Diamond Head 01
Preliminary Assessment

Diamond Head Oil Refinery Division
Harrison Turnpike (Rt.508)
Kearny, Hudson Co.
Case Name: Diamond Head Oil
AKA: Diamond Head Oil Refining Co.
AKA: Bay City Oil
AKA: Northeast Oil Service
AKA: Newtown Refining Corporation
AKA: PSC Resources, Inc.
AKA: Ag-MET Oil Service

CASE SUMMARY

The Diamond Head Oil site is a 5.5 acre property located at 1401 Harrison Avenue/Turnpike, Kearny, Hudson County (Block 285, Lot 3). The site is bounded on the north by Harrison Avenue; on the east by properties owned by NJDOT (Block 285 Lot 4) and the Town of Kearny (Block 285 Lot 15); on the south by property owned by the NJDOT (Block 285 Lot 2A); and on the west by property owned by the town of Kearny (Block 285 Lot 14). The northern portion (3.88 acres) of the subject property is currently owned by Mimi Urban Renewal Corporation (formerly Mimi Development Corporation). The remaining southern portion of the site (approximately 1.62 acres) is owned by the New Jersey State Department of Transportation (as part of the right-of-way for I-280 which runs south of the site). Diamond Head Oil Refining Company and its subsequent successor companies operated a waste oil refining facility at the subject site from approximately 1949 to 1979.

The subject site was formerly part of a larger, 349.4 acre, property (County Block 1434) bounded on the north by Harrison Avenue (formerly the Newark Turnpike); on the east by land belonging to the Delaware, Lackawanna and Western Railroad Company; on the west by Franks Creek and the boundary line of the adjoining property.

On July 1, 1901, the subject site was sold (as part of a larger parcel which includes County Block 1434, referred to as Tract 6) by Ellen M. Pike (widow of Samuel N. Pike) et als. of New York to John R. Ferrier of New York for the sum of $1,492,180. John R. Ferrier then sold the property for $1.00 to Henry L. Sprague of New York on October 17, 1901.

On November 16, 1901 Henry L. Sprague sold the property for $1.00 to the Hackensack Meadows Company (a New Jersey Corp.).

On September 18, 1911 the subject property was sold by the Newark Meadows Improvement Company, et als. to Harry M. Durning.

Harry M. Durning by a deed dated March 4, 1915, sold the property, which included the subject site, to Newark Factory Sites, Inc. (a New Jersey Corp.).
The Town of Kearny purchased the property from Newark Factory Sites, Inc. on February 4, 1942.

On November 24, 1948, the Office of the Building Inspector for the Town of Kearny (Building Dept.) issued a building permit to Diamond Head Oil Refining Co., Inc. for the purpose of erecting a tank foundation on the subject site Block 285 Lot 3. The dimensions of the foundation, as described on the permit, are 40'4'' width with a depth of 11'4''.

The Diamond Head Oil Refining Company, Inc. (Diamond Head Company) was incorporated in the State of New Jersey on December 12, 1949.

Diamond Head Company originally operated on the property that is located to the east of the subject site (1427 Harrison Avenue, Block 285 Lot 4). Corporate officers of Diamond Head Company leased this adjacent property (Block 285 Lot 4) from Abe Finkelstein of Glen Ridge, NJ from December 1, 1945 to December 1, 1950. According to the lease agreement, the property was to be "used and occupied only for the refining and sale of waste and used oils of all kinds and such petroleum products...".

On December 12, 1945 (the same date that Diamond Head Oil Refining Company incorporated) Bay City Oil Service incorporated in the State of New Jersey. The principal office for both corporations, as described in their certificates of incorporation, was 1427 Harrison Turnpike, Kearny. The incorporators and directors of both Diamond Head and Bay City Oil were the same.

One of the objects for which Bay City Oil Service was incorporated, as stated in their certificate of incorporation, was to "acquire and take over as a going concern the business now carried on at #38 West 41st Street, in the City of Bayonne, New Jersey, under the firm name or style of Bay City Oil Service, and in connection with the acquisition of such business to purchase the goodwill and all or any of the assets, and assume all or any of the liabilities of the proprietors of such business."

Another object for which Bay City Oil Service was incorporated, as stated in the certificate of incorporation, was "to buy and sell waste and used oils of all kinds and such petroleum products, mineral and vegetable oils as the Directors may determine would be for the financial benefit of the corporation."

Bay City Oil describes the character of their business in annual reports filed with the NJ Department of State for the years 1946 through 1961, as follows:

"buying and selling waste and used oils of all kinds and petroleum products, mineral and vegetable oils" (1946 through 1956)

"Collectors of Waste Oil" (1958)

"Collectors of used crankcase oils" (1959)
"Collectors of used Petroleum Oils" (1961)

The NJ State Industrial Directory (NJSID) for the years 1949 through 1955 and 1958 through 1968 listed Diamond Head Oil Refining Company at 1427 Harrison Turnpike/Avenue. Directories for the years 1956-1957 and 1969 through 1980 lists Diamond Head Oil at 1401 Harrison Turnpike/Avenue.

A corporation named Shur-Flo Oil Co., Inc. is listed in the Industrial Directory as having operated at 1401 Harrison Turnpike/Avenue from 1952 to 1961. The descriptions given in the Directory for the operations of Diamond Head Oil Refining and Shur-Flo Oil are oil refining and canning motor oil respectively.

In annual reports filed with the Division of Commercial Recording for Diamond Head Oil Company from 1946 to 1951, Diamond Head Oil described the character of their business as follows:

Buying and refining waste and used oils of all kinds and selling same when so refined at wholesale or retail

Shur-Flo Oil Co., Inc. incorporated in New Jersey on August 1, 1949. Both Diamond Head and Shur-Flo shared the same registered agent and had several directors and corporate officers in common.

In annual reports filed with the Division of Commercial Recording, Shur-Flo described the character of their business for the years 1949 through 1959 as follows:

"Buying, selling and canning motor oils, lubricating oils and petroleum products of all kinds and any other lubricants whether derived from petroleum products or otherwise."

On January 9, 1952, Shur-Flo filed papers with the Division of Commercial Recording to change their registered office from 1427 to 1401 Harrison Turnpike, Kearny.

The following building permits were issued to Diamond Head Oil in 1951 for the subject property (Block 284 Lot 3):

1) Permit #11004  Issued 01/11/51
Erect a concrete block building for use as a garage and office
Width  40'
Depth  126'
Height  1 & 2 story (complete 07/13/51)

2) Permit #11313  Issued 09/21/51
Erect a concrete block building for use as a warehouse

Width 40'
Depth 100'
Height 32'
(complete 04/26/52)

3) Permit #11314
Issued 09/21/51
Erect a tank foundation and dike
Tank Foundation 50' Diameter
Dike 9' Height

4) Permit #11347
Issued 10/16/51
Erect a concrete block building for use as a switch house and meter
Width 7'4''
Depth 11'4''
Height 10'

On January 10, 1952, the Building Dept. issued a building permit to Diamond Head for the purpose of erecting a one story masonry building for use as a boiler house.

Shur-Flo filed a certificate of dissolution with the Department of State on April 17, 1961. It is unknown if Shur-Flo operated at the subject site between 1953 (the final year that Shur-Flo was listed in the Industrial Directory) and 1961 (the year of dissolution).

The waste oil refining operations Diamond Head Oil and Shur-Flo caused the formation of a large pool or "lake" of oil, located mainly on an adjacent property which is currently owned by the New Jersey Department of Transportation (NJDOT) (Block 285, Lot 2) and partially on the subject site. It is not known when and from whom the NJDOT came to acquire Block 285 Lot 2.

On October 12, 1971, an inspector from the Hackensack Meadowlands Development Commission (HMDC), while conducting an inspection in the vicinity of the subject site, observed a stream of liquid with an oily sheen flowing into a storm drain on the south side of Harrison Turnpike (approximately 800 feet east of the subject facility). The stream of oily liquid was further observed to flow into a catch basin (located approximately 175 feet west along the storm drain), then from the catch basin it traveled under Harrison Turnpike, into a drainage ditch which ultimately carried the liquid into the Passaic River.

The oily liquid was traced back to a large pool of oil (commonly referred to as "Oil Lake") located partially on the southern portion of the subject site and mainly on property owned by the NJDOT.
Upon further inspection of the southern and eastern sides of the subject site, the inspector observed a number of storage tanks from which a series of pipes extended southward toward the rear of the property, where several ponds (of earthen construction) were located. The ponds adjoined the main body of the Oil Lake and was separated by earthen berms/dikes. According to the inspector the ponds appeared to have been built up above the level of the surrounding ground and that of Oil Lake. The liquid contained within the ponds exhibited an oily sheen and was of a similar color and consistency as the liquid which was observed in Oil Lake. The pipes that were observed extending from the storage tank area terminated in the vicinity of the ponds. The inspector also observed a number of flexible hoses with couplings lying on the ground around the ponds.

According to a letter dated December 8, 1971, to the Department from the Passaic Valley Sewerage Commissioners (PVSC), it was reported that during heavy rain storms, oil and water would overflow and enter county storm drains and Frank's Creek. The runoff would also run onto an adjacent roadway (presumably Harrison Avenue) causing a traffic hazard.

On May 11, 1972, Diamond Head Oil Refining Co., Inc. submitted a completed Waste Effluent Survey to the Passaic Valley Sewerage Commissioners. On the survey form Diamond Head Oil Company listed their type of business as "Recyclers (Re-refiners) of Used Oils SIC 2911". The operations were described as follows: "Waste Oils are treated and settled in holding Tanks, then fractionated by distillation, and contacted with activated clay to restore the oils color, and then filtered to remove spent clay and any remaining impurities."

According to the survey the finished product was lubricating oils (average production of 300,000 gallons per month). Diamond Head Oil Company listed the raw materials used as waste crankcase oils collected from service stations, motor car companies, and industrial plants. Diamond Head Oil Company listed the following substances as being in their discharge to the storm sewer:

- Emulsified oils (100.2 ppm)
- Aluminum (1.6 ppm)
- Boron (0.1 ppm)
- Barium (0.3 ppm)
- Calcium (9.3 ppm)
- Chromium (3.3 ppm)
- Iron (4.3 ppm)
- Magnesium (1.9 ppm)
- Manganese (0.1 ppm)
- Molybdenum (0.1 ppm)
- Sodium (70 ppm)
- Lead (3.2 ppm)
- Silicon (9.3 ppm)
- Vanadium (0.1 ppm)
- Potassium (1.4 ppm).

NOTE: The discharge described above was from a sample collected on March 29, 1972 during a 1-2 hour span.

According to the Waste Effluent Survey, Diamond Head Oil Refining Company discharged 75,000 gallons of waste water to the storm sewer, river, or ditch.
On June 1, 1972, Diamond Head Oil Refining Co., Inc. submitted an application to the Department for a certification to collect or haul solid waste. The nature of their operation was described on the application as "Recycle used lubricating oils". They also stated that they did not collect waste and that they did not have trucks for waste disposal purposes.

The following were listed as officers of Diamond Head Oil Refining Co., Inc.:

- Martin Morrison: President
- Nicholas Matin: Vice President
- Michael Stellato: Secretary
- Martin Morrison, Jr.: Treasurer

Bay City Oil Service, Inc. also submitted an application to the Department for a certification to collect or haul solid waste on June 2, 1972. The nature of the operation of Bay City Oil was described as "collector of used lubricating oil".

Bay City Oil stated on the application that they collected an estimated 26,000 gallons of waste oil per week from New Jersey; 24,000 gallons of waste oil from New York; and 1,500 gallons of waste oil from Connecticut. Bay City Oil stated that the lubricating oils were delivered to Diamond Head Oil Refining Co., Inc. for recycling.

NOTE: The address given on the application for Bay City Oil Service, 1401 Harrison Turnpike, Kearny, was the same as the address given for Diamond Head Oil Refining Co., Inc. (the subject site).

The following were listed as officers of Bay City Oil Service, Inc.:

- Nicholas Matin: President
- Martin Morrison: Vice President
- Martin Morrison, Jr.: Treasurer
- John Hudzik: Secretary

*Officers of Diamond Head Oil Refining Company, Inc.

Diamond Head Oil Refining Co., Inc. and Bay City Oil Service, Inc. filed applications with the Department for renewal of their certifications to collect or haul solid waste on April 30, 1973 and May 14, 1973 respectively. The same individuals served as corporate officers for both corporations. The names of the officers and their respective titles were listed as follows:

<table>
<thead>
<tr>
<th>NAME</th>
<th>TITLE AT DIAMOND HEAD OIL</th>
<th>TITLE AT BAY CITY OIL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Martin Morrison</td>
<td>President</td>
<td>Vice President</td>
</tr>
<tr>
<td>Nicholas Matin</td>
<td>Vice President</td>
<td>President</td>
</tr>
<tr>
<td>John L. Hudzik</td>
<td>Secretary</td>
<td>Secretary</td>
</tr>
</tbody>
</table>
Both corporations reported operating from the same address and having the same telephone number.

Bay City Oil Service reported that they collected approximately 20,750 gallons of waste oil per week for disposal/recycling at Diamond Head Oil Refining Co., Inc. (subject site). They also reported collecting approximately 24,250 gallons of waste oil per week from New York for disposal/recycling at Diamond Head Oil Refining Co., Inc. Bay City Oil indicated that they had six 1500 gallon capacity trucks which they used for transporting the waste oil.

On February 6, 1973, representatives of the NJDEP, Bureau of Water Pollution Control (BWPC) conducted an inspection of the subject site. The inspectors noted the presence of Oil Lake to the south and east of the subject facility. An inspector described Oil Lake as containing a large quantity of petroleum, oil, and other petroleum products. During the course of the inspection the inspectors observed that oil was leaking from several valves in use at the subject facility; several open cans of oil were full and running over; and an oil water separator in use at the facility was not maintained and running over.

The inspector also noted that the ground at the subject site was saturated with oil. According to one inspector, the saturated condition of the ground during the time of the inspection, resulted in the runoff of oil into a storm drain located on Harrison Avenue. The inspector stated in an affidavit, that he observed drain pipes that had been placed so as to run into the Oil Lake from the facility's oil water separator; and a drain-off line had been placed in the bottom of the facility's sludge holding tanks (Affidavit of John Vernam dated June 16, 1978).

The BWPC inspector also noted that the topography of the site during the time of the inspection was such that it permitted surface runoff, including oil and other petroleum products which were saturating the ground area of the facility to flow both onto Harrison Avenue and into Oil Lake.

In a letter to Martin Morrison, Sr., of Diamond Head Oil Refining Co., Inc., dated February 22, 1973, from John Vernam of the NJDEP, BWPC stated the findings of the February 6, 1973 inspection of the subject site. Mr. Vernam also stated that during the inspection, the NJDEP representatives were accompanied by Martin Morrison, Jr., of Diamond Head Oil, who stated that he completely agreed with the Department inspectors with regard to the poor condition of the site.

A memorandum dated March 1, 1973, by John Vernam provided the following information:

"Diamond Head is [was] basically a refining company. They use[d] a three step process to extract lubricating oils, grease, and low grade heating oils from waste oils, 'mostly crank case oil'."
"Their through-put is [was] about 50,000,000 gallons per year, of this amount approximately 220,000 gallons a month is [was] refined into a usable product." (Resulting in approximately .6 million gallons of usable products per year.)

"...their sludge waste amount[ed] to 3,600 gallons per day."

Mr. Vernam also stated that Martin Morrison, Jr., who accompanied him during the inspection, made the contention that their oil problems stemmed from Oil Lake which was located on the adjacent NJDOT property. However, Mr. Vernam later stated the following "But, after viewing his [Morrison's] grounds and operations, Diamond Head Oil is also directly responsible for the oil pollution problems on Harrison Avenue".

During a followup inspection on March 22, 1973, the NJDEP, BWPC inspector noted that Diamond Head had shut down their facility to enable them to fix the leaking valves, repair the dike area, remove the "illegal" drain pipes and to start cleanup of their grounds. Diamond Head had completely removed the oil water separator which had a discharge into the pond of oil (i.e. Oil Lake) off their property.

NOTE: In his June 1978 affidavit the inspector stated that he was aware that Oil Lake had overflowed numerous times, both prior to and subsequent to February 6, 1973.

According to a May 2, 1973 HMDC letter to the Commissioner of the NJDEP, members of the HMDC's environmental section met with representatives of the NJDEP, Bureau of Water Pollution Control to discuss a solution to the oil pollution problems at the Diamond Head Oil Refining Company site. During the course of the discussions, questions were raised as to the status of the "Lake of Oil" located on Block 285 Lot 2 (on the I-280 ROW). The size of the lake was estimated to be 15 acres in size and up to one foot in depth. The capacity was estimated as being 2,000,000 gallons of which 500,000 gallons were oil and oily water, and 1,500,000 gallons were oil sludge.

It was further stated in the letter that the HMDC was concerned about the ultimate disposal of the lake, because of the pending construction of I-280 in this section which was to occur within the next few years. The letter stressed that improper dumping of the oil and sludge during construction could be a disaster. The letter concluded by stating that a plan of action should be made at that time, before construction of I-280 began.

As of April 25, 1974, the HMDC had not received a reply from the NJDEP, to the May 2, 1973 letter. On April 25, the HMDC requested assistance from the NJDOT in involving the NJDEP in exploring solutions to the problems associated with Oil Lake.

On October 26, 1973, PSC Resources, Inc., a subsidiary of Phillips Screw Company, Inc. a Delaware Corporation, entered into a stock purchase agreement which resulted in the acquisition of 100% of the
issued outstanding stock of Diamond Head Oil Refining Co., Inc. on November 1, 1973 (175 NJ Superior Court, NJDOT v. PSC Resources, Inc.).

As stated in the Superior Court of NJ, Law Division synopsis cited above:

"The terms of the agreement required the officers and directors of Diamond Head to resign on November 1, 1973, while PSC's nominees, Arthur M. Vash, president and director of PSC, John J. Casey, treasurer and director of PSC, and Jerome E. Rosen, secretary and director of PSC, became the new directors and officers of Diamond Head."

On November 1, 1973, within hours after the appointments (of the new directors and officers of Diamond Head), the new director of Diamond Head submitted a "Plan of Complete Liquidation and Dissolution" which PSC Resources, as sole shareholder, adopted.

PSC Resources continued to operate the subject facility under the names Diamond Head Oil Refining Company, Division of PSC Resources and Diamond Head Oil Refining Company Inc. until November 3, 1976.

The 1973 NJSID lists Martin Morrison as President, Nicholas Matin as Executive Vice President, Michael Stellato as Secretary, Martin Morrison, Jr. as Treasurer, and John Hudzik as Office Manager for Diamond Head Oil Refining Co., Inc.

On November 5, 1973, Diamond Head Oil Refining Co., Inc. sold the subject property to Phillips Resources, Inc., a Delaware corporation with its principal office in Natick, Massachusetts. The property was sold for less than one hundred dollars. Arthur M. Vash and Martin Morrison Jr. signed the deed as president and secretary of Diamond Head Oil Refining Co., Inc. respectively.

On December 5, 1973, Diamond Head Oil Refining Co., Inc. submitted a revised Waste Effluent Survey to the PVSC. Diamond Head Oil reported that their production remained at 300,000 gallons per month. They also stated that they had installed a water recycling system during the second quarter of 1973 which eliminated all discharges to the storm sewer, river or ditch. Martin Morrison, Jr. signed the survey as the General Manager of Diamond Head Oil Refining Co., Inc.

Diamond Head Oil Refining Company, Inc. and Bay City Oil Service, Inc. filed Certificates of Dissolution with the Department of State on December 28, 1973. John J. Casey, Jerome E. Rosen, and Arthur M. Vash constituted all of the directors of Diamond Head Oil Refining Co., Inc.

The 1974 through 1976 NJSIDs list Diamond Head Oil as a Division of Phillips Resources, Inc. Arthur M. Vash, Jerome E. Rosen, and John J. Casey (Directors of Diamond Head Oil Refining Company at the time of dissolution) appear in the 1974 Directory as President, Secretary, and
Treasurer respectively of Diamond Head Oil Refining Company, Inc./Division of Phillips Resources, Inc. John Hudzik was again listed as Office Manager in 1974. Martin Morrison, Jr., who was listed as Treasurer in 1973, was listed as Purchasing Agent in Directories from 1974 to 1976.

In a letter to the PVSC dated March 20, 1974, Diamond Head Oil Refining Company stated that they were not tied into a sewer. They reported that they had their own septic system. The letterhead that was used by Diamond Head Oil Refining Company for this letter indicated that Diamond Head Oil Refining Company was a Division of Phillips Resources, Inc.

An undated Waste Effluent Survey for 1974 (for industries served by the Passaic Valley Sewerage Commissioners), which was signed by Edward Cincotta of Diamond Head Oil Refining Co., briefly described the operations at the subject facility in the following way: "Receive Waste Oil, Chemical Treat, Caustic to Separate Solids, Super Natant Oil Heated and refined with Clay."

By letter dated May 2, 1974, the HMDC informed the NJDOT that they may have come up with a solution to eliminating Oil Lake and its associated problems. In the letter the HMDC stated "We have worked out an agreement to have the pond pumped out, and expect to use the material as a road base for the landfills in Kearny". The letter further stated that the HMDC expected to begin in the next week or so. It is unknown if this plan was ever implemented.

On June 13, 1974, the Law Department of Hudson County wrote a letter to the Department summarizing problems that were related to the pool of oil that existed on the NJDOT property that is adjacent to the subject site. According to the letter, there was a drainage ditch which led from the pool of oil to the adjacent roadway causing an extremely dangerous road condition. The letter went on to state that results of an investigation by the County indicated that Diamond Head Oil Refining Company, located at 1401 Harrison Turnpike, was directly responsible for the oil related problems that existed in the area.

On December 12, 1974, Diamond Head Oil Refining Company, Div. of PSC Resources, Inc. applied for a National Pollutant Discharge Elimination System (NPDES), Permit to Discharge. In a letter dated December 10, 1974 to the USEPA, Diamond Head Oil Refining Co. described their process and waste disposal practices as follows:

"We refine used oil. We produce approximately 200,000 gallons per month. It is sold from here both wholesale and retail. We have several waste products:

1. Oil Sludge - this waste is removed by Jonas Waste Removal, Sewell, N.J. It is dumped at an approved dump site.

2. Human Waste - this waste is stored in septic tanks and periodically pumped out."
3. Contaminated runoff, boiler blowdown and process water - these wastes are removed by Jonas.

4. Uncontaminated runoff - this waste flows to the street and the meadowlands.

We are presently studying water treatment to handle #3 due to the high cost of disposing of the water...

NOTE: The Jonas referred to in number 1 above is Marvin Jonas which is an active case in the NJDEPE, DRPSR, BSCM.

The letter to the USEPA and the application for the NPDES permit were both signed by Fred H. Simmons, Plant Manager, of Diamond Head Oil.

On April 28, 1976 the USEPA conducted a SPCC (Spill Prevention Compensation and Control) inspection at the subject site. The inspection was scheduled due to questions concerning the large oil lake that was located mainly on the adjacent NJDOT property. The sales manager for Diamond Head Oil Refining Co., Ed Cincotta, was present during the inspection.

The USEPA inspector noted that the facility was a waste oil reprocessing plant with a storage capacity of approximately 440,000 gallons. The USEPA inspectors observed that the majority of tanks at the facility were not diked and the ground beneath the tanks was saturated with oil. Oil and water from numerous small leaks and spills was observed flowing towards the rear of the Diamond Head Oil Refining plant.

Several open lagoons containing oil and water were observed at the far rear of the plant. One of the lagoons had a discharge pipe extending to the large waste oil lake which was located on the adjacent property (owned by NJDOT). The USEPA inspector noted that the oil and water that was observed flowing to the rear of the property was caught in a sump and discharged into the lagoons where the oil was supposed to be separated and reused and the waste was then discharged into the oil lake. The inspector described the facility as old, in a state of disrepair, and very poorly maintained.

As revealed during discovery in a NJDOT law suit filed against PSC Resources in September 1977 (discussed later in the this report), Tammy's Oil Service, Inc., a corporation of the State of New York, owned 100% of the stock of PSC Resources (since March 17, 1975). On May 25, 1976, the directors and stockholder of both Tammy's Oil Service, Inc. and PSC Resources, Inc. approved a Plan of Complete Liquidation and Dissolution for each of the two corporations. Authorization was also given to Russell W. Mahler as President and Director of both corporations to liquidate the assets of the corporations and receive the proceeds in trust for the corporations.

On June 25, 1976, an inspector from the USEPA, while tracing the source of an oil flow into the marshes surrounding Exit 15W of the NJ Turnpike, inspected the subject facility. During the inspection of the
facility, the inspector observed a brownish liquid (which appeared to contain oil) being delivered through a pipe to a lagoon in the rear of the facility. The inspector further observed that a black liquid was flowing from the bottom of the lagoon through a pipe with an open valve. The inspector also observed visible signs that the black liquid was leaching from the lagoon into Oil Lake. Analysis of a sample of the black liquid (which was collected by the USEPA on that same date) revealed that the sample had a hydrocarbon content of 41%. (Affidavit dated September 28, 1979 by Michael V. Polito, of the USEPA). Robert Mahler, of Diamond Head, stated to the USEPA inspector that Diamond Head Oil had no NPDES permit because the facility was totally self contained.

According to an inspection report that was written by the USEPA inspector, the NJDEP had reportedly given the facility permission to release water (including water from dripping condensate lines and steam lines) from the property without regard to the permit system. The RPIU has not found any documentation confirming this claim. According to the USEPA inspector, water from the ground was collected and released through an effluent pipe (presumably the same pipe that was previously described as discharging an oil containing liquid to the property).

The USEPA inspector also went on to state that the oil had leached out into the navigable waters of the United States and that the USEPA had expended at least $10,000 to date for the cleanup.

The following was stated in a notification to the creditors of PSC Resources, Inc. dated October 12, 1976, PSC Resources, Inc.:

- PSC Resources is [was] about to transfer to Ag-MET Oil Service, Inc., in bulk all of the materials, supplies, merchandise, equipment, fixtures, and inventory of PSC Resources now [then] located at 10 Water Street, Palmer, Massachusetts and 1401 Harrison Turnpike, Kearny, New Jersey.

- The business names and addresses used by PSC Resources in the past three years are [were]: PSC Resources, Inc., Phillips Resources, Inc., Diamond Head Oil Company and Diamond Head Oil Refining Company at 1401 Harrison Turnpike, Kearny, New Jersey; at 10 Water Street, Palmer, Massachusetts.

On October 29, 1976, Bay City Oil Service submitted a registration for a solid/liquid waste collector or hauler to NJDEP, Bureau of Solid Waste Management. The address given for Bay City was 1401 Harrison Turnpike, Kearny (the subject site). Robert Mahler was listed in the section marked "Person having prime administrative authority or person to be contacted in an emergency". The registration statement was signed by Anthony J. Dattolo, Terminal Manager. NOTE: Bay City Oil Service, Inc. was dissolved in December, 1973.

On November 3, 1976, PSC Resources, Inc., a successor to Phillips Resources, Inc. sold the subject site for the sum of $563,978.68 to Ag-Met Oil Service, Inc., a New York corporation qualified to do
business in the State of New Jersey, care of Ag-Met, Inc. Russell W. Mahler and Thomas Humiston signed the deed as president and secretary of PSC Resources, Inc. respectively.

Ag-MET Oil Services continued to operate the subject facility. On November 29, 1976, Ag-MET Oil Services, Inc. changed its name to Newtown Refining Corporation.

Ag-Met Oil Service, Inc. had submitted a registration for a solid/liquid waste collector or hauler to NJDEP, Bureau of Solid Waste Management on November 1, 1976. The address given for Ag-Met was 1401 Harrison Turnpike, Kearny (the subject site). Russell W. Mahler was listed in the section marked "Person having prime administrative authority or person to be contacted in an emergency". The signature of the person who signed the registration statement as vice president is not legible.

On November 29, 1976, the USEPA, Region II, issued a Findings of Violation and Order to Show Cause to Diamond Head Oil Refining Company pursuant to Section 309 (a)(3) and (a)(4), Federal Water Pollution Control Acts Amendments of 1972 (33 U.S.C. subsection 1319).

It was stated in the findings portion of notice that Diamond Head Oil had been discharging a water and oil mixture into a large 7,000,000 gallon lagoon which was located behind its property. The USEPA also stated that during wet weather periods the lagoon overflowed into a navigable waterway (discharging without a permit). According to the USEPA, on December 12, 1974 Diamond Head Oil Refining Co. submitted a Short Form C application for a NPDES permit for discharge of pollutants from its facility to Franks Creek. On October 29, 1975 the USEPA had requested in writing additional information on their discharge. As of the date of the issuance of the Findings of Violation, Diamond Head failed to submit such data as requested by the USEPA.

Diamond Head Oil Refining Company was ordered to appear at the USEPA on December 28, 1976 and show cause as to why the USEPA should not refer them (Diamond Head) to the US Department of Justice for imposition of civil and criminal penalties.

On December 22, 1976, counsel for Ag-MET, Inc. and its wholly owned subsidiary, Newtown Refining Corporation responded by letter to the Findings of Violation and Order to Show Cause. The letter stated that the USEPA, during a telephone call on December 21, 1976, had agreed to adjourn the date on which the Findings of Violation and Order to Show Cause was returnable from December 28, 1976 to January 11, 1977. According to the letter Newtown Refining Corporation acquired the assets of PSC Resources, Inc. on November 3, 1976. It was the belief of Ag-Met's counsel that PSC Resources had previously acquired the assets of Diamond Head Oil Refining Company.

Counsel for Ag-MET also stated that Ag-MET was unable to locate the both the Short Form C application for a NPDES permit filed by Diamond Head on December 12, 1974 and the letter from the USEPA, dated October
On January 20, 1977, counsel to Russell W. Mahler and Newtown Refining Corporation forwarded a memorandum to the USEPA. The memorandum, written by Russell W. Mahler (also dated January 20, 1977) described the history of the subject site which was owned by Newtown Refining Corporation.

Russell Mahler described the history of site ownership as follows:

"On March 17, 1975, Tammy's Oil Service, Inc. ("Tammy's") purchased all the issued and outstanding stock of PSC Resources, Inc. ("PSC") from Phillips Screw Company. At that time, PSC owned the Facility as successor to Phillips Resources, Inc., which acquired it from Diamond Head Oil Refining Co., Inc. on November 1, 1973. On November 3, 1976, Tammy's sold substantially all its assets, including its stock in PSC, to Ag-MET Oil Service, Inc. which subsequently changed its name to Newtown Refining Corporation ("Newtown"). I am currently President of Newtown and was the President and principal owner of Tammy's when it acquired and when it sold PSC. It was the custom of PSC to operate the Facility as Diamond Head Oil Refining Co., Division of PSC Resources, Inc.

When Tammy's acquired the PSC stock on March 17, 1975 none of Tammy's officers or stockholders was aware of the existence of violations of environmental regulations, governmental orders or license applications with respect to the Facility. Furthermore, Tammy's was informed at that time by Phillips Screw that none existed...."

On January 24, 1977, Riverside Engineers, Inc. (Riverside), consulting engineers for Diamond Head Oil Refining Company, sent a letter to the USEPA. The letter included the following completed items:

1) Standard Form C (NPDES permit application)
2) Process Flow Diagram
3) Plant Schematic Arrangement
4) Site Plan and
5) Pond Location

Riverside stated that the enclosures represented the current concept of operation of the subject facility. The letter contained a proposal by the site owner to change the concept of operation to include a treatment operation.

According to Riverside, the engineering program would include the following as its primary objectives:

1) additional containment to avoid potential mixing of product or waste with any water stream,
2) greater in-plant reuse of water and
3) greater design of suitable treatment units for
On January 11, 1977, Robert Mahler of Diamond Head Oil Refining Company, along with the consulting engineer for Diamond Head, appeared at the USEPA office without counsel. Mr. Mahler was advised by the USEPA of the alleged violations by Diamond Head that were set forth in the Findings of Violations and Order to Show Cause. He was then given an opportunity to explain why he believed the matter should not be referred to the US Department of Justice for imposition of civil and criminal penalties. A formal resolution was not reached since counsel was not present for Diamond Head.

In a letter from the USEPA to counsel for Russell Mahler/Newton Refining, dated February 4, 1977, the USEPA suggested that a meeting be held to resolve the matter of past violations which were still pending and to discuss what action would be required of the site owners to ensure their compliance with federal pollution control laws and regulations. The USEPA also stated that they expected Russell Mahler/Newton to be prepared to make a formal showing as to why the matter of past violations should not be referred to the US Department of Justice. It was recommended by the USEPA that a copy of the SPCC plan for the subject facility be submitted by Russell Mahler/Newton.

On February 15, 1977, a copy of the SPCC plan which was certified on May 7, 1976 was sent to the USEPA. The RPIU has not obtained a copy of this SPCC.

On March 15, 1977, counsel representing Newtown Refining Corporation sent a letter to the Enforcement Division of the USEPA Region II, in response to the Findings of Violation and Order to Show Cause that was issued to them. In this letter they stated that the man-made "lake" which developed behind Newtown's property was caused when the Town of Kearny created a refuse dump blocking the normal drainage of the area. Counsel for Newtown also stated that it appeared that during periods of heavy rainfall the "lake" floods Newtown's property as well as the nearby property.

Counsel for Newtown addressed the points specifically set forth in the Findings of Violation and Order to Show Cause. Among the points made in the letter were:

1. Newtown believes that they had furnished the information required to process its application for a NPDES permit for the reasons stated below.

According to Newtown, the several changes of ownership which have occurred since the original NPDES permit application was filed had disrupted communications and contact on this matter (the NPDES permit application). They also stated that the only managerial employee held over beyond March, 1975 was the old plant manager, Edward Cincotta. According to counsel for Newtown, Mr. Cincotta did not prove to be an effective manager and in January, 1976 he was replaced. They claimed that the request for information which the USEPA made of
Diamond Head Oil Refining Company by letter dated October 29, 1975 and addressed to Fred Simmons was never made known to any member of management or ownership other than Edward Cincotta. Newtown stated that they did not know why Mr. Cincotta failed either to respond to the USEPA request or to make such request known to the management or ownership.

It was stated in this letter that the new owners were under the impression that a NPDES permit was not required for the facility and therefore did not contact the USEPA on its own initiative to follow up the initial application which was filed on December 12, 1974 by the previous owner. Newtown's management was not aware that a compliance problem might exist with the USEPA until May of 1976. According to Newtown, the first time that the owners and management and the present plant manager, Robert Mahler, saw the October 29, 1975 letter (letter requesting additional information regarding their discharge) was when the USEPA supplied a copy to them in January 1977.

Newtown also stated that prior to an inspection by the USEPA in May of 1976, their management was unaware that while complying with the instructions and requirements of the HMDC, the NJDEP, and the NJDOT, they did not also satisfy federal pollution laws and regulations.

Prior to the USEPA visit in May of 1976, the facility management was unaware that the "lake" was not completely landlocked and believed therefore, that the discharge was not subject to federal jurisdiction.

Newtown went on to state that whatever violation may have resulted from the inadvertent failure to reply to the letter of October 29, 1975, by reason of lack of notice and lack of knowledge concerning federal requirements and jurisdiction in addition to that of the state agencies, has been corrected by Newtown's filing of a revised NPDES permit application (#NJ0030864) on January 24, 1977.

2. Newtown stated that to the best of its knowledge, that they were not discharging pollutants in violation of the Act.

Newtown claimed that any discharge into the "lake" after November 1975 (the date of the alleged failure to respond), which was approved by management, was sporadic and comprised of principally rain water and lake water.

A company named Diamond Head Oil Refining Corporation, Inc. incorporated in the State of New Jersey on August 24, 1978. (NOTE: emphasis added by underlining) Robert Mahler and David Riso constituted the first Board of Directors.

On May 13, 1977 Bay City Oil Service submitted a registration statement for solid/liquid waste collector-haulers to the Department's
Solid Waste Administration for fiscal year 1978. This application listed Robert S. Mahler as the person having prime administrative authority for Bay City Oil Service. It was indicated on the application that Bay City Oil hauled 500,000 gallons of waste oil and sludge from locations in various counties and municipalities and disposed of them at Diamond Head Oil Refinery, 1401 Harrison Avenue, Kearny (subject site). This application was signed by Robert S. Mahler, Manager.

On June 17, 1977 North East Oil Service, Inc., of Grafton, Massachusetts submitted a registration statement for solid/liquid waste collector-haulers to the Department's Solid Waste Administration for fiscal year 1978. This application listed Robert S. Mahler as the person having prime administrative authority for North East Oil Service. It was indicated on the application that North East Oil Service hauled 360.00 (sic) gallons of waste oil and sludge from locations in various counties and municipalities and disposed of them at Diamond Head Oil Refinery, 1401 Harrison Avenue, Kearny (subject site). This application was signed by Lloyd P. Mahler, Vice President.

On May 3, 1977 the Hackensack Meadowlands Development Commission (HMDC) reviewed and approved a plan by a NJDOT contractor for the disposal of 72,000 cubic yards of oil contaminated materials (soil) from sections 8A and 8D of the I-280 construction project (areas including portions of the right-of-way where the oil "lake" was located and parts of Frank's Creek) in a secure land burial facility located at MSLA Landfill Site I-D. The MSLA Landfill Site I-D is located at the eastern portion of what was formerly designated as County Block 1434 (east of the subject site and immediately west of Ramp "M" of Route I-280).

Subsequent to this approval substantial additional quantities of contaminated materials were found. The discovery of the additional amounts of contamination increased the initial estimated volume of 72,000 cubic yards to a minimum volume of 150,000 cubic yards.

On September 14, 1977, the New Jersey State Department of Transportation (NJDOT) filed civil suit (Docket # L-1718-77) with the Superior Court of New Jersey, Law Division against PSC Resources, Inc. (successor of Phillips Resources, Inc.) and Diamond Head Oil Refining Company, Incorporated. The primary reasons that the NJDOT filed this suit was 1) because of damages suffered by the NJDOT as a result of oil contaminated water which entered onto their property from the "oil lake", which was located on the PSC Resources property (the subject site), and 2) to recover costs incurred as a result NJDOT's remediation of same.

The following were among statements made by the NJDOT in the complaint:

(NOTE: the underlined portions were later denied by PSC Resources in Answer and Counterclaim, filed by Attorney for PSC Resources, Inc., November 10, 1977)
- On November 1, 1973, PSC Resources, Inc., through its predecessor Phillips Resources, Inc., acquired the subject site and had been engaged in the operation of a waste oil reprocessing and canning facility.

- It had been the custom PSC Resources, Inc. to operate the facility as "Diamond Head Oil Refining Co., Division of PSC Resources, Inc." and "Diamond Head Oil Refining Co., Inc."

- Prior to the construction activity of the NJDOT (construction of Sections 8A and 8D, I-280), a body of water known as Oil Lake was located on the NJDOT's property.

- A portion of Oil Lake was located on the property of PSC Resources, Inc. (the subject site).

- For many years and at various times PSC Resources had been discharging a mixture of water and oil into Oil Lake.

- It had been the practice of PSC Resources to accumulate ground water seepage, surface water runoff, plant drainage, and condensate and to pump or permit such accumulated material to flow into a low area of its facility. PSC Resources maintained a runoff drain in the low area through which the accumulated material may have been discharged into Oil Lake thereby entering the NJDOT's property.

- On May 25, 1976, February 11, 1977, September 3, 1974, July 25, 1974, and April 29, 1974 PSC Resources discharged and/or otherwise caused material collected at the facility to enter into Oil Lake.

- The NJDOT incurred additional expense related to the construction of I-280, Sections 8A and 8D, including removing and disposing of oil, oil emulsion and oil contaminated material, providing water pollution control measures, excavating unsuitable material, providing suitable backfill material, dewatering to prevent refloatation of trapped oil and petroleum liquids, and providing topsoil in replacement of that rendered unsuitable by oil contamination.

- Diamond Head Oil Refining Co., Inc. (a dissolved NJ Corp.) was engaged in a waste oil reprocessing and canning facility at the subject site from January 1, 1952 until November 1, 1973.

- On February 6, 1973, Diamond Head Oil Refining Co., Inc. permitted oil to leak from several valves located on its facility, permitted open cans of oil to run over and discharge, maintained drain pipes running off its property from oil water separator, and permitted the ground area around its yard to be loaded with oil products allowing oil runoff into a storm drain.

- Diamond Head Oil Refining Co., Inc. caused material described in the preceding paragraph to enter into Oil Lake.
On December 12, 1977, the resident engineer for Route 280 project (Sections 8A and 8D) observed that a large quantity of oil was located in an area that was adjacent to the Diamond Head Oil Company. According to the engineer the oil, which followed existing drainage patterns moved to an area to the south side of the access road to the Diamond Head Oil Company. According to the NJDOT engineer, the standing water in this area was displaced by the oil and the water moved across the access road to the area between the access road and Harrison Avenue.

The NJDOT engineer also reported that heavy rains on December 14, 1977 displaced the oil causing an approximately 100 foot long section of Harrison Avenue to be covered with oil. On December 15, 1977 the oil level had receded substantially. Also, the Crescent Construction Company, the Hudson County Road Development and the Kearny Fire Department helped to correct the problem.

On January 4, 1978, a representative of the NJDOT notified the HMDC of the presence of oil on the south side of Harrison Turnpike adjacent to the subject site. Immediately after receiving this notification, a representative of the HMDC inspected the subject site. The inspector observed large pools of oil and oily wastes along the facility's western property line, on an access road which had been constructed by the NJDOT, and on an area immediately adjacent to Harrison Turnpike. The inspector also observed a stream of oil and oily wastes leading between the subject facility and the pools of oil. The HMDC inspector later stated in an affidavit, dated May 5, 1978, that he believed, based on his observations made during the January 4 inspection, that the source of the discharges was the subject facility.

A certified letter dated January 6, 1978, was sent from the HMDC to Robert Mahler of Diamond Head Oil Refining Co. This letter informed Diamond Head Oil of the observations made during the inspection of January 4. It was pointed out in the letter that it appeared that rain could have easily caused move the pools of oil and oil wastes onto Harrison Avenue resulting in a traffic and safety hazard. The letter concluded by stating the that "it is apparent that the source of these oil and oily wastes are from Diamond Head's operation" and ordered Diamond Head to cease and desist the discharge of the wastes immediately. Diamond Head was further ordered to take all necessary steps to immediately remove the pools of waste and any contamination caused on properties owned by the Town of Kearny and the NJDOT.

By January 10, 1978, 87,000 cubic yards of contaminated materials from the construction of Route 280, sections 8A and 8D were placed in a secure land burial facility located at MSLA Landfill Site I-D, in accordance with permission granted by the HMDC. Four 12 inch monitoring wells were also installed at the landfill. The addition of the 87,000 cubic yards of contaminated materials filled the landfill to capacity.

A followup inspection by the HMDC of the subject site on January 12,
1978 revealed that no action to clean up the contamination, observed on January 6, 1978, had taken place. In addition to previously noted contamination, the HMDC inspector noted that fresh contamination had occurred at the subject site and on properties owned by the NJDOT (adjacent to ramp "M" of I-280).

The subject site was reinspected by the HMDC on January 19, 1978. No effort to clean up the site was observed. The inspector observed a trench, or swale, and hoses in place at the facility. Based on the observations made during the inspection, the inspector concluded that the hoses were used to discharge the contaminating material and the trench was used to convey the material.

The HMDC, by way of letter dated January 25, 1978, notified Diamond Head Oil Refining Co. of the observations made during the inspection of January 19. The HMDC assessed Diamond Head Oil $200.00 per day for each day after January 25, 1978 that the cleanup of the two areas was not completed. It is not known if the HMDC received any payment from Diamond Head Oil.

On January 30, 1978, the HMDC granted the NJDOT permission to create a second (new) on-site disposal area, located on Block 285 Lot 2 (immediately west of the subject site), for the additional quantities of contaminated materials from Route 280, Sections 8A and 8D. The new area was designed to contain a maximum of 197,000 cubic yards. The request for the new disposal area, which was reviewed by the both the HMDC and the Solid Waste Administration of the NJDEP, was approved subject to the several conditions including but not limited to the following:

- A liner of a minimum compacted thickness of six inches of sand would be placed under all materials disposed of in the new area
- The disposal area was to be worked in full depth sections separated by sectional dikes of sand
- A minimum setback of 50 feet would be maintained between the disposal area and Diamond Head Oil's western property line
- Three combination methane/monitoring wells was to be installed
- A two foot compacted thickness silty-clay cover material was to be placed on the completed disposal site
- A four inch thick topsoil layer, mulched, fertilized and seeded with Type A grass seed was to be placed over the silty-clay cover material

According to the HMDC, the NJDEP expressed some concern about 1) the long term affects of storing oil-contaminated materials in sand-lined areas, and 2) the responsibility of NJDOT if the sand liner should fail, causing oil contamination to be released from the disposal area. For these reasons the HMDC requested that a plan of action for dealing with liner failures be submitted by the NJDOT. It is unknown if this
Inspections by the HMDC on February 27, and March 30, 1978 revealed oily wastes being discharged from the subject facility onto properties owned by the Town of Kearny and the NJDOT through a hose which was connected to a storage tank on the Diamond Head property.

On March 23, 1978, an employee of Diamond Head Oil, who wished to remain anonymous, contacted the Department and stated that they had information on the sources of point and non-point pollution (oil, water, and sludge or the company's process waste). The employee further stated that they would like to meet with someone from the Department to pass on the information. It is unknown if anyone from the Department has ever met with the employee.

On March 30, 1978 a representative of the NJDOT observed a hose draining a tank, located at the subject site, onto the west side of the subject property. The inspector in a memorandum regarding this inspection stated that the oil and water mixture followed the existing ground contours and ended up on the NJDOT's right-of-way for I-280.

On April 28, 1978, North East Oil Service, Inc. submitted a registration statement for a solid/liquid waste collector or hauler for fiscal year 1979 to the NJDEP, Solid Waste Administration. The statement which was signed by Russell Mahler, President, listed the address for North East Oil Service as Box #477 Worster Avenue, North Grafton, Massachusetts. Russell W. Mahler was listed as the person having prime administrative authority for North East Oil Service.

Bay City Oil Service, also submitted a registration statement for a solid/liquid waste collector or hauler for fiscal year 1979 to the NJDEP, Solid Waste Administration. Russell W. Mahler was listed as the person having prime administrative authority for Bay City Oil Service and also signed the registration statement as President. The address for Bay City Oil Service was listed as 1401 Harrison Turnpike, Kearny, NJ (the subject site). Bay City Oil Service indicated that they hauled 569,404 gallons or cubic yards (gallons and/or cubic yards not specified on the statement) from locations various municipalities within Hudson County to Diamond Head Oil Refinery in Kearny.

Russell W. Mahler, President and Chief Operating Officer of Newtown Refining Corporation, stated that all refinery operations of Newtown had been closed/terminated as of midnight on May 28, 1978 (Affidavit of Russell W. Mahler dated June 8, 1978).

In an affidavit dated June 8, 1978, Russell Mahler stated that he had "several years of experience in supervising the overall operation" of the subject facility.

On June 7, 1978, the Solid Waste Administration received an application (dated June 5, 1978) from Newtown Refining Corporation, Diamond Head Oil Refining Division for a temporary (one year) operating authorization (TOA) to operate a special waste facility at the subject site. The application stated that Newtown had incorporated
in the State of New York. Russell Mahler was listed as the person that had prime administrative authority for Diamond Head Oil Refining. The property owner was listed as Newtown Refining Corporation. The on site processes was described as reprocessing of used crankcase oil into usable lubricating oil. The specific waste types handled was stated as waste oil and oil sludge. The application was signed by Lloyd Mahler, Vice President, on June 5, 1978.

On July 14, 1978, the NJDEP, Solid Waste Administration issued a TOA to Diamond Head Oil Refining Division for the purpose of operating a special waste facility (facility #6907B) at the subject site. The TOA, which had an expiration date of April 30, 1979, was conditioned upon compliance with and implementation of the following:

1. Permitted Waste Types:

   Only Waste ID #70 (waste oil and oil sludge) specifically waste oil and used crank oil was authorized to be accepted by Diamond Head Oil Refining.

   *The facility was NOT authorized to accept PCB waste.

2. Engineering Design

   An engineering design per Solid Waste Administration requirements was to be submitted within four months of the date of the TOA.

On November 28, 1978 the NJDEP inspected the subject facility. The inspectors noted that oil spills were prevalent throughout the site, but could not ascertain the source. In talking to the Diamond Head Oil representative that was on site during the inspection, it was revealed to the NJDEP inspectors that the oil processing operations had been halted due to a court order. According to the facility representative, the facility was packaging only virgin oil and was not receiving any waste oil.

According to a NJDEP memorandum dated February 6, 1979, the Diamond Head Oil Refinery (sic) had indicated that they were closing. The memorandum went on to order that a followup field inspection be performed by the NJDEP.

An inspection of the subject facility was performed by a representative of the NJDEP on February 6, 1979. The inspector noted that there was no evidence of current reprocessing operations observed during the inspection. According to the inspector, two underground storage pits were observed to contain a dark liquid which resembled contaminated oil. When the inspector asked an individual at the site what the substance in the pits was, he was told that it was probably a thin film of oil on top of some water that seeped into the pits.

The NJDEP inspector noted that oil spillage was observed throughout the facility. "The same amount of spillage was noted during this inspection as was evident the last time." The inspector recommended...
that it be determined if any waste oil was being stored on the facility.

The subject facility was inspected by NJDEP representatives on April 12, 1979. Leaks and spills were observed at the site and the overall housekeeping was described as being very poor. The spills/leaks were attributed to drainage and tanks. No security measures were noted at the site.

On August 28, 1979, a corporation named Diamond Recycling Corporation of 1401 Harrison Avenue, Kearny, filed an initial registration statement for a solid/liquid waste collector-hauler for fiscal year 1980 with the NJDEP, Solid Waste Administration. The registration statement listed Robert S. Mahler as the person having prime administrative authority for the corporation. The corporation also listed waste oil and sludge as the types of wastes to be carried for disposal. The statement was signed by Robert S. Mahler, President.

A November 30, 1979 memorandum from the HMDC indicated that recent inspections (for oil-contaminated soils) at the NJDOT disposal area, which is located adjacent to ramp "M", Route I-280, revealed that top soil covering the side slopes of the disposal area had eroded, exposing contaminated materials. Also, tidal penetrations in the ditch adjacent to the ramp had eroded the compacted sand liner of the disposal area. According to the HMDC, subsequent rainfalls had caused oily discharges from the eroded areas into the ditch which is adjacent to Ramp "M". The HMDC also noted that an oily discharge had been observed where the ditch was connected to Franks Creek.

By memorandum dated January 4, 1980, the HMDC informed the NJDOT that sampling data from one of the monitoring wells located at MSLA I-D showed increasing concentrations of BOD$_5$, COD and chlorides. According to the HMDC, there was a black liquid observed in that same well indicating liner damage at the disposal area. The HMDC memorandum concluded by stating that point is was not possible to determine if materials in the disposal area were leaching into the surrounding soils. It was recommended that additional sampling be undertaken as soon as possible to determine the magnitude of the liner damage.

The following companies are identified, in Industrial Waste Surveys submitted to the NJDEP from 1977 to 1979, as 1) having sent their wastes to the subject site and/or 2) using Bay City Oil, North East Oil, or Diamond Head Oil as their hauler:

- **American Aluminum Company**
  Mountainside, NJ 07092 (Union Co.)

- **Clarkson and Ford Company**
  Clifton, NJ 07012 (Passaic Co.)

- **Falke Corporation**
  Waldwick, NJ 07463 (Bergen Co.)

- **Gayton Lucchi Tool Company**
Carteret, NJ 07008 (Middlesex Co.)

G&L Tool Company
Rahway, NJ 07065 (Union Co.)

Monsanto Company
Kenilworth, NJ 07037 (Union Co.)

Monsanto Company
Trenton, NJ 08620 (Mercer Co.)

Red Devil, Inc.
Union Twp., NJ 07083 (Union Co.)

Texaco, Inc.
Teterboro, NJ 07730 (Bergen Co.)

Action Plastic Company/Division Dart Industries
Totowa Borough, NJ 07512 (Passaic Co.)

Beacon Die Mold, Inc.
Clifton City, NJ 07011 (Passaic Co.)

Campton Tool and Die Company
Kenilworth Boro, NJ 07033 (Union Co.)

Design and Molding Services
Piscataway Twp., NJ 08854 (Middlesex Co.)

Dianem Company
Lodi Borough, NJ 07644 (Bergen Co.)

Digital Computer Controls
Fairfield Borough, NJ 07006 (Essex Co.)

Einson-Freeman Detroy Corporation
Fair Lawn, NJ 07410 (Bergen Co.)

Foremost Manufacturing Company, Inc.
Union Twp., NJ 07083 (Union Co.)

Carmet Company/Amcar Division
East Rutherford, NJ 07073 (Bergen Co.)

International Telephone and Telegraph Corp.
Midland Park, NJ 07432 (Bergen Co.)

ITT Marlow
Midland Park, NJ 07432 (Bergen Co.)

Bekker Garret and Sons, Inc.
Clifton City, NJ 07012 (Passaic Co.)

Arrow Plastics Corporation
Garfield City, NJ 07026 (Bergen Co.)

Jae trucking (hauled for American Aluminum)

Pinto Service (hauled for Arrow Plastic Corp.)

Robert More (hauled for Falke Engine Rebuilding Corp.)

DePalma Oil Company (hauled for Red Devil, Inc.)

Monsanto Company indicated in the Eckhardt Report that from 1973 to 1979, Monsanto's Kenilworth, NJ plant sent 33 tons of wastes to the subject site for disposal (reprocessing/recycling). The waste types listed were organics, and oils and oil sludges.

On March 19, 1980, the subject site was inspected by a representative of the NJDEP and a representative of Environmental Assessment Council in order to determine if Diamond Head Oil Company was still operating at the facility. EAC was inspecting the site on behalf of the USEPA. The inspectors found that the site no longer appeared to be operating as an oil reprocessing facility. This conclusion was based on the fact that all of the doors and windows were locked and it appeared as if most of the equipment was not used for a long period of time. However, the inspectors did find some evidence which led them to believe that the site was being used for illegal dumping of waste oils.

Among the evidence that was cited by the NJDEP inspector were the following: Certain equipment including valves and pipes located in the vicinity of the off loading area appeared to have been used very recently (relative to the other equipment on site); there were also several recent truck tire tracks concentrated in the vicinity of the off loading area; and some of the storage tanks contained significant amounts of oil which may or may not have been left over from Diamond Head Oil. No site security measures were noted at the site.

The EAC representative stated that a contractor (Modern Transportation) was hired to clean up the site and that representatives from the Modern had already visited the site. The EAC representative stated that he did not know when the cleanup was to take place. It is unknown who hired Modern Transportation to conduct the cleanup.

On April 4, 1980, the site was inspected by the NJDEP. A watchman present at the site stated to the inspector that the facility was being "taken down" shortly. The NJDEP inspector noted large amounts of standing oil throughout the facility (particularly within the diked areas). The inspector was informed that Modern Transportation periodically came to the facility to vacuum up the standing oil. The inspector also noted that some piping had been removed and some of the tanks were either in the process of being pumped out or had already been pumped out.

The NJ Superior Court, Law Division decided on July 31, 1980, that PSC
Resources, Inc., was the successor to Diamond Head Oil Refining Co., Inc., and is subject to liability for any claims against it arising from the discharge of pollutants onto the NJDOT's property.

In an opinion that was filed by the NJ Superior Court on May 29, 1981, the Court found that PSC Resources, as successor to Diamond Head Oil Refining Co., transferred the subject facility as an operating unit to Newtown Refining Corporation essentially unchanged. The Court found that Newtown Refining Corporation was liable for claims against it arising from the torts committed by its predecessor corporation, PSC Resources.

A soils investigation report dated June 1981, entitled "Proposed Hotel Development, Harrison Avenue, Kearny, NJ" was submitted to Mimi Development of Kearny, NJ (now known as Mimi Urban Renewal Corporation, the current site owner) by Johnson Soils Engineering Company.

The soil investigation consisted of 24 test borings that were taken to depths between 22 to 102 feet. Five previous borings, which were drilled on site by William Walsh, Inc., were also consulted. NOTE: The RPIU has not found any other information pertaining to the William Walsh borings.

The purpose of the site investigation as stated was "to provide information to adequately support the 1,2, and 7 story structures proposed for the site and property site development concerning the oil contaminated fill area. The scope of this investigation included both Lots 2 and 3 of Block 285. Lot 3 (the subject site) was described in the report as "... the site of Diamond Head Oil Refining Company which had oil ponds on site."

Borings B-1 to B12 were drilled in Lot 2. Borings B-13 to B-24 were drilled in Lot 3. The findings relative to Lot 3 (the subject site) include the following:

- depth of fill and organic varied between 11 and 20 feet,
- borings indicate oil contaminated soils,
- hydrocarbons were present at the following depths:

<table>
<thead>
<tr>
<th>Boring</th>
<th>Depth</th>
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</thead>
<tbody>
<tr>
<td>B-13</td>
<td>6 to 10 ft.</td>
</tr>
<tr>
<td>B-14</td>
<td>6 to 10 ft.</td>
</tr>
<tr>
<td>B-15</td>
<td>6 to 15 ft.</td>
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<tr>
<td>B-16</td>
<td>8 to 16 ft.</td>
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<tr>
<td>B-17</td>
<td>8 to 10 ft., 12 to 18 ft.</td>
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<tr>
<td>B-18</td>
<td>8 to 12 ft.</td>
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<tr>
<td>B-19</td>
<td>10 to 22 ft.</td>
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<tr>
<td>B-20</td>
<td>10 to 20 ft.</td>
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<tr>
<td>B-21</td>
<td>10 to 12 ft.</td>
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<tr>
<td>B-22</td>
<td>7 to 10 ft.</td>
</tr>
<tr>
<td>B-23</td>
<td>3 to 10 ft.</td>
</tr>
<tr>
<td>B-24</td>
<td>6 to 10 ft.</td>
</tr>
</tbody>
</table>
- every sample taken on the site indicated the presence, even if in small quantities, of hydrocarbons at some depth,

- the existing 75' diameter pond on lot 3 had a small amount of oil on the surface that could be pumped out.

The subject site was inspected on May 20 and 24, 1982 by the NJDEP. The inspection resulted because of a complaint from the Kearny Health Department regarding activity at the subject site (material was being pumped from tanks into drums).

On May 20, 1982, the NJDEP inspector met a Mr. Walt Witt, Operations Manager for Eastern Chemical Cleaning Co. of Secaucus, NJ. Mr. Witt explained that Eastern Chemical was hired by Refinemet International Co. of Woonsocket, Rhode Island to clean up the site. According to Mr. Witt, Diamond Head Oil had cleaned out the two 100,000 gallon storage tanks two to three years earlier, when Route I-280 was being constructed; and demolished the building. Mr. Witt alleged that "someone" (whose identity was unknown) had been depositing oil sludges in the tanks for an unknown period of time. Refinemet was the parent corporation of Newtown Corporation (the current site owner).

According to the NJDEP inspection report the cleanup of the property began with the analyzing of the material in both tanks. One tank reportedly contained approximately 50 gallons of water and oil with a concentration of less than 50 ppm of PCBs. The second tank contained approximately 7,450 gallons of oil with a concentration of 206 ppm of PCBs.

Both tanks were reportedly vacuumed out starting on May 19 and ending on May 20, 1982. The contents of both tanks, totaling approximately 7,500 gallons, were transferred into 147 new 55 gallon steel "tight-head" (open head) drums. Each drum was subsequently labeled with a PCB label and a hazardous waste label (which listed Newtown Refining Corp., EPA ID #NJ980642117 as the generator).

On May 21, 1982 the NJDEP inspector spoke with John Scott of Eastern Chemical on the telephone. Mr. Scott stated that Newtown Refining Corporation, which was a wholly owned subsidiary of Refinemet International Co., decided to put an end to the illegal dumping into their tanks by having the tanks removed. Mr. Scott gave Newtown's EPA ID# as NJ980642117.

According to the NJDEP inspector the drums were manifested off site by box trailer on May 24 (77 drums) and May 25 (70 drums). The first shipment of 77 drums was sent to Chemical Waste Management in Alabama. The second shipment of 70 drums was to be shipped initially to Resource Technology Service (RTS) of Conshohocken, PA to await shipment to Chemical Waste Management.

The NJDEP inspector met with a Mr. Steve Gutfeld, Assistant Vice President of Refinemet International, at the subject site on May 24, 1982. Mr. Gutfeld stated that Newtown was no longer in the oil.
business and was not located in New Jersey. According to Mr. Gutfeld, Newtown was a precious and scrap metals reclaimer.

Mr. Gutfeld reportedly was interested in getting the NJDEP inspector's assurance that Eastern Chemical was conducting the cleanup properly. The inspector checked both tanks and determined that they were "clean". Mr. Gutfeld claimed that he was getting several estimates for the removal of the tanks but had not made any decision at that time. The NJDEP inspector observed that the soil surrounding the tanks (especially the second tank) was black with oil. When asked if the soil surrounding the tanks would be scraped up, Mr. Gutfeld stated that he did not know.

The NJDEP contacted RTS to inquire about the status of the 147 drums of oil. RTS informed the NJDEP that the drums had been shipped to the CWM facility in Alabama. However, the drums were being stored at the site pending further analysis prior to disposal. Apparently, subsequent analysis of the shipment revealed levels of PCBs (3300 ppm) that were significantly higher than the original analysis by Eastern Chemical (206 ppm). NOTE: CWM was not permitted to accept waste containing over 500 ppm of PCBs.

The drums were subsequently sampled by Refinemet and revealed a concentration of 3100 ppm of PCBs. All the drums were ultimately sent to Mobile, Alabama to be incinerated at sea.

On June 14, 1982, Mr. Gutfeld of Refinemet International contacted the NJDEP and stated that Refinemet would have the oil and contaminated soil from around the second tank removed. Gutfeld also stated that piles of oily sludges and a lagoon at the site were not on Refinemet's property and therefore Refinemet was not going to clean it up. Gutfeld suggested that that portion of the property may be owned by the NJDOT or the Town of Kearny. Mr. Gutfeld further stated that he had additional fencing installed at the site to prevent further dumping on the property.

On June 15, 1982, the subject site was inspected by a Department representative. Oil was observed in the base of tank #2. The piles of sludge and the lagoon at the site appeared unchanged. No evidence of new dumping was observed. No guard was present at the site. Fence posts were installed however, the gate was not up yet.

After the inspection of June 15, Steve Gutfeld of Refinemet International contacted the Department inspector and stated that he had copies of the analysis to present to the inspector. He also stated that the soil around tank #2 and the remaining oil in the tank would be removed. However, Mr. Gutfeld also stated that he wanted to know from the Department just how deep they would have to excavate around the tank. Mr. Gutfeld went on to state that there was a pool of oil 60 feet down, below the tank, and he did not intend to get too close to it. The RPIU has not found any other information regarding this "pool" of oil that was located 60 ft. down.

During a telephone conversation with the Department inspector on
August 13, 1982, Mr. Gutfeld explained that Refinemet/Newtown had originally decided to clean up the subject site when they had learned, through their attorney, that someone was using the two tanks on their property to dispose of waste oil. Their attorney had been negotiating the sale of the subject site at the time, so he advised Newtown to clean up the site. Gutfeld ended by stating that Refinemet/Newtown intended to complete the cleanup of the soil at the subject site but, they had not decided on which contractor to hire at that time.

On October 13, 1982, Newtown Refining shipped two loads (NJ Manifest #s NJ0135037 and NJ0135038) of PCB contaminated soil, totaling 27 tons, from the subject site to CECOS International in New York. It is not known from which area of the site these soils were taken from.

By letter dated November 4, 1983, the DAG representing the NJDOT in this law suit, confirmed that Russell Mahler had agreed to contribute $30,000 toward an overall settlement package of $630,000 previously agreed to by the parties. NOTE: The RPIU has not been able to document when this agreement was initially reached.

On May 30, 1984 the subject facility was inspected by the Department. The facility was closed with no one on site. The two storage tanks were cut off at the base and had grass growing out of them. The building on site was described by the inspector as being "just a pile of rubble". A slight oil sheen was observed on puddled rain water. The inspector recommended, based on his observations that Diamond Head Oil Co., be removed from the RCRA major facility list.

On November 2, 1984, the Superior Court, Law Division, ordered that the following settlement proceeds be deposited as follows with the Clerk of the Court within 30 days:

<table>
<thead>
<tr>
<th>Company</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aetna Insurance Company</td>
<td>$500,000</td>
</tr>
<tr>
<td>Newtown Refining Corp.</td>
<td>$100,000</td>
</tr>
<tr>
<td>Russell Mahler</td>
<td>$30,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$630,000</strong></td>
</tr>
</tbody>
</table>

By letter dated November 26, 1984 to the Department, the attorney for Newtown Refining Corporation requested confirmation from the Department as to the non-applicability of the Environmental Cleanup Responsibility Act (ECRA) to a pending sale of the subject property to Mimi Urban Development Corporation. The letter stated in part:

"...Until May 1978, a waste oil re-refinery operation was conducted at 1401 Harrison Ave., Kearny. At that time the operation was discontinued, and thereafter the buildings and other facilities on the land were removed. In 1982, two remaining oil storage tanks were dismantled and removed, after the remaining contents thereof and certain surrounding soil had been removed..."

(Note: Underlining added for emphasis.)

An affidavit from Steve Gutfeld, Assistant Vice President of Newtown
in 1982 was attached to the November 26 letter. As stated in the letter the affidavit pertained to facts involving the removal operations in May and October, 1982.

On December 11, 1984, the NJDEP, DWM, Bureau of Industrial Site Evaluation sent a letter to Counsel representing Newtown Refining Corporation. This letter stated that, on the basis of the information presented by Newtown and the affidavit signed by Steven Gutfeld, the Department found that the transaction was not subject to the provisions of ECRA. The letter further stated that the decision was made in light of the absence of an industrial establishment as defined within the Standard Industrial Classification numbers covered by the Act.

In a January 8, 1985 letter to Counsel for the defendants, the State Attorney General's Office stated that Aetna Insurance Company had paid the sum of $500,000 to the Court as required in the November 2, 1984 Order. It was also stated that Russell Mahler and Newtown had failed to comply at that time.

On January 11, 1985, Newtown Refining Corporation, successor by change of name to Ag-Met Oil Service, Inc., sold the subject site to Mimi Urban Renewal Development Corporation for the sum of $290,000. As previously discussed, Mimi Development had a soils investigation conducted for the subject site in June of 1981.

In a letter dated January 29, 1985 to the NJ Attorney General, the attorney representing Russell Mahler stated that his client had every intention of making the $30,000 payment as per the settlement agreement. It was further stated that Russell Mahler, at that time, was residing in the Federal Penitentiary in Danbury and was unable to raise the funds to make the deposit at the time. According to the letter Russell Mahler was scheduled for release on March 22, 1985. Mahler's Attorney stated that his client proposed that he be allowed to make the $30,000 settlement payment in six equal installments over a six month period with the first payment being made one month after his release from Danbury.

The Attorney General's Office, in a March 18, 1985 reply to the letter from Mahler's attorney, stated that the terms described in the January 29, 1985 letter were unacceptable to the State. The DAG also stated that all other parties (Newtown and Aetna Insurance) have made their payment, and as of December 2, 1984, Russell Mahler had been in violation of the November 2, 1984 Court Order. The DAG then stated that the State was willing to discuss a short term installation arrangement, however, the State would require Mahler to pay at least one-third of the amount due by the end of the month. The letter closed by stating that "once Mr. Mahler has demonstrated a 'good faith' attempt to live up to the terms of his previous agreement and the Court Order by making this payment, the State would be more willing to entertain the installment payment concept". It is not known if Mahler ever made the required payment.

The subject site was inspected by the Department on April 23, 1985.
The inspector noted that the facility had been demolished and the bases of two tanks, the foundation of a building, and a lagoon (approximately 30' x 40') were all that remained. Other observations that were made by the inspector are as follows:

- the gate on the driveway was propped open with a rock,
- a black, oily stain measuring approximately 30' x 10' was found directly inside the gate, next to the foundation,
- fresh tire tracks which crossed through the above mentioned stain and led to the lagoon,
- the lagoon was filled with muddy water with a milky grey edge. The "lip" of the lagoon, 2', was black, and oil stained down to the water,
- crushed drums, building rubble, and black, oily stains were observed throughout the site,
- no one was on site

No photographs or samples were taken during the inspection.

On May 1, 1985, the NJDEP Bureau of Environmental Measurements and Site Assessment inspected the subject site. Various spills and two lagoons were observed on site. The site was fenced however, the gate was unlocked. Six soil samples and two surface water samples (from the lagoons) were collected during the inspection.

The results of the sample analysis confirmed the presence of volatile organics (VOs), Base/Neutrals, and metals in soil and surface water samples collected from the subject site. Pesticides and PCBs were also detected in soil samples (See Substances Discharged/Abandoned on pg. 34).

On January 8, 1986, the subject site was inspected by the NJDEP, BFO. The gate to the property was unlocked and open. The condition of the site appeared to have remained unchanged from previous inspections. Some observations that were made are as follows:

- An approximately 60' x 30' oil stain immediately to the west of the building foundation,
- several oil stains near one tank
- a heavy black tar-like material in the second tank base,
- a thick tar-like substance, covering "dozens" of square feet, mounding up from the ground surface, approximately 200' to 250' from the old building foundation,
- evidence of illegal dumping of solid waste,
- six to ten partially buried drums
- heavily stained soil in the vicinity of the drums

The NJDEP, Division of Hazardous Waste Management, Metro Field Office (MFO), inspected the site on January 5, 1988. A construction office trailer was observed on the property bearing the name "Hudson Meadows Urban Development Corp.". There also was a sign on the trailer which read "Office - Commercial - Industrial/ Will Build To Suit/ 10,000-50,000 sq. ft."

The ground at the site was frozen and snow covered during the inspection. The NJDEP inspector also noted the following during the inspection:

ON THE EAST SIDE OF THE PROPERTY:
- "much" debris including at least five rusted 55 gallon drums (empty),
- various metal buckets and containers,
- material from the demolition of the facility,

ON THE WEST SIDE OF THE PROPERTY:
- ground appeared to have been built up by earth moving machinery approximately four to five feet above the grade of the east side of the property,
- less debris on the west side compared to the east side,
- not able to detect/observe any ground contamination due to snow cover and frozen ground.

The DHWM, MFO reinspected the site on February 23, 1988, after the snow cover had melted. According to the inspector, petroleum sheens were noted on virtually all standing water, and oil contamination of soil around the old tank foundation was observed. Some pools of water exhibited an unusual white or pinkish coloration.

The DHWM, MFO contacted the Hudson Meadows Urban Development Corporation via telephone on February 18, 1988. The purpose of the telephone call was to inform Hudson Meadows of the potential problems that existed at their site in regards to the development of the site. Hudson Meadows stated that they had taken their own samples and were awaiting the sample results.

On March 15, 1988, the DHWM, MFO sent a followup letter to the Hudson Meadows Urban Development Corporation. This letter, which confirmed the telephone conversation of February 18, outlined the potential problems that existed at the site. The letter stated that the Department had not been able to locate the responsible party, Russell
Mahler, but, if possible will issue Mr. Mahler an order requiring cleanup of the site.

The letter closed by stating that if the Department could not locate the responsible party, the Department would take alternate measures to ensure that proper remediation was done before development of the site. The Department also recommended that Hudson Meadows Development Corporation undertake a "clean-up" investigation for the site.

NOTE: Some time subsequent to MFO's initial contact with Hudson Meadows Development Corporation (date unknown), Hudson Meadows retained the services of Killam Associates to conduct a remedial investigation (RI).

The RPIU has not located any additional information regarding the remedial investigation. It is not known whether or not any RI's were initiated.

No other activity has been documented relative to the subject site subsequent to the March 15, 1988 letter to Hudson Meadows Urban Development Corporation.
DISCHARGE/ABANDONMENT INFORMATION

Diamond Head Oil Company
1401 Harrison Avenue
Kearny Town, Hudson County
Block: 285 Lot: 3

CURRENT OWNER

Mimi Urban Renewal Corporation
525 Riverside Avenue
Lyndhurst, NJ 07071 (Bergen County)
(201)460-0088/761-1800

Mailing Address: Same as above

SUBSTANCES DISCHARGED/ABANDONED

Analysis of soil and surface water (lagoon) samples collected by the NJDEP, BEMSA, SEU from the subject site in May, 1985 revealed the presence of the following contaminants:

SOIL:

Volatile Organics
Benzene, 1,1-dichloroethane, 1,2-dichloroethane, 1,1-dichloroethylene, ethylbenzene, methylene chloride, tetrachloroethylene, toluene, 1,2-trans-dichloroethylene, 1,1,1-trichloroethane, trichloroethylene, trichlorofluoromethane, vinyl chloride,

Base/Neutrals
Acenaphthene, acenaphthylene, anthracene, benzo(a)anthracene, benzo(a)pyrene benzo(b)fluoranthene, benzo(k)fluoranthene, bis(2-ethylhexyl)phthalate, chrysene, 1,3-dichlorobenzene, di-n-butyl phthalate, 2,4-dinitrotoluene, fluoranthene, fluorene, indeno(1,2,3-c,d)pyrene, naphthalene, phenanthrene, pyrene, 1,2,4-trichlorobenzene

Pesticides
Endosulfan II, alpha-BHC, 4,4'-DDD, Endrin aldehyde

PCBs
Aroclor 1260

Metals, Cyanide, and Phenols
Antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, silver, zinc, cyanide (total), phenolics (total)
Tentatively Identified Organic Compounds
unknowns, 1,1,2-trichloro-1,2,2-trifluoro ethane, cyclohexane, methyl cyclopentane, methyl cyclohexane, 2,3-dimethyl pentane, dimethyl benzene, 1-ethyl-4-methyl benzene, 2-methyl-3-heptene, naphthalene 1-methyl, naphthalene 2-methyl, 1-methyl-4-propyl benzene, 2-ethyl-1,4-dimethyl benzene, 1-ethyl-2-propyl cyclohexane, decahydro-2-methyl naphthalene, alkane, 1,8-dimethyl naphthalene, 1,6,7-trimethyl naphthalene, naphthalene 1,4-dimethyl

SURFACE WATER:
Volatile Organics
Benzene, 1,1-dichloroethane, ethylbenzene, tetrachloroethylene, toluene, 1,2-trans-dichloroethylene, 1,1,1-trichloroethane

Acid Extractable Compounds
2,4-dimethylphenol, phenol

Base/Neutrals
dimethyl phthalate, isophorone, di-n-butyl phthalate

Metals, Cyanide, and Phenols
Arsenic, cadmium, chromium, copper, lead, mercury, nickel, zinc, cyanide (total), phenolics (total)

Tentatively Identified Organic Compounds
unknowns, dimethyl sulfide, alkane, xylene, 1,3-isobenzofurandione, N-methoxy-succinimide, 5-propyl tridecane, 2,6,8-trimethyl decane, 2,4-dimethyl undecane,

DESCRIPTION OF SITE CONTAMINATION

There is both soil and surface water contamination on site. The contamination appears to have resulted from the daily operations of Diamond Head Oil, which permitted waste oils to be discharged into the environment. The high water table at this site brings oily residues to the surface. Soil samples were taken in May, 1985 by the Site Evaluation Unit of the Bureau of Environmental Measurements and Site Assessment (See Substances Discharged/Abandoned). The results of the sample analysis confirmed the presence of Volatile organics (VOs), Base/Neutrals, and metals in soil and surface water samples collected from the subject site. Pesticides and PCBs were also detected in soil samples.

In addition to the waste oil contamination of the site, it is also suspected that the site may have been filled with waste chromate production slag/fill. The use of waste chromate production slag as fill in many areas of Hudson County was a common practice from the early 1950s to the early 1980s.
Associated with the site are contaminated soil disposal cells located in areas adjacent to the subject site. These cells were constructed in early 1978 by NJDOT for the cleanup of debris from the "oil lake" that was situated partially on the adjacent NJDOT property (Block 285 Lot 2) and partially on the subject site (Block 285 Lot 3). Due to a lack of capacity at the Hackensack Meadowlands Development Commission's MSLA 1-D disposal cell, NJDOT constructed 86,570 yd³ of on-site disposal cells. These cells border the Diamond Head Oil site on the south and the east sides.

The cells are associated as being on Town of Kearny property (Block 285 Lots 14 and 15) but are also at the south of Diamond Head Oil Company site (Block 285 Lot 3). Following construction of the cells, ground water monitoring was required for the cells. Monitoring of ground water was pursued by NJDOT; initially to provide documentation on performance of disposal cells.

By memorandum dated January 4, 1980, the HMDC informed the NJDOT that sampling data from one of the monitoring wells located at MSLA 1-D showed increasing concentrations of BOD₅, COD and chlorides. According to the HMDC, there was a black liquid observed in that same well indicating liner damage at the disposal area. The HMDC memorandum concluded by stating that at that point it was not possible to determine if materials in the disposal area were leaching into the surrounding soils. It was recommended that additional sampling be undertaken as soon as possible to determine the magnitude of the liner damage. It appears that there was no monitoring data submitted beyond July, 1980.

The oil lake discharged its oils to Frank's Creek, a tributary to the Hackensack River. During the construction of Route 280, Frank's Creek was sampled by NJDOT. The results were not reported to the NJDEP.
Responsible Party:
MIMI URBAN RENEWAL CORPORATION (formerly known as MIMI DEVELOPMENT CORPORATION)
Current Owners
525 Riverside Avenue
Lyndhurst, NJ 07071

Registered Agent:
Hudson Meadows Urban Renewal Corporation
Delores Turco
525 Riverside Avenue
Lyndhurst, NJ 07071

Corporate Status:
Active, incorporated in the State of New Jersey in June 29, 1978.

Financial Status:
Not Available

Principals:
Delores Turco
54 Enclosure Road
Nutley, NJ

Comments:
Current site owner; Prior to the January 1985 purchase of the subject site, Mimi had a soils investigation conducted for the subject property.
Responsible Party: NEWTOWN REFINING CORPORATION (formerly Ag-MET Oil Service, Inc.)
37-80 Review Avenue
Long Island City, New York 11101

Mailing Address:
Landmark Tower
One Landmark Square, Suite No.303
Stamford, CT 06901

Registered Agent:
Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status:
Active, foreign corporation, incorporated in the State of New York on January 12, 1976

Financial Status:
Not Available

Principals:
Not Available

Comments:
Former site owner/operator.
Responsible Party:
NORTHEAST OIL SERVICE OF SYRACUSE, INC.
North Grafton Shopping Center
North Grafton, MA 01536

Mailing Address:
Box 477
North Grafton, MA 01536

Registered Agent:
Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status:
Revoked; Foreign incorporated in Massachusetts

Financial Status:
Not Available

Principals:
Russell Mahler
Address Unknown

Lloyd P. Mahler
Vice President
Box 477 (Last Known Address)
North Grafton, MA 01536

Comments:
Transported waste oil and oil sludges to the subject site.
Responsible Party: 
DIAMOND HEAD OIL REFINING CORPORATION

Registered Agent: 
Last Registered Agent: Ralph M. Lowenbach 
Gateway One 
Newark, NJ 07102 

Corporate Status: 

Financial Status: 
Not Available

Principals: 
Robert Mahler, Director, President 
David Riso, Director

Comments: 
Operated at subject site
Responsible Party:
PSC RESOURCES, INC. (formerly Phillips Resources, Inc.)
229 South State Street
Dover, DE 19901

Registered Agent:
The Prentice Hall Corporation System, New Jersey, Inc.
One Exchange Place
First Jersey National Bank
Jersey City, NJ 07303

Corporate Status:
Revoked, February 23, 1983; incorporated in the State of Delaware as Phillips Resources, Inc. on October 23, 1973

Financial Status:
Not Available

Principals:
Arthur M. Vash
President
229 South State Street
Dover, DE 19901

Comments:
Operated at subject site
Responsible Party:
DIAMOND HEAD OIL REFINING COMPANY, INC

Last Registered Agent:
Martin Morrison
Last known address
1504 East 95th Street
Brooklyn, NY

Corporate Status:
Dissolved as of December 28, 1973; incorporated in the State of New Jersey on December 12, 1949

Financial Status:
Not Available

Principals:
Nicholas Matin
Shareholder
c/o 129 West 48th Street
Bayonne, NJ 07002

Comments:
Operated waste oil refining plant at the subject site from approximately 1950 to 1973.
Responsible Party:
SHUR-FLO OIL COMPANY, INC.

Registered Agent:
N/A

Corporate Status:
Dissolved as of April 17, 1961; incorporated in the State of New Jersey on August 1, 1949

Financial Status:
N/A

Principals:
Martin Morrison, President
Nicholas Matin, Director

Comments:
Operated at the subject site
Responsible Party:
Diamond Recycling Corporation
1401 Harrison Avenue (Last known address)
Kearny, NJ 07032

Registered Agent:
Ralph M. Lowenbach
Gateway One
Newark, NJ 07101

Corporate Status:
Void, in New Jersey as of November 17, 1893; originally incorporated in the state of New Jersey on July 20, 1979.

Financial Status:
N/A

Principals:
Robert Mahler, Director
1401 Harrison Turnpike
Kearny, NJ 07032

Comments:
Operated at subject site
Responsible Party: Tammy's Oil Service

Registered Agent: N/A

Corporate Status: N/A

Financial Status: N/A

Principals: Russell W. Mahler, President and Principal Owner

Comments: Owned all outstanding stock of PSC Resources from November 1, 1973 to November 3, 1976
Responsible Party:
EDGEWATER TERMINAL

Registered Agent:
N/A

Corporate Status:
N/A

Financial Status:
N/A

Comments:
Eckhart reports states that this company operating at the subject site received approximately 33 tons of oil and oil sludge wastes from Monsanto's Kenilworth, NJ plant (1973 to 1979).
Responsible Party: REFINEMET INTERNATIONAL COMPANY (Formerly Ag-MET, Inc.)

Last Known Registered Agent: Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status: Revoked; Foreign corporation; incorporated in Delaware

Financial Status: N/A

Comments: Former Site Owner/Operator
Responsible Party:
BAY CITY OIL SERVICE

Registered Agent:
N/A

Corporate Status:
Dissolved as of December 28, 1973; incorporated in the State of New Jersey on December 12, 1945.

Financial Status:
N/A

Comments:
Operated at subject site and hauled waste oil and oil sludge to the site
Responsible Party:
NEW JERSEY DEPARTMENT OF TRANSPORTATION
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

Registered Agent:
N/A

Corporate Status:
N/A

Financial Status:
N/A

Principals:
Thomas M. Downs, Commissioner

Comments:
Owner of portion of I-280 right-of-way on the subject site (Block 285 Lot 3)
Responsible Party:
MONSANTO COMPANY
800 N. Lindbergh Blvd
St. Louis, MO 63141-7843

Registered Agent:
Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status:
Active, incorporated in the State of Delaware as Monsanto Chemical
Company on April 19, 1933. Registered to do business in New Jersey on
January 31, 1936.

Financial Status:
D&B Estimated latest year sales of $8,995,000,000; 22% sales growth;
Net worth $3,146,000,000.

Principals:
Richard J. Mahoney, Chairman of the Board, CEO
28 Upper Ladue Road
St. Louis, MO 63124

Earle H. Harbison, President & Chief Operating Officer
48 Portland Drive
St. Louis, MO 63131

Comments: According to the Industrial Waste Survey, two different
Monsanto facilities reportedly sent to waste to the subject site;

North 8th and Monroe Avenue
Kenilworth, NJ 07037.

584 US Highway 130
Trenton, NJ 08620

The facility located at North 8th and Monroe Avenue also reported (in
the Eckhart Report) using the subject site as a disposal facility for
33 tons of oil and oil sludge wastes from 1973 to 1979.
Responsible Party:
AMERICAN ALUMINUM COMPANY
230 Sheffield Street
Mountainside, NJ

Registered Agent:
Edward J Duggan
230 Sheffield Street
Mountainside, NJ 07092

Corporate Status:
Active, incorporated in the State of New Jersey on April 8, 1911 as Aluminum & Metal Specialty Manufacturing Co.

Financial Status:
D&B Estimated latest year sales of $11,000,000; 25% sales growth.

Principals:
Henry J. Brucker, Chairman
Robert J. Brucker, President
Edward J. Duggan, Exec. Vice President/Secretary

Comments: American Aluminum Company is currently listed as a hazardous waste generator; NJD002155166; Reported sending waste to the subject site in the Industrial Waste Survey.
Responsible Party:
CLARKSON AND FORD COMPANY
30 Industrial St. W
Clifton, NJ 07012-1712

Registered Agent:
Franklin T. Johnson
30 Industrial St., West
Clifton, NJ 07012

Corporate Status:
Active, incorporated in the State of New York on January 17, 1903.

Financial Status:
D&B Estimated latest year sales of $550,000. 10% sales growth.

Principals:
Franklin T. Johnson, President/Treasurer
41 Lake End
Green Pond, NJ 07435

Alfred C. Johnson, Vice President/Secretary
238 Alpine Trail
Sparta, NJ 07871

Comments: Reported sending waste to the subject site in the Industrial Waste Survey.
Responsible Party:
FALKE ENGINE REBUILDING CORP./FALKE CORPORATION
24 Frederick Street
Waldwick, NJ 07463

Registered Agent:
N/A

Corporate Status:
N/A

Financial Status:
N/A

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey.
Responsible Party:  
GAYTON LUCCHI TOOL COMPANY  
27 Skita Avenue  
Carteret, NJ 07008  

Registered Agent:  
N/A  

Corporate Status:  
N/A  

Financial Status:  
N/A  

Comments:  
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
G&L TOOL COMPANY
830 Elston Street
PO Box 642

Registered Agent:
No Record with Division of Commercial Recording 08/28/91

Corporate Status:
No Record with Division of Commercial Recording 08/28/91

Financial Status:

Principals:
Gayton Lucchi, Owner
Anne Lucchi, Office Manager

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
RED DEVIL, INC.
2400 Vauxhall Road
Union, NJ 07083

Registered Agent:
George Lee
2400 Vauxhall Road
Union, NJ 07083

Corporate Status:
Active, incorporated in the State of New Jersey on January 28, 1926.

Financial Status:
D&B Latest Year Sales of $47,525,622. 28% sales growth. Net worth $9,270,372

Principals:
George L Lee, Jr., Chairman
2400 Vauxhall Road
Union, NJ 07083

Donald Hall, President
2400 Vauxhall Road
Union, NJ 07083

Comments: Red Devil, Inc. is currently listed as a RCRA generator EPA
ID#: NJD002136232; Reported sending waste to the subject site in the
Industrial Waste Survey
Responsible Party:
TEXACO, INC.
177 Industrial Avenue
Teterboro, NJ 07730

HEADQUARTERS ADDRESS
2000 West Chester Avenue
White Plains, NY 10604-3613

Registered Agent:
Prentice-Hall Corp. System I
150 West State Street
Trenton, NJ 08608

Corporate Status:
Active, incorporated in Delaware on August 26, 1926 and subsequently authorized to transact business in New Jersey in October 1941.

Financial Status:
D&B reports latest year sales of $40,899,000,000; net worth of $9,385,000,000.

Principals:
Alfred C. DeCrane, Jr. William P. Doyle
Chairman of the Board President

James W. Kinnear Earl J. Johnson
President President

Comments: Texaco (Teterboro) is currently listed as a RCRA generator EPA ID#: NJD084015452. Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party: ACTION PLASTIC COMPANY/DIVISION OF DART INDUSTRIES
50 Furler Street (Last known address)
Totowa, NJ 07512

Registered Agent: (DART INDUSTRIES)
Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status:
DART INDUSTRIES
Active, incorporated in Delaware on August 9, 1960 (formerly known as
Rexall Drug and Chemical Company)

Financial Status:
N/A

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
BEACON DIE MOLD, INC.
57 Crooks Avenue
Clifton City, NJ 07011

Registered Agent:
Pascal A. Esposito
6 Arrowhead Lane
Saddle River, NJ 07458

Corporate Status:
Active, incorporated in the State of New Jersey on January 26, 1956.

Financial Status:

Principals:
Pascal A. Esposito, President
6 Arrowhead Lane
Saddle River, NJ 07458

Anglea A. Esposito, Secretary
6 Arrowhead Lane
Saddle River, NJ 07458

Richard G. Esposito, Vice President
6 Arrowhead Lane
Saddle River, NJ 07458

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
CAMPTON TOOL AND DIE COMPANY
40 Sidney Circle
Kenilworth Borough, NJ  07033

Registered Agent:
Albert W. Bossert, Jr.
25 Sidney Circle
Kenilworth Borough, NJ  07033

Corporate Status:
Active, incorporated in the State of New Jersey on August 23, 1966.

Financial Status:
N/A

Principals:
Albert W. Bossert, President
886 Sunset Ridge
Bridgewater, NJ  08807

Lee R. Rosander, Vice President
1412 Golf Street
Scotch Plains, NJ  07076

Mary Ann Bossert, Secretary/Treasurer
886 Sunset Ridge
Bridgewater, NJ  08807

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
DESIGN AND MOLDING SERVICES
25 Howard Street
Piscataway Twp., NJ 08854

Registered Agent:
Paul R. Williams, Jr.
302 East Broad Street
Westfield, NJ 07090

Corporate Status:
Active, incorporated in the State of New Jersey on February 2, 1969.

Financial Status:
N/A

Principals:
Jerry P. Fontenelli, President
205 Hockenbury Road
Neshanic, NJ 08853

John L. Fontenelli, Exec. Vice Pres.
384 Rolling Knolls Way
Bridgewater, NJ 08807

Robert C. Malenchek, Secretary
279 Sunnymead Road
Somerville, NJ 08876

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party: DIANEM COMPANY
Lodi Borough, NJ 07644

Registered Agent: N/A

Corporate Status: N/A

Financial Status: N/A

Comments: Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
DIGITAL COMPUTER CONTROLS
12 Industrial Road
Fairfield Borough, NJ 07006

Registered Agent:
Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status:
Active, incorporated in the State of Delaware on March 8, 1971.

Financial Status:
N/A

Principals:
Michael B. Evans, President
4400 Computer Drive
Westboro, MA 01580

John Gavin, Jr., Treasurer
4400 Computer Drive
Westboro, MA 01580

Jacob Frank, Secretary
4400 Computer Drive
Westboro, MA 01580

William F. Robinson, Jr., Ass't Sec.
4400 Computer Drive
Westboro, MA 01580

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:  
EINSON-FREEMAN DETROY CORPORATION  
20-10 Maple Avenue  
Fair Lawn  

Registered Agent:  
Ronald A. Joy  
20-10 Maple Avenue  
Fair Lawn, NJ 07410  

Corporate Status:  
Active, incorporated in the State of New Jersey on July 6, 1978.  

Financial Status:  
N/A  

Principals:  
Robert C. Quinn, President  
Ronald A. Joy, Vice President  

Comments: Einson-Freeman & Detroy Corp. is currently listed as a RCRA generator EPA ID#: NJD0052092616; Reported sending waste to the subject site in the Industrial Waste Survey.
DIAMOND HEAD OIL
INVESTIGATIVE SUMMARY
PAGE 65

Responsible Party:
FOREMOST MANUFACTURING COMPANY, INC.
941 Ball Avenue
Union Twp., NJ 07410

Registered Agent:
Herbert Schiller, Jr.
941 Ball Avenue
Union, NJ 07083

Corporate Status:
Active, incorporated in the State of New Jersey on May 1, 1957

Financial Status:
D&B projected sales of $9,000,000.

Principals:
Herbert Schiller, Jr., President
40 Jared Court
Watchung, NJ 07060

Herbert S. Schiller, Vice President
1 Heather Lane
Warren, NJ 07060

Helen Schiller, Secretary
40 Jared Court
Watchung, NJ 07060

Comments: Foremost Manufacturing Co. is currently listed as a RCRA generator and transporter EPA ID#: NJD002177285; Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
CARMET COMPANY/AMCAR DIVISION
160 East Union Avenue
East Rutherford, NJ 07073

Registered Agent:
N/A

Corporate Status:
N/A

Financial Status:
N/A

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
INTERNATIONAL TELEPHONE & TELEGRAPH CORP. (ITT MARLOW)
1330 Avenue of Americas (Headquarters Location)
New York, NY 10019

Registered Agent:
Corporation Trust Company
28 West State Street
Trenton, NJ 08608

Corporate Status:
Active; Foreign corporation; incorporated in the State of Delaware

Financial Status:
D&B reports gross revenues of $20,604,000,000; Worth $7,415,000,000.

Principals:
Rand V. Araskog, President and Chief Operating Officer

Comments: ITT Marlow is currently listed as a RCRA generator EPA ID#: NJD001572999; Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:
GERRIT BEKKER AND SONS, INC. (Subsidiary of Ramon, C Inc.)
228 Scoles Avenue
Clifton, NJ 07012

Registered Agent:
William L Handler, Esq.
91 Main Street
West Orange, NJ 07052

Corporate Status:
Active; incorporated in the State of New Jersey on January 27, 1981

Financial Status:
Ramon, C Inc. - D&B projected sales of $500,000

Principals:
Harshad Shah, Chairman of the Board/President

Dennis Shah, Vice President/Secretary

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey; Reportedly, Gerrit Bekker and Sons, Inc. discontinued operations at their Clifton site prior to October 1984.
Responsible Party:
ARROW PLASTICS CORPORATION
83 Commerce Street
Garfield City, NJ 07026

Registered Agent:
Bernard L. Albert
365 West Passaic Street
Rochelle Park, NJ 07662

Corporate Status:
Active, incorporated in the State of New Jersey on February 26, 1946.

Financial Status:
N/A

Comments:
Reported sending waste to the subject site in the Industrial Waste Survey
Responsible Party:  
JAE TRUCKING  
Address Unknown

Registered Agent:  
N/A

Corporate Status:  
N/A

Financial Status:  
N/A

Comments: According to their response to the NJDEP Industrial Waste Survey, the American Aluminum Company reportedly used JAE TRUCKING to transport waste from their facility to the subject site.
Responsible Party:
PINTO SERVICE
445 North Main Street
Lodi, NJ 07644

Registered Agent:
Charles Pinto
95 Route 46 West
Lodi, NJ 07644

Corporate Status:
Active, incorporated in the State of New Jersey on November 21, 1963.

Financial Status:
D&B Projected sales of $3,000,000
Pinto Service reportedly has 900 accounts.

Principals:
Joseph Pinto, President
Gloria Pinto, Secretary/Treasurer

Comments: Listed in Industrial Waste Survey as waste transporter for Arrow Plastic Corp. Currently a registered solid waste transporter in the State of New Jersey; NJS000028852; NJDEP S#: S2885
Responsible Party:  
ROBERT MORE WASTE OIL SERVICE  
124 Biltmore Street  
North Arlington, NJ 07032

Registered Agent:  
N/A

Corporate Status:  
N/A

Financial Status:  
D&B Estimated latest year sales of $68,000.

Principals:  
Robert More, Owner

Comments: Listed in Industrial Waste Survey as waste transporter for Falke Engine Rebuilding Corp. Currently listed as a NJ hazardous waste transporter; NJDO00513218; NJDEP S#: S6262
Responsible Party:
DEPALMA OIL COMPANY
713 Pinewood Road
Union, NJ 07083

Registered Agent:
N/A

Corporate Status:
Dead; Incorporated in the State of New Jersey on March 18, 1948

Financial Status:
N/A

Comments: Listed in the Industrial Waste Survey as the waste transporter for Red Devil, Inc. Currently listed as a NJ hazardous waste transporter; NJD065788556; NJDEP S#: 6689
Responsible Parties (Individuals):
Russell W. Mahler
Robert Mahler
Lloyd Mahler

Registered Agent:
N/A

Corporate Status:
N/A

Financial Status:
N/A

Comments:
These individuals were officers of many of the various corporate entities which operated at the subject site however, their current whereabouts are unknown.
Mimi Urban Renewal Corporation (formerly known as Mimi Development Corporation), as current owner of the subject site, is a responsible party for site contamination. As previously noted in the case summary, in 1981, prior to the January 1985 purchase of the subject site, Mimi had a soils investigation conducted for the subject property. The soils investigation, which was done as part of a proposed hotel development study for the site, revealed that the site had extensive petroleum hydrocarbon contamination. This investigation (which was submitted to Mimi in June 1981) shows that Mimi had knowledge of the site conditions (relative to soil contamination) prior to purchasing the property.

The following companies and/or individuals are primary responsible parties at the subject site as former site owners and/or operators:

Newtown Refining Corporation (formerly Ag-MET Oil Service, Inc.) owned the subject site from November 3, 1976 until January 11, 1985, at which time the site was sold to the current owner Mimi Urban Renewal Corporation. Newtown continued to operate the waste oil refining facility at the site from November 1976 to approximately 1979. As cited in the case summary, on numerous occasions during Newtown’s ownership of the property, spills and discharges were documented at the subject site by representatives of the HMDC, NJDEP, and the USEPA.

Northeast Oil Service was a liquid waste hauler whose NJDEP, SWA registration statements for fiscal years 1978 and 1979 listed the subject facility as the disposal location. Northeast was also identified as the hauler for several companies identified in the NJDEP, Industrial Waste Survey from 1977 to 1979.

Diamond Head Oil Refining Corporation is believed to have operated at the subject site in 1978.

PSC Resources, Inc. was owner operator of the subject facility from November 1, 1973 to November 3, 1976. As cited in the case summary, on numerous occasions during PSC’s ownership of the property, spills and discharges were documented at the subject site by representatives of the HMDC, NJDEP, and the USEPA.

Diamond Head Oil Refining Company, Inc. was owner and operator of the subject site from 1950 to 1973. During years of operation, the practices of this company at this facility led to waste oil contamination of this site. This corporation no longer appears to be viable at this time.

Shur-Flo Oil Company operated at the subject site from approximately 1952 to 1961 as a waste oil refiner and canner of motor oils. Many of the officers of this corporation were the same as those of Diamond Head Oil Refining Company from 1952 to 1961. This corporation no longer appears to be viable at this time.

Diamond Recycling Corporation filed an initial registration statement
for a liquid waste hauler with the NJDEP, SWA in August 1979 for fiscal year 1980. They listed the subject site as the disposal location. This corporation no longer appears to be viable at this time.

Tammy's Oil Service owned all outstanding stock of PSC Resources (site owners) from November 1, 1973 to November 3, 1976.

Edgewater Terminal was listed as the name of the facility operating at the subject site in the Eckhart Report. In this report Monsanto stated that they had sent 33 tons of oil and oil sludge to the subject site.

Refinemet International reportedly was the parent corporation of Newtown Refining. In 1982, Refinemet hired a contractor to remove two oil storage tanks which were allegedly receiving illegally dumped waste oil. The contents of the tanks were analyzed and found to be PCB contaminated. Refinemet also had a limited soil removal performed in the area immediately surrounding the tanks.

Bay City Oil Service, Inc. was a waste oil collector hauler who hauled waste oil to the subject site from approximately 1950 to 1973 (Note the officer during this period were also officers of Diamond Head Oil. This corporation dissolved in 1973. The name was later used by a company which was operated by PSC Resources/Russell Mahler (as President) and Robert Mahler. This company as stated in the summary hauled waste oil from New York, Connecticut, and New Jersey to the subject site. In an application for certification to collect or haul solid waste which was submitted to the Department in 1972 (by the original Bay City Oil), the estimated amount of waste to be collected was 51,500 gallons per year. By 1976, Bay City Oil was reporting estimates of 500,000 per year.

The NJ Department of Transportation is a responsible party as owner of a portion of the subject site (right-of-way for I-280).

Monsanto Company; According to the Industrial Waste Survey, two different Monsanto facilities reportedly sent to waste to the subject site;

North 8th and Monroe Avenue
Kenilworth, NJ 07037.

584 US Highway 130
Trenton, NJ 08620

The facility located at North 8th and Monroe Avenue also reported (in the Eckhart Report) using the subject site as a disposal facility for 33 tons of oil and oil sludge wastes from 1973 to 1979.

Russell Mahler as the president and director of PSC Resources, Ag-Met, Bay City Oil, Northeast Oil, and Newtown, is a responsible party. In an affidavit dated June 8, 1978, Russell Mahler stated that he had several years of experience in supervising the overall operation of the subject facility.
Robert and Lloyd Mahler have also been identified as responsible parties as they were also officers of some or all of the companies named in the paragraph above. Robert was even identified as plant manager of the subject facility in October 1975. The whereabouts of Russell, Robert, and Lloyd Mahler are unknown.

The above named companies and individuals, the following companies were identified as responsible parties based on a survey of the NJDEP, Industrial Waste Survey files:

- **American Aluminum Company**
  Mountainside, NJ 07092 (Union Co.)

- **Clarkson and Ford Company**
  Clifton, NJ 07012 (Passaic Co.)

- **Falke Corporation**
  Waldwick, NJ 07463 (Bergen Co.)

- **Gayton Lucchi Tool Company**
  Carteret, NJ 07008 (Middlesex Co.)

- **G&L Tool Company**
  Rahway, NJ 07065 (Union Co.)

- **Monsanto Company**
  Kenilworth, NJ 07037 (Union Co.)

- **Monsanto Company**
  Trenton, NJ 08620 (Mercer Co.)

- **Red Devil, Inc.**
  Union Twp., NJ 07083 (Union Co.)

- **Texaco, Inc.**
  Teterboro, NJ 07730 (Bergen Co.)

- **Action Plastic Company/Division Dart Industries**
  Totowa Borough, NJ 07512 (Passaic Co.)

- **Beacon Die Mold, Inc.**
  Clifton City, NJ 07011 (Passaic Co.)

- **Campton Tool and Die Company**
  Kenilworth Boro, NJ 07033 (Union Co.)

- **Design and Molding Services**
  Piscataway Twp., NJ 08854 (Middlesex Co.)

- **Dianem Company**
  Lodi Borough, NJ 07644 (Bergen Co.)

- **Digital Computer Controls**
Fairfield Borough, NJ 07006 (Essex Co.)

Einson-Freeman Detroy Corporation
Fair Lawn, NJ 07410 (Bergen Co.)

Foremost Manufacturing Company, Inc.
Union Twp., NJ 07083 (Union Co.)

Carmet Company/Amcar Division
East Rutherford, NJ 07073 (Bergen Co.)

International Telephone and Telegraph Corp.
Midland Park, NJ 07432 (Bergen Co.)

ITT Marlow
Midland Park, NJ 07432 (Bergen Co.)

Bekker Garret and Sons, Inc.
Clifton City, NJ 07012 (Passaic Co.)

Arrow Plastics Corporation
Garfield City, NJ 07026 (Bergen Co.)

Jae Trucking (hauled for American Aluminum)

Pinto Service (hauled for Arrow Plastic Corp.)

Robert More (hauled for Falke Engine Rebuilding Corp.)

DePalma Oil Company (hauled for Red Devil, Inc.)

The RPs identified in this report should be given the opportunity to organize into a single representative body that could pursue negotiations with the Department. This joint participation of all of the RPs will allow the RPs to use one consultant/contractor and act through a liaison group to the Department. This will reduce the effort required by both the RPs and the Department in negotiations and remediation.

Project Activity Code AXT was used for this investigation. It is recommended that administrative cost recovery and recovery of Spill Fund expenditures be an objective of future Departmental actions relative to this case. Please contact this bureau to review case file documents or request additional information and assistance.

INVESTIGATOR:
Carlton Dudley, HSMS II
NJDEPE, Division of Responsible Party Site Remediation
Bureau of Field Operations
Responsible Party Investigations Unit
300 Horizon Center
CN 407
Trenton, NJ 08625-407
March 1992
FILES UTILIZED

Files: North East Hazardous Waste Project
Division of Criminal Justice
Hughes Justice Complex
Market Street
Trenton, NJ 08625

Content: Reports on organized crime in waste hauling industry, referral on inquiries from other States about Russell Mahler/Diamond Head Oil Company/North East Oil Service, Inc.

Files: Industrial Waste Survey
NJDEPE/Division of Responsible Party Site Remediation
Bureau of Field Operations
300 Horizon Center
Trenton, NJ 08625

Contact: Carlton Dudley (609)584-4280
Content: Generators and/or transporters who reported using subject site/operator for disposal of waste.

Files: Deeds
Hudson County Clerks Office
Hudson County Administration Bldg.
595 Newark Avenue
Jersey City, NJ 07306

(201)795-6000
Content: Records of deeds and property transactions

Files: Manifest Records
NJDEPE/Hazardous Waste Regulation
Bureau of Advisement & Manifest
401 East State Street
Trenton, NJ 08625

Contact: Phil Cole
Content: No record of manifested wastes received by Diamond Head Oil Refining Co.
FILES UTILIZED

Files: Diamond Head Oil Co.
NJDEPE/Division of Responsible Party Site Remediation
Bureau of Field Operations
300 Horizon Center
Trenton, NJ

Contact: Deborah Pinto
Content: Samples analysis, preliminary assessments, reports, site maps, inspection memos

Files: Diamond Head Oil/Quanta (Hudson Terminals)
NJ Dept. of Law and Public Safety
Hazardous Site Litigations Section
Hughes Justice Complex, 7th Floor
Trenton, NJ 08625

George Smajda
Content: No file on Diamond Head Oil Co. however there is an extensive file on a related corporation, Quanta Resources, owned by Russell Mahler (aka Hudson Terminals).

Files: Air Pollution Control File
NJDEPE/Division of Environmental Quality
Bureau of Air Pollution Control
2 Babcock Place
West Orange, NJ

Contact: Byron Sullivan  (201)669-3935
Content: No file on Diamond Head Oil Co.

Files: Corporate Records
NJ Dept. of State/Division of Commercial Recording
820 Bear Tavern Road
West Trenton, NJ

Content: Certificates of incorporation and statuses for PRP corporations
FILES UTILIZED

Files: Diamond Head Oil Company, File #07-07-40
NJDEPE/Office of Enforcement Policy
Metro Bureau of Field Operations
2 Babcock Place
West Orange, NJ 07052

Contact: Jeff Sterling (201)669-3960
Content: Facility inspection reports/memos, correspondence, photos, analysis, maps, enforcement history

Files: Diamond Head Oil Company
Town of Kearny Health Office
645 Kearny Avenue
Kearny, NJ 07032

Contact: Ed Grosveno (201)991-2700
Content: Facility inspections, correspondence, photos

Files: Diamond Head Oil & Refining Company
Passaic Valley Sewerage Commissioners
600 Wilson Avenue
Newark, NJ 07105

Contact: Thomas Mack (201)344-1800
Content: Waste Effluent Surveys, correspondence

Files: Diamond Head Oil Refining Co., Division of PSC
NJDEPE/Division of Water Resources
Central Files
401 East State Street
Trenton, NJ 08625

Content: NJPDES Permit #NJ0028045, inspection reports, administrative orders, correspondence
FILES UTILIZED

Files: MSLA 1-D Landfill, File No. 88-396 and 76-026
Hackensack Meadowlands Development Commission (HMDC)
NJ Department of Community Affairs
One DeKorte Park Plaza
Lyndhurst, NJ 07071

Contact: Christopher D'our (201) 460-1700
Content: Disposal of contaminated soils in MSLA 1-D Landfill and construction of on-site disposal cells at Diamond Head Oil Co. facility by NJDOT, maps, engineering details, correspondence

Files: MSLA Landfill, File #09-07-H/Site #7
NJDEP/Division of Solid Waste Management
Bureau of Sanitary Landfill Closure
401 East State Street
Trenton, NJ 08625

Contact: Valerie Woods
Content: Hauler and Facility Registration Applications by FEID Numbers

Files: Dun and Bradstreet Data Base
NJDEP/Division of Science and Research
Information Resource Center
438 East State Street
Trenton, NJ

Contact: Maria Baratta (609) 984-2249
Content: No Dun & Bradstreet for subject facility or affiliated companies.

Files: Map Collection
NJ State Library
West State Street
Trenton, NJ 08625

Content: Sanborn Fire Insurance Maps
FILES UTILIZED

Files: Building Permits
Construction Code Enforcement Department, Town of Kearny
Town Hall
402 Kearny Avenue
Kearny, NJ 07032

Contact: Ray Narwid (201)991-2700
Content: Building and demolition permits (1948-1987)

Files: NJDOT v. PSC Resources et al NJ Sup. Court Law Div. #L-1718-77
Superior Court of New Jersey
Public Information Center
171 Jersey Street
Trenton, NJ 08611

Contact: Sandra Johnson (609)777-0092
Content: Court records for the subject case.
Mr. Douglas Clark  
State Department of  
Environmental Protection  
P. O. Box 1390  
Trenton, New Jersey  08625

Dear Mr. Clark:

The Commissioners would appreciate receiving a report on what is being done concerning the pool of oil on the Department of Transportation's property in Kearny, which overflows during rain storms, discharging oil into Frank's Creek.

This matter was referred to your department by the Deputy Attorney General on November 12, 1971.

Very truly yours,

PASSAIC VALLEY SEWERAGE COMMISSIONERS

S. A. Lubetkin  
Chief Engineer

cc:  PVSC  
Chief Counsel
State Department of
Environmental Protection
P. O. Box 1390
Trenton, New Jersey 08625

Attn: Douglas Clark

Dear Sir:

On January 28, 1972, I requested a progress report on what is being done by the State Department of Environmental Protection concerning the pool of oil in Kearny, which discharges oil into Frank's Creek during rain storms. As you recall, this matter was referred to your Department by the Deputy Attorney General on November 12, 1971, and as of this date the Commissioners have received no reports concerning what is happening.

Would you please bring the Commissioners up to date concerning this matter.

Very truly yours,

PASSAIC VALLEY SEWERAGE COMMISSIONERS

S. A. Lubetkin
Chief Engineer

cc: P.V.S.C.
Chief Counsel

BAA0000007 RECEIVED
MAR 9 1972
NJ, STATE DEP'T OF ENVIRONMENTAL PROTECTION, BUREAU OF WATER POLLUTION
Memorandum

TO: Theodore J. Fischer, Division of Design, Area II, NJDOT
FROM: John T. Bolan, ENDC
Date: November 30, 1979
Subject: Abatement of leakage from contaminated disposal area near Ramp "M", I-780 Sections 8A & 8D

Recent inspections of the disposal area for oil-contaminated soils adjacent to Ramp "M" indicates that top soil covering the side slopes of the disposal area has eroded, exposing contaminated materials (see attached map). Additionally, tidal penetrations in the ditch adjacent to the ramp have eroded the compacted sand liner of the disposal area.

Subsequent, rainfalls have caused oily discharges from the eroded areas into the ditch adjacent to Ramp "M". As this ditch connects directly into Franks Creek, oily discharges have been observed in Franks Creek at the ditch connection. This is a violation of the Federal Water Pollution Control Act. Some kind of immediate action to abate or treat these oily discharges is needed.

Inspectors from the USEPA during the course of a recent visit to the Diamond Head Refining Co. have also seen this problem and have asked what will be done. Accordingly, could you please advise me what steps will be taken to remove this problem.

Enc.
/cv
cc: T. Germaine, DAG (w/enc)
U. Steinberg, I-280 Field (w/enc)
P. Cimonetti, NJDOT-Hawaii (w/enc)
Memorandum

TO: Theodore J. Fischer, Division of Design, Area II, N.J.D.O.T.
FROM: John T. Bojan, RMC
Date: January 4, 1980
Subject: Liner Damage in the Kearny Disposal Area

Based upon a review of the monitoring data for wells 1A, 1B, 1C, and 1D, in the Kearny Disposal Area (see attached map), one of the wells, 1D, appears to show increasing concentrations of BOD, COD and Chlorides. Additionally, a recent physical inspection of the well reveals a black liquid in the bottom of the well.

Therefore, it appears that the liner enclosing the disposal area has been damaged. Since the liner material is compacted sand, a non-cohesive soil, corrective actions will be needed before further damage to the liner occurs.

At this point, it is not possible to determine if the materials in the disposal area are leaching into the surrounding soils. It is recommended that additional testing, commencing as soon as possible, be undertaken to identify the magnitude of the liner damage. Sampling of wells 1A, 1B, 1C, and 1D, on a bi-weekly basis, during a two month period for Petroleum Hydrocarbons only, (EPA Silica Gel & NDIR Procedure) should be sufficient.

If you have any questions, please contact me.

Enc.

cc: T. Germine, DAG (w/enc)
    U. Steinberg, I-280 Field (w/enc)
    F. Cimonetti, NJDOT-Newark (w/enc)
It is our recommendation that you negotiate with the Department of Transportation the immediate removal of the oil lake from their property.

We do not feel that containment is an adequate solution, nor is spraying on roads. Evidence to date (US EPA) indicates that oil sprays wash into the ground and contribute to the pollution problem.

Karl Birn's attached memo gives you a good insight into the background. He has gone so far as to contact firms which could handle the problem at a minimum of cost to DOT.

It is wrong to allow DOT to continue their pollution, as well as inconsistent with our other efforts.

SC:C:A18

cc: R. Ricci
    K. Birns
Mr. Ricci
Mr. Birns

Diamond Head Oil Refinery - Kearny, New Jersey

August 23, 1974

The Diamond Head Oil Refining Company has, for a period of years, used a property behind its Harrison Avenue facility for the disposal of waste oil. This disposal has created a lake containing, by various estimates, upwards of a million and half gallons of oil/water emulsion. The problem was brought to the attention of the Oil and Hazardous Materials Group in early 1973. A joint investigation was made by its Department of Environmental Protection and the Hackensack Meadowlands Development Commission. It was learned that the N.J. Department of Transportation had purchased a major portion of the contaminated oil lake for the construction of Route 280.

Because of the DOT involvement in the case, Mr. Al Guido, Assistant to the Commissioner, was informed of the severe pollution problem at the site and it was requested that his office coordinate a clean-up response by the DOT.

The U.S. Coast Guard also investigated the problem and brought to our attention in May of 1973, the fact that the oil from the facility was being washed out during periods of rain into navigable waters of the United States in violation of Federal law.

During the course of the past year, very little has been done other than continued investigation to determine the extent of the oil pollution. It appears that there was a misunderstanding between DOT and our department. It was our impression that DOT was going to take some immediate steps to remove the oil, their actual intention was to wait until the highway goes through; which might not be for a period of years.

Mr. Cascino, the Chief Engineer of the Hackensack Meadowlands Development Commission, requested we reevaluate the case due to the continuing pollution problem. Also, there were some vehicle accidents on Harrison Avenue as a result of oil flushing across the road. On May 20, 1974 a meeting was held with the State DOT, DEP, HMDC, and the U.S. Coast Guard. The attached memos explain in more detail the status of the problem. Essentially, at this point in time, it has been decided to allow Dr. Edgar Clark of Villanova University, who represents Blackwood Carbon Products, a waste oil recycler, to make a proposal to DOT for the removal and treatment of the oil. This proposal would include the payment to DOT of a fixed
sum for removal of the oil, and the cost to DOT for treatment of the oil water mixture remaining to equal the payment to DOT for the oil removal itself. In this method no funds would change hands.

The Coast Guard has informed us that any further discharges from this site would be subject to penalties under Federal law. The State DOT would be defendant in any action by the Coast Guard.
January 30, 1978

Theodore J. Fischer
Division of Design - Area II
New Jersey Dept. of Transportation
1035 Parkway Ave.
Trenton, NJ 08625

Re: I-280, Sections 8A and 8D
Contaminated Materials Disposal Plan
File 76-026

Dear Mr. Fischer:

This Office has reviewed the request of NJDOT for the creation of a second new on-site disposal area, located on Block 285, Lot 2 (West of Diamond Head Oil) for additional quantities of contaminated materials from I-280, Sections 8A and 8D. This area is designed to contain a maximum of 197,000 cubic yards. In addition, we have also reviewed engineering plans for this work.

Based upon our joint review of your request with the Solid Waste Administration, NJDEP, your request is hereby approved subject to the following conditions:

1. We find, upon reading the lease with the Town of Kearny, that the property shown on the engineering plans is not the property actually delineated in the agreement with the Town of Kearny. Therefore, a copy of the lease agreement for the proposed disposal area must be submitted.

2. A liner of a minimum compacted thickness of 6 inches of sand shall be placed under all materials disposed of in the new area.

3. The liner of sand shall be compacted with a minimum of three passes of a vibratory compactor, conforming to the description of page 82 of the Standard Specifications.

4. The disposal area is to be worked in full depth sections separated by sectional dikes of sand.

5. A minimum setback of 50 feet shall be maintained between the disposal area and Diamond Head Oil's westerly property line.
6. Three combination methane/monitoring wells shall be installed within the dike areas as shown on the as-noted plans. A copy of the as-noted plans is being returned to Mr. William Shader, DOT, Resident Engineer for his use. These wells shall be 4 inch diameter PVC pipe installed to a maximum depth of 8 feet below the bottom of the basin and shall consist of a perforated section below the bottom of the basin, a solid section thru the dikes and a three foot capped perforated section above the top of the dikes.

7. A two foot compacted thickness silty-clay cover material shall be placed on the completed disposal site. This cover material shall contain not less than 50% clay, have a liquid limit of greater than 40 or contain organic materials. This cover material shall be compacted with a vibratory compactor.

8. A four inch thick topsoil layer, mulched, fertilized and seeded with Type A grass seed, shall be placed over the silty-clay cover material.

In addition to the specific conditions of approval above, DEP has expressed some concern about the long effects of storing oil-contaminated materials in sand-lined areas and the responsibility of DOT if the sand liner should fail, causing oil contamination to be released from the disposal area. Therefore, we request that a plan of action for dealing with liner failures be submitted.

If you have any questions on these matters, do not hesitate to contact this Office.

Sincerely,

Office of the Chief Engineer

George D. Cascino, P.E., P.P.
Chief Engineer

JB/cv
cc: W. Shader, NJDOT (W/Enclosure)
J. Pompilio, Crescent Construction Co.
W. Burshtin, Solid Waste Administration, NJDEP
M. Polito, U.S.E.P.A. Edison, NJ
J. Neglia, Neglia Engineering Assoc.
Mayor & Council, Town of Kearny
Dear Mr. Neafsey:

This letter is in regards to the New Jersey Department of Transportation (NJDOT)/Interstate Route 1-280 North Ditch Drainage Facility located in the Town of Kearny, Hudson County. The NJDOT, through the issuance of a NJPDES Permit (Permit No. 0034959), is authorized to discharge from the 1-280 facility to receiving waters named Frank's Creek.

Attached is a Fact Sheet detailing site history, existing conditions and the current status of the 1-280 facility.

Compliance Evaluation Inspections of the 1-280 facility have been routinely conducted by the NJDEP-Surface Water/Sewer Extensions Metro Bureau of Regional Enforcement. Based on these inspections the 1-280 facility has received a rating of "unacceptable" on a number of occasions. However, it should be noted that a review of the results from the last six sampling events conducted at the N. Ditch indicate that this facility has not exceeded the permit limits.

Due to periodic non-compliance of the NJPDES permit limits for the 1-280 facility, the NJDOT has been issued directives from the NJDEP to accomplish the following:

- institute corrective measures to achieve an acceptable discharge rating,
- submit an application for modification of the 1-280 facility permit, and
- within thirty (30) calendar days of the date of notice, submit a report concerning specific details of remedial measures to be instituted and an implementation timetable.

As a result of the periodic non-compliance of the NJPDES permit and the NJDEP directives, L. Robert Kimball & Associates (Kimball) was retained by the NJDOT to investigate feasible alternatives for mitigation of contamination and report upon the findings relative to the 1-280 facility.

On March 27, 1991, Kimball submitted a Draft Feasibility Study that discussed the primary sources of contamination and investigated mitigation alternatives.
Kisball's report concludes that the primary sources of contamination in the North Ditch include Diamond Head Oil Company overload flows and contaminated groundwater infiltration and oil seeps from adjoining stockpiled oil-contaminated soils. Diamond Head Oil Company is no longer in operation and the site is vacant. The primary sources of contamination in the South Ditch include contaminated groundwater infiltration and Kearny Landfill run-on leachate seepage. Drainage from the South Ditch flows through a submerged pipe into the North Ditch.

Kisball investigated eleven (11) alternatives, but due to constraints and/or flaws of several alternatives, only five (5) were selected for detailed evaluation.

Based on an internal NJDOT review of the alternatives selected for detailed evaluation it was concluded that through the implementation of any one of the alternatives, except Alternative 1- Clearing and Maintaining the Existing System, an acceptable discharge rating could be achieved at the I-280 facility. However, the overload flow from the former Diamond Head Oil Company site and Kearny Landfill run-on leachate seepage would not be eliminated. The above-mentioned contamination, instead of entering the I-280 facility would just be diverted to another property.

Therefore, it is the NJDOT's opinion that implementing a costly mitigation alternative, ranging from approximately $1 million to $3.5 million that would bring the NJDOT into compliance with the issued permit, but would not eliminate or control the area-wide contamination problem, is not in the best interest of the State of New Jersey with respect to the use of public funds.

Consequently, the NJDOT requests your assistance in the development of an overall solution to the problem. It is Kisball's opinion that if the surface flows from the former Diamond Head Oil Company property surface and subsurface flows from the landfill could be eliminated from entering the I-280 facility, the NJDOT could continually achieve an acceptable discharge rating.

I will be arranging a meeting to discuss this situation within the next three weeks. Please contact this office with a list of people from your Department who should be in attendance.

If you require additional information on the I-280 facility, please contact Robert Cebrick of my staff at (609) 530-2838.

Thank you for your assistance in this matter.

Sincerely yours,

Andras Fekete
Manager
Bureau of Environmental Analysis
FACT SHEET
ROUTE 1-280 NORTH DITCH
TOWN OF KEARNY
HUDSON COUNTY

SITE HISTORY

Prior to construction of I-280, the project area consisted of marshland bounded by Frank's Creek (a tributary of the Passaic River), Diamond Head Oil Refining Co., the NJ Turnpike and the Kearny LF. The marsh area through which I-280 was constructed contained a thick layer of oil, debris and fill from both the Oil Co. and LF. A large volume of oil was pumped out in an attempt to remove contamination prior to construction. However, due to the large volume, oil and water removal was terminated and unsuitable material was removed. Excavated material unsuitable for roadway embankment drainage system construction was placed on state owned properties adjacent to the roadway.

As Figure 2 shows, soils were placed in mounds north of the roadway, west of Ramp M and as cloverleaf infields. Debris and fill associated with the Kearny LF and excavated from roadway ROW were placed into the LF and in a waste area northeast of the N. Ditch. Following removal of contaminated unsuitable material, present roadway embankments, drainage systems and structures were constructed and the contaminated soil piles covered with clean soil.

Due to the presence of oil contamination adjacent to the N. Ditch, LF material adjacent to the S. Ditch and oil contaminated groundwater throughout the ROW, the N. Ditch siphon was constructed as an oil water separator and a NJPDES permit obtained.

The N. Ditch NJPDES permit (No. 0034959) was obtained in 1981 for monitoring of total suspended solids (TSS), oil and grease, total organic carbon (TOC), phenols, pH and xylene (see attached).

DEP COMPLIANCE EVALUATION INSPECTIONS OF THE N. DITCH

Compliance Evaluation Inspections of the N. Ditch have been routinely conducted by the DEP. Based on these inspections the N. Ditch facility has received a rating of "UNACCEPTABLE" on several occasions (November 1, 1986-November 31, 1986, November 1, 1987-October 31, 1988, November 1, 1989-October 31, 1990).

As indicated in DEP's Compliance Evaluation Inspection, the "UNACCEPTABLE" rating places the N. Ditch in significant violation of the terms and conditions of the NJPDES permit and/or Water Pollution Control Act regulations (NJAC 7:14A-1 et seq.).

NJDEP DIRECTIVE(S)

Due to continued non-compliance of the NJPDES permit limits for the I-280 N. Ditch discharge, the DOT has been issued directives from the DEP to accomplish the following:

...
institute corrective measures to achieve an acceptable discharge rating, submit an application for modification of the N. Ditch permit, and within thirty (30) calendar days of the date of notice, submit a report concerning specific details of remedial measures to be instituted and an implementation timetable.

It should be noted that the I-280 facility permit expired on October 31, 1986. The Department resubmitted the application on July 13, 1986. After not hearing within six months of resubmission, the Department contacted DEP to ascertain the status of the permit. DOT was informed that DEP never received the application. Subsequently, the Department submitted another application and has still not heard on the status.

CONSULTANT ACTIVITY

As a result of the continued non-compliance of the NJPDES permit and DEP directives, L. Robert Kimball & Assoc. was retained by the DOT to review available data, present feasible alternatives for mitigation of contamination and report upon the findings relative to the I-280 N. Ditch discharge. Kimball submitted the Draft Engineering Report for mitigation of the I-280 N. Ditch discharge on November 1, 1990. The Engineering Report presents Kimball's evaluation of the discharge problem.

Subsequently, on March 27, 1991, Kimball submitted a Draft Feasibility Study. The Feasibility Study expanded on the discharge problem and investigated possible mitigation measures.

SOURCES OF CONTAMINATION

The N. Ditch discharge is on the north side of I-280. The N. Ditch discharge is a roadway drainage discharge point where drainage collected from north and south surface water drainage systems of I-280 flow through a submerged pipe (siphon) into Frank's Creek.

The primary sources of contamination in the N. Ditch include Diamond Head Oil Co. overload flow and contaminated groundwater infiltration and oil seeps from adjoining stockpiled oil-contaminated soils. Diamond Head Oil Co. is no longer in operation and the site is vacant. The oil seeps come from excavated materials unsuitable for roadway embankment drainage system construction stockpiled on state owned properties adjacent to I-280.

The primary sources of contamination in the S. Ditch include contaminated groundwater infiltration and Kearny LF run-on leachate seepage.

REMEDIAL ALTERNATIVES (AS IDENTIFIED BY KIMBALL)

Kimball identified five (5) alternatives which include:

- clearing and maintaining the existing system—clearing accumulated materials from the system (siphon and N. and S. Ditches) would reduce oil and grease and suspended solids. However, sediment and debris will reaccumulate with time, requiring continued maintenance of the system to maintain the positive results. Presence of contaminated groundwater will continue to contaminate future sediment and debris washing into the system.

Time to implement this alternative, following design, establishment of a funding source and advertisement and award of the construction contract, would be 4 months at a cost of $952,654.
-utilization of a synthetic liner-includes installation of a synthetic liner in the base of the ditches to prevent infiltration of contaminated groundwater. Synthetic liner prevents infiltration of contaminated groundwater while maintaining control of surface runoff. LF run-on would be prevented using a berm. Diamond Head run-on would still be collected. The liner would prevent direct contact and discharge of contaminated groundwater. Properly maintained, the liner would be expected to last at least 30 years.

Time to implement this alternative, following design, establishment of a funding source and advertisement and award of the construction contract, would be 4 months at a cost ranging from 1.3 to 2.9 million dollars. The construction cost is dependent on whether excess material will be disposed of on-site or off-site.

- utilization of a concrete lined ditch-includes installation of a concrete liner in the base of the ditches to prevent infiltration of contaminated groundwater. The liner would prevent infiltration of contaminated groundwater while maintaining control of surface runoff. LF run-on would be prevented with the use of a berm. Diamond Head run-on would be collected. Concrete deterioration would have to be repaired on a regular basis to prevent infiltration. Continual maintenance will be required.

Time to implement this alternative, following design, establishment of a funding source and advertisement and award of the construction contract, would be 6 months at a cost ranging from 2.6 to 3.9 million dollars. The construction cost fluctuates based on whether excess material will be disposed of on-site or off-site.

- utilization of a clay liner-includes installation of a clay liner in the base of the ditches. The clay liner would restrict the transport and infiltration of contaminated groundwater and oil in the groundwater. The clay liner would restrict but not prevent groundwater infiltration. Infiltration would be limited to migration through the barriers and through flow paths created by animals or vegetation. Clay as a naturally occurring substance has excellent lifetime.

Time to implement this alternative, following design, establishment of a funding source and advertisement and award of the construction contract, would be 4 months at a cost ranging from 1.8 to 6.6 million dollars.

- utilization of an enclosed drainage system-includes installation of drainage pipe to carry roadway stormwater flows and prevent infiltration of contaminated groundwater. Enclosing the system eliminates infiltration by use of sealed pipes. The use of a coated concrete pipe has a life of at least 20 years. Due to the shallow slope of the drainage systems, sediment build-up is expected. Annual sediment removal is mandatory.

Time to implement this alternative, following design, establishment of a funding source and advertisement and award of the construction contract, is 7 months at a cost of 1.9 million dollars.

CURRENT STATUS

A review of the results from the last 6 sampling events (November 1990-April 1991) conducted at the N. Ditch indicate that this facility has not exceeded the respective permit limits. Therefore, at this time the facility would not be considered a "Significant Non-Complier" as defined in the provisions of the Clean Water Enforcement Act.
NJ Department of Environmental Protection
Helen Wright
Division of Water Resources
Metro Bureau of Regional Enforcement
2 Babcock Place
West Orange, New Jersey 07052

Dear Ms. Wright:

I have received your Bureau notification dated March 27, 1989 that our Interstate Route 280 facility (NJ0034959) has received a rating of "unacceptable." This rating is a result of your review of DMR's for the period November 1, 1987 through October 31, 1988.

Please be advised this department will take the necessary action to see that our discharge into Frank's Creek complies with those limits set by our NPDES permit. A recent meeting with our Regional Maintenance Engineer has initiated corrective actions and a scheduled field evaluation will result in the development of a plan to improve our discharge. Until this field evaluation has been conducted however we will be unable to provide specific measures and we request an extension of time in providing the written report and timetable on the implementation of remedial measures as requested. My staff will provide your office with the information you have requested within the next 30 days. If you have any questions or would like to discuss this matter further please contact Wayne Smith of my staff at (609) 530-2975.

Very truly yours,

John A. Walz
Bureau of Project Support

cc: M. B. Kjettsaa
    R. Micai Watt
    R. Jones
    W. Smith
    Dr. P. Baker, USEPA

State of New Jersey
DEPARTMENT OF TRANSPORTATION
1234 PARKWAY AVENUE
MAYWOOD
TRENTON, NEW JERSEY 08628

April 25, 1989

IN REPLY PLEASE REFER TO

DOT1677

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MAXUS005684
TO Theodore J. Fischer, Division of Design, Area II, NJDOT
FROM John T. Bolan, HMDC
Date November 30, 1979
Subject Abatement of leakage from contaminated disposal area near Ramp "M", I-280 Sections 8A & 8D

Recent inspections of the disposal area for oil-contaminated soils adjacent to Ramp "M" indicate that the top soil covering the side slopes of the disposal area has eroded, exposing contaminated materials (see attached map). Additionally, tidal penetrations in the ditch adjacent to the ramp have eroded the compacted sandliner of the disposal area.

Subsequent, rainfalls have caused oily discharges from the eroded areas into the ditch adjacent to Ramp "M". As this ditch connects directly into Franks Creek, oily discharges have been observed in Franks Creek at the ditch connection. This is a violation of the Federal Water Pollution Control Act. Some kind of immediate action to abate or treat these oily discharges is needed.

Inspectors from the USEPA during the course of a recent visit to the Diamond Head Refining Co. have also seen this problem and have asked what will be done. Accordingly, could you please advise me what steps will be taken to remove this problem.

Enc.
/cv
cc: T. Germaine, DAC (w/enc)
    U. Steinberg, I-280 Field (w/enc)
    F. Cimonetti, NJDOT-Newton (w/enc)
The letter addressed to you and forwarded to this office on June 24, 1976 from Mr. Henry Cluckstern, Attorney for the Enforcement Division of the United States Environmental Protection Agency dated June 21, 1976 is an official notification to the State of New Jersey of a violation of Federal Law by the New Jersey Department of Transportation (DOT).

This alleged violation occurred when a pond on DOT's property overflowed releasing oil into waters of the United States. The USEPA has begun cleanup of this oil using the money from the revolving fund administered by the United States Coast Guard. As of the morning of June 30, 1976 EPA has spent approximately $20,000.00. It is their intent to recover any monies spent on this clean-up operation from the NJDOT since the oil allegedly came from land owned by DOT.

This office will continue to monitor this operation. We do not have any control over enforcement action taken by the USEPA.

c.c.: Commissioner Barber
        Commissioner Sagner
        Director Freidenrick

E23:G6