Heptachlor	76448	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00021 a,c	0.00021 a,c
118. Heptachlor Epoxide	1024573	0.52 g	0.0038 g	0.053 g	0.0036 g	0.00010 a,c	0.00011 a,c
119-125. Polychlorinated biphenyls (PCBs)			0.014 u		0.03 u	0.00017 c,v	0.00017 c,v
126. Toxaphene	8001352	0.73	0.0002	0.21	0.0002	0.00073 a,c	0.00075 a,c
Total Number of Criteria [h]		22	21	22	20	92	90

BILLING CODE 6560-50-C

EXHIBIT H

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

SANTA ANA REGION

In re

ROBERT L. VELOZ,

Petitioner.

AFFIDAVIT OF ROBERT L. VELOZ

ROBERT L. VELOZ, being duly sworn, says:

1. I am a retired businessman, living in Santa Barbara County, California. Between 1987 and 1997, I was an officer and majority shareholder of J.C. Carter Company, Inc. (referred herein during this time as "Carter" and afterward as "Argo-Tech/Carter"), during which time I engaged with the Santa Ana Regional Water Quality Control Board ("Regional Board") on behalf of the company. I am of sound mind and am executing this affidavit based on my personal knowledge. My personal knowledge is based on correspondence, telephone communications, and meetings in which I participated, and my review of documents.

2. Based on these sources of information, I am aware that, at various times between 1990 and 2000, I requested that the Regional Board name International Telephone and Telegraph Industries ("ITT") and Armatron International, Inc. ("Armatron") as respondents under Cleanup and Abatement Order No. WQ 90-126 ("Order"), and any other Regional Board directives or orders relating to the property located at 671 West Seventeenth Street, Costa Mesa, California (the "Property"). To the best of my knowledge and information, neither ITT nor Armatron have been so named, despite my repeated requests and the Regional Board's assurances that all appropriate responsible parties would be named.

3. ITT maintained a business at the Property from 1973 to 1983; and operated "J.C. Carter Company" as an unincorporated division of ITT. The Carter name was

taken from the individua[illegible] originally founded the business [illegible] owned the property prior to ITT.

4. In 1983, ITT sold the assets of its division to Armatron. Armatron incorporated the assets into a newly formed company and held it as a wholly-owned subsidiary called J.C. Carter Company, Inc. (Armatron and its subsidiary collectively are referred to herein as "Armatron's Carter subsidiary").

5. In April 1986, I was hired to be the President of Armatron's Carter subsidiary, continuing in this capacity until January 22, 1987. My previous background was in the aerospace industry.

6. At the time of my hiring, I informed Armatron management that I had been looking to purchase the assets of a business, and that I might want to purchase the assets of Armatron's Carter subsidiary.

7. Shortly after my hiring, I entered into discussions with Armatron regarding acquisition of assets of Armatron's Carter subsidiary.

8. In 1986, I caused to be formed an entity called "JCC Acquisition Corporation" for the purpose of effectuating a transfer of assets, including the Property, from Armatron's Carter subsidiary to a newly formed company. Immediately following the closing of the transaction in 1987, JCC Acquisition Corporation filed a certificate of amendment of its articles of incorporation changing its corporate name to J.C. Carter Company, Inc. ("Carter").

9. The transaction among JCC Acquisition Corp., Armatron, and Armatron's Carter subsidiary was a heavily-negotiated, arms'-length transaction, for an ultimate purchase price of $18,250,000.

10. During the months I served as President of Armatron's Carter subsidiary, I was both President of Armatron's Carter subsidiary and a purchaser of its assets.

11. Between 1987 and 1990, Carter voluntarily submitted work plans to the Regional Board and performed soil borings, and monitoring wells in response to the Regional Board requests.

12. On July 24, 1990, the Regional Board requested further investigation, and requested Carter to submit a remedial action plan for the site.

13. On July 23, 1990, Carter informed the Board that it would not submit the requested plan.

14. On October 3, 1990, the Regional Board issued the Order, naming Carter as the only responsible party.

15. On November 2, 1990, Carter filed a Petition with the State Water Quality Control Board ("State Board") disputing the Order and requesting to hold it in abeyance. After being held in abeyance for over two years, the State Board dismissed the Petition without prejudice, and with leave to refile a petition in the event of a future dispute.

16. For over a decade, starting in 1986, Carter spent approximately $500,000 dollars investigating the contamination at the property in connection with an investigation relating to preexisting contamination due to leakage from an underground storage tank on the Property, which had been removed the one year Carter took title to the Property from Armatron's Carter subsidiary. Copies of invoices for these expenses are attached hereto.

17. During this time, Carter repeatedly requested the Regional Board to either rescind the Order or amend it to include ITT and Armatron.

18. On March 1, 1991, I met with the Board, representing Carter's interests, and the Board indicated a willingness to discuss naming other parties to the Order.

19. In September 1997, Carter was acquired by Argo-Tech through a stock purchase agreement, extinguishing my interest in the Property.

20. On March 4, 1997, Argo-Tech/Carter requested rescission of the Order in a written letter to the Board.

21. On October 7, 1997, Argo-Tech/Carter met with the Board, and again requested rescission of the Order.

22. On February 3, 1998, after meeting with the Board, Argo-Tech/Carter provided a written letter to the Board requesting that the Order be amended to include ITT and Armatron.

23. Between 1997 and 2000, Argo-Tech/Carter continued to respond to the Board's requests for cleanup work at the Property, including a request for submittal of a proposed work plan for off-site investigation.

24. In March 1999, in response to the Regional Board's requests, Argo-Tech/Carter undertook a voluntary air sparging/vapor extraction program to address groundwater contamination at the site, which included the installation of 12 extraction wells on the Property. This program operated until April 2000 when the Regional Board requested that it be terminated due to low influent concentrations and because test results indicated that no residual sources of soil contamination were present in the vicinity of the extraction points.

25. Following the termination of the air sparging/vapor extraction program, the Regional Board requested Argo-Tech/Carter to prepare a feasibility study and remedial action plan to determine whether the use of dual phase extraction, or other technologies, was warranted. The Regional Board also requested an update of the 1998 assessment of off-site contamination and a work plan for additional investigation of potential residual sources in soil through an extended vapor extraction system.

26. On August 11, 2000, Argo-Tech/Carter and I requested the Regional Board to vacate the Order, or alternatively to reform the Order to include ITT and Armatron.

27. I did not receive any response to the August 2000 request.

28. In August 2008, I received a letter from the Regional Board, dated August 8, 2008, which completely ignored the August 11, 2000 request.

29. In the eight years between the request and the Regional Board's letter, the Regional Board did not enforce the Order against Argo-Tech/Carter. The Board also did not request any additional work, allege any violations, or threaten any penalties against Argo-Tech/Carter.

30. In September 2008, I received a letter from Seventeenth Street Realty alleging that it was successor in interest to Argo-Tech/Carter and seeking indemnity from me pursuant to my prior Stock Purchase Agreement with Argo-Tech. Before this time, I was unaware of either Seventeenth Street Realty or its connection to the property. The rights and

obligations under the Stock Purchase Agreement are generally non-assignable except under limited circumstances. Since receiving this initial claim from Seventeenth Street Realty, I have requested detailed supporting information from it regarding its alleged claims to indemnity under the Stock Purchase Agreement; but I have not received this information to date.

Executed in Santa Barbara, California on June 15, 2009.

Robert L. Veloz

Subscribed and sworn to before me this

15 day of June 2009

Notary Public

KENDRA EPLEY
Commission # 1794615
Notary Public - California
Santa Barbara County
My Comm. Expires Apr 7, 2012

My commission expires: April 7, 2012

FGL ENVIRONMENTAL

Inv. Date	Date Paid	Inv. Amount	
05/91	07/31/91	$4,830.00	
05/91	08/15/91	1,185.00	
06/21/91	08/22/91	1,350.00	
TOTAL FGL ENVIRONMENTAL			$7,365.00

STATE WATER RESOURCES

Inv. Date	Date Paid	Inv. Amount	
04/03/91	04/25/91	$620.36	
07/26/91	08/15/91	109.15	
08/21/91	09/11/91	71.73	
08/27/92	09/23/92	1,121.66	
04/03/92	04/22/92	640.62	
05/05/92	05/21/92	55.55	
05/27/93	06/10/93	24.14	
TOTAL STATE WATER RESOURCES			$2,643.21

CONVERSE ENVIRONMENTAL

Inv. Date	Date Paid	Inv. Amount	
12/88		$52,946.04	
02/88		3,775.67	
01/88		2,659.91	
05/88		4,066.63	
TOTAL CONVERSE ENVIRONMENTAL			$63,448.25

A.L. SIMMONS INVOICES

Inv. Date	Invoice	Inv. Amount
11/28/90		$2,866.24
3/12/90		2,971.97
7/30/90		2,696.40
8/26/90		3,491.50
11/30/90		3,275.64
12/02/90		1,802.70
1/12/91		2,642.70
3/01/91		2,720.92
5/18/91		6,173.90
5/28/91		850.00
6/17/91		3,694.87
6/27/91		225.00
7/08/91		3,416.79
8/24/91		947.00
11/03/91		2,957.15
4/11/93		2,808.50
3/12/99		975.00
5/17/99		23,790.53
6/21/99		6,644.44
7/29/99		5,452.90
9/01/99		3,172.42
10/10/99		7,730.21
11/10/99		9,531.17
12/10/99		5,010.30
1/10/00	JCC011000	3,888.32
2/23/00	JCC022330	5,222.28
3/23/00	JCC032300	2,774.47
4/15/00	JCC041500	6,289.73
5/10/00	JCC051000	11,680.92
7/30/01		3,191.32
Total		**138,895.29**

ENVIRON INVOICES

Inv. Date	Invoice	Inv. Amount
7/96		$9,163.31
8/96		2,530.54
9/96		5,425.36
10/96		24,398.02
11/96		3,897.99
12/96		6,392.95
1/97		5,491.91
2/97		3,289.01
4/97		21,324.73
5/97		6,647.26
6/97		11,031.24
10/97		188.70
10/97		958.80
11/97		17,994.87
12/97		6,608.40
2/04/98		762.12
2/26/98		2,955.53
3/30/98		5,783.45
4/21/98		1,179.06
5/22/98		5,295.48
6/26/98		7,142.01
8/25/98		2,380.24
9/30/98		5,737.84
11/24/98		990.08
12/22/98		3,534.00
1/29/99	132426	10,343.40
2/25/99	133117	214.24
3/29/99	133880	276.64
4/30/99	134449	2,535.52
5/31/99	135022	5,912.00
6/25/99	135636	5,282.91
7/31/99	136326	349.73
Total		**186,017.34**

SCHAEFER DIXON ASSOCIATES

Inv. Date	Date Paid	Inv. Amount	
10/88		$6,971.12	
10/88		5,468.77	
10/88		3,974.11	
04/89		673.75	
05/89		13,769.46	
05/89		338.81	
12/89		33.54	
12/89		34.62	
04/90		38.91	
TOTAL SCHAEFER DIXON ASSOCIATES			$31,309.09

HEKIMIAN & ASSOCIATES

Inv. Date	Date Paid	Inv. Amount	
09/15/86		$479.00	
09/86		3,675.00	
TOTAL HEKIMIAN & ASSOCIATES			$4,154.00

TOTAL ALL $396,760.74

DELTA ENVIRONMENTAL

Inv. Date	Date Paid	Inv. Amount
04/10/90	05/24/90	$3,972.00
04/16/90	05/31/90	19,000.00
07/27/90	09/13/90	3,495.00
09/10/90	11/08/90	4,480.00
09/17/90	11/15/90	3,037.20
01/29/91	02/28/91	20,627.91
04/12/91	06/20/91	5,599.90
05/10/91	07/11/91	3,044.10
06/14/91	08/15/91	2,582.00
07/12/91	10/10/91	1,026.25
08/09/91	10/10/91	2,816.25
09/13/91	10/31/91	75.00

TOTAL DELTA ENVIRONMENTAL $69,755.61

EXHIBIT I

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
PAUL R. BONDERSON BUILDING
P STREET
BOX 100
SACRAMENTO, CALIFORNIA 95812-0100
(916) 322-3580

GEORGE DEUKMEJIAN, Governor

NOV 14 1990

Ms. Diane R. Smith
Snell & Wilmer
P. O. Box 19601
1920 Main Street, Suite 1200
Irvine, CA 92714

Dear Ms. Smith:

IN THE MATTER OF THE PETITION OF J.C. CARTER COMPANY, INC. FOR REVIEW OF CLEANUP AND ABATEMENT ORDER NO. 90-126 BY THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION. OUR FILE NO. A-709.

In the petition you filed on November 2, 1990, you asked that the State Board hold the matter in abeyance for an unspecified period of time. We are happy to do so in hopes that the matter may be worked out between you and the Regional Board. However, we will hold the matter in abeyance for no more than two years from the date the petition was filed. If, by that time, no resolution of the matter has taken place or the matter has not become the subject of an active dispute, the petition will be dismissed without prejudice.

Please note the significance of the phrase "without prejudice". If, after the petition is dismissed, an actual dispute arises between you and the Regional Board over the interpretation or enforcement of the underlying order, you may file a new petition with the State Board within 30 days of the date of the dispute. Any issues relevant to that dispute, including but not limited to those raised in this petition, will be considered at that time in the same manner as if the petition were filed for the first time.

If you have any questions about this new policy, please feel free to call Ted Cobb, Senior Staff Counsel, at (916) 324-1259.

Sincerely,

Craig M. Wilson

Craig M. Wilson
Assistant Chief Counsel

cc: Mr. Gerard Thibeault, Executive Officer
California Regional Water Quality
Control Board, Santa Ana Region
6809 Indiana Avenue, No. 200
Riverside, CA 92506

STATE OF CALIFORNIA - CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
PAUL R. BONDERSON BUILDING
901 P STREET
P.O. BOX 100
SACRAMENTO, CALIFORNIA 95812-0100
(916) 657-0406
FAX: (916) 653-0428

PETE WILSON, Governor

JAN 14 1993

Ms. Diane R. Smith
Snell & Wilmer
P.O. Box 19601
1920 Main Street, Suite 1200
Irvine, CA 92714

Dear Ms. Smith:

IN THE MATTER OF THE PETITION OF J.C. CARTER COMPANY, INC. FOR REVIEW OF CLEANUP AND ABATEMENT ORDER NO. 90-126 OF THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SANTA ANA REGION. OUR FILE NO. A-709.

As I indicated to you in my letter of November 14, 1990 enclosed, the State Water Resources Control Board (State Water Board) will not hold petitions indefinitely. As this petition has been on file with the State Water Board for more than two years and it has been more than one year since I notified you of the State Water Board's policy regarding dismissing old petitions, it is considered dismissed.

This file will be closed as of today. If, in the future, an actual dispute arises between you and the Regional Water Quality Control Board over the interpretation or enforcement of the underlying order, you may file a new petition with the State Water Board within 30 days of the date the new dispute arises. Any issues relevant to that dispute, including but not limited to those issues raised in this petition, may be considered at that time in the same manner as if the petition were filed for the first time.

If you have any questions about this decision or procedure, please call Ted Cobb, Senior Staff Counsel, at (916) 657-0406.

Sincerely,

Craig M. Wilson

Craig M. Wilson
Assistant Chief Counsel

cc: Mr. Gerard J. Thibeault, Executive Officer
California Regional Water Quality
Control Board, Santa Ana Region
2010 Iowa Avenue, Suite 100
Riverside, CA 92507

Enclosure

EXHIBIT K

BEFORE THE
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In re J.C. CARTER COMPANY, INC., Respondent	Case No. 083000202T

AFFIDAVIT OF LAURENCE S. KIRSCH

STATE OF PENNSYLVANIA)
): ss
COUNTY OF PHILADELPHIA)

LAURENCE S. KIRSCH, being duly sworn, says:

1. I am a partner at the firm of Goodwin Procter LLP, 901 New York Ave. N.W., Washington, D.C. 20001. Beginning in June 2000, I served as counsel to Robert L. Veloz, representing the interest of J.C. Carter Company, Inc. ("New J.C. Carter"). I am of sound mind and am executing this affidavit based on my personal knowledge. That personal knowledge is based on correspondence, telephone communications, and meetings in which I participated, and my review of documents.

2. Based on these sources of information, I am aware that the California Regional Water Quality Control Board ("Board") repeatedly promised New J.C. Carter that the Board would name ITT Corporation ("ITT") and Armatron International, Inc. ("Armatron") as respondents under Cleanup and Abatement Order No. 90-126 ("Order"). To the best of my knowledge and information, the Board has never followed through on those repeated promises, despite the repeated requests from New J.C. Carter and Mr. Veloz that it do so, and despite the

strong factual, legal, and equitable foundation for requiring ITT and Armatron to take responsibility for environmental conditions that they alone had caused.

3. On March 1, 1991, New J.C. Carter met with the Board, and the Board indicated a willingness to discuss naming other parties to the Order.

4. My files further indicate that, during early 1991, Diane Smith, counsel from Snell & Wilmer, representing New J.C. Carter, spoke to Ted Cobb, counsel for the State Water Resources Control Board, and that Mr. Cobb advised Ms. Smith that he was going to recommend that the Board issue orders against, or add to the existing Order, ITT and Armatron, naming them primarily responsible for the remedial activities.

5. On March 4, 1997, New J.C. Carter wrote to the Board requesting rescission of the Order.

6. On October 7, 1997, the Board met with representatives of New J.C. Carter, requesting rescission of the Order.

7. On February 3, 1998, after meeting with the Board, New J.C. Carter wrote to the Board advising the Board of certain facts documenting that the Board issued the Order to the wrong party, and that ITT and Armatron should be named as respondents under the Order.

8. On May 9, 2000, New J.C. Carter met with Board Staff, at which meeting I understand that the staff agreed that the true culpability for the conditions at issue at 671 West Seventeenth Street, Costa Mesa, CA ("Property") rested with ITT and Armatron, and that the Board would pursue ITT and Armatron if provided with the names of specific individuals and addresses (although New J.C. Carter had previously provided that information). New J.C. Carter provided that information again, but the Board did not name ITT or Armatron under the Order.

9. On or about August 11, 2000, I filed, on behalf of Mr. Veloz, representing the interests of New J.C. Carter, a Petition to the Board to Stay and Vacate and/or Amend Cleanup

and Abatement Order No. 90-126 ("Petition"), requesting that the Board stay all proceedings concerning the Order and vacate the Order. In the alternative, the Petition requested that the Board stay all proceedings concerning the Order and amend the Order to (1) add ITT Corporation, Armatron, or their successors as respondents under the Order, (2) designate ITT and Armatron as primarily responsible under the Order, and (3) remove Current J.C. Carter as a respondent. The Petition also requested that, in the event the Board does not remove Current J.C. Carter as a Respondent, it should designate Current J.C. Carter as secondarily responsible and not impose any further investigative or cleanup requirements on it. The Petition contained fifteen single spaced pages of reasons justifying the requests made in it, and it was supported by in excess of one hundred pages of exhibits, including affidavits from individuals employed at the plant during the period of ITT and Armatron ownership and documentary evidence justifying the facts set forth in the Petition. To the best of my knowledge and information, from the date of the Petition, in August 2000, until this date, almost nine years later, the Board has never issued a written response to the Petition.

10. On or about September 20, 2000, having had no response to the Petition, I wrote to the Board again, repeating New J.C. Carter's previous request, including a request for a meeting.

11. On or about October 20, 2000, still having had no response to the Petition, I wrote to the Board yet again, repeating the previous requests, including a request for a meeting.

12. From the time of my retention as counsel to Mr. Veloz, I had various telephonic and other communications with Board staff. Many of these communications were with Ms. Rose Scott. Among other things, I was seeking a meeting with the Board, ITT, and Armatron to discuss the appropriate disposition of the Order.

13. On October 23, 2000, Ms. Rose Scott, from the Board, left me a voicemail. With regard to New J.C. Carter's requests to name ITT and Armatron, Ms. Scott stated in her voice mail that the "the information is under review, and ***we will be issuing letters to the parties that you mentioned*** [ITT and Armatron]." (Emphasis added.) The message further stated that the Board "may amend [the Order] to add these parties once we get a response" from them. To the best of my knowledge and information, the Board never issued such a letter to ITT or Armatron and the Order was never amended to add them as parties.

14. Ms. Scott left me another voicemail on October 24, 2000, responding to a telephone call from me. In that message, Ms. Scott stated that "I can issue a letter to the additional responsible parties that you named in your first letter [ITT and Armatron] . . . and then try to invite them to [a] meeting and have a meeting with all parties present before we go further." To the best of my knowledge and information, the Board never issued such a letter to ITT or Armatron and no meeting among the Board, New J.C. Carter, ITT, and Armatron ever occurred.

15. On February 8, 2001, I sent Ms. Scott an e-mail message confirming a meeting for March 15, 2000 between the Board and New J.C. Carter. In that same e-mail, I stated that "I also wanted to confirm that you will proceed to send letters to ITT and to Armatron naming them as responsible parties as soon as possible, and that you hope to have a response from them to your letters by the date of our meeting." To the best of my knowledge and information, Ms. Scott did not express any disagreement with that understanding.

16. On April 2, 2001, I received two phone calls from Ms. Scott. Ms. Scott first called me to confirm that she spoke to an individual at ITT, and that she believed that ITT would cooperate in this issue. She also indicated that she had an informal agreement to speak with ITT on April 11, 2001, by which time ITT and the Board would come to an agreement about ITT's

participation in the site activities. She also stated that, New J.C. Carter would remain on the Order because it was the current owner of the Property. I asked whether, even if New J.C. Carter were to remain as one of the parties named under the Order, the Board could nonetheless order ITT alone to perform any future work, based on the fact that ITT had caused the problem. She confirmed that this was the case, and said that she was going to see how things played out with ITT in her future discussions. She also stated that she had tried to call Armatron several times, had been referred to a lawyer, had left a message with the lawyer, and had not yet received a call back.

17. In a voicemail Ms. Scott left for me later that same day, April 2, 2001, Ms. Scott stated that she had heard from Armatron, which plead poverty and asserted that ITT should be primarily responsible. Ms. Scott indicated that she was willing to have a meeting with the "yet-to-be-named responsible parties" if they wanted one, but that she would wait to hear back from ITT to ascertain its position.

18. On May 8, 2001, Ms. Scott forwarded to me an electronic mail message that Ms. Scott had received from ITT. That message (which also forwarded an earlier message dated April 10, 2001 from ITT) suggested that ITT was working to evaluate the files and indicated that ITT would "be better prepared to send the Board a letter indicating our position regarding any potential obligations ITT may or may not have concerning this site." No such letter by ITT, to the best of my knowledge and information, was ever shared with New J.C. Carter.

19. On June 5, 2001, I received a voicemail from Ms. Scott at 7:36 PM responding to yet another inquiry from me. In that message, Ms. Scott stated that she had been hoping to receive a package from ITT that she had been informed would confirm that Armatron had assumed ITT's liability, but that she had not received such a package. Nevertheless, Ms. Scott said: "It just doesn't really matter; we would name them as responsible parties." Ms. Scott

indicated that she had also heard from Armatron, and that both parties were willing to meet with the Board.

20. Several e-mails between Ms. Scott and I were exchanged seeking to schedule the agreed-upon meeting among the Board, New J.C. Carter, ITT, and Armatron. In an e-mail to me dated June 13, 2001, Ms. Scott asked whether I was available on July 23, 2001. I responded affirmatively and asked if that date worked for Ms. Scott and the other parties.

21. Having not heard back from Ms. Scott, I sent her another e-mail on June 20, 2001 asking whether a meeting would be taking place on July 23. Five days later, Ms. Scott responded that she had not had confirmation from her legal department and would let me know as soon as she had heard from them. On July 5, still having not heard back from Ms. Scott, I sent her another e-mail inquiring whether a meeting would be taking place on July 23. I also requested a copy of an ITT submission, which Ms. Scott had previously promised to send me but had not sent. On July 9, Ms. Scott responded to the e-mail, stating that she still did not have information from her legal department and indicated that she would "try to speak with a live being today. It looks like the meeting will be held in August instead."

22. I responded to Ms. Scott's e-mail that same day. My e-mail to her stated as follows, in pertinent part: "You will recall that after our last meeting in March you had advised that you were going to give ITT a brief time in which to agree voluntarily to perform, and that if ITT did not agree, you would write ITT formally to require it to do the work." To the best of my knowledge and information, Ms. Scott did not subsequently dispute that statement. In the same electronic mail, I once again requested a copy of the ITT submission that Ms. Scott had not forwarded despite her promise to do so.

23. On September 20, 2001, I spoke with two attorneys in the Office of Chief Counsel of the California State Water Resources Control Board, Mr. Jorge Leon and Mr. Ted Cobb. In

that conversation, we also discussed the appropriateness of naming ITT and Armatron under the Order. The two attorneys requested additional information from me, and I provided that information under cover of a letter dated September 21, 2001. Following that letter, I am not aware of any communications between the Board and Mr. Veloz concerning the Order until late July 2008, when Ms. Scott called me.

24. Ms. Scott and I spoke on August 5, 2008. During the phone call, she clearly remembered that the Board had promised to pursue ITT and Armatron, she agreed that New J.C. Carter had established that ITT and Armatron were responsible for the environmental conditions at the Property, and said that "it would have been better if the Board had named the right people initially."

Laurence S. Kirsch

Subscribed and sworn to before me this
12th day of June 2009

Notary Public

My commission expires: 7-17-12

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MICHAEL SAMUEL ETKINS, Notary Public
City of Philadelphia, Phila. County
My Commission Expires July 17, 2012

EXHIBIT L

Snell & Wilmer
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February 3, 1998

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VIA FACSIMILE AND FIRST CLASS MAIL
(909) 781-6288

Mr. Ken Williams
Ms. Leslie Alford
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, California 92501-3339

RE: 671 W. 17th Street
Costa Mesa, California 92627

Dear Mr. Williams/Ms. Alford:

As we discussed when we met, there is substantial evidence to show that former companies, both of which used the name of J.C. Carter Company, should be held to be primarily responsible with respect to any work performed at the subject site. We request that the Board name ITT and Armatron as responsible parties, based on the following facts.

The company has always engaged in the same business at the same location.

ITT's ownership:

ITT Corporation purchased J.C. Carter company in January of 1973. J.C. Carter was held as a division of the parent company, based on available records. For ease of reference, we will refer to the company during ITT's ownership as simply "ITT."

ITT owned and operated the Company at its present site from 1973 through September of 1983, a period of ten years.

Regarding ITT's ownership:

The first Notification of Hazardous Waste Activity filed for the company was filed by ITT on August 18, 1980. (See attached.) It indicates (on the attached questionnaire) that RCRA waste "261.31 Non-specific sources" (F003 - waste solvent from non specific sources) was present at the property in the quantity of 1965 lbs. per month. The attached June 15, 1981 internal memo indicates both the presence of F002 *and* F003 waste, though no F002 waste was present at the actual time of inventory (see part II, List of Hazardous Wastes).

A part A RCRA application was filed on behalf of the Company by ITT on December 5, 1980 (attached). This application indicates that ITT believed it was necessary to obtain a RCRA permit as a hazardous waste storage facility from EPA due to the presence on site of an underground storage tank containing F003 waste in an annual quantity of 23,580 pounds. Interim status document CAD 081153785 was issued, effective April 6, 1981. A June 8, 1982 internal ITT memo (attached) states that "We are registered as a hazardous waste generator and storage facility. We do not dispose of any hazardous waste into the sewer or drainage system. We have experienced accidental spills in the past, but precautions have been taken to prevent that from happening again." ITT prepared a closure plan and cost estimate for the RCRA permitted facility in August of 1982 (attached). That procedure states that the company "operates three H.W.M. [hazardous waste management] facilities."

ITT applied for Pollution Legal Liability Insurance from National Union Fire Insurance Company of Pittsburgh in August of 1982. (See attached.) That same year, the company also submitted Chief Financial Officer letters in support of use of the financial test to meet the financial responsibility filing requirements for the company. An internal memo dated January 24, 1983 indicates that the company purchased an insurance policy which provides for coverage for claims arising out of non sudden environmental impairment. (See attached.)

<u>Armatron's ownership:</u>

Armatron International purchased the business and assets (including the real estate) of J.C. Carter from ITT in September of 1983. The company may have been operated as a subsidiary of Armatron, though it should be noted that the company filed documents with the state identifying itself as "J.C. Carter Company, Incorporated, a division of Armatron International, Incorporated." (See attached.) For ease of reference, we will refer to the company

during Armatron's ownership as simply "Old Carter." Armatron owned and operated the subject property from September of 1983 until October of 1986.

On September 25, 1986, an agreement was entered into between and among Armatron and old Carter with a new company which was formed to receive the assets of Old Carter. For ease of reference herein, we will refer to that company as "New Carter." The transaction closed on January 11, 1987. On October 1, 1986, New Carter took over operation of the subject property. New Carter is the Company of which Mr. Veloz was a majority shareholder. The company was recently sold, but still operates in the same location under the name of J.C. Carter. Mr. Veloz is the primary point of contact for New Carter, the immediately prior owner of the site.

Regarding Armatron's ownership:

A Report of Hazardous Waste Disposal dated August, 1984 for the year 1983 (attached) contains illegible manifest copies, but states that "In the year ending December 1983, J.C. Carter Company, a division of Armatron International Incorporated, disposed of an approximate 10,000 gallons of hazardous substances....consisting primarily of machine shop coolant/lubricants and Jet A aviation fuel." Armatron obviously used solvents, since the company's Hazardous Substance Training Manual dated August, 1984, (attached) which was prepared in response to an inspection by the State, contains precautions regarding concentrated vapors of "test solvents" and warns that "used cutting oils, solvents and other fluids involved in machining operations are to be disposed of in the underground holding tank provided. These fluids are not to be disposed of in sewer systems, drains of any type, or in/on the ground." A Notice of Violation issued to Armatron on August 1, 1994 by the State of California Department of Health Services prompted the preparation of a variety of compliance documents, including, apparently, this training manual, since there are notes in the agency files indicating "completed first draft 7 August 1984." (See attached.)

Armatron had some challenges in operating the property in compliance with what were then still emerging environmental laws and regulations. A internal memo dated August 15, 1994, subject "Underground Waste Oil Tank" (attached) states that "In order to be in compliance with the State of California Department of Health Services regulations in regard to hazardous waste materials, we must empty subject tank no less frequently than each ninety days! [emphasis in original] Will you please make arrangements with Ken's Oil Company, Garden Grove, California, to pick up the waste oil as necessary -- no later than each ninety days."

New Carter:

As pointed out above, the transaction in which New Carter was created closed on January 11, 1987. Prior to the closing, on October 1, 1986, New Carter took over operation of the subject property. New Carter is the Company of which Mr. Veloz was a majority shareholder. The company was recently sold, but still operates in the same location under the name of J.C. Carter. Mr. Veloz is the primary point of contact for New Carter, the immediately prior owner of the site.

In December of 1990, in response to the Board's direction, Delta Environmental prepared a Chemical Use and Disposal History regarding New Carter. In that report, which was received by the Board on December 3, 1990, the consultants described the use, storage, and disposal practices for petroleum and other volatile hydrocarbon and halogenated hydrocarbon compounds used at the J.C. Carter facility, based on records available at the facility. Information regarding how compounds were used was gathered from interviews with J.C. Carter personnel. Purchase orders were available back into 1985 and manifests were available from 1981. Both dates are prior to the time when New Carter took over operation of the property.

According to the purchase order records, which date back only to 1985, neither TCE nor PCE were used at the site since 1985. Purchase order records indicate that the last time TCA was purchased at the facility was in 1986, when twenty gallons were purchased and delivered. TCA was used in the production of an in-line pump. Parts were cleaned with TCA as some of the pumps would ultimately be used with liquid oxygen, which can be . The portion of the business using the TCA was sold in January of 1987. Interviews with site personnel indicated that the twenty gallons of TCA would have been consumed by operations prior to the sale. The report also indicates use of Stoddard solvent and some other compounds. However, the chemical constituent of concern, TCE, does not appear in either manifests or purchase orders, according to the consultant's report. I am enclosing a copy of the report for ease of reference.

Given the above, it is clear that ITT and Armatron are responsible parties, and given the level of expenditures thus far on the part of New Carter and Mr. Veloz personally, we respectfully request that those parties be held responsible for all further actions required at the property. As we discussed, however, New Carter does intend to submit a workplan for an off site investigation, pending the Board's action on this request.

Please call me if you need more information or want to discuss this further.

Sincerely,

SNELL & WILMER L.L.P.

Diane R. Smith

DRS:mm
Enclosures

EXHIBIT M

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February 18, 1998

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VIA FACSIMILE AND FIRST CLASS MAIL
(909) 781-6288

Mr. Ken Williams
Ms. Leslie Alford
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, California 92501-3339

RE: 671 W. 17th Street
Costa Mesa, California 92627

Dear Mr. Williams/Ms. Alford:

Enclosed with the mailed copy of this letter is the proposed offsite groundwater investigation plan prepared by ENVIRON.

As we stated in our letter of February 3, it is clear that ITT and Armatron are responsible parties, and given the level of expenditures thus far on the part of New Carter and Mr. Veloz personally, we respectfully request that those parties be held responsible for all further actions required at the property. As we discussed, however, we are submitting this proposed groundwater investigation plan for an off site investigation, pending the Board's action on this request. It is submitted with the expectation that ITT and/or Armatron will be financially involved before any offsite drilling activities are commenced, and that releases will be obtained from all necessary off site property owners and other involved parties.

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Snell & Wilmer
L.L.P.

When ITT and Armatron are committed to assuming financial responsibility with respect to future expenses for the off site investigation, ENVIRON and this firm, on behalf of our client, will proceed with attempting to obtain releases from off site property owners.

Please do not hesitate to call if you have questions.

Sincerely yours,

SNELL & WILMER L.L.P.

Diane R. Smith

DRS:mm
Enclosure

SmithdrDRV\120254.01

EXHIBIT N

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00 AUG 14 P 11:51

New York
Washington
Charlotte
London

August 11, 2000

VIA FEDERAL EXPRESS:
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, California 92501-3339
Att'n: Mr. Ken Williams
Pollutant Investigation Section

Re: Petition to Stay and Vacate and/or Amend
Cleanup and Abatement Order No. 90-126
J.C. Carter Company, Inc.
Case No. 083000202T

Dear Mr. Williams:

This law firm has been retained as new lead counsel to Mr. Robert L. Veloz on environmental matters involving the property located at 671 West Seventeenth Street in Costa Mesa, California ("Property") currently owned by J.C. Carter Company, Inc. ("Current J.C. Carter"), including Cleanup and Abatement Order No. 90-126 ("Order"). Diane Smith, Esq., who has acted as counsel for Mr. Veloz, will continue to be involved in this matter. We would appreciate if all future correspondence on this matter would be addressed to me, with copies to Mr. Veloz, Ms. Smith, and Mr. A.L. Simmons.

As you may know, Mr. Veloz is neither a present nor former owner of the Property, nor is he a party to the Order. Mr. Veloz was a former executive and former shareholder of Current J.C. Carter. He no longer holds any interest in Current J.C. Carter, but is representing the interests of Current J.C. Carter in these proceedings by agreement between him and the Company.

By this letter, Mr. Veloz and Current J.C. Carter petition the Regional Water Quality Control Board ("Regional Board") to stay all proceedings concerning the Order and vacate the Order for the reasons set forth in this letter. In the alternative, in the event the Regional Board does not grant the foregoing relief, which it should, Mr. Veloz and Current J.C. Carter request that the Regional Board stay all proceedings concerning

the Order and amend the Order to (1) add ITT Corporation or its successor in interest ("ITT") and Armatron International, Inc. or its successor in interest ("Armatron") as respondents under the Order, (2) designate ITT and Armatron as primarily responsible under the Order, and (3) remove Current J.C. Carter as a respondent. In the event the Regional Board does not remove Current J.C. Carter as a respondent, which it should, the Regional Board should designate Current J.C. Carter as secondarily responsible and should not impose any further investigative or cleanup requirements on it.

Mr. Veloz recognizes that the Regional Board may wish to discuss the relief requested in this letter with us, and we stand ready to schedule a meeting in the near future. We would hope that, through such a meeting, we could work with Regional Board representatives to evaluate the proper means of proceeding and to arrive at what we hope will be a consensual resolution.

Mr. Veloz has retained us because of the inordinate length of time this matter has continued and because of the continuing — and apparently escalating — demands the Regional Board is placing on him. The matter apparently began in 1986 and goes on some fourteen years later with no end in sight.

Up to the present time, Mr. Veloz has spent more than one million dollars dealing with this issue, even though (1) Current J.C. Carter cannot properly be considered a "discharger" under law (and certainly cannot be considered primarily responsible), and (2) the groundwater that the Regional Board wishes Mr. Veloz to characterize is not potable or used for any other purpose and poses no possible risk to human health or the environment, given that the water is brackish and the plant is located in an abandoned oil field with no sensitive downstream receptors.

Moreover, to the best of our knowledge, despite repeated requests from Mr. Veloz and his counsel and considerable information documenting that the true dischargers are ITT and Armatron, the Regional Board has taken no action to put either ITT or Armatron on notice of their liability, has not amended the Order to name ITT or Armatron as respondents, and has not named either ITT or Armatron as primarily responsible for conditions at the plant. On more than one occasion, Mr. Veloz has provided information to the Regional Board documenting that ITT and/or Armatron would be the only possible dischargers and that the Regional Board should be looking to them. On more than one occasion Regional Board personnel have agreed that ITT and Armatron should be added as respondents and have agreed to do so. We understand that the last occasion on which the Board agreed that true culpability lies with ITT and Armatron was the May 9, 2000 meeting between representatives of the Board and of Current J.C. Carter, yet to our knowledge the Board still has taken no action with regard to ITT or Armatron.

For all of these reasons, it is appropriate that the Regional Board vacate the Order. If the Regional Board does not vacate the Order, as it should, then in the alternative it

should amend the Order as set forth above. Moreover, in the interim and while the Regional Board is considering the relief requested by Mr. Veloz, the Regional Board should immediately stay the Order.

I. THE REGIONAL BOARD EITHER SHOULD VACATE THE ORDER, OR SHOULD AMEND THE ORDER TO NAME ITT AND ARMATRON AS RESPONDENTS, DESIGNATE ITT AND ARMATRON AS PRIMARILY RESPONSIBLE FOR ANY DISCHARGE, AND REQUIRE NO FURTHER ACTION OF CURRENT J.C. CARTER

A. The Regional Board Should Vacate the Order Because Current J.C. Carter Company Cannot Be Considered A Discharger

As you may know, the Porter-Cologne Act ("Act") allows the Regional Board to issue a Cleanup and Abatement Order against "any person who has discharged or discharges waste into the waters of the state . . . or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited." Cal. Water Code § 13304. As the court stated in *Lake Madrone Water District v. State Water Resources Control Board*, 209 Cal. App. 3d 163, 256 Cal. Rptr. 894 (1989), in defining the term "discharge" nothing in the Act suggested that the court should "deviate from our usual obligation to give effect to statutes according to the ordinary import of the language used in framing them." 209 Cal. App. 3d at 174, 256 Cal. Rptr. at 900. The court specifically held that "as used in section 13304, 'discharge' means: 'to relieve of a charge, load or burden; . . . to give outlet to: pour forth: EMIT.'" *Id.* (citations omitted).

Under this definition and any other, Current J.C. Carter played no role in discharging the substances found in groundwater. This fact has been documented to the Regional Board on more than one occasion, *see, e.g.*, Letter from Diane Smith, Esq. to Mr. Ken Williams and Ms. Leslie Alford, RWQCB, dated February 3, 1998 (copy attached as Exhibit A); Chemical Use History, J.C. Carter Company, Inc., dated December 3, 1990 (copy attached as Exhibit B), and the Regional Board has never questioned it. The following facts are pertinent:

1. ITT operated the plant as an unincorporated division known as the J.C. Carter Division from January 1973 through September 1983 (*see, e.g.*, Exhibit C attached).

2. During ITT ownership, ITT operated as an interim status hazardous waste treatment, storage and disposal facility under the Resource Conservation and Recovery Act ("RCRA") (see Exhibit C attached).

3. ITT submitted its Part A RCRA application because it operated an underground storage tank that, according to ITT records, contained F003 solvent waste (see Exhibit D attached).

4. During its ownership, ITT documented and acknowledged spills on its property (see Exhibit E attached, Memorandum from Sid Verner to Vince Maffeo of ITT, Oct. 1, 1981). Internal ITT documents specifically admit that the company has "experienced accidental spills in the past." (See Exhibit F attached, Memorandum from S. Verner to K. Paulson of ITT, June 8, 1982.)

5. Individuals who worked at the plant during ITT ownership provide unequivocal testimony establishing ITT's liability. Specifically, during ITT's ownership and operation:

   a) ITT used trichloroethylene ("TCE") as a solvent for cleaning parts. (See Exhibits O, P and Q attached.)

   b) Parts cleaning was conducted in various locations throughout the plant, including areas nearby wells currently showing TCE. These areas included various "clean rooms" and the plant's machine shop. (See Exhibit O at ¶ 8, Exhibit P at ¶ 6 and Exhibit Q at ¶¶ 7-9.)

   c) ITT handled TCE in a cavalier manner and, for example, shook off parts dipped in TCE to remove the TCE. (See Exhibit P at ¶ 7.) In this time period, it is likely that TCE was "disposed of on the back portion of the property over the chain link fence." (See Exhibit O at ¶ 9.)

   d) ITT stored dirty, used TCE in a concrete tank in the ground. The plant also contained several "test pits" that would have contained TCE. (See Exhibit O at ¶ 10.)

   e) During ITT's ownership, much of the current plant property was unpaved. Unpaved locations provided ample opportunity for TCE to enter the ground. (See Exhibit O at ¶ 6 and Exhibit Q at ¶ 5.)

6. ITT sold its division to Armatron in 1983 and, according to some records, operated as "J.C. Carter, Incorporated, a *division* of Armatron International, Incorporated." (Emphasis added.) This entity is an entirely different legal entity from Current J.C. Carter.

7. Armatron's Hazardous Substance Training Manual acknowledged that the company used and disposed of "test solvents" and "cutting oils, solvents and other fluids involved in machining operations . . . in the underground holding tank provided." (See Exhibit G attached, J. C. Carter Company, Incorporated,

Division of Armatron International, Incorporated, Hazardous Substance Training Manual, August 1984.)

8. An internal Armatron memorandum dated August 15, 1994 contained a scolding that California laws require that "we must empty the [hazardous waste] tank no less frequently than each ninety days! [emphasis in original]." (See Exhibit H attached, Memorandum from Keith Paulson to Ken Cripps of J. C. Carter Company, Inc., an Armatron Company, dated August 15, 1984.)[1]

9. Current J.C. Carter is a *new company* formed in 1986 to acquire the assets of the old J.C. Carter Company from Armatron in January 1987. Current J.C. Carter **did not exist** at the time of the spills or disposal by ITT or Armatron.

10. Current J.C. Carter did not purchase or use the substances now at issue in groundwater. In December 1990, Current J.C. Carter submitted to the Regional Board a history of chemical use and disposal during New J.C. Carter ownership (attached as Exhibit B). That history documented that New J.C. Carter neither used nor purchased TCE, nor perchloroethylene ("PCE"). The results of the chemical use history are confirmed by affidavits of employees who worked at the plant.

11. The entire Property is paved and has been paved since long before Current J.C. Carter bought the Property, unlike during ITT's ownership. The existence of a cover on the Property during the entirety of Current J.C. Carter's existence provides additional evidence that any substances in groundwater pre-dated Current J.C. Carter.

12. Off-site PCE concentrations in a cross-gradient well are substantially greater than those detected on the Property, establishing that the Property is not likely to be the source of PCE.

13. Mr. Veloz and Current J.C. Carter have expended considerable funds to address this situation at the request of the Regional Board. They certainly have done nothing to exacerbate conditions at the Property.

14. Mr. Veloz sold his interest in Current J.C. Carter to Argo-Tech Corp. in September 1997.

---

[1] Mr. Veloz and Current J.C. Carter respectfully reserve the right to supplement the record by submitting additional information documenting the use and/or spillage of substances by ITT or Armatron, and the lack of use or spillage of substances by Current J.C. Carter.

The Regional Board has never refuted the submission set forth in Exhibit A, the submission set forth in Exhibit B, or any other submission or verbal request of Current J.C. Carter or Mr. Veloz requesting the Board to name ITT and Armatron as respondents.[2] In discussions, however, Board representatives have frequently agreed with Mr. Veloz and his representatives that ITT and Armatron do bear responsibility and should be named as respondents to the Order.

Indeed, Mr. Veloz was pleased to hear from Board staff once again in the meeting that took place on May 9, 2000 that the Regional Board agrees that ITT and Armatron should be considered dischargers and should be named under the Order. Nonetheless, for reasons not known to us, the Regional Board did not name ITT or Armatron in the past and has not done so now.

Unlike ITT or Armatron, Current J.C. Carter has not created or maintained the situation the Regional Board has been monitoring. Yet, Current J.C. Carter and Mr. Veloz have been expending substantial funds to address constituents placed in the groundwater either by ITT or Armatron, while the Regional Board has not required anything of those parties actually responsible for discharges. Under the circumstances, it is neither appropriate nor legally required that Mr. Veloz be required to expend any further funds or undertake any further action to address these matters.

As the State Water Quality Control Board ("State Board") admonished in *In re Wenwest, Inc.*, Order No. WQ 92-13, 1992 Cal. ENV LEXIS 19 (October 22, 1992):

> No order issued by this Board has held responsible for a cleanup a former landowner who *had no part in the activity which resulted in the discharge of the waste* and *whose ownership interest did not cover the time during which that activity was taking place.* Considering those facts and the *existence of other fully responsible parties*, we see no reason to establish that precedent in this case. . . .
>
> In this case, the gasoline *was already in the ground water* and the tanks had been closed prior to the brief

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[2] Current J.C. Carter made requests to add ITT and Armatron as respondents as early as December 1990 (see Exhibit I, Michael O'Brien, Delta Environmental Consultants, Inc., to Ms. Nancy Martin, Regional Board, dated Dec. 3, 1990). Additional information was provided under cover of a letter from Diane Smith to Mr. Kurt Berchtold, dated August 2, 1991 (see Exhibit J). When Current J.C. Carter submitted a groundwater investigation plan, it did so on the condition that ITT and Armatron be held responsible for any further actions required at the property. (See Exhibit K, letter from Diane Smith to Mr. Ken Williams, dated February 18, 1998.)

> time Wendy's owned the site. They were told about the pollution problem by their consultant . . . . They took no steps to remedy the situation. On the other hand, they *did nothing to make the situation any worse.*

Id. at *6-7 (emphasis added). In *Wenwest*, the State Board considered the facts that "Wendy's had nothing to do with the activity that caused the leaks," and that "Wendy's never engaged in any cleanup or other activity on the site which may have exacerbated the problem." *Id.* at *7-8.

By the very same factors the State Board found persuasive in *Wenwest*, Current J.C. Carter cannot be considered a discharger here. Current J.C. Carter "had no part in the activity which resulted in the discharge of the waste." Current J.C. Carter's "ownership interest did not cover the time during which that activity [the discharge] was taking place." Just as in *Wenwest*, there are "other fully responsible parties." The TCE and PCE in the groundwater "was already in the ground water . . . prior to the . . . time [Current J.C. Carter] owned the site." And it is beyond dispute that Current J.C. Carter "did nothing to make the situation any worse."

The only key difference between this situation and that in *Wenwest* is that Current J.C. Carter and Mr. Veloz — unlike Wendy's — *did* take action to investigate and remedy the situation. They did so voluntarily — even though they were not properly obligated — in the interest of being responsible citizens and cooperating with the Regional Board. Yet, years later, the Regional Board continues to impose demand after demand on Mr. Veloz, with regard to a property that properly requires no remediation, while the Regional Board allows the truly culpable parties to lie in the weeds. This conduct by the Regional Board ignores the Regional Board's obligation to name dischargers and unfairly burdens a party with no real liability.

B. Current J.C. Carter Can Not Be More Than Secondarily Responsible for Any Discharge

State Board law also creates a distinction between parties primarily and secondarily liable. *See, e.g., Wenwest*, at *8-10. The State Board created the concept of primary versus secondary responsibility to

> distin[guish] between those parties who were considered responsible parties due solely to their land ownership . . . and those parties who actually operated the facility or *otherwise caused the discharge in question.* . . . This distinction has been made primarily for equitable reasons. The Board has concluded that *the initial responsibility for cleanup should be with the operator or the party who created the discharge.*

In re Aluminum Company of America, Order No. WQ 93-9, 1993 Cal. ENV LEXIS 17, *16 n.8 (July 22, 1993) (emphasis added).

As the Board has repeatedly held, it is inappropriate to hold a party primarily liable where it "did not in any way initiate or contribute to the actual discharge of waste." *In re Prudential Insurance Co. of America*, Order No. 87-6, 1987 Cal. ENV LEXIS 4, *4 (June 18, 1987). *See also In re Schmidl*, Order No. WQ 89-1, 1989 Cal. ENV LEXIS 4, *5 (Jan. 19, 1989) ("user/discharger bears primary responsibility for compliance with the Regional Board orders"); *In re San Diego Unified Port District*, Order No. 89-12, 1989 Cal. ENV LEXIS 14 (Aug. 17, 1989).

In this situation, there can be no dispute that Current J.C. Carter did not "initiate or contribute to the actual discharge of waste." It has been documented to the Regional Board that Current J.C. Carter never used TCE, PCE or TCA, and the Regional Board has never questioned the evidence Current J.C. Carter provided years ago. We have been unable to locate any cases in which a current landowner that did not in any way contribute to the disposal of waste on a property, and who conducted substantial cleanup activities, was held primarily responsible where there existed viable, financially solvent other parties who clearly did dispose of the waste present in groundwater. For all of these reasons, Current J.C. Carter cannot possibly bear more than secondary responsibility in this matter.

C. The Regional Board Should Vacate The Order Against Current J.C. Carter Because, Even If It Is Secondarily Responsible, It Has More Than Adequately Addressed Its Responsibility Through The Activities Undertaken Up To The Present Time

Current J.C. Carter should bear no responsibility for the conditions under investigation at the Property because those conditions were created exclusively by ITT and Armatron. Nonetheless, even if the Regional Board were to determine that Current J.C. Carter has secondary responsibility, the Order against Current J.C. Carter should be vacated — or the Order should be amended to delete Current J.C. Carter as a respondent — because Current J.C. Carter has more than adequately addressed any such responsibility.

Current J.C. Carter and Mr. Veloz have already spent fourteen years and expended in excess of one million dollars[3] to address a groundwater issue caused solely by ITT and Armatron. This sum is totally disproportionate to any secondary responsibility Current J.C. Carter may have as the current owner of the Property.

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[3] Mr. Veloz would be pleased to provide documentation of the costs and expenses incurred by Current J.C. Carter and Mr. Veloz if requested to do so by the Regional Board.

To the extent that any further work remains to be done at the Property, the Regional Board should look exclusively to ITT and Armatron for such work. In view of the years of effort and considerable sums of money already expended by Current J.C. Carter and Mr. Veloz, it is not appropriate for the Regional Board to expect any more of them.

Of course, current J.C. Carter would be fully prepared on a voluntary basis to grant appropriate access arrangements as needed to ITT or Armatron to carry out any requirements the Regional Board may impose on them. There is no need to keep the Order in place and the Order against Current J.C. Carter should be vacated. If the Regional Board wishes to issue any new orders against ITT and/or Armatron, it would be free to do so.

Current J.C. Carter and Mr. Veloz also stand ready to assist the Regional Board voluntarily in gathering any additional information that may be necessary to name the appropriate ITT or Armatron entities or to document their contributions to waste usage and/or disposal at the Property.

D. **The Regional Board Should At Least Amend The Order to Add ITT and Armatron as Respondents, Designate ITT and Armatron as Primarily Responsible, and Designate Current J.C. Carter as Secondarily Responsible**

The State Board has repeatedly held that the Regional Boards are obligated to name *all responsible parties* as respondents in orders. As the State Board has decided:

> it is appropriate and responsible for a Regional Board to name *all parties* for which there is reasonable evidence of responsibility, even in cases of disputed responsibility. However, there must be a reasonable basis on which to name each party. There must be substantial evidence to support a finding of responsibility for each party named. This means credible and reasonable evidence which indicates the named party has responsibility.

In re Exxon Co., USA, Order No. WQ 85-7, 1985 Cal. ENV LEXIS 10, *17 (Aug. 22, 1985) (emphasis added). *See also In re U.S. Cellulose*, Order No. WQ 92-04, 1992 Cal. ENV LEXIS 2, *4 (Mar. 19, 1992).

In this case, however, the Regional Board has failed to comply with its "responsibility" to name all parties. Quite to the contrary, and in violation of the direction of the State Board, the Regional Board has named only the one party that has no responsibility.

State Board law therefore requires the Regional Board to amend the Order to add ITT and Armatron as respondents if the Order is to continue in effect. In the event the Regional Board refuses to vacate the Order, the Order should be amended to name ITT and Armatron and to designate them as primarily responsible. Current J.C. Carter should be deleted entirely as a respondent. In the event the Regional Board does not delete Current J.C. Carter as a respondent, which it should, the Regional Board should amend the order to designate Current J.C. Carter as secondarily responsible. As noted above, Current J.C. Carter stands ready to assist the Regional Board in any way it can to identify the proper entities of ITT and Armatron that should be named.

E. **The Order Should Be Stayed Immediately**

The Order should be stayed immediately while the Regional Board considers the other relief requested by Mr. Veloz. Mr. Veloz meets the statutory standard for a stay by the State Board, 23 Cal. Code Regs. tit. 23, § 2053, and therefore must also be entitled to a stay by the Regional Board.

Unless the Order is stayed, Mr. Veloz and the public interest will suffer substantial harm. *See id.* § 2053(a)(1). As set forth above and previously documented to the Regional Board, ITT and Armatron — and not Current J.C. Carter — are responsible for any TCE, PCE or TCA in groundwater at the Plant. A failure to stay the Order will wrongly force Mr. Veloz to incur even further expenses while the culpable parties are wrongly freed from their obligation to act. Mr. Veloz will not be able to recover his costs from ITT or Armatron without incurring substantial litigation costs that may never be recoverable and without incurring the risk that he may ultimately not be able to recover all of his costs through litigation. The public interest will also suffer because innocent parties will be forced to bear the burdens of complying with the Order while the culpable parties are not required to live up to their responsibilities.

Granting a stay will not cause any harm to other interested persons or to the public interest. *See id.* § 2053(a)(2). This matter has already been in process for fourteen years, under Regional Board supervision. The fact that the Regional Board has allowed the matter to continue for this extended period of time confirms Mr. Veloz' position that the Property poses no real risk to human health or the environment. There could certainly not be any harm to any other interested person or to the public interest in allowing the Regional Board the time to evaluate the liability of ITT and Armatron, to consider their inclusion in the Order, and to confirm that they should be deemed primarily responsible as the facts so compellingly demonstrate. This process should not take an extended period of time, and there can be no harm caused to any person or to the public interest by taking the necessary time to ensure that the correct parties are named in the Order.

II. THE BOARD SHOULD ALSO VACATE THE ORDER BECAUSE THE PLANT IS A LOW RISK SITE

The Regional Board should vacate the order for a second reason as well: The Property is a low risk site, located in an abandoned oil field, and poses no possible risk to human health or the environment. The groundwater underneath the Property is not potable and cannot otherwise affect the environment. The Order should therefore be vacated because it poses a "'low risk' to public health and safety, the environment, and to current or anticipated future beneficial uses of water." *In re Fallbrook Public Utility District*, Order No. WQ 99-04-UST, 1999 Cal. ENV LEXIS 7, *9-10. As in *Fallbrook*, "the facts in the record support the finding that the concentrations of . . . constituents at petitioner's site do not pose a threat to human health and safety, or the environment. . . . Additional soil and groundwater investigation or remediation is not necessary and residual . . . constituents . . . at petitioner's site will not adversely affect, or threaten to affect, groundwater." *Id.* at *10.

Similarly, in *In re Unocal Corp.*, Order No. WQ 98-12 UST, 1998 Cal. ENV LEXIS 19 (Nov. 19, 1998), the State Board closed a case where "the facts in the record support the finding that additional soil and groundwater investigation or remediation is not necessary and that residual . . . constituents at petitioner's site do not pose a threat to human health and safety, or the environment, and do not adversely affect, or threaten to affect, current or probably future beneficial uses of water." *Id.* at *13. *See also In re Landis Inc.*, Order No. WQ 98-13-UST, 1998 Cal. ENV LEXIS 20, *15-16 (Nov. 19, 1998) (closure based on same criteria).

Both *Unocal* and *Landis* relied on State Board Resolution 92-49, Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304.[4] That Resolution allows an "alternative level of water quality less stringent than background" as long as the level is "consistent with the maximum benefit to the people of the state," does "not unreasonably affect current and probably future beneficial use of affected water," and does "not result in water quality less than that prescribed in the water quality control plan for the basin within which the sit is located." *See* Resolution § III.G.

Both decisions noted that the Resolution "does *not require . . . that the requisite level of water quality be met at the time of site closure*. Even if the requisite level of water quality has not yet been attained, a site may be closed if the level will be attained within a reasonable period." *See* Resolution § III.A (emphasis added).

Significantly, in both cases, the State Board adopted a very expanded view of what this "reasonable period" could be. In both *Unocal* and *Landis*, the State Board

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[4] Section 13304, of course, is the very provision under which the Order was issued here.

allowed alternative levels under which water quality would not meet the levels in the water quality control plans for decades or even hundreds of years. In *Unocal*, the State Board noted that the levels in groundwater "will likely remain above, and thus violate, the Basin Plan's objectives in a localized volume of surrounding groundwater *for a significant period of time. This time period could be anywhere from a few decades* . . . [to] *hundreds of years*." *Unocal* at *21. Similarly, in *Landis*, the State Board found that the "reasonable time period" "could be anywhere from a few decades . . . to several decades . . . and possibly hundreds of years." *Landis*, at *24.

Just as in *Fallbrook*, in the present case "there is no evidence to suggest that shallow groundwater in the vicinity of petitioner's site is being used presently or that it has any likelihood of being used in the foreseeable future for domestic or municipal supply." In *Fallbrook*, the "nearest water supply well, used for industrial purposes, is over 5,000 feet away. Wells in closer proximity to the site (as near as 500 feet) are either abandoned or used for dewatering purposes. Additionally, groundwater in the area is rated as marginal to inferior for domestic uses . . . ." *Id.* at *11.

In the present case, the Property is low risk for several reasons:

1. The Property part of the former Newport Oil Field. Three former oil exploration wells were abandoned on site in 1922, at a time when there was little or no attention paid to environmental concerns.

2. Adjacent properties are involved primarily in the automobile service business and miscellaneous industrial activities. It is not reasonably foreseeable that property uses will change.

3. As Mr. Veloz and Current J.C. Carter have demonstrated to the Board in the past, the regional ground water quality is degraded and unsuitable for domestic uses because of high TDS, sodium, chloride and sulfite concentrations. (James M. Montgomery Consulting Engineers, Inc., Newport Mesa Study, prepared for the Orange County Water District (Apr. 1987), at 4 (copy attached as Exhibit L)). As documented by the U.S. Geological Survey in its Water Supply Paper 1471, pp. 54-55, water quality beneath the southern portion of the Newport Mesa is of poor quality. "Within the past 70 years, several other water wells have been drilled south of the inferred fault . . ., but all have tapped water of inferior quality and all are [therefore] unused."[5] According to the Regional Board itself, the area of the Property is under consideration by the Regional Board as a "low risk" area, see Regional Board, Memorandum on Direction of the Underground Tank Program, Jan. 26, 1996, at 5 (copy

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[5] Report cited in letter from Hal E. Hansen, Delta Environmental Consultants, Inc., to Steven Overman, Regional Board, dated July 19, 1990 (copy attached as Exhibit M).

attached as Exhibit N), as defined under the recommendations of the Lawrence Livermore Laboratory report on cleanup of petroleum hydrocarbon-contaminated groundwater. The "low risk" classification is based on degraded water quality, the absence of significant aquifer, proximity to the coast with the hazard of saline intrusion, and the presence of the Bolsa-Fairview fault, which is a structural feature associated with the Newport-Inglewood Fault Zone, as a barrier to constituent migration eastward to producing aquifers.

4. The only active water wells are *several miles upgradient* of the Property, and are separated from the Property by the Bolsa-Fairview Fault, which as noted above is a barrier to groundwater flow. The only downgradient receptor is the Pacific Ocean. See, e.g., Hal Hansen, Delta Environmental Consultants, Inc., letter to Mr. Steven Overman, Regional Board, July 19, 1990 (copy attached as Exhibit M).

5. The Hughes Electronics Well HM-14, located approximately 600 feet to the south of the Property, can serve as a downgradient well and has not shown elevated levels of TCE.

6. On the other hand, businesses located in between the Property and Hughes have documented uses and/or releases of chlorinated solvents, including TCE. Downgradient operations likely to use chlorinated solvent include a paint shop, radiator shop, and auto shops The existence of intermediate sources makes further downgradient sampling irrelevant and potentially very troubling to the Board. The Board would be left to sort out complex hydrological and legal issues concerning the sources of substances found in the groundwater, to no purpose.

7. Available records at the Orange County Health Care Agency and Regional Board show that there are many known petroleum- and chlorinated solvent-containing properties in the area of the Property.

8. A silty clay layer at approximately 50 feet below ground surface restricts any potential for vertical migration of constituents.

9. The former Ford Aeronautic facility in Newport Beach obtained site closure based on EPA's National Ambient Water Quality Criteria for marine organisms. In view of the non-potability of the water at the Property and the lack of downgradient receptors, similar standards should be applied to the Property. Levels prevalent at the Property are comparable to the acute Lowest Effect Concentration ("LEC") for marine organisms of 2000 ppb.

For these reasons, it is appropriate that the Regional Board close this matter based on the exceedingly low risk posed by the Property.

III. ADDRESSES FOR NOTICES TO ITT AND ARMATRON

In your last meeting with Mr. Veloz, you asked that he once again provide you with names and addresses of appropriate individuals for notification at ITT and Armatron. This information had previously been provided to you under cover of a letter from Delta Environmental dated December 3, 1990 (Exhibit I). Based on our most recent information, notices should be addressed to the following individuals:

Mr. Travis Engen
Chairman and Chief Executive Officer
ITT Industries, Inc.
4 West Red Oak Lane
White Plains, New York 10604
Telephone: (914) 641-2000
Fax: (914) 696-2950

Usha Wright, Esq.
Vice President, Associate General
Counsel and Director, Environment
Safety & Health
ITT Industries, Inc.
4 West Red Oak Lane
White Plains, New York 10604
Telephone: (914) 641-2053
Fax: (914) 696-2969

Mr. Charles Housman
Chairman, President, CEO and CFO
Armatron International, Inc.
Two Main Street
Melrose, Massachusetts 02176
Telephone: (781) 321-2300
Fax: (781) 321-2309

* * *

Mr. Veloz looks forward to your response. As we have noted, to the extent the Board insists — contrary to the facts and the lack of any risk — on pursuing further activity with regard to the Property, Mr. Veloz and Current J.C. Carter stand ready to assist the Board in any way possible in identifying the appropriate parties to pursue for such activity.

In the interim, Current J.C. Carter and Mr. Veloz ask that all proceedings concerning the Order be stayed.

If you have any further questions, please feel free to contact me.

Sincerely,

Laurence S. Kirsch
Counsel to Robert L. Veloz
(representing the interests of J.C. Carter Company, Inc.)

cc: Mr. Robert L. Veloz
Mr. A. L. Simmons
Diane R. Smith, Esq.

Exhibits to
Petition to Stay and Vacate and/or Amend Cleanup and Abatement Order, Order No. 90-126
J.C. Carter Company, Inc.

Submitted to
the California Regional Water Quality Control Board

by Cadwalader, Wickersham and Taft
1201 F Street, N.W., Suite 1100
Washington, D.C. 20004

August 11, 2000

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Petition to Stay and Vacate and/or Amend Cleanup and Abatement
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J.C. Carter Company, Inc.
Case No. 083000202T

Exhibit A

Snell & Wilmer
L.L.P.
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TUCSON, ARIZONA
SALT LAKE CITY, UTAH

February 3, 1998

Diane R. Smith (714) 253-2720
Internet: smithdr@swlaw.com

VIA FACSIMILE AND FIRST CLASS MAIL
(909) 781-6288

Mr. Ken Williams
Ms. Leslie Alford
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, California 92501-3339

RE: 671 W. 17th Street
Costa Mesa, California 92627

Dear Mr. Williams/Ms. Alford:

As we discussed when we met, there is substantial evidence to show that former companies, both of which used the name of J.C. Carter Company, should be held to be primarily responsible with respect to any work performed at the subject site. We request that the Board name ITT and Armatron as responsible parties, based on the following facts.

The company has always engaged in the same business at the same location.

ITT's ownership:

ITT Corporation purchased J.C. Carter company in January of 1973. J.C. Carter was held as a division of the parent company, based on available records. For ease of reference, we will refer to the company during ITT's ownership as simply "ITT."

ITT owned and operated the Company at its present site from 1973 through September of 1983, a period of ten years.

Regarding ITT's ownership:

The first Notification of Hazardous Waste Activity filed for the company was filed by ITT on August 18, 1980. (See attached.) It indicates (on the attached questionnaire) that RCRA waste "261.31 Non-specific sources" (F003 - waste solvent from non specific sources) was present at the property in the quantity of 1965 lbs. per month. The attached June 15, 1981 internal memo indicates both the presence of F002 *and* F003 waste, though no F002 waste was present at the actual time of inventory (see part II, List of Hazardous Wastes).

A part A RCRA application was filed on behalf of the Company by ITT on December 5, 1980 (attached). This application indicates that ITT believed it was necessary to obtain a RCRA permit as a hazardous waste storage facility from EPA due to the presence on site of an underground storage tank containing F003 waste in an annual quantity of 23,580 pounds. Interim status document CAD 081153785 was issued, effective April 6, 1981. A June 8, 1982 internal ITT memo (attached) states that "We are registered as a hazardous waste generator and storage facility. We do not dispose of any hazardous waste into the sewer or drainage system. We have experienced accidental spills in the past, but precautions have been taken to prevent that from happening again." ITT prepared a closure plan and cost estimate for the RCRA permitted facility in August of 1982 (attached). That procedure states that the company "operates three H.W.M. [hazardous waste management] facilities."

ITT applied for Pollution Legal Liability Insurance from National Union Fire Insurance Company of Pittsburgh in August of 1982. (See attached.) That same year, the company also submitted Chief Financial Officer letters in support of use of the financial test to meet the financial responsibility filing requirements for the company. An internal memo dated January 24, 1983 indicates that the company purchased an insurance policy which provides for coverage for claims arising out of non sudden environmental impairment. (See attached.)

Armatron's ownership:

Armatron International purchased the business and assets (including the real estate) of J.C. Carter from ITT in September of 1983. The company may have been operated as a subsidiary of Armatron, though it should be noted that the company filed documents with the state identifying itself as "J.C. Carter Company, Incorporated, a division of Armatron International, Incorporated." (See attached.) For ease of reference, we will refer to the company

during Armatron's ownership as simply "Old Carter." Armatron owned and operated the subject property from September of 1983 until October of 1986.

On September 25, 1986, an agreement was entered into between and among Armatron and old Carter with a new company which was formed to receive the assets of Old Carter. For ease of reference herein, we will refer to that company as "New Carter." The transaction closed on January 11, 1987. On October 1, 1986, New Carter took over operation of the subject property. New Carter is the Company of which Mr. Veloz was a majority shareholder. The company was recently sold, but still operates in the same location under the name of J.C. Carter. Mr. Veloz is the primary point of contact for New Carter, the immediately prior owner of the site.

Regarding Armatron's ownership:

A Report of Hazardous Waste Disposal dated August, 1984 for the year 1983 (attached) contains illegible manifest copies, but states that "In the year ending December 1983, J.C. Carter Company, a division of Armatron International Incorporated, disposed of an approximate 10,000 gallons of hazardous substances....consisting primarily of machine shop coolant/lubricants and Jet A aviation fuel." Armatron obviously used solvents, since the company's Hazardous Substance Training Manual dated August, 1984, (attached) which was prepared in response to an inspection by the State, contains precautions regarding concentrated vapors of "test solvents" and warns that "used cutting oils, solvents and other fluids involved in machining operations are to be disposed of in the underground holding tank provided. These fluids are not to be disposed of in sewer systems, drains of any type, or in/on the ground." A Notice of Violation issued to Armatron on August 1, 1994 by the State of California Department of Health Services prompted the preparation of a variety of compliance documents, including, apparently, this training manual, since there are notes in the agency files indicating "completed first draft 7 August 1984." (See attached.)

Armatron had some challenges in operating the property in compliance with what were then still emerging environmental laws and regulations. A internal memo dated August 15, 1994, subject "Underground Waste Oil Tank" (attached) states that "In order to be in compliance with the State of California Department of Health Services regulations in regard to hazardous waste materials, we must empty subject tank no less frequently than each ninety days! [emphasis in original] Will you please make arrangements with Ken's Oil Company, Garden Grove, California, to pick up the waste oil as necessary -- no later than each ninety days."

New Carter:

As pointed out above, the transaction in which New Carter was created closed on January 11, 1987. Prior to the closing, on October 1, 1986, New Carter took over operation of the subject property. New Carter is the Company of which Mr. Veloz was a majority shareholder. The company was recently sold, but still operates in the same location under the name of J.C. Carter. Mr. Veloz is the primary point of contact for New Carter, the immediately prior owner of the site.

In December of 1990, in response to the Board's direction, Delta Environmental prepared a Chemical Use and Disposal History regarding New Carter. In that report, which was received by the Board on December 3, 1990, the consultants described the use, storage, and disposal practices for petroleum and other volatile hydrocarbon and halogenated hydrocarbon compounds used at the J.C. Carter facility, based on records available at the facility. Information regarding how compounds were used was gathered from interviews with J.C. Carter personnel. Purchase orders were available back into 1985 and manifests were available from 1981. Both dates are prior to the time when New Carter took over operation of the property.

According to the purchase order records, which date back only to 1985, neither TCE nor PCE were used at the site since 1985. Purchase order records indicate that the last time TCA was purchased at the facility was in 1986, when twenty gallons were purchased and delivered. TCA was used in the production of an in-line pump. Parts were cleaned with TCA as some of the pumps would ultimately be used with liquid oxygen, which can be . The portion of the business using the TCA was sold in January of 1987. Interviews with site personnel indicated that the twenty gallons of TCA would have been consumed by operations prior to the sale. The report also indicates use of Stoddard solvent and some other compounds. However, the chemical constituent of concern, TCE, does not appear in either manifests or purchase orders, according to the consultant's report. I am enclosing a copy of the report for ease of reference.

Given the above, it is clear that ITT and Armatron are responsible parties, and given the level of expenditures thus far on the part of New Carter and Mr. Veloz personally, we respectfully request that those parties be held responsible for all further actions required at the property. As we discussed, however, New Carter does intend to submit a workplan for an off site investigation, pending the Board's action on this request.

Please call me if you need more information or want to discuss this further.

Sincerely,

SNELL & WILMER L.L.P.

Diane R. Smith

DRS:mm
Enclosures