

IN THE PROVINCIAL COURT OF ALBERTA

Between:

HER MAJESTY THE QUEEN

-and-

SUPERIOR CONCRETE SYSTEMS LYD., LOUTFI ABOUMRAD, ALBERTA CHROME &
GRINDING (2001) LTD., ZIAD EL-BITTAR, AMARA INVESTMENT CORP.,
and HUSSEIN AMERY

Accused

AGREED STATEMENT OF FACTS

For the Crown

M. O'Connor
Crown Prosecutor
Alberta Justice - Specialized Prosecutions
Suite 300,
332 - 6th Avenue SW
Calgary, AB T2P 0B2

Email: martha.oconnor@gov.ab.ca

For the Defence

Darius L. Bennett
Counsel for Alberta Chrome &
Grinding (2001) Ltd., and Ziad
El-Bittar
Kuefler Stevenson Bennett LLP
#240, 611 – 10 Avenue SW
Calgary, Alberta T2R 0B2

Email: dbennett@ksblawyers.com

AGREED STATEMENT OF FACTS

1. The following numbered paragraphs contain facts that are alleged by the Crown and admitted by the Accused, Ziad EL-BITTAR.
2. It is agreed that these facts are admitted for the purpose of dispensing with formal proof thereof in respect of a guilty plea by Ziad EL-BITTAR before this Honourable Court to the following charge:

Count 8: Between April 1 2017 and May 4, 2017 at or near Calgary, in the Province of Alberta, did dispose of hazardous waste otherwise than in accordance with an approval, a code of practice or a registration or as otherwise provided for under the *Environmental Protection and Enhancement Act* contrary to section 192 of the *Environmental Protection and Enhancement Act* and did thereby commit an offence contrary to section 227(j) of the *Environmental Protection and Enhancement Act*.

Chromium (Cr.) and Chromium Electroplating

3. Chromium (Cr), is a chemical element of Group 6 (VIb) of the periodic table. ¹
4. Chromium is used mainly in metal alloys such as metal-ceramics, stainless steel, and is used as chrome plating. It has high value in the industrial world because it can be polished to a mirror-like finish and provides a durable, highly rust resistant coating for heavy applications. ²
5. Electroplating describes the process of coating one metal with a thin coating of another by means of an electrolytic cell. The base metal item being coated is the substrate onto which the coating is deposited. Chrome plating therefore consists of a process by which a thin layer of chromium is applied to a base metal.
6. Industrial hard chrome electroplating consists of a wet chemical process consisting of a series of liquid storage tanks usually laid out sequentially, with each tank having a very specific purpose. The process is generally divided into three distinct phases (with thorough rinsing between each stage) as follows: First, the pre-cleaning stage where the metal to be treated is degreased and etched to provide a clean adherent surface on which to electrolytically apply the desired metal coating; second, the chromium activation bath where the actual plating takes place. This tank typically contains an extremely acidic mixture of chromium trioxide (CrO₃) and sulfuric acid (sulfate, SO₄); and, third, the post-plating stage which may be a final hot rinse, or may include further treatments to enhance and prolong the life of the coating. ³

¹ Chromium, was discovered (1797) by the French chemist Nicolas-Louis Vauquelin and isolated as the metal a year later; it was named for its multi coloured compounds. Chromium derives its name from khroma, a Greek word meaning color, due to its ability to produce vivid, colorful compounds : Metal Profile: Chromium, <https://www.thebalance.com/metal-profile-chromium>

² Metal Profile: Chromium, <https://www.thebalance.com/metal-profile-chromium>

³ Electroplating – EPA, www.3.epa.gov/ffn/chief/final

7. Chrome plating processes poses risks as the byproducts of chrome plating are hazardous waste and may be released into the air, water and soil through manufacturing processes and/or the use or disposal of chromium based products.⁴ Because of the potential damage to the environment and human health, disposal of chrome plating byproducts in Alberta is subject to a regulatory protocol.

Alberta Chrome & Grinding (2001) Ltd.

8. The Accused, ALBERTA CHROME & GRINDING (2001) LTD. (AC&G) is a closely held Alberta corporation located at 4726 - 1st Street S.E., Calgary Alberta. The Accused, Ziad El-Bitar (Mr. El-Bitar) is a director of AC&G and owns 50 % of the shares. Mr. El-Bitar has worked at AC&G for 32 years; the last 18 as the owner having purchased the business in 2001. Fayez El-Bitar, the son of Ziad El-Bitar, is the manager of AC&G.

9. AC&G operates an industrial coating facility including chrome electroplating using a HEFF 25 hard chromium plating process. At all material times AC&G was registered in Alberta as a Hazardous Waste Consignor under the *Environmental Protection and Enhancement Act*. See Tab 1

10. The AC&G chrome plating facility housed several large rectangular electroplating tanks on the floor of the facility. The chrome plating process tanks were constructed of poured concrete fitted with a plastic tank liner. The tanks contained chromic acid solutions necessary for chrome electroplating processes.

11. It was known to Mr. El-Bitar that chromic acid solutions used in hard chrome electroplating processes and chrome plating byproducts is hazardous waste⁵. It was known to Mr. El-Bitar the facility and floor of the AC&G facility was damaged and degraded by chromic acid and other chemicals as a result of solutions used in electroplating processes. It was reasonably foreseeable to Mr. El-Bitar that due to the age and long term operation of the AC&G facility, the age of the processing tanks and equipment, and the corrosive impacts of the harsh industrial electroplating chemicals used, chromic electroplating chemicals would have leaked from the process tanks or leached from the concrete floor of the facility into the environment proximate to the AC&G facility and caused environmental contamination.

12. Scene photos depicting the condition of the AC&G facility as at May 8, 2017 are at Tab 2. The photos accurately depict the condition of the facility between April-May 2017.

⁴ Chromium and its negative effects on the environment,
https://serc.carleton.edu/NAGTWorkshops/health/case_studies/chromium.html

⁵ As defined in the *Environmental Protection and Enhancement Act* RSA c. E-12

Contract with Superior Concrete Systems Ltd.

13. In early April 2017 SUPERIOR CONCRETE SYSTEMS LTD. (SUPERIOR) was hired by Mr. El-Bittar to excavate around and below a chrome plating tank and build a frame and pour concrete for a replacement tank and floor. The scope of work included hauling away the excavated material (concrete floor and pit run) . Loutfi Aboumrad, the owner and operator of SUPERIOR attended at the AC&G facility beforehand to review the scope of work and provide a verbal estimate, which he did.

14. SUPERIOR started work at AC&G on April 7, 2017.

15. The work took SUPERIOR about a week to complete. Loutfi Aboumrad, attended AC&G several times during this period to supervise the excavation, and the completion of work. Scene photos depicting the replacement chrome plating tank and new concrete floor at AC&G facility are at Tab 3.

16. The broken up concrete from the excavation of the floor and tank frame and the pit run excavated from below the floor of the facility was hauled away between April 9-10, 2017 from AC&G by SUPERIOR as part of the scope of work. SUPERIOR submitted an invoice for \$13,650 which was paid April 17, 2017 by cheque. A copy of the SUPERIOR invoice is at Tab 4

17. It was reasonably foreseeable to Mr. El-Bittar that the excavated concrete and pit run (“the excavated material”) was hazardous waste and must be disposed in accordance with an approval, a code of practice or a registration or as otherwise provided for under the *Environmental Protection and Enhancement Act* RSA c. E-12.

18. Mr. El-Bitar did not discuss disposal of excavated material with Loutfi Aboumrad at SUPERIOR as part of the scope of work. Mr. El-Bittar stated to the Investigator from *Alberta Environment and Parks* (AEP) on July 19, 2017 with reference to the disposal of the excavated material by Loutfi Aboumrad at SUPERIOR, “*he did the job and that’s it. ...I didn’t ask.... I thought he knows what he do*”. Mr. El-Bitar admits that he did not dispose of the excavated material in accordance with an approval, a code of practice or a registration or as otherwise provided for under the *Environmental Protection and Enhancement Act*.

The City of Calgary Lands

19. The Land located at 4304 MacLeod Trail Southwest, Calgary Alberta is a 25m by 25m undeveloped lot without vegetation or trees with a significant natural slope from west to east of approximately 3 m elevation. The Land is bordered to the north by a metal retaining wall and 42nd Avenue; an asphalt parking lot to the west used by the multi-tenant commercial building to the south and a commercial property, the Redag Centre, at 107 42 Ave SW, located immediately east at lower elevation.

20. At all material times the City of Calgary Lands was leased by the accused, AMARA INVESTMENTS CORP. (AMARA).

21. Without the knowledge or consent of the City of Calgary or pursuant to municipal permit, in September 2016 AMARA hired SUPERIOR to build up the Land with loads of imported fill to reduce the steep slope. Between October and November 2016 approximately 10-12 truckloads of gravel was collected from the Tsuu T'ina Reserve by SUPERIOR employees and graded over the Lands. Between April 9-10, 2017 SUPERIOR imported approximately 1 ½ to 2 truck loads of additional fill onto the Lands.

22. The 1 ½ to 2 loads of additional fill was pit run excavated by SUPERIOR between April 9-10, 2017 from below a chrome electroplating tank at AC&G located a few blocks from the City Lands. A SUPERIOR employee graded the imported pit run all "*over the top*" of the Lands.

Precipitation Event

23. On April 12-13, 2017 it rained in Calgary. As a result of the improper disposal of excavated material from AC&G by SUPERIOR the precipitation caused a yellow-green liquid to flow off the City of Calgary Lands onto the property of the Redag Centre. A yellowish green substance remained visible on the City Lands after the soil dried. Scene photos depicting the yellow green substance in the ground water and soil is are at Tab 5.

Investigation into Yellow-Green Substance

24. A 311 call was made to the City of Calgary on April 13, 2017. The Calgary Fire Department attended the City of Calgary Lands and observed the unknown yellow-green substance in the ground water and in the soil. On or about April 19, 2017, AEP became aware of the unknown yellow green substance on the City of Calgary Lands as well in the ground water flowing off the Lands onto the property of the Redag Centre. AEP commenced an investigation.

25. On April 26, 2017 Golder Associates Ltd. (Golder), environmental engineers, were retained to investigate the nature of the unknown substance. Through a series of subsurface investigations the yellow substance was confirmed on May 3, 2017 to be a chrome plating compound and widespread chromium impacts in the fill were present at concentrations that exceeded the Alberta (2016) Tier 1 Soil and Groundwater Remediation Guidelines for residential and/or commercial use. Investigations also revealed that some of the chromium-impacted soils were consistently elevated in total chromium and hexavalent chromium and classified as hazardous waste ⁶ due to leachable chromium concentrations and required disposal to a Class 1 hazardous waste landfill.

⁶ As defined in the *Environmental Protection and Enhancement Act* RSA c. E-12
pg. 5

26. The source of the hazardous waste on the City of Calgary Lands was the chromium-impacted soil excavated from AC&G which was imported and graded over the top of the Lands by SUPERIOR in April 2017.

27. The City of Calgary Lands is not a hazardous waste management facility⁷. At no time was Mr. El-Bittar was informed by Loutfi Aboumrad or by any employee of SUPERIOR of the intention and or decision to dispose of the excavated material onto the City of Calgary Lands. Mr. El-Bitar stated to the AEP Investigator on July 19, 2017 with reference to the excavated material consigned to SUPERIOR for disposal, that the [excavated material] “*should have gone to the right place... not to anybody’s property*”.

Reclamation of the Lands

28. Golder was hired by the City of Calgary to remediate the impacted lands. Over the period of May 30 to July 7, 2017 Golder supervised the remedial excavation works which resulted in the removal and off-site disposal of 1,350.3 tonnes of chromium-impacted soil to landfill, of which 728.7 tonnes was disposed as hazardous waste and the remaining 621.6 tonnes disposed as contaminated but non-hazardous waste. The excavation works extended over the entire area of the site. A Google map photo at Tab 8 depicts the condition of the City of Calgary Lands after remedial excavations were complete.

29. Confirmatory soil sampling verified that total and hexavalent chromium concentrations at the final extends of remedial excavation were below the applicable AB Tier 1 Guidelines.

30. The financial cost of the remediation to the City of Calgary was high.

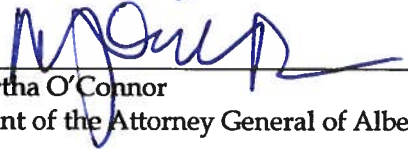
⁷ As defined in the *Environmental Protection and Enhancement Act* RSA c. E-12


Agreement

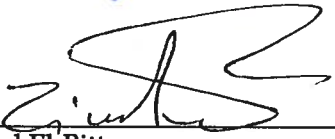
31. Ziad El-Bittar admits the facts set out above in support of the guilty plea to section 192 of the *Environmental Protection and Enhancement Act* RSA c. E-12, sentencing and a victim fine surcharge pursuant to section 8 of the *Victims of Crime Act*, RSA 2000 c. V-3 and section 2 of the *Victims of Crime Regulation*, AR 63-2004 RSA 2000 c. V-3.

ALL OF WHICH IS ADMITTED AS FACT,

DATED this ^{December} 11 day of October 2019 in Calgary, Alberta.


Martha O'Connor
Agent of the Attorney General of Alberta


Darius Bennett
Counsel for Ziad El-Bittar and Alberta
Chrome & Chrome Grinding (2001) Ltd.



Ziad El-Bittar
Accused

CRIMINAL CODE SECTION 606

606(1.1) A court may accept a plea of guilty only if it is satisfied that the accused:

- (a) Is making the plea voluntarily; and
- (b) Understands:
 - (i) That the plea is an admission of the essential elements of the offence
 - (ii) The nature and consequences of the plea, and
 - (iii) That the court is not bound by any agreement made between the accused and the prosecutor.

I ACKNOWLEDGE HAVING BEEN FULLY ADVISED OF THE ABOVE BY MY COUNSEL,


Ziad El-BITTAR
Accused

Environmental Assurance
Environmental Policy Branch

4th floor, 9820 - 106 Street
Edmonton, Alberta
Canada T5K 2J6

Telephone 780/427-0637
Fax 780/422-3625

July 15, 2005

File 73345-002 -94

Mr. Ziad El-Bittar
Alberta Chrome & Grinding Ltd.
4726 1 ST SE
Calgary AB T2G 2L3

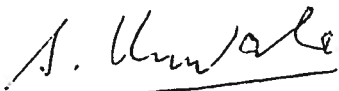
Dear Mr. El-Bittar:

Re: Hazardous Waste Consignor Registration

This letter is to confirm that your company has been issued the personal identification number **ABG12016** pursuant to Section 188 of the Alberta Environmental Protection and Enhancement Act. Please use this number as the Provincial I.D. Number required on the manifest form. It is imperative that this document is filled out by your company completely and correctly, in accordance with the Waste Control Regulation.

If you have any questions regarding the hazardous waste manifest form, please contact Ms. Lina Liew at (780) 427-0666.

Yours truly,



Sadiq Unwala, P. Eng.
Designated Director under the Act



TAB 2











05/08/2017 13:30



EQUIPMENT MANUFACTURING CORPORATION
SANTA FE SPRINGS CA 90670 (888) 833-9000

MODEL NO.	SERIAL NO.	CAPACITY		
240GSS	8651812			
V.A.C.	HZ.	PH.	FLA.	HP.
120	60	1	13	

WARNING

HOT ! ALLOW TO COOL BEFORE HANDLING MACHINE OR CONTENTS

THIS MACHINE IS INTENDED TO PROCESS WATER ONLY. USER IS SOLELY LIABLE FOR SUITABILITY OF OTHER LIQUIDS

USE ONLY NON-FLAMMABLE

05/08/2017 13:30



CHROMIUM DIOXIDE, ANHYDROUS
5.1, UN 1463 PG II



UN 1A2/Y80

CHROMIUM TRIOXIDE, ANHYDROUS
5.1, UN 1463 PG II



UN

SİŞECAM
MADE IN TURKEY

UN
RESTRICTED

CHROMIC ACID
Hazardous material, corrosive, toxic, oxidizing, flammable
CAS No: 1333-82-0

Substance Ident. No: 1463 UN 1463 PG II
Hazard Class: 5.1, 6, 8
Packaging Class: 1
Hazard Label Class: 1

MADE IN TURKEY
Net Weight: 150 kg

05/08/2017 13:28

UN 14

RESTRICTED TO PROFESSIONALS

Soda Sanayii A.Ş.
KROMSAN



CHROMIC ACID

KROMİK ASİT / CrO₃ / CHROMIUM TRIOXIDE, ANHYDROUS - (FLAKES)

Cas. No: 1333-82-0

EC No: 215-607-8

REACH Regist. Num.: 01-2119458868-17-0001

SUBSTANCE IDENT. NO.: 1463 [UN No. 1463], Packaging Group II

IMDG CLASS

: 5.1, EmS F-A, S-Q

ADR/RID CLASS

: 5.1(8)(6.1) OTC, II or only 5.1.

ICAO/IATA CLASS

: 5.1

PRODUCER: Soda Sanayi A.Ş. KROMSAN Krom Bileşikleri Fabrikası
P.O.B. 421 / 33003 Mersin / TÜRKİYE
PHONE: +90 324 241 66 00 pbx FAX: +90 324 451 34 40
WEB SITE: www.sodakrom.com

MARKETING BY: Soda Sanayi A.Ş. Yönetim Satış Merkezi İş Kuleleri Kule-3
34330 4 Levent / İstanbul / TÜRKİYE
PHONE: +90 212 350 50 50 pbx FAX: +90 212 350 59 58
E-MAIL: krom@sisecam.com

MADE IN TURKEY TÜRK MALI TS 2462

Net Weight : 50 Kg

05/08/2017 13:28



05/08/2017 13:29



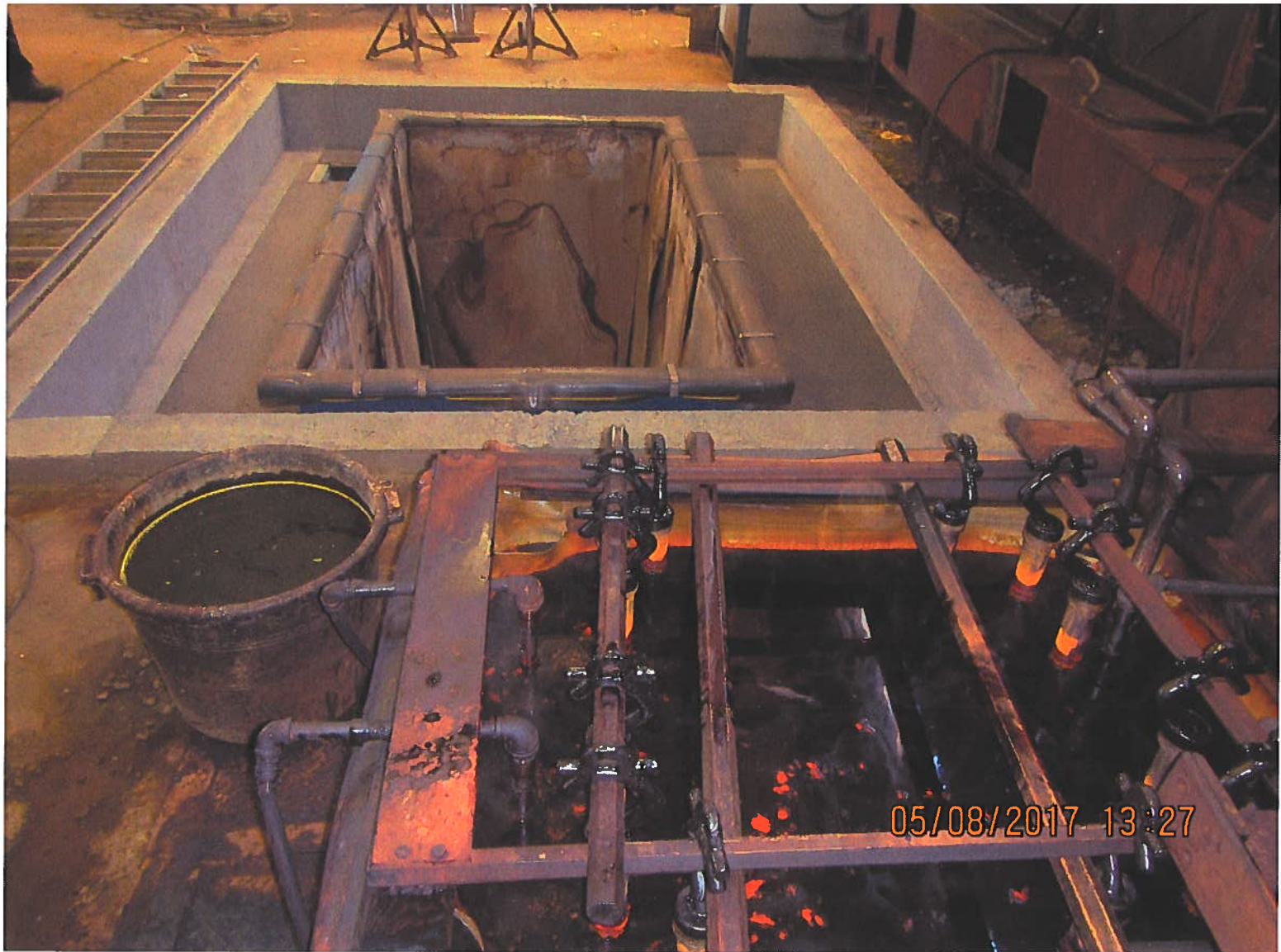
TAB 3



05/08/2017 13:26









Superior Concrete Systems Ltd.

147 Cedarille Green S.W.
Calgary, AB T2W 2H3

TAB 4

Invoice

Date	Invoice #
17/04/2017	2322

Invoice To
Alberta Chrome & Grinding Ltd. Ziad El-bittar 4726 1st Street SE, alberta T2G2L3 Canada

P.O. No.	Terms	Project

Qty	Description	Rate	Amount
1	A pit, Walls, and floor	13,000.00	13,000.00

POSTED

Sales Tax Summary

GST@5.0%	650.00
Total Tax	650.00

CHK # 11586.

Total	\$13,650.00
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GST/HST No.	871335642	Phone #	(403)262-1433	E-mail	superiorconcretesystems@hotmail...
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CSP000201-040

TAB 5



CSP000201-048



CSP000201-043

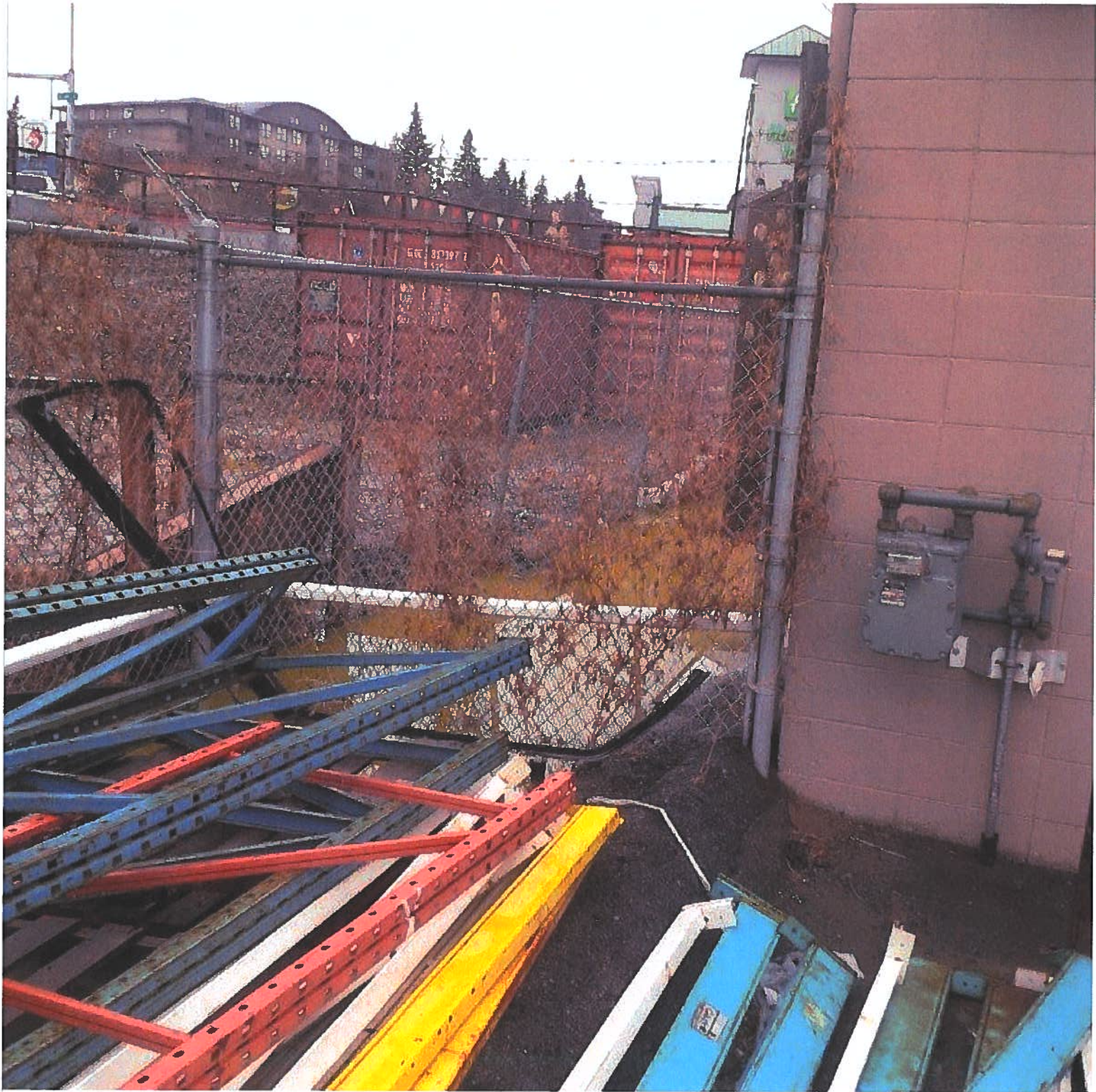


CSP000201-033











CSP000128-008





04/26/2017 14:31



04/26/2017 14:31





05/04/2017 10:52







05/05/2017 14:40