



## EAST FORK FIRE PROTECTION DISTRICT

1694 County Road  
Minden, NV 89423  
(775) 782-9040 (775) 782-9043 (fax)

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(775) 782-9041 seisele@douglasnv.us  
Terry Taylor, Captain Investigator/Inspector  
(775) 782-9861 ttaylor@douglasnv.us

# MEMORANDUM

**DATE:** September 1, 2016

**TO:** Peter Mulvihill, Nevada State Fire Marshal

**FROM:** Captain Terry Taylor  
Inspector/Investigator

**SUBJECT:** SERC Request for contingency account assistance

Attached is the East Fork Fire Protection District and District Fire Chief Tod Carlini's request for assistance.

If you need any additional information please contact me at 775 720 2329 or my e mail address of [TTaylor@DouglasNV.us](mailto:TTaylor@DouglasNV.us)

I was unable to determine how our Quad County partners assess costs portal to portal vs time on scene.

I believe this event deserves your support, due to the unique nature of the Quad County Cooperators, and the inherent time/distance delays that occur whenever an event such as this occurs.

RECEIVED

SEP 01 2016

STATE FIRE MARSHAL



# EAST FORK FIRE PROTECTION DISTRICT

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Minden, NV 89423  
(775) 782-9040 (775) 782-9043

Tod F. Carlini, District Fire Chief  
Steve Eisele, Deputy Chief/Fire Marshal  
Dave Fogerson, Deputy Chief/Operations  
Tim Soule, Deputy Chief/Training and Safety

August 30, 2016

Ms Stephanie Parker  
Grants and Projects Analyst  
State Emergency Response Commission  
107 Jacobsen Dr  
Carson City, NV

RE: Application for contingency account  
funds for Hazardous Materials costs  
incurred by East Fork Fire Protection  
District and its Quad County cooperators

Dear Ms Parker,

This letter and the attachments will serve as a request for reimbursement of costs expended by the Fire District for a Hazardous Materials Incident which occurred on February 18, 2015 at 1007 hrs and was initially contained by 1654 hrs on the same date.

It is my understanding that SERC can approve and disburse funds for expenses of an operation where financial recovery has not been obtainable under NRS 459.755. Once SERC has reimbursed a local or state agency, you become the State Agency that the Attorney General shall initiate recovery for by legal action of the amount of unpaid reimbursement, plus interest as established in NRS.

Douglas County has a cost reimbursement ordinance that mimics NRS 459.770. However, the owner of the business has been un responsive to requests for cost reimbursement and we are unable to locate him at this time.

## BACKGROUND

On February 18, 2015, Battalion Chief Scott Fraser received a phone call from a Douglas County employee advising that she was at 1180 Angela Ct in Minden at the Carson Valley Industrial Park to inspect for a possible pollution problem. She smelled chemical odors (described as "like sulfuric acid") emanating from the building and observed parking lot asphalt in the rear loading dock area to be a purplish blue color. She also observed that liquid had penetrated into the ground through cracks in the asphalt surface.

BC Fraser responded to the scene and met with the employee and a NDEP employee who is a stormwater specialist. The odor was causing respiratory distress and watering of the nose and eyes. BC Fraser initiated a HAZ MAT call and requested dispatch to try and contact the owner of the business identified as Oxinal Coil and Wire Corp. Additionally, the building owner, Carl Gerger P O Box 4444 Zephyr Cove, NV 89448 was contacted and agreed to come to the scene.

Duty Chief Tim Soule was contacted, arrived on scene and took Incident Command as East Fork E-12/R-12, East Fork E-14/R-14, Training and Safety 10, East Fork E-2, HAZ MAT 9, Squad 1, U-9, P-3, U-4 were toned out to support HAZ MAT entry and Decon.

Chief Soule requested the Quad County HAZ MAT Team for additional level 1 assistance. An initial Incident Action Plan was developed to enter the building, investigate the interior and attempt to identify any hazardous materials and to sample, analyze and determine what had been going on at the property. Additionally Chief Soule contacted me as the District Investigator and a HAZ MAT Technician, to assist in the operation.

My first request to our Dispatch Center was to attempt to locate Gert Von Marschner in local records of the Douglas County/Alpine County Sheriff's Offices. I had previous knowledge of the Oxinal operation; specifically: Oxinal uses acid and base bath tanks and runs different types of single strand wire (Steel, Stainless Steel, Aluminum, etc.) to etch and place a special dye that merges with the wire molecules.

Complaints about sickening odor at a previous Oxinal location have resulted in employees of adjacent businesses being treated on scene for headaches, watery eyes, runny noses, burning throats and blurred vision; as well as coughing and nausea. The operation creates liquid waste material being placed in plastic drums for disposal and concentrated acids and bases being added to water, while electrical current is run through the tanks.

At 1108 hrs the 911 Dispatch Center accessed records and located 2 phone numbers for Von Marschner, the cell number had no voice mail set up, the other number had no answer. At 1110 hrs the 911 Dispatch center located an address different from his Alpine County residence. Contact was made with Riverside County Sheriff's Office with an emergency request to contact Von Marschner to determine type of chemicals on scene. A phone number in that area was also developed and called, without success (See Page 11 of Ex #1).

At 1115 hrs evacuation of surrounding businesses within 250 ft began. At 1211 the general manager of Diablo Industries met with BC Fraser and myself. He told us that Von Marschner had been evicted from his building a few blocks away over a year ago; that the interior of the space they rented to him had been contaminated and corroded by acidic vapors. Thus, metallic objects had pits and scars, and the concrete floor was eroded with large spall marks from leaking tanks. He described the space they had leased to Von Marschner as "trashed".

At 1308 hrs, Von Marschner contacted Douglas County 911 Center to find out "what was going on". They gave him a quick rundown and said someone would call him from the scene immediately. At 1341 hrs I called him back for the last of 4 times from my cell phone, he did not answer (See Ex #1 Pg 13).

From 1200 through 1500 hrs. Entry teams, Science section, and Analysis personnel entered and Ph tested tanks, took interior photographs and returned through Decon to advise whether entry could be made without Level 1 protection. They identified barrels with waste acidic material, acidic and base material in open tanks and concentrated acids in vessels.

Additionally, they observed huge pieces of concrete slab floor that had been spalled by chemicals leaking from the tanks onto the floor. Based on their observations, a HAZ MAT Vendor; H2O in Sparks, NV was contacted to come and mitigate the building. The property owner was advised that he would be responsible for the removal costs of any materials that were deemed to be hazardous.

As the assigned Investigator, I examined the exterior of the property and discovered evidence of dumping of solid, colored, waste products in the rear loading dock area. The design of the storm water system is to collect water at the rear in concrete curbs and move it to settling and infusion ponds at the front. When I opened a sump manhole cover in the rear, I observed it to be full of a strange colored liquid with a piquant odor similar to battery acid.

I observed staining and failure of the concrete curb, consistent with previous dumping issues involving Oxinal at 2 prior locations in the north Carson Valley. The asphalt was eaten away and soil was readily visible below it. The water table in this area, during irrigation season, can be as close to the surface as 20 ft.

Around 1530 hrs. while I was walking with Carl Gerger and gathering information from him, his cell phone rang. He answered it and said "Hello Gert where are you? Why did you leave this mess? The Fire and HAZ MAT people are all over this". Gerger related to me after the conversation that Von Marschner told him that "he could have cleaned it up but you evicted me from the building." When Gerger told him he hadn't paid 2 months rent and wouldn't reply to letters or phone calls, Von Marschner hung up.

Gerger provided me with a copy of Von Marschner's tenant insurance policy which included damage to premises and liability, according to Gerger. The policy is a Commercial General Liability Coverage form, issued by Certain Underwriter's at Lloyds, London for the period of December 12, 2013 through December 12, 2014.

The Policy # LOL010349 insured Oxinal under the terms of the policy. Interestingly, there is no HAZ MAT endorsement to pay for cleanup, or to reimburse public or private entities for spills or releases (This information was verified by Statewide Claims Service 15601 North 40<sup>th</sup> St Suite 120 Phoenix, AZ 85032 PH 800 228 1710 or 602 494 6900 as part of their denial of claim # LOL010349) with a loss date of the last day of coverage. No renewal policy was issued to cover this, or any other event.

The landlord, Carl Gerger was placed into the position, (after de-mobilization occurred by 1730 hrs on the event date) of retaining H2O as contractor, removing hazardous waste and sulfuric acid dilution and concentrate; repairing physical damage to the interior drywall and concrete floors of his building, and facing charges for the response by fire service agencies.

However, while Gerger paid to clean up the mess, under NRS 459.750 he only possessed or had in his care the contents of the building for a very short period of time. Considering that he never initially leased the premise to Von Marschner, but a tenant who was vacating with lease time left created an illegal sub lease; it would be patently unfair to try and recover additional costs of response from a small local taxpayer; while Von Marschner skates away scot free.

## ANALYSIS

The gate to this request is opened under the definition section in NRS 459.748. Specifically the definitions used in NRS 459 755 and 459.760- “Does not act promptly or appropriately”...

Gert Von Marschner:

Was not able to be notified of the incident within 2 hours after the initial attempts to contact him. I believe that it was the Alpine County Sheriffs Office who left a calling card at his residence at 1251 Blue Lake Rd, Markleeville, CA 92610 or the Riverside County Sheriff's Office contacting him at 79234 Liga St, La Quinta, CA or the phone # 760 863 8990

Did not, within 2 hours after receiving notification of the incident, make an oral or written commitment to clean and decontaminate the affected area properly.

Did not act immediately to clean and decontaminate the affected area properly;...when the inaction presented an imminent and substantial hazard to public safety or the environment.

The East Fork Fire Protection District and its partner agencies in the Quad County HAZ MAT Team responded to a spill of hazardous materials that was ongoing.

The East Fork Fire Protection District and its partner agencies coordinated the efforts of local agencies responding to a spill involving hazardous materials.

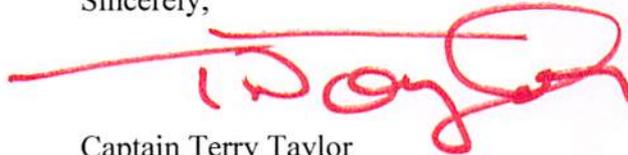
The East Fork Fire Protection District managed the cleaning and decontamination of the interior and exterior sites where hazardous materials were spilled by the subsequent supervision of H2O, an approved hazardous materials handler.

The East Fork Fire Protection District, hereby submits the costs and billings from its internal cost of manpower and equipment as well as the costs submitted by its Quad County HAZ MAT Team partners.

The Investigative costs are not included, but over 50 hrs have been spent in the search for Von Marschnerto require him, under the jurisdiction of the Douglas County District Attorney to pay response costs.

The East Fork Fire District is requesting \$27,570.50 to reimburse its direct costs, and Quad County member costs for this hazardous materials spill event.

Sincerely,

A handwritten signature in red ink, appearing to read "Terry Taylor", written over a horizontal line.

Captain Terry Taylor  
Fire/Haz Mat Investigator

EXHIBITS

- #1 CFS Report from Douglas Co.911
- #2 Douglas Co.Code Section 2.24.110
- #3 Audited records of direct costs of all Quad County HAZ MAT Team members