

SEARCH WARRANT ON WRITTEN AFFIDAVIT

COPY

UNITED STATES DISTRICT COURT

DISTRICT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

DOCKET NO. MAGISTRATE'S CASE NO.

v.
THE PREMISES KNOWN AS:
HANGAR 11, BUILDING A-465
CHINO AIRPORT
7000 MERRILL AVENUE
CHINO, CALIFORNIA

TO:
ANY SPECIAL AGENT(S) WITH
THE FEDERAL BUREAU OF
INVESTIGATION OR ANY OTHER
AUTHORIZED OFFICER

Affidavit(s) having been made before me by the below-named affiant that he/she has reason to believe that on the premises known as

SEE ATTACHMENT A

SFUND RECORDS CTR
2060835

in the Central District of California

there is now being concealed certain property, namely:

SEE ATTACHMENT B

and as I am satisfied that there is probable cause to believe that the property so described is being concealed on the person or premises above-described and the grounds for application for issuance of the search warrant exist as stated in the supporting affidavit(s).

YOU ARE HEREBY COMMANDED to search on or before ten (10) days
(not to exceed 10 days) the person or place named above for the property specified, serving this warrant and making the search (in the daytime--6:00 A.M. to 10:00 P.M.) * and if the property be found there to seize it, leaving a copy of this warrant and receipt for the property taken, and prepare a written inventory of the property seized and promptly return this warrant to the duty U.S. Magistrate Judge as required by law.

NAME OF AFFIANT

SIGNATURE U.S. MAGISTRATE JUDGE **

DATE/TIME ISSUED

SPECIAL AGENT ANNETTE FREIHON

RALPH ZAREFSKY

3/9/05 5:55 pm

a search is to be authorized "at any time in the day or night" pursuant to Federal Rules of Criminal Procedure Rule 69(b) if there is probable cause therefor.

Subscribed and sworn to before me on this day of March, 2005, at Chino, California, by me, _____, a United States Judge or Judge of a State Court of Record.

SA: WWC:se



ATTACHMENT A

The premises of Chino Airport, 7000 Merrill Avenue, Building A-465, Hangar 11, Chino, California, which is further described as a one-story beige corrugated metal building. A blue sign with white lettering that reads "A-465" appears on both the east and the west side of the building. The number "11" appears on a black sign with yellow numbers next to the door.

ATTACHMENT B

1. Records and materials relating to the unlawful storage of hazardous wastes, namely, hazardous wastes, namely, mercury, corrosives (i.e., low pH), ignitables, acetone, benzene, 2-butanone, ethyl benzene, xylene, and 4-methyl-2-pentanone (also known as methyl iso butyl ketone), without a permit, in violation of the federal Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(d)(2)(A), and failing to report the release of a hazardous substance, namely, radionuclides, including radium and radon, to the National Response Center, in violation of the federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9603(a) and (b). Such evidence includes the following:

a. Samples of hazardous substances and wastes, as well as gauges, dials, instruments, thermometers, and drums containing such pollutants, substances, and wastes; pumps, hoses, or any other mechanical devices capable of pumping, siphoning, spraying or discharging chemical solutions;

b. Documents and records relating to the purchase, production, storage, shipping, disposal, discharge, transportation, treatment, processing, acceptance, sampling or testing of any hazardous substances, chemicals, or wastes, or pollutants, including Uniform Hazardous Waste Manifests, labels, receipts, work orders, estimates, contracts, work logs, invoices, purchase orders, inventory records, company reports, audits, correspondence, notes, Notices of Violation ("NOVs"), manuals, sampling logs, quality assurance and quality control procedures, laboratory analytical results, laboratory certification documents, laboratory bench sheets or logbooks, permits or permit applications, documents to and from state and federal regulatory agencies, and copies of environmental statutes, rules, or regulations;

c. Documents and records indicating chemical ingredients and additives to hazardous products, solutions, substances, or wastes located at the premises, or regarding safety or health precautions to be used in the handling of any hazardous substances or wastes on the premises, including material safety data sheets ("MSDS"), material specification sheets, letters, memoranda, instructions, brochures, pamphlets, training materials, guidelines, reports, labels, plans, business plans, maps, and diagrams;

d. Documents and records tending to establish the identity of persons in control of HERITAGE AERO, INC. or PRESERVATION AVIATION, INC. the premises, and any storage areas or containers thereon, such as desks, drawers, or file cabinets, including corporate charters, corporate minutes, personnel records, payroll records, utility company receipts, rent receipts for premises, signs, articles of personal property, lists, records, files, correspondence, memoranda, notes, mail, bills, and other items of personal property tending to establish identity;

e. Documents and records regarding responsibilities of corporate officers, partners, management and employees of HERITAGE AERO, INC. and PRESERVATION AVIATION, INC. and identifying persons at HERITAGE AERO, INC. and PRESERVATION AVIATION, INC. who have been or are responsible for the treatment, storage, disposal or discharge of hazardous substances, wastes, or pollutants, including lists, records, files, correspondence, memoranda, notes, corporate charters, corporate minutes, employee records, time cards, job descriptions, payroll records, shift records, overtime records, training and performance evaluations, and directions to perform job-related tasks.

2. All of the documentation and records described above, whether stored on paper, computer, word processing, electronic, or video or magnetic media, such as tape, disk, diskette, or disk packs, and access to any computer in order to inspect and copy any computer or telephone tapes, disk, data, or print outs of the operation of any computer or telephone for the purpose of producing a copy, tape, or print out of the records described above, and authorization to seize, if necessary, any hardware, software, manuals, modems, cables, or other items necessary for the retrieval of such documentation and records and authorization to operate any and all machinery, equipment, hardware or software necessary to locate and/or seize the above described items.

AFFIDAVIT

I, Annette A. Freihon, being first duly sworn on oath, hereby states:

1. I am a Special Agent ("SA") of the United States Federal Bureau of Investigation ("FBI"), United States Department of Justice, located in Los Angeles, California. I have been employed as an agent for over 17 years. During my employment with the FBI, I have participated in numerous investigations of organized crime, bank robbery, narcotics, money laundering, violent crimes, and environmental crimes, involving physical surveillance, informants, cooperating witnesses, undercover transactions, execution of search warrants, and arrests. I am also currently a member of the Los Angeles Federal Environmental Crimes Task Force, which is a group co-chaired by the United States Environmental Protection Agency ("US EPA") and the United States Attorney's Office for the Central District of California, and comprised of various local, state, and federal law enforcement and regulatory officers. This task force is specifically designed and dedicated to the investigation and prosecution of state and federal environmental violations in the Southern California area. Other members of this task force include the California Department of Toxic Substances Control ("DTSC"), the Los Angeles County Fire Department, Hazardous Materials Control Program ("LACFD"), and the United States Coast

Guard.

2. This affidavit is made in support of an application for search warrants commanding any agent of the FBI, with appropriate assistance from the investigative and technical staff of US EPA, US Coast Guard Pacific Strike Team, San Bernardino County Fire Department, and San Bernardino County District Attorney's Office, to search the following four (4) premises: 1) a business known as HERITAGE AERO, INC. ("HERITAGE AERO") located at Building B-320, Hangar 12, at the Chino Airport, 7000 Merrill Avenue, Chino, California; 2) a business known as HERITAGE AERO located at Building A-460, Hangar 11, at the Chino Airport, 7000 Merrill Avenue, Chino, California; 3) a business known as HERITAGE AERO located at Building A-465, Hangar 11, at the Chino Airport, 7000 Merrill Avenue, Chino, California; and 4) the residence of JEFFREY PEARSON located at 5308 Pamela Kay Lane, Anaheim, California; which are further described in Attachment A of the search warrants. This affidavit is made solely to demonstrate probable cause for the requested warrants and does not purport to set forth all of my knowledge of or investigation into this matter.

3. The premises are believed to contain evidence of violations of the federal Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(d)(2)(A) (unlawful storage of hazardous wastes, namely, mercury, corrosives (i.e., low pH),

ignitables, acetone, benzene, 2-butanone, ethyl benzene, xylene, and 4-methyl-2-pentanone (also known as methyl iso butyl ketone), at a facility that does not have a permit) and the federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9603(a) and (b) (failing to report the release of a hazardous substance, namely, radionuclides, including radium and radon, to the National Response Center). This evidence includes samples of hazardous substances and wastes, as well as gauges, dials, instruments, thermometers, and drums containing such pollutants, substances, and wastes; pumps, hoses, or any other mechanical devices capable of pumping, siphoning, spraying or discharging chemical solutions; documents and records relating to the purchase, production, storage, shipping, disposal, discharge, transportation, treatment, processing, acceptance, sampling or testing of any hazardous substances, chemicals, or wastes, or pollutants, including Uniform Hazardous Waste Manifests, labels, receipts, work orders, estimates, contracts, work logs, invoices, purchase orders, inventory records, company reports, audits, correspondence, notes, Notices of Violation ("NOVs"), manuals, sampling logs, quality assurance and quality control procedures, laboratory analytical results, laboratory certification documents, laboratory bench sheets or logbooks, permits or permit applications, documents to and from state and federal regulatory

agencies, and copies of environmental statutes, rules, or regulations; documents and records indicating chemical ingredients and additives to hazardous products, solutions, substances, or wastes located at the premises, or regarding safety or health precautions to be used in the handling of any hazardous substances or wastes on the premises, including material safety data sheets ("MSDS"), material specification sheets, letters, memoranda, instructions, brochures, pamphlets, training materials, guidelines, reports, labels, plans, business plans, maps, and diagrams; documents and records tending to establish the identity of persons in control of HERITAGE AERO or PRESERVATION AVIATION, the premises, and any storage areas or containers thereon, such as desks, drawers, or file cabinets, including corporate charters, corporate minutes, personnel records, payroll records, utility company receipts, rent receipts for premises, signs, articles of personal property, lists, records, files, correspondence, memoranda, notes, mail, bills, and other items of personal property tending to establish identity; documents and records regarding responsibilities of corporate officers, partners, management and employees of HERITAGE AERO and PRESERVATION AVIATION, INC. ("PRESERVATION AVIATION") and identifying persons at HERITAGE AERO and PRESERVATION AVIATION who have been or are responsible for the treatment, storage, disposal or discharge of hazardous

substances, wastes, or pollutants, including lists, records, files, correspondence, memoranda, notes, corporate charters, corporate minutes, employee records, time cards, job descriptions, payroll records, shift records, overtime records, training and performance evaluations, and directions to perform job-related tasks; and further described in Attachment B of the search warrant.

A. Overview of Case

4. This investigation focuses on allegations that since at least 1998, and more recently, in 2004 and February 2005, JEFFREY PEARSON, owner and operator of PRESERVATION AVIATION located at 10800 Burbank Boulevard, North Hollywood, California (the "North Hollywood location"), and HERITAGE AERO, located at Building B-320, Hanger 12, Building A-460, Hanger 11, and Building A-465, Hanger 11, at Chino Airport, Chino, California, unlawfully stored hazardous wastes, namely, flammable liquids, corrosives (i.e., low pH), mercury, acetone, benzene, 2-butanone, ethyl benzene, xylene and 4-methyl-2-pentanone, on the premises of PRESERVATION AVIATION, INC. and HERITAGE AERO, INC. neither of which are permitted to store such wastes, in violation of RCRA, 42 U.S.C. § 6928(d)(2)(A). This investigation also focuses on allegations that PEARSON also failed to report the release of hazardous substances, namely, radionuclides such as radium and radon, in violation of CERCLA, 42 U.S.C. § 9603(a) and (b).

B. Federal Resource Conservation and Recovery Act ("RCRA") and Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

5. In my present assignment, I am also responsible for conducting investigations of alleged criminal violations of RCRA and CERCLA and the regulations promulgated thereunder. RCRA was enacted in 1976 as a Congressional response to the growing number of hazardous waste sites resulting from unregulated waste disposal practices. The object of RCRA includes, among other things, protection of human health and the environment through stringent regulation of the generation, treatment, storage, transportation, and disposal of hazardous waste. RCRA attempts to accomplish its objectives by creating a "cradle to grave" regulatory scheme designed to track hazardous waste from the point of generation until its final disposition.

6. RCRA requires US EPA to identify and list "solid wastes" which meet statutory definitions of "hazardous waste," 42 U.S.C. §§ 6903(5) and (27). Wastes are hazardous either by virtue of their characteristics, e.g., toxicity, ignitability, corrosivity, and reactivity (and are known as "characteristic" hazardous wastes), or by virtue of being specifically listed by US EPA. For example, a waste is considered a "toxic" hazardous waste if it, among other things, contains mercury in excess of 0.2 parts per million ("ppm"). 40 C.F.R. § 261.34. "Ignitable" hazardous wastes are those exhibiting a flashpoint below 60

degree Celcius (140 degrees Fahrenheit). 40 C.F.R.

§ 261.21. Under RCRA, acetone, benzene, 2-butanone, ethyl benzene, xylene, and 4-methyl-2-pentanone are considered an ignitable hazardous waste. 40 C.F.R. § 261.33. "Corrosive" hazardous wastes are those having a pH less than or equal to 2.0 or greater than or equal to 12.5. 40 C.F.R. § 261.22.

7. In addition, radionuclides, including radium and radon, are considered "hazardous substances" under CERCLA. 40 C.F.R. § 302.4. Releases of such substances in excess of one pound into the environment must be reported to the National Response Center. 40 C.F.R. § 302.6. The failure to report a knowing release of such substances is a felony violation under 42 U.S.C. § 9603(a) and (b).

8. The handling, storage, treatment, transportation, and disposal of hazardous waste are subject to regulations established by US EPA. The majority of these regulations, including those listing and identifying hazardous waste, were promulgated and became effective in 1980. Once a waste is listed or identified as hazardous, it is subject to these regulations. 40 C.F.R. 261.3. Listed or identified hazardous wastes must be transported to, treated, stored, or disposed of at facilities which have received permits properly issued pursuant to RCRA to handle such wastes. 42 U.S.C. §§ 6925 and 6926. These permitted facilities are commonly referred to as "TSDFs". RCRA permits

impose regulatory conditions specifically tailored and limited to the type of activity occurring at a particular facility.

Moreover, a facility may only handle those specific wastes and perform those activities authorized by its permit. 40 C.F.R. 264.

9. Under RCRA, the knowing storage of any hazardous waste without a permit constitutes a felony violation. 42 U.S.C. § 6928(d)(2)(A). Specifically, under RCRA regulations, a generator of hazardous waste is prohibited from storing on his premises any hazardous wastes that are, among other things, not properly containerized or labeled as "hazardous waste," and is not allowed to store such wastes on his premises for more than 90 days. 40 C.F.R. 262.34.

10. Under the provisions of RCRA, businesses that generate and handle hazardous waste are required to maintain records relating to the storage, treatment, disposal, and transportation of such wastes, including Uniform Hazardous Waste Manifests ("manifest"). RCRA requires that a generator of such wastes characterize all wastes to determine whether such wastes are hazardous and therefore, subject to regulation. If the wastes are found to be hazardous, the generator must then arrange for the proper transportation, treatment, storage, and disposal of any such waste in accordance with the statutes and applicable regulations. 42 U.S.C. § 6922. Hazardous waste that is

transported must be accompanied by a manifest, prepared by the generator, which includes, among other things, (1) the names and US EPA identification numbers of the generator, transporter and permitted receiving facility of the waste; (2) the quantity and type of hazardous waste; and (3) the number of containers in the shipment. Transporters must deliver the entire quantity of waste received from a generator to the permitted facility which is named on the manifest as the receiving facility or the alternate receiving facility designated on the manifest by the generator. A copy of the manifest remains with the generator when the shipment leaves the facility after it has been signed by the transporter. The transporter must then obtain the signature of a representative of the receiving facility on the manifest, and retain a copy of this manifest. A copy of the manifest with the signature of the transporter and the receiving facility must be returned to the generator. The purpose of this manifesting system is to allow the tracking of the waste from its point of generation to the point of final disposal. 42 U.S.C. § 6922; 40 C.F.R. § 263.

D. Factual Allegations

11. This affidavit is based on information I received from Robert Greger, Chief of Inspection, Compliance and Enforcement, California Department of Health Services, Radiologic Health Branch ("DHS"), and Robert Wise, On-Scene Coordinator ("OSC"),

Superfund Technical Assistance and Response Team ("START"), US EPA, as well as my review of files and records provided by those two individuals and others. Based on that information, I have probable cause to believe that PEARSON has unlawfully stored vintage and surplus aviation instruments, including radium-bearing and non-radium bearing dials, gauges, thermometers, and other instruments containing liquids contaminated with corrosive, ignitable, and mercury-bearing hazardous wastes, at both the North Hollywood location and Chino Airport without RCRA permits, and has failed to report releases of hazardous substances at those locations to the National Response Center. The hazardous wastes and substances were and continue to be commingled at those locations.

12. On February 24, 2005, I received the contents of files regarding PRESERVATION AVIATION and JEFFREY PEARSON from Robert Greger, DHS. These records contained a detailed chronology of events regarding the investigation of PEARSON, and copies of notices and letters sent to PEARSON. I have reviewed these materials, which include, among other things, the following information:

a. On August 17, 1998, a load of scrap metal alarmed a radiation detector at a metal waste facility in Sun Valley, California. The scrap metal hauler indicated that he received the metal from JEFFREY PEARSON at PRESERVATION AVIATION, located

at 10800 Burbank Boulevard, North Hollywood, California (the "North Hollywood location"). On August 25, 1998, representatives of DHS visited the North Hollywood location and discovered thousands of aviation gauges and meters (i.e., radium coated gauges, dials, and meters containing radium-activated luminous materials). (I understand that radium is a low-level radioactive material that was typically used to illuminate the face of older (i.e., World War II era) aircraft dials and gauges).

b. In October 1998, DHS conducted radiation surveys and tests at the North Hollywood location and found that the presence of radon posed a public health and safety concern. (I understand that radon is a by-product generated through the decay of radioactive materials, including radium). Additionally, there were an estimated 350,000 gauges or dials containing Radium-226 (a radioactive material) and its radioactive "daughter" nuclides at the site, many of which were leaking radium and were deemed to be "non-intact" (i.e., broken).

c. On November 18, 1998, DHS sent a letter to PEARSON, advising him that there were a large number of radioactively-contaminated objects at the North Hollywood location that had contaminated that site and the surrounding area. (It should be noted that the North Hollywood location is located in a residential area, with apartment buildings within approximately 50 feet of that site). DHS further advised PEARSON

that he needed a license from DHS to possess the "non-intact" radium gauges and meters, and that he needed to apply within 15 days from the date of the letter. PEARSON was also encouraged to dispose of all the radium gauges and meters, both intact and non-intact, and to decontaminate the North Hollywood location.

d. On December 22, 1998, DHS discussed the November 18 letter with PEARSON. During that conversation, PEARSON admitted that many of the radium gauges and meters were broken, but that he had no intention of applying for a license to possess them.

e. On February 8, 1999, DHS issued a Cease and Desist Order to PEARSON, based on the fact that he possessed radioactive material without a specific license to receive, possess, or transfer such materials. Results of analyses performed by DHS at the North Hollywood location indicated that radon readings inside the building were approximately 25 times the recommended health and safety action level and radioactive contamination by Radium-226 at levels approximately 14 times higher than the acceptable release level. The DHS order stated that the radon levels posed a continuing public health and safety emergency. PEARSON was therefore ordered to "cease and desist from removing, transporting, or otherwise transferring any non-intact instrument containing radium, or any other object which is contaminated with radioactive material."

f. On August 17, 2000, DHS sent PEARSON another letter requesting that he apply for a license, based on his failure to lawfully remove the radioactive material from the North Hollywood location in a timely manner.

g. On February 2, 2001, DHS issued another Cease and Desist Order to PEARSON, the owners of the North Hollywood location, and the former owner of PRESERVATION AVIATION (which had previously been known as Penn Air Parts). The order stated that the building at the North Hollywood location could not be used except to decontaminate or dispose of the radioactive material, that all non-intact radium gauges and meters had to be lawfully disposed of, and that a cleanup workplan had to be provided to DHS. PEARSON thereafter provided a cleanup workplan to DHS. PEARSON, however, did not discuss the matter with DHS as required, and continued to occupy the building.

h. On April 17, 2001, the oversight of the North Hollywood location was transferred from DHS to the Los Angeles County Department of Radiation Management ("LACRM").

i. On April 18, 2001, LACRM conducted an inspection of the North Hollywood location and found PEARSON still working at the site. At that time, PEARSON admitted that he had previously received the cease and desist order from DHS.

j. Sometime before September 1, 2001, PEARSON claimed that he relinquished his keys to North Hollywood location to the

owner of that property.

k. On April 15, 2002, US EPA received an anonymous complaint that PEARSON was removing objects (i.e., radium-bearing instruments) from the North Hollywood location and transporting them to a hangar he was leasing at the Chino Airport located in Chino, California.

l. On May 31, 2002 and July 1, 2002, DHS conducted radiation surveys at the Chino Airport in the area where the Airport's property manager believed PEARSON had leased a hangar. At that time, DHS instruments detected the presence of a source of radiation above normal background levels at Building 320, Hangar 12.

m. On July 3, 2002, DHS and the San Bernardino County District Attorney's Office served a state search warrant at Building B-320, Hangar 12. During the execution of that state warrant, "tens of thousands" of radium gauges and meters were observed, some of which were found to be non-intact. When PEARSON arrived at Hangar 12 during the service of the warrant, he did not deny that he was in possession of non-intact radium gauges and meters. PEARSON also said that he was receiving radium gauges and meters at his home, located at 5308 Pamela Kay Lane, Anaheim, California. At that time, PEARSON was verbally advised that he must cease to occupy Building 320, Hangar 12, and would not be permitted to remove radioactive objects items from

that site without prior DHS approval.

n. On July 5, 2002, DHS issued a written order to PEARSON to cease to occupy and use radioactively-contaminated objects located at Building 320, Hangar 12, due to the presence of between 1,000 and 10,000 radium gauges and meters, some of which were non-intact. The order also stated that DHS detected elevated radiation contamination levels detected inside Hangar 12. PEARSON was also ordered to de-contaminate Hangar 12 and submit a workplan to DHS regarding the disposal and cleanup of all non-intact radium gauges and meters. (Although PEARSON hired an environmental consultant, who began working at Hangar 12, the clean up of that hangar was never completed. No cleanup work has been done at Hangar 12 since approximately March 2003).

o. On March 17, 2004, LACRM sent PEARSON a letter requesting a written status report regarding the remediation of the North Hollywood location. PEARSON responded with a letter dated March 29, 2004, requesting access to the objects stored at the North Hollywood location.

p. On April 19, 2004, LACRM again sent PEARSON a letter requesting that he apply for a license if he wanted to continue to work with and store radium-activated luminous objects at the North Hollywood location.

q. On June 3, 2004, US EPA advised DHS that it intended to conduct an emergency response action at the North

Hollywood location.

r. On September 24, 2004, DHS conducted additional radiation surveys at Building 465, Hanger 11, and detected the presence of elevated levels of radiation.

s. On September 30, 2004, DHS entered Building 465, Hangar 11, and found approximately 2,000 radium gauges and dials, at least seven of which were not intact. At that time, PEARSON was issued a Notice of Violation ("NOV") for possessing the radioactive materials, and was told not to enter Hangar 11 without DHS approval. DHS saw an additional 6,000 to 7,000 gauges and meters inside Building 465, Hangar 11 that were not examined.

13. On March 2, 2005, Robert Wise, OSC, US EPA START, who was in charge of the 2004 clean up of the North Hollywood location, told me, among other things, the following:

a. On March 1, 2005, Wise contacted Tim Fallon of the Chino Development League, the lessor of the Chino Airport hangars. Fallon told Wise that PEARSON is currently leasing three hangars under the business name HERITAGE AERO. The hangars are located at 1) Building 320, Hangar 12; 2) Building 465, Hangar 11; and 3) Building 460, Hangar 11.

b. On February 23, 2005, the US EPA's Radiation and Indoor Environments National Laboratory Scanner Van (the "scanner van"), which is equipped to monitor gamma radiation levels in the

environment, passed by PEARSON's residence located at 5308 Pamela Kay Lane, Anaheim, California, and did not detect a source of gamma radiation above the measured background of the area.

c. On February 24, 2005, the US EPA scanner van conducted testing in the areas surrounding PEARSON's leased hangars at the Chino Airport. At that time, elevated levels of radiation were detected at Building 320, Hangar 12 and Building 465, Hangar 11. Specifically, the scanner van detected anomalous source of gamma radiation producing an emissions rate approximately 20 and four times above normal background levels at Buildings 465 and 320, respectively. No elevated radiation levels were detected outside of Building 460, Hangar 11.

d. Thousands of radium and non-radium gauges and meters were stored at the North Hollywood location and were commingled together. Both the radium and non-radium gauges and meters contain liquid vials. However, only the non-radium-bearing gauges and meters were opened and sampled, in order to prevent any additional radioactive contamination at the site. The liquid vials inside the non-radium gauges and meters were sampled. Mercury was detected inside the non-radium gauges and meters, as well as numerous thermometers and mercury switches. Wise estimated that approximately 5% of the gauges, meters, and other instruments stored at the North Hollywood location contained hazardous materials.

14. I have reviewed a report dated January 20, 2005, written by Gerlyn Perlas of the US EPA (START) relating to the laboratory analyses of samples taken from non-radium gauges, meters, and other instruments at the North Hollywood location, which states, among other things, the following:

a. Numerous gauges containing liquid vials were found during the START cleanup and removal action taken at the North Hollywood location. Some of the liquid vials found in non-radium-bearing gauges, meters, and instruments were sampled to determine whether any RCRA hazardous wastes were present on the site.

b. Laboratory analysis of nine liquid samples revealed the following:

i. Liquid samples taken on October 29, 2004, November 9, 2004, and November 11, 2004 were ignitable in that they had flashpoints of 33, 47.2, 23.5, 34.0, 28.2, 28.4, and 27.0 degrees Celsius. Two of those samples had pH levels of 1.09 and 14.1. Some of the samples also contained acetone, benzene, 2-butanone, ethyl benzene, xylene, and 4-methyl-2-pentanone.

15. On March 2, 2005, Kathleen Kaufman, Director, LACRM, told me, among other things, the following:

a. The LACRM and DHS repeatedly advised PEARSON in writing and verbally that he was unlawfully possessing non-intact radium gauges and meters at the North Hollywood location.

PEARSON, however, never advised DHS or LACRM that he was storing such objects in hangars at the Chino Airport.

b. After having received a cease and desist order from LACRM, PEARSON violated that order by continuing to work and store radium gauges, meters, and instruments at the North Hollywood location.

c. In violation of the LACRM's order, PEARSON failed to prepare and provide an acceptable workplan to clean up and decontaminate the North Hollywood location.

d. In 2002, Kaufman became aware of PEARSON's storage of radium gauges, meters, and instruments at the Chino Airport. Kaufman spoke with a consultant hired by PEARSON to perform some work at Building 320 at the airport. According to the consultant, however, PEARSON would not provide the funds needed to complete the clean up job at the airport, where materials are still stored.

e. PEARSON has been given the opportunity by both LACRM and DHS to cooperate with those agencies and clean up both the North Hollywood location and the Chino Airport.

f. Kaufman is familiar with radiation detection techniques. Based on her experience and training, she is of the opinion that the failure of a scanner van or radiation detection device to detect the presence of elevated levels of radiation does not necessarily mean that no source of radiation exists at a

particular location. Rather, in Kaufman's opinion, a radiation "hit" by a scanner van or radiation detection device means that the levels of radiation inside a particular building are extremely high.

16. On March 4, 2005, I spoke with Paul Baranich, of the California Department of Toxic Substances Control ("DTSC"), Surveillance and Enforcement Branch, who told me the following:

a. DTSC is authorized by US EPA pursuant to RCRA to enforce hazardous waste laws in California. This authorization includes the tracking of facilities and sites that are permitted under RCRA and the California Hazardous Waste Control Act to treat, store, and dispose of hazardous waste.

b. Baranich caused the permit records and files of DTSC relating to PRESERVATION AVIATION and HERITAGE AERO to be reviewed and after a diligent search, determined that neither PRESERVATION AVIATION or HERITAGE AERO are licensed as transfer, storage, or disposal facilities which are permitted by DTSC or US EPA to store hazardous waste.

17. On March 7, 2005, Robert Wise, OSC, US EPA START, told me, among other things, the following:

a. Tim Fallon of the Chino Development League told Wise that PEARSON has rented hangars at the Chino Airport since at least 1998 under the name PRESERVATION AVIATION, INC. Fallon also stated that in approximately 2001, PEARSON changed the name

of his business to HERITAGE AERO, INC. Fallon also provided Wise with copies of checks signed by PEARSON for the payment of rent on the hangars.

b. (Wise provided me with copies of PEARSON's checks dated during the period May 1998 through September 2001, that are payable to Chino Development League and bear the names PRESERVATION AVIATION, INC. and HERITAGE AERO, INC., with an address of 5308 Pamela Kay Lane, Anaheim Hills, California.

18. On March 5, 2005, I drove to the Chino Airport located at 7000 Merrill Avenue, Chino, California, and saw the following:

a. The premises of Building B-320, Hangar 12 are a two-story grey corrugated metal building. A blue sign with white lettering that reads "B-320" appears on both the east and the west side of the building. The number "12" is written in black to the left of a white door. There is a small sign on the door with a red radiation symbol.

b. The premises of Building A-460, Hangar 11 are a one-story beige corrugated metal building. A blue sign with white lettering that reads "A-460" appears on both the east and the west side of the building. The number "11" appears on a black sign with yellow numbers next to the door.

c. The premises of Building A-465, Hangar 11 are a one-story beige corrugated metal building. A blue sign with white lettering that reads "A-465" appears on both the east and

the west side of the building. The number "11" appears on a black sign with yellow numbers next to the door.

19. On March 8, 2005, I drove by the premises of 5308 Pamela Kay Lane, Anaheim Hills, California, and saw the following:

a. Those premises are a single-story family residence. On the premises is a yellow house with a red tile roof, green trim, stone facade, and a white garage door. The numbers "5308" appear in green on the front of the house. The numbers "5308" are also painted in black on the front curb. There is also a security gate at the front entrance to the house.

21. On March 9, 2005, Robert Wise told me the following:

a. Wise contacted the National Response Center and determined that during the period 1998 through the present, PEARSON had not reported any releases of hazardous substances.

b. Wise recently went onto the Internet and searched for PRESERVATION AVIATION and HERITAGE AERO. Wise found a link to HERITAGE AERO, but was unable to open or access that website. It appeared to Wise that HERITAGE AERO's website was no longer operating. Wise, however, also went onto a website known as "Hangar Talk" and noted that a person named JEFFREY PEARSON was making comments on or about March 5, 2005.

c. On March 8, 2005, Wise went to the North Hollywood location and used field instruments to detect mercury in the

gauges and meters remaining at that location. The instruments detected the presence of mercury in those gauges and meters.

22. Based on my training and experience, as well as my discussions with other investigators involved in the investigation of environmental violations, I am aware that businesses involved in the generation, handling, treatment, storage, and disposal of hazardous substances and hazardous wastes typically create and maintain records relating to such activities. In addition, as noted above, state and federal laws require that certain records and documents be maintained regarding such regulated activities. I therefore have probable cause to believe that records relating to such activities, as well as the persons involved in such activities, will be found on the premises to be searched, including: documents and records relating to the purchase, production, storage, shipping, disposal, discharge, transportation, treatment, processing, acceptance, sampling or testing of any hazardous substances, chemicals, or wastes, or pollutants, including Uniform Hazardous Waste Manifests, labels, receipts, work orders, estimates, contracts, work logs, invoices, purchase orders, inventory records, company reports, audits, correspondence, notes, Notices of Violation ("NOVs"), manuals, sampling logs, quality assurance and quality control procedures, laboratory analytical results, laboratory certification documents, laboratory bench sheets or

logbooks, permits or permit applications, documents to and from state and federal regulatory agencies, and copies of environmental statutes, rules, or regulations; documents and records indicating chemical ingredients and additives to hazardous products, solutions, substances, or wastes located at the premises, or regarding safety or health precautions to be used in the handling of any hazardous substances or wastes on the premises, including material safety data sheets ("MSDS"), material specification sheets, letters, memoranda, instructions, brochures, pamphlets, training materials, guidelines, reports, labels, plans, business plans, maps, and diagrams; documents and records tending to establish the identity of persons in control of HERITAGE AERO or PRESERVATION AVIATION, the premises, and any storage areas or containers thereon, such as desks, drawers, or file cabinets, including corporate charters, corporate minutes, personnel records, payroll records, utility company receipts, rent receipts for premises, signs, articles of personal property, lists, records, files, correspondence, memoranda, notes, mail, bills, and other items of personal property tending to establish identity; documents and records regarding responsibilities of corporate officers, partners, management and employees of HERITAGE AERO and PRESERVATION AVIATION and identifying persons at HERITAGE AERO and PRESERVATION AVIATION who have been or are responsible for the treatment, storage, disposal or discharge of

hazardous substances, wastes, or pollutants, including lists, records, files, correspondence, memoranda, notes, corporate charters, corporate minutes, employee records, time cards, job descriptions, payroll records, shift records, overtime records, training and performance evaluations, and directions to perform job-related tasks.

23. Based on my training and experience, and familiarity with investigations involving the unlawful storage and handling of hazardous wastes and substances gained in part through my discussions with experts at the DTSC, US EPA, LACRM, and DHS, I have probable cause to believe that hazardous wastes and substances are presently being unlawfully stored on the premises located at 1) Building B-320, Hangar 12; 2) Building A-465, Hangar 11; and 3) Building A-460, Hangar 11. I also have probable cause to believe that the records and documents described here-in-above will also be found on the premises located at 1) Building B-320, Hangar 12; 2) Building A-465, Hangar 11; 3) Building A-460, Hangar 11; and 4) 5308 Pamela Kay Lane, Anaheim, California.

24. Based on my experience and training, I am also aware that persons and businesses handling hazardous wastes and substances use computers to conduct their business and therefore, store records and documents electronically. I therefore have probable cause to believe that some of the records described

here-in-above will be stored and maintained electronically on the premises to be searched.

25. Based on the foregoing, I believe that there is probable cause to support the issuance of search warrants for premises located at 1) Building 320 Hangar 12 at Chino Airport, California; 2) Building 465, Hangar 11 at Chino Airport, California; 3) Building 460, Hangar 11 at Chino Airport, California, and 4) 5308 Pamela Kay Lane, Anaheim, California. that there is probable cause to believe that these premises contain evidence of violations of 42 U.S.C. § 6928(d)(2)(A) and 42 U.S.C. § 9603(a) and (b).

ANNETTE A. FREIHON
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
on this 9th day of March, 2005.

RALPH ZAREFSKY
UNITED STATES MAGISTRATE JUDGE