



California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair.



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Arnold Schwarzenegger
Governor

21 March 2007

Kent Hein
Sierra Energy/Toms Sierra
1020 Winding Creek Road #100
Roseville, CA 95678

FINAL CLEANUP AND ABATEMENT ORDER R5-2007-0706, SLIC CASE #SLT5R966, TOMS SIERRA COMPANY, INC., DBA SIERRA ENERGY, QUINCY, PLUMAS COUNTY

Enclosed for your review is the final version of Cleanup and Abatement Order on the subject petroleum pollution site. This Order requires Toms Sierra Company, Inc., dba Sierra Energy to perform the following:

By 16 April 2007, assist with public participation tasks; notify potentially affected landowners, facilitate public comments, survey off-site property owners, compile an interested parties list and related maps. Perform follow-up tasks upon request.

By 16 April 2007, submit a Work Plan and time schedule for a screening level Health Risk Assessment.

By 1 October 2007, submit a Corrective Action Plan as required in Title 23 California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2725. **By 30 November 2007**, implement the work plan in accordance with the approved time schedule, which shall become part of this Order.

By 2 October 2007, meet with Regional Water Board staff and other identified local Dischargers to discuss identified pollutant extent, evidence of commingling plumes, vertical pollution conduits, further threatened sensitive receptors, if any, and appropriate work plans to address remaining data gaps.

Failure to comply with the enclosed Order may result in further enforcement action pursuant to Section 13350 of the California Water Code, which may result in civil liabilities of up to five thousand dollars (\$5,000) to fifteen thousand dollars (\$15,000) per day for each violation. In addition, the Board may seek injunctive relief by authorizing the Attorney General to petition the Superior Court for an injunction requiring compliance with the Order. The Court may grant a prohibitory injunction stopping all activities until compliance is achieved.



In order to conserve paper and postage, paper copies of this Order are only being provided to the Discharger. Electronic copies are available on the Regional Board's Internet site at <http://www.swrcb.ca.gov/rwqcb5/>. Those without internet access can request a copy by contacting Regional Board staff. If you have any questions, please contact Eric Rapport of my staff at (530) 224-4998 or the letterhead address.

Original signed

JAMES C. PEDRI, P.E.
Assistant Executive Officer

EJR: sae

cc: Pamela Creedon, Regional Board, Sacramento
Frances McChesney, Regional Board, Sacramento
Mike McNamara, P.E., California Department of Health Services, Redding
Jerry Sipe, Plumas County Environmental Health Department, Quincy
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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2007-0706

FOR

TOMS SIERRA COMPANY, INC., DBA SIERRA ENERGY,

188 CRESCENT STREET
QUINCY, PLUMAS COUNTY

This Order is issued to Toms Sierra Company, Inc. dba Sierra Energy (hereafter Discharger) based on provisions of California Water Code section 13304, which authorizes the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Water Board) to issue a Cleanup and Abatement Order (Order), and Water Code section 13267, which authorizes the Central Valley Water Board to require preparation and submittal of technical and monitoring reports.

The Regional Water Board Executive Officer finds, with respect to the Discharger's acts or failure to act, the following:

INTRODUCTION

1. Toms Sierra Company, Inc., dba Sierra Energy (Sierra Energy), Blue Star Petroleum, Inc., dba Warner's Chevron (Warner's Chevron), and Washoe Fuel, Inc., a Nevada corporation dba Allied Washoe (Allied Washoe) own three parcels on Crescent Street in Quincy, California (Assessors Parcel Numbers 115-012-032, 115-011-040, and 115-080-002 respectively), as shown on Attachment 1 which is attached to this Order. The Quincy Community Services District Norton Well (Norton Well), Spanish Creek Motel private well (Spanish Creek Motel Well), Quincy Community Services sanitary sewer (sanitary sewer), Cold Stream, and Spanish Creek are nearby.
2. Petroleum from the three identified parcels shown on Attachment 1 has discharged from underground and aboveground storage tank systems to soil and groundwater. The extent of petroleum pollution resulting from each discharge has not been fully investigated beyond parcel boundaries. Related pollution from each subject parcel threatens at least one of the following receptors: the Norton and Spanish Creek Motel wells, the sanitary sewer, and surface water.
3. While preliminary evidence suggests some petroleum-based waste constituents may migrate in groundwater from Warner's Chevron toward Sierra Energy, this Order only addresses wastes from Sierra Energy. Cleanup and Abatement Order No. R5-2007-0707 requires cleanup only of wastes from Warner's Chevron. Cleanup and Abatement Order No. R5-2007-0705 requires cleanup only of wastes from Allied Washoe. If new information indicates that wastes discharged from the sites has commingled, amendments to some or all of these three Orders may be necessary.

**PROPERTY OWNERSHIP AND OPERATIONS
SIERRA ENERGY (APN 115-012-032)**

4. Based on a Sanborn Fire Insurance map, as of 1929 Standard Oil Company (Standard Oil) operated a bulk fueling facility with aboveground storage tanks on the parcel now known as Plumas County Assessor's Parcel Number 115-012-032, about 0.539 acres, Section 14, Township 24 North, Range 9 East, Mount Diablo Baseline and Meridian.
5. On 6 January 1977, in a corporation grant deed, Standard Oil granted the parcel and fixtures to Chevron U.S.A., Inc., a California Corporation (a wholly owned subsidiary of Standard Oil Company of California), and its successors and assigns. On 14 April 1980, Chevron U.S.A., Inc. granted and transferred the parcel, and improvements to George Robert Pierce and Elinor Estelle Pierce, husband and wife, as joint tenants. A 23 May 1986 affidavit shows Elinor Estelle Pierce died. On 29 July 1986, George Robert Pierce, president of Sierra Butte Petroleum, Inc., a California Corporation, granted the parcel to Toms Sierra Company, Inc.
6. Toms Sierra Company, Inc. dba Sierra Energy (Sierra Energy) currently distributes petroleum on the parcel from a bulk plant facility at 188 Crescent Street with nine aboveground storage tanks (ASTs) ranging 3,000 to 20,000 gallons in capacity. Total capacity is 117,000 gallons, however, one 10,000-gallon tank is empty. Products include gasoline, diesel fuel, kerosene, hydraulic oil, bar and chain oil, and motor oil. Sierra Energy formerly distributed petroleum fuel from two 5000-gallon underground storage tanks (USTs); these reportedly held motor oil, diesel fuel, and gasoline. Sierra Energy stored heating oil in a 500-gallon UST. Sierra Energy also handles waste oil. In 1991, Sierra Energy closed the 5,000-gallon USTs in place and filled them with inert material under Plumas County Department of Environmental Health (PCDEH) permit. In 1992, Sierra Energy removed the heating oil tank under PCDEH supervision.
7. In 1992, PCDEH reported petroleum in soil near the former heating oil UST. In 1996, Regional Water Board staff inspected the facility and saw non-compliance with Chapter 6.67, California Health and Safety Code sections 25270 to 25270.13, the Aboveground Petroleum Storage Act (APSA). In 2000, Sierra Energy over-excavated polluted soils at a former waste oil storage area under PCDEH supervision. In 2001, Sierra Energy similarly over-excavated polluted soils near an overhead loading rack. On 7 June 2002, staff inspectors found further APSA non-compliance. On 15 October 2002, Sierra Energy filed an underground storage tank unauthorized leak contamination (leak) report with PCDEH on the inert 5000-gallon USTs. Sierra Energy is subject to this Order because it caused or permitted, causes or permits, or threatens to cause or permit, the discharge of waste where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance.

BACKGROUND

8. The site, a bulk fueling facility since around 1929, has shown related pollution since 1992; see Findings 4, 6, and 7. On 13 March 1992, PCDEH reported 250 milligrams/Kilogram (mg/Kg) of total petroleum hydrocarbons (TPH, unspecified

range) at 6 feet below grade surface (bgs) from the 550-gallon heating oil UST removal site. They requested the Regional Water Board guide them on appropriate further investigation. On 23 February 1996, staff inspected the bulk plant for APSA compliance. The secondary containment had an incomplete concrete floor and an open valve that allowed discharge to surface water.

9. On 27 July 2000, Sierra Energy excavated about 80 cubic yards of soil at a former waste oil storage area. At 5 feet bgs, maximum TPH as oil and grease, diesel, and gasoline (TPH-o&g, TPHd, and TPHg), were, in milligrams/Kilogram (mg/Kg), 1,700, 4,000, and 76. Maximum Benzene was 0.11 mg/Kg. In 2001, Sierra Energy over-excavated soils at a 50-gallon gasoline spill near the loading rack under PCDEH supervision.
10. Pollution has impacted local receptor wells. In Summer 2000, the Quincy Community Services District (CSD) shut down the Norton Well due to taste and odor complaints. On 16 January 2001, a CSD contractor sampled headspace gas from the Norton Well; results showed volatile organic compounds, Methane, Toluene, and Acetone, but no natural gas constituents, hydrogen sulfide, or mercaptans. On 2 May 2001, the CSD found 3.1 micrograms/Liter (ug/L) of MtBE in the Norton Well. On 30 May 2001, Allied Washoe found 2.4 ug/L of MtBE in the Spanish Creek Motel well. On 11 July 2001, the CSD again found MtBE at 3.3 ug/L in the Norton Well. Currently, the Norton Well is inactive. The Spanish Creek Motel reportedly uses their well for irrigation.
11. Sierra Energy is about 175 feet east of the Norton Well and about 300 feet southeast of the Spanish Creek Motel Well. Therefore, on 28 May 2002 staff requested Sierra Energy to submit a work plan for a soil and groundwater investigation on their parcel for MtBE and other petroleum pollutants. Also, on 27 June 2002, staff further inspected the bulk plant for APSA compliance. While the large containment was fully paved, the facility lacked an amended SPCC Plan. The plan lacked containment calculations and on-site drainage in petroleum storage areas. ASTs lacked periodic integrity testing. Site security and warning signs were inadequate. The truck unloading area containment was eroded. The drainage valve in the large secondary containment was unlocked. An uncapped pipe ran from the ASTs into a nearby drainage ditch. On 12 November 2002, Sierra Energy submitted a site upgrade work plan to comply with APSA. Staff has not commented on the plan.
12. On 11 September 2002, soil samples from 5 feet bgs near the inert 5000-gallon USTs had maximum TPH-g, TPH-d, and TPH-o&g at 3.5, 4.6, and 24 mg/Kg, Benzene, Ethylbenzene, and Xylenes at 0.040, 0.012, and 0.027 mg/Kg, and MtBE at 1.2 mg/Kg. Therefore, Sierra Energy filed an underground storage tank unauthorized leak contamination (leak) report with PCDEH. On 2 October 2002, groundwater samples from four piezometers near the inert 5000-gallon USTs showed TPH-g to 1,000 ug/L, Benzene, Ethylbenzene, and Xylenes to 7.4, 14, and 15 ug/L, and MtBE to 5,000 ug/L. On 29 December 2002, shallow monitoring well S-1 near these tanks began showing similar concentrations, along with TPH-g and TPH-d at 2,000 and 38,000 ug/L. On 1 October 2002, groundwater samples on-site from cone penetrometer borings showed

MtBE at depth, for example 19 ug/L at 98 feet bgs. Preliminary groundwater data indicated Sierra Energy's pollution threatened identified receptor wells.

13. On 21 May 2003, in part due to identified impacts to receptor wells, staff requested Sierra Energy to submit a work plan for further investigation and a coordinated pumping test with Warner's Chevron and Allied Washoe. See Attachment 2, a site map. The pumping test ran in September and October 2003. While shallow monitoring wells showed declining water levels, intermediate and deep wells M-1, D-1, D-2, and D-3 showed drawdown in response to pumping; see Attachment 3. Quarterly shallow groundwater data from 21 August 2003 to 8 November 2004 showed chronic pollution; for example well S-1 showed Benzene and MtBE in all samples, ranging 56 to 260, and 1,200 to 6,300 ug/L respectively. Tert-Butyl Alcohol (TBA) occurred sporadically in S-1, up to 200 ug/L. Intermediate well M-1, relatively nearest the Norton Well, showed consistent MtBE, from 1.3 to 2.4 ug/L.
14. On 12 August 2004, staff requested a work plan for further site investigation. At that time, as a voluntary action with no approved plan, Sierra Energy trenched and sampled around the inert 5000-gallon USTs (see Finding 6) in effort to apply for State Water Resources Control Board UST Cleanup Fund (USTSF) claim. Field crews saw likely free petroleum product, mostly diesel, in shallow soil. Laboratory results confirmed such petroleum leakage near associated piping and dispensers; soils showed TPH-d, TPH-g, Benzene, and MtBE to 23,000, 20, 0.31, and 0.21 mg/Kg. On 11 August 2004, groundwater in nearby well S-1 showed TPH-d, TPH-g, Benzene, and MtBE at 4,800, 1,300, 52, and 1,200 ug/L. On 22 September 2004, Sierra Energy recommended an Interim Remedial Action Plan, further investigation and source cleanup, for example air sparge and soil vapor extraction. However, shallow native soils are clayey silts counter-indicating proposed cleanup methods; staff does not concur with the plan. On 14 October 2004, the USTCF declared Sierra Energy's claim ineligible in part because the 1991 UST closures in place do not comply with Section 2672 (c) California Code of Regulations, and in part because pollution in groundwater may correlate either to the inerted USTs or other on-site sources (e.g., ASTs). Staff concurs with the USTCF; insufficient data demonstrate a solely UST-related discharge.
15. In November 2006, Quincy CSD expressed to California Department of Health Services (DHS) an interest in re-starting the currently inactive, but open, Norton Well. On 19 December 2006, the Regional Water Board Executive Officer issued an advisory to Quincy CSD not to re-start the Norton Well. The advisory also expressed potential concerns that the inactive well could act as a vertical pollution conduit. On 10 January 2007, a DHS representative and staff met with Quincy CSD; DHS concurred with the advisory and, in lieu of re-starting the well, suggested Quincy CSD apply for a \$1 million treatment and research grant for water supply alternatives. Alternatives may include, but are not limited to, a formalized DHS-approved contract between East Quincy and Quincy, and replacement water supply wells.
16. On 19 January 2007, staff met with Sierra Energy, Warner's Chevron, and Allied Washoe to discuss draft versions of Orders and information in Finding 15. All parties, potentially responsible for MtBE detections in the Norton Well, expressed willingness to

cooperate with Quincy CSD. All parties also agreed to submit letters of commitment with appropriate dates to comply with Requirements herein. On 20 February 2007, in an e-mail from their legal counsel Sierra Energy concurred with staff on appropriate dates; compliance dates for requirements in this Order consider the Discharger's e-mail.

17. As described in Findings 8 through 14, Sierra Energy is responsible for cleanup of waste under this Order because it caused or permitted, cause or permit, or threaten to cause or permit, the discharge of waste where it is, or probably will be, discharged into the waters of the state and create, or threaten to create, a condition of pollution or nuisance. Based on Findings 15 through 16 Quincy CSD is not named in this Order because no evidence indicates its actions caused or exacerbated waste discharge, or interfered with investigation and cleanup. . Based on current Regional Water Board record, Standard Oil Company, Chevron U.S.A., Inc., George Robert Pierce and Elinor Estelle Pierce, and Sierra Butte Petroleum, Inc., a California Corporation (Findings 4 and 5) are not named in this Order because no evidence indicates their operations caused or exacerbated waste discharge. The Regional Water Board may amend this Order if new evidence identifies additional responsible parties for the waste.

AUTHORITY – LEGAL REQUIREMENTS

18. Section 13304(a) of the California Water Code provides that:

“Any person who has discharged or discharges waste into waters of the state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”

19. Section 13304(f) of the California Water Code provides that:

“Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state and local drinking water standards and shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste”

20. Section 13267(b)(1) of the California Water Code provides that:

“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or

monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

21 Section 13304(c)(1) of the California Water Code provides that:

“If waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any government agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. . .”

22. The State Water Resources Control Board (hereafter State Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*. This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, California Code of Regulations (CCR) Section 2550.4. Any alternative cleanup level to background must

- (1) be consistent with the maximum benefit to the people of the state;
- (2) not unreasonably affect present and anticipated beneficial use of such water; and
- (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.

23. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which sets forth the Regional Water Board’s policy for managing contaminated sites. This policy is based on Water Code Sections 13000 and 13304, Title 23 California Code of Regulations (CCR), Division 3, Chapter 15, and Title 27, Division 2, Subdivision 1 regulations, and State Water Board Resolution Nos. 68-16 and 92-49. The policy includes site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.

24. The State Board adopted the *Water Quality Enforcement Policy*, which states in part:

“At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the RWQCB allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the CAO should require the discharger(s) to abate the effects of the discharge. Abatement activities may include the provision of alternate water supplies.” (Enforcement Policy, p. 19.)”

25. The Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The designated beneficial uses of the groundwater beneath the Site are domestic, municipal, industrial, and agricultural supply.
26. The petroleum hydrocarbon wastes detected at the site are not naturally occurring, and some are known human carcinogens. These wastes impair or threaten to impair the beneficial uses of the groundwater.
27. WQOs listed in the Basin Plan include numeric WQOs, e.g., state drinking water maximum contaminant levels (MCLs), and narrative WQOs, including the narrative toxicity objective and the narrative tastes and odors objective for surface and groundwater. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that "[w]here compliance with narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Regional Water Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives." Testing of petroleum hydrocarbons has identified a number of constituents that are not present in groundwater unaffected by the discharge and that could exceed a narrative WQO. All of these are constituents of concern. The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

Constituent	Limits	WQO	Reference
Total Petroleum Hydrocarbons as Gasoline	5 ug/L	Tastes and Odors	McKee & Wolf, <i>Water Quality Criteria</i> , SWRCB, p. 230
Total Petroleum Hydrocarbons as Diesel	56 to 140 ug/L	Toxicity	USEPA, Provisional Oral Reference Doses and Slope Factors, JP-4, JP-5, and Diesel Fuel
Benzene	0.15 ug/L	Toxicity	California Public Health Goal (OEHHA)
Toluene	42 ug/L	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylbenzene	29 ug/L	Taste and Odor	Federal Register, Vol. 54, No. 97
Xylene	17 ug/L	Taste and Odor	Federal Register, Vol. 54, No. 97
MTBE	5 ug/L	Taste and Odor	Federal Register, Vol. 54, No. 97
TBA	12 ug/L	Toxicity	California Notification Level (DHS)

ug/L=micrograms/Liter

28. The constituents listed in Findings 8 through 14 are wastes as defined in California Water Code Section 13050(d). The groundwater exceeds the WQOs for the

constituents listed in Finding No. 27. TPHg, TPHd, BTEX, MtBE, and TBA all exceed related numerical limits. The exceedance of applicable WQOs in the Basin Plan constitutes pollution as defined in California Water Code Section 13050(l)(1).

29. The constituents listed in Finding No. 28 are present in groundwater due to the disposal of wastes from the Site, are injurious to health or impart objectionable taste and odor when present in drinking water, and affect a considerable number of persons. As such, a condition of nuisance is created, as defined in California Water Code Section 13050(m).

DISCHARGER LIABILITY

30. As described in Findings 7 and 17, the Discharger is subject to an order pursuant to Water Code section 13304 because the Discharger has caused or permitted waste to be discharged or deposited where it has discharged to waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup or abatement order pursuant to Water Code Section 13304 is appropriate and consistent with policies of the Water Board.
31. This Order requires investigation and cleanup of the site in compliance with the Water Code, the applicable Basin Plan, Resolution 92-49, and other applicable plans, policies, and regulations.
32. As described in Findings 7 and 17, the Discharger is subject to an order pursuant to Water Code section 13267 to submit technical reports because existing data and information about the site indicate that waste has been discharged, is discharging, or is suspected of discharging, at the property, which is or was owned and/or operated by the Discharger named in this Order. The technical reports required by this Order are necessary to assure compliance with Section 13304 of the California Water Code, including to adequately investigate and cleanup the site to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.
33. If the Discharger fails to comply with this Order, the Executive Officer may request the Attorney General to petition the superior court for the issuance of an injunction.
34. If the Discharger violates this Order, the Discharger may be liable civilly in a monetary amount provided by the Water Code.
35. The issuance of this Order is an enforcement action taken by a regulatory agency and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Title 14 CCR Section

15321(a)(2). The implementation of this Order is also an action to assure the restoration of the environment and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Title 14 CCR, Sections 15308 and 15330.

36. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with Title 23 CCR Sections 2050-2068. The regulations may be provided upon request and are available at www.swrcb.ca.gov. The State Board must receive the petition within 30 days of the date of this Order.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13000, Section 13304 and Section 13267, Toms Sierra Company, Inc. dba Sierra Energy shall:

Investigate the discharges of waste, clean up the waste, and abate the effects of the waste, forthwith, resulting from activities at Assessor's Parcel Number 115-012-03, 188 Crescent Street, Quincy, Plumas County, in conformance with State Board Resolution No. 92 - 49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* and with the Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV). "Forthwith" means as soon as is reasonably possible. Compliance with this requirement shall include, but not be limited to, completing the tasks listed below.

All work and reports shall follow the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* (which may be found at http://www.waterboards.ca.gov/centralvalley.available_documents/ug_tanks/Tri-Regionals_Appendix_A.pdf) and under permits required by State, County, and/or Local agencies.

PUBLIC PARTICIPATION

1. **By 16 April 2007**, facilitate the Regional Water Board's duty to notify landowners of property where constituents from a pollution release are present and to provide opportunity for public comment on the site cleanup process, conduct an Off-Site Property Owner Survey (Survey). Conduct the Survey by obtaining the property owner names and mailing addresses, the mailing addresses of all business and residences on the properties, and assessors' parcel numbers for all properties overlying soil and groundwater where constituents from the pollution release are present and all properties adjacent to parcels where constituents from the release are present. Submit the data in a table or spreadsheet. Include assessor's parcel maps for the properties and a map depicting the extent of impacted groundwater. The three parties listed in Finding 1 are encouraged to work cooperatively on the Survey; upon Regional Water Board request, follow-up tasks may include, but are not limited to, mailing of appropriate fact sheets to interested parties, and coordinating public meetings.

HEALTH RISK ASSESSMENT

2. **By 16 April 2007**, submit a Work Plan and time schedule for performing a screening level Health Risk Assessment to assess potential human health risks associated with chronic exposure to contaminated drinking water, worker exposure to pollutants in the local sanitary sewer, worker exposure to contaminated soil, and worker exposure to subsurface vapor intrusion into indoor air. Site-specific exposure pathways from source to potential receptors shall include, but are not limited to:
- Norton, Spanish Creek Motel, and any other relevant identified water supply wells, both static and pumping
 - Sanitary sewer system, from private and public underground utilities, and farther, to the processing plant, as warranted
 - Spanish Creek and tributary drainage ditch on western facility boundary, soils in stream bank and groundwater discharge
 - Indoor air in facility warehouses and office

Regarding indoor air, the Work Plan shall be prepared in conformance with Department of Toxic Substances Control's "Guidance for Evaluation and Mitigation of Subsurface Vapor Intrusion to Indoor Air" (Interim Final, February 7, 2005). The Dischargers shall complete this Assessment in accordance with the work plan and the approved time schedule, which shall become part of this Order.

CORRECTIVE ACTION PLAN

3. **By 1 October 2007**, submit a Corrective Action Plan (CAP) that provides a summary of remedial alternatives evaluated to address applicable cleanup levels for the affected or threatened human health and/or waters of the State. The Corrective Action Plan shall propose at least two remedial technologies that have a substantial likelihood to achieve cleanup of all impacted soils and groundwater and shall include a schedule for achieving cleanup. The remedial technologies must be evaluated with respect to their ability to be implemented, cost, and effectiveness. The Corrective Action Plan shall include the rationale for selecting the preferred remedial alternative Corrective Action Plan as required in Title 23 California Code of Regulations, Division 3, Chapter 16, Article 11, Section 2725. Such rationale may include, but is not limited to, estimates of recoverable free phase product, sorbed and mobile pollutant mass, native biodegradation, and permeability trends. The Discharger shall attempt to clean up each constituent to background concentrations, or to the lowest level that is technically and economically achievable and which complies with all applicable WQOs of the Basin Plan and promulgated water quality criteria.

ABOVEGROUND PETROLEUM STORAGE TANK FACILITY

4. **By 1 October 2007**, submit an *Upgrade Work Plan (Work Plan)* to bring the facility into current compliance with Chapter 6.67 of the California Health and Safety Code. A qualified California Registered Civil or Mechanical Engineer must certify the work plan.

5. **By 30 November 2007**, implement the work plan in accordance with the approved time schedule, which shall become part of this Order.

REMEDIATION

6. Within **60 days** of Regional Water Board staff's approval of the CAP **but no later than 30 November 2007**, begin implementation of the approved remedial actions.
7. Submit for remediation system(s), **Monthly Status Reports** for the first three months of operation of any new systems. At a minimum, the monthly status reports shall include:
- site maps indicating the capture zone and waste plumes,
 - average extraction rates of all treatment systems,
 - influent and effluent concentrations of TPHg, TPHd, Benzene, Toluene, Ethylbenzene, Xylenes, MtBE and other fuel oxygenates
 - mass of hydrocarbons treated during the reporting period and cumulative to date,
 - estimated mass of wastes remaining and predicted time frame for meeting cleanup objectives,
 - running and down time for the remediation system(s),
 - summary of consultant visits to the site, and evaluation of the overall remediation program and recommendations to correct deficiencies or increase efficiency.
8. The Discharger shall ensure that cleanup methods cause no further migration of the waste constituents in groundwater. If monthly or quarterly sampling results indicate further migration of petroleum waste constituents beyond the treatment volume, the Discharger shall include **with the second status report** a proposal to correct the condition. The proposed actions shall be completed **within 60 days** of staff approval of the proposal
9. Monitor and sample **quarterly** all monitoring wells for TPHg, TPHd, Benzene, Toluene, Ethylbenzene, total Xylenes, seven fuel oxygenates (MtBE and others), dissolved oxygen, oxidation-reduction potential, pH, Iron II, nitrate, sulfate, and Methane until otherwise directed in writing by the Executive Officer or her representative(s). Also sample **quarterly** domestic wells potentially threatened by the waste discharge for drinking water analytical methods of full list volatile organic compounds. Method Detection Limits (MDLs) shall be derived by the laboratory for each analytical procedure, according to State of California laboratory accreditation procedures. The MDLs shall reflect the detection capabilities of the specific analytical procedure and equipment used by the lab, rather than simply being quoted from USEPA analytical method manuals. In relatively interference-free water, laboratory-derived MDLs are expected to closely agree with published USEPA MDLs.
10. Submit **Quarterly Status Reports** by the 1st day of the second month after the calendar quarter in which the samples were collected. The first quarter report is due **1 May**, the second quarter report is due **1 August**, the third quarter report is due **1 November**,

and the fourth quarter report is due **1 February**. Quarterly reports are to include the information specified in *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites*. Regional Water Board staff will review Quarterly Status Reports for adequacy relative to further site investigation and cleanup. Based on such reviews, the Regional Water Board Executive Officer may, at her discretion, issue additional site-specific monitoring and reporting requirements, which would become part of this Order.

FURTHER SITE ASSESSMENT

11. **By 2 October 2007**, meet with Regional Water Board staff and representatives of Allied Washoe and Warner's Chevron to discuss identified pollutant extent relative to each site, evidence of commingling plumes, vertical pollution conduits, and further threatened sensitive receptors, if any, and appropriate work plans to address remaining data gaps. Such plans shall include a sufficient number of soil, soil vapor, and groundwater samples to further determine the lateral and vertical extent of waste constituents, including but limited to, TPHg, TPHd, TPH o&g, Benzene, Toluene, Ethylbenzene, Xylenes, fuel oxygenates, organic lead, lead scavengers, and poly-aromatic hydrocarbons for complete site characterizations. Work plans shall contain the information in Appendix A, and include a time schedule for implementation, both of which will be made part of this Order.

GENERAL REQUIREMENTS

12. Continue to reimburse the Regional Water Board for reasonable costs associated with staff oversight of investigation and cleanup. Failure to do so shall be considered a violation of this Order.
13. All work and reports shall generally follow the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* (Appendix A - Reports) and under permits required by State, County, and/or Local agencies.
14. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, have appropriate reports prepared by, or under the supervision of, a registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Discharger shall include a cover letter signed by the Discharger, or an authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Discharger shall also state if it agrees with any recommendations/proposals and whether they approved implementation of said proposals.
15. Upon startup of any remediation system(s), operate the remediation system(s) continuously, except for periodic and required maintenance or unpreventable equipment failure. The Discharger shall notify the Water Board within 24 hours of any unscheduled shutdown of the remediation system(s) that lasts longer than 48 hours. This notification

shall include the cause of the shutdown and the corrective action taken (or proposed to be taken) to restart the system. Any interruptions in the operation of the remediation system(s), other than for maintenance, emergencies, or equipment failure, without prior approval from Regional Water Board staff or without notifying the Regional Water Board within the specified time is a violation of this Order. Within 7 working days of a shutdown, the Discharger shall submit a Technical Report containing at a minimum, but not limited to the following information:

- times and dates equipment were not working,
 - cause of shutdown,
 - if not already restarted, a time schedule for restarting the equipment, and,
 - a Cleanup Assurance Plan to ensure that similar shutdowns do not reoccur. Proposed Cleanup Assurance Plans are to be completed within 30 days of the system shutdown.
16. Notify Regional Water Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.
 17. Obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.
 18. Continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient cleanup has been accomplished to fully comply with this Order and this Order has been either amended or rescinded in writing.
 19. Optimize remedial systems as needed to improve system efficiency, operating time, and/or waste removal rates, and report on the effectiveness of the optimization in the quarterly reports.
 20. Maintain a sufficient number of monitoring wells to completely define and encompass the waste plume(s). If groundwater monitoring indicates the waste in groundwater has migrated beyond laterally or vertically defined limits during the quarter, then the quarterly monitoring reports must include a work plan and schedule, with work to begin within thirty days of Regional Water Board staff approval, to define the new plume limits.
 21. Submit all written reports and analytical results to the Regional Water Board and electronic copies of all reports and analytical results over the Internet to the State Water Board Geographic Environmental Information Management System database (GeoTracker) at <http://geotracker.swrcb.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Board's web site.
 22. If, for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the Discharger may request, in writing, an extension of the time specified. The

extension request shall include justification for the delay. An extension may be granted by revision of this Order.

23. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement.
24. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

This Order is effective upon the date of signature.

Original signed

JAMES C. PEDRI, P.E., Assistant Executive Officer

21 March 2007

(Date)

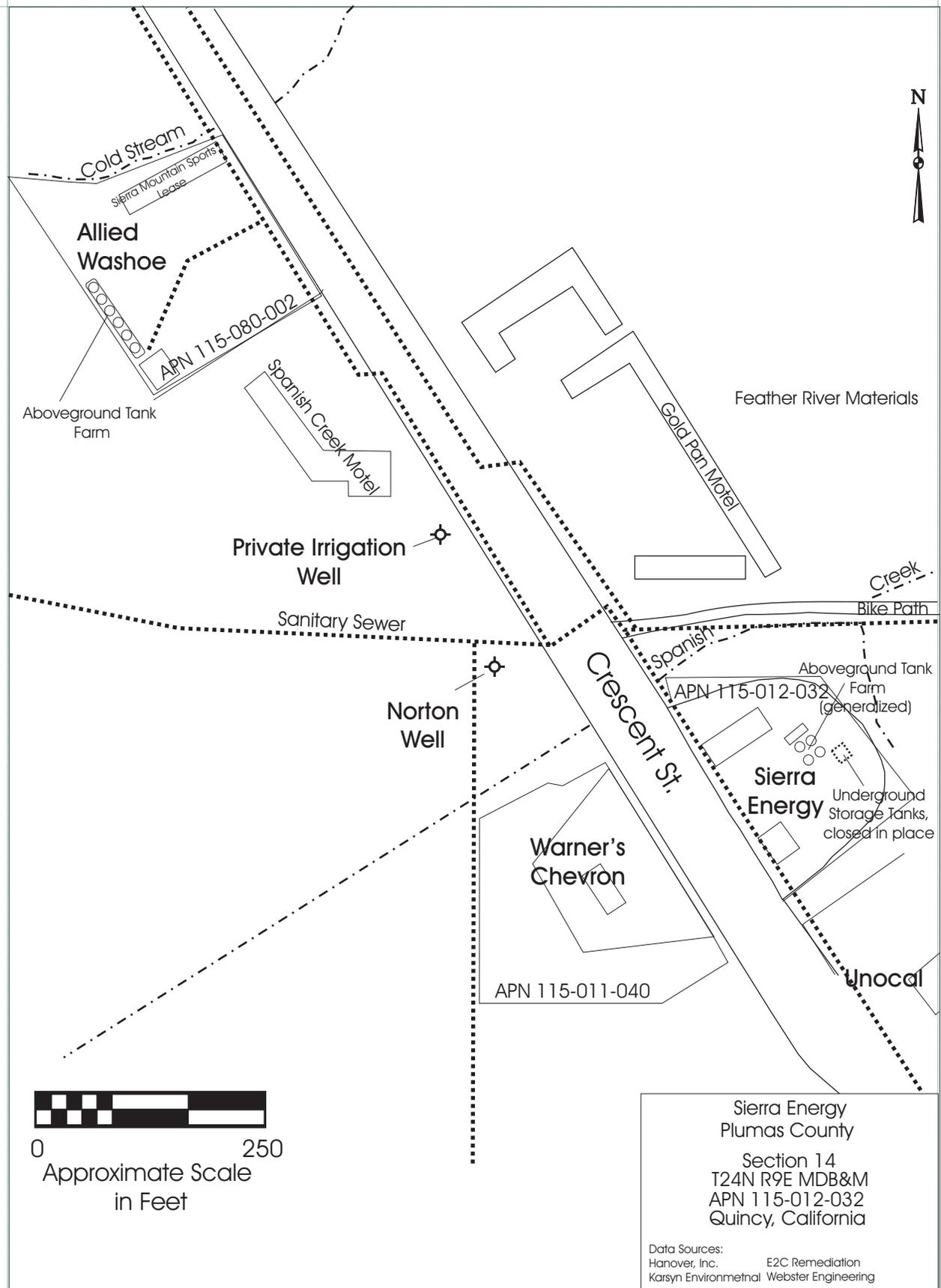
Attachment 1: Vicinity Map

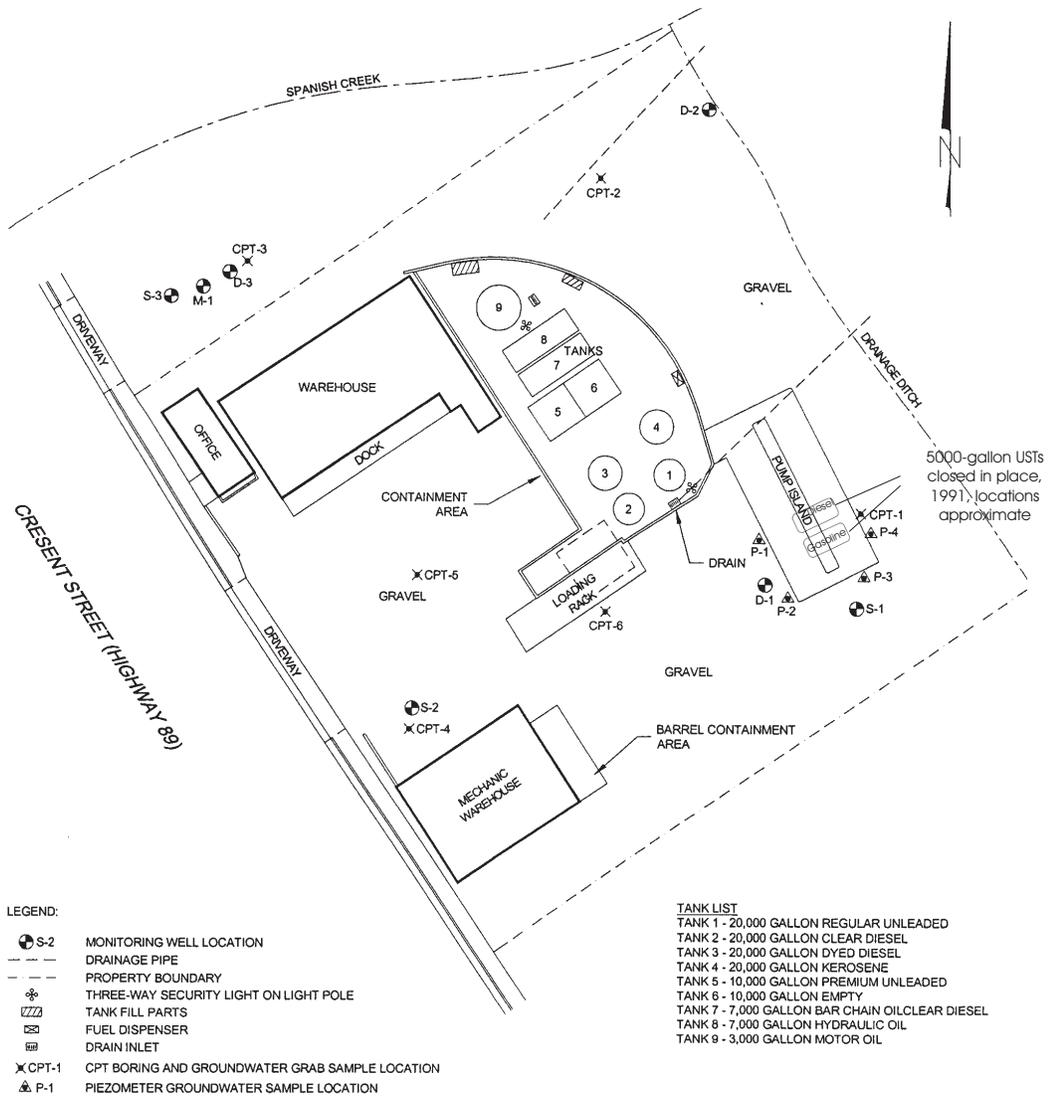
Attachment 2: Site Map

Attachment 3: Plot, Drawdown over Time, Sierra Energy monitoring wells

EJR: sae

3/21/07





Sierra Energy
 Plumas County
 Section 14
 T24N R9E MDB&M
 APN 115-012-032
 Quincy, California

Data Sources:
 Karsyn Environmental
 E2C Remediation

