

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

CLEANUP AND ABATEMENT ORDER NO. R7-2012-0043

ISSUED TO

ESCHER OIL COMPANY

Coachella – Riverside County

This Cleanup and Abatement Order (CAO or Order) is issued pursuant to Section 13304 of the California Water Code (CWC), Section 13223 of the CWC, which authorizes the Executive Officer of the California Regional Water Quality Control Board, Colorado River Basin Region (Regional Water Board) to issue this Order, and Section 7 of the CWC, which authorizes the Executive Officer to delegate these powers and duties to the Assistant Executive Officer. Accordingly, the Assistant Executive Officer finds that:

1. Mr. Leo Escher, owner of Escher Oil Company (EOC), hereinafter referred to as the Discharger, 72-713 Beavertail, Palm Desert, CA 92260, owned a 2.67 acre property site containing Above Ground Storage Tanks (ASTs), Underground Storage Tanks (USTs), assorted buildings, loading docks, and parking areas.
2. Mr. Escher sold this property in February 2006 to Mark R. Sprouse, Lee M. Osborne, and Stanley G. Paxon. In 2008, the property was sold to Beck Oil, Inc.
3. EOC is the former landowner and site operator, and is the primary responsible party for the purpose of cleaning up and abating the pollution at this property based on Regional Water Board records that document various petroleum spills having occurred when EOC was the owner and site operator.
4. The site address is 85-119 Avenue 50, Coachella, and is located in Riverside County, California, Section 5, T6S, R8E (latitude 33.6858 /longitude -116.11290).
5. The local land use in the immediate area is commercial/industrial.
6. The Regional Water Board records indicate that the site may have been established in the 1950s, and may have originally had eight ASTs and eight USTs.
7. The Regional Water Board records indicate the groundwater beneath the site has been adversely impacted for over 25 years by petroleum hydrocarbons. Despite modest efforts to cleanup and abate the pollution of on-site hydrocarbon impacted soils, the groundwater remains polluted by previous EOC on-site operations, including a significant amount with free product of petroleum hydrocarbons. The nature and vertical and lateral extent of groundwater contamination is yet to be fully characterized, and EOC is yet to start remediating the impacted groundwater.
8. A site assessment report, dated May 11, 2011, was submitted by EOC's current consultant, EnviroApplications, Inc. (EAI), to the Regional Water Board. This report indicates the presence of Liquid Petroleum Hydrocarbons product (LPH or free product) in groundwater monitoring wells P-1, P-2, and EOC-5b with significant thicknesses up to 2.08 feet.

9. California Code of Regulations (CCR), Title 23, Division 3, Chapter 16, Article 5, Section 2655 states: "Free product shall be removed in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site".
10. Site remediation of EOC is overseen by the Regional Water Board under the Site Cleanup Program (SCP), pursuant to an agreement EOC entered into with the Regional Water Board to reimburse the Board for staff oversight costs, as authorized by Section 13365 of the CWC.

SITE BACKGROUND

11. The EOC facility was originally a bulk distribution operation offering wholesale and retail petroleum sales. Fuels were dispensed at a variety of locations throughout the site supplied by an AST farm located on the east central portion of the property. The Discharger has reported that the site is currently occupied by a refueling station and above ground storage tank (AST) facility (Beck Oil, Inc.). In 1986, EOC contracted with Cal Petro, Inc., to remove eight unused USTs from the site for possible resale. Regional Water Board files indicate that only two soil samples were taken from the excavation of the eight USTs, but there was no documentation whether the samples were ever submitted for laboratory analysis. Currently, eight ASTs remain at the site.
12. The Regional Water Board records indicate that between 1988 and 2007 numerous site assessment activities were conducted, including groundwater monitoring and sampling at varying intervals, and installation of 11 groundwater monitoring wells (MWs), 13 exploratory borings, 23 hydropunch borings, and a soil vapor extraction system (SVE). Kahl Environmental, EOC's consultant at that time, recommended in a report dated January 30, 2006, entitled "Remediation Status and 3rd and 4th Quarters 2005 Groundwater Monitoring Report," that the SVE system be decommissioned due to its opinion that the system had recovered all that was reasonably expected possible. Accordingly, later that year (2006), the SVE system was dismantled and removed from the site. Three groundwater MWs were also destroyed during this time period after they went dry due to a lowering of the groundwater table.
13. Recent site assessment activities reported in May and June 2011 by the Discharger include the installation of three groundwater MWs in 2009, and one groundwater MW in 2011. Following the installation of these wells, intermittent LPH removal and groundwater monitoring activities of all accessible site wells have been conducted.
14. The Discharger has caused or threatened to cause the discharge of LPH into the waters of the state of California and has created or threatens to create a condition of pollution or nuisance.
15. Section 13304(a) of the CWC states in relevant part:

"Any person . . . who has caused or permitted, causes or permits, or threatens to cause or permit, any waste to 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"

16. The Water Quality Control Plan for the Colorado River Basin Region of California (Basin Plan) was adopted on November 17, 1993, and designates the beneficial uses of ground and surface waters in the region.
17. The Discharger reports that groundwater is found at this site at a depth of 26.01 to 26.78 feet below ground surface (bgs). Based on 2011 groundwater elevation data, the estimated groundwater flow direction is to the southeast with an average hydraulic gradient of approximately 0.04 ft/ft.
18. Surface waters in the area include agricultural canals and drains.
19. The site is located within the Indio Hydrologic Sub Area (719.47 HSA) of the Coachella Hydrologic Area (719.40 HA) of the Whitewater Hydrologic Unit (719.00 HU).
20. The beneficial uses of groundwater in this unit are:
 - a. Municipal (MUN)
 - b. Agricultural (AGR)
 - c. Industrial (IND)
21. The beneficial uses of the surface waters in this area are:
 - a. Agricultural (AGR)
 - b. Recreation (REC)
 - c. Warm freshwater habitat (FRSH)
 - d. Wildlife habitat (WILD)
 - e. Rare and endangered species (RARE)
22. Soils contaminated with elevated levels of hydrocarbons, as described in Finding 7 above, threaten to impair the beneficial uses of the waters of the State of California.
23. In accordance with Section 13304(c)(1) of the CWC, 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 governmental agency, the person or persons who discharged the waste within the meaning of subdivision (a) of Section 13304 are liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising the cleanup or abatement activities, or taking other remedial action.
24. This enforcement action, which is being taken for the protection of the environment, is categorically exempt from the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), pursuant to Section 15308, Title 14, California Code of Regulations (CCRs) of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.). This enforcement action is also categorically exempt from CEQA pursuant to CEQA Guidelines section 15321(a)(2).

25. Section 13267(b)(1) of the CWC 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 for the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.”

26. The technical reports required by this Order are necessary to assure compliance with this Order. Existing data and information about the site indicate that waste has been discharged or is discharging at the site, which was previously owned and operated by the Discharger.
27. The Regional Water Board heard and considered all comments pertaining to this matter in a public meeting held on June 21, 2012, in the Town of Yucca Valley, California.
28. Any person affected by this action of the Regional Water Board may petition the State Water Board to review the action in accordance with CWC Section 13320 and Title 23, CCRs, Section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m. within 30 days after the date of this Order, except that if the thirtieth day following the date of the Order falls on a Saturday, Sunday, or state holiday, the petition must be received by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at http://www.waterboards.ca.gov/public_notices/petitions/water_quality/index.shtml or will be provided upon request.

IT IS HEREBY ORDERED, that pursuant to Sections 13267 and 13304 of the CWC, the Discharger shall prepare technical reports and shall clean-up or abate the constituents described in Findings 7 and 8 of this CAO by complying with the following:

1. Removal of LPH in the vicinity of P-1, P-2, and EOC-5b **shall commence immediately** and continue to the maximum extent practicable irrespective of the length of time required to achieve this result.
2. **By September 15, 2012**, submit a Site Investigation and Characterization work plan to define the lateral and vertical extent of contamination, including a proposed revised groundwater monitoring network, its proposed monitoring frequency, and specific constituents of concern (COCs) to be monitored.
3. **By October 15, 2012** upon Executive Officer (EO) acceptance of the Site Investigation and Characterization work plan, begin implementation of: (a) the approved work plan to characterize the site and to define the lateral and vertical extent of contamination and; (b) the approved revised groundwater monitoring.

4. **By February 15, 2013**, submit a Site Assessment Report including the results of implementing the Site Investigation and Characterization work plan under Order 3.
5. **By April 15, 2013**, submit a technical report in the form of a Feasibility Study describing current site conditions and proposed remedial alternatives, identifying preferred alternatives, and evaluating feasibility of cleanup of each COC to background levels or to levels technically and economically feasible.
6. Within 30 days following EO acceptance of the Feasibility Study, submit a Remedial Action Plan (RAP), describing preferred alternatives including time schedule for implementation.
7. Within 45 days of EO acceptance of the RAP, implement the approved preferred remedial alternative.
8. Submit Quarterly progress reports beginning **October 15, 2012**. The schedule for submitting quarterly reports is listed below:

Quarterly Report Due Dates

1st Quarter – April 15th

2nd Quarter – July 15th

3rd Quarter – October 15th

4th Quarter – January 15th

9. In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of California registered professionals (i.e., civil engineer, engineering geologist, geologist, etc.) competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professionals, even if not explicitly stated. Each technical report submitted by the Discharger shall contain a statement of qualifications of the responsible licensed professionals as well as the professional's signature and/or stamp of the seal. Additionally, all field activities are to be conducted under the direct supervision of one or more of these professionals.
10. All technical reports required in conjunction with this Order are required pursuant to Section 13267 of the CWC, and shall include a statement by the Discharger, or an authorized representative of the Discharger, certifying under penalty of perjury under the laws of the State of California, that the report is true, complete, and accurate.

11. The Regional Water Board reserves its right to take any enforcement action authorized by law. Accordingly, failure to timely comply with any provisions of this Order may subject the Discharger to further enforcement action. Such actions include, but are not limited to, the assessment of civil liability pursuant to CWC Sections 13323, 13268, and 13350, a Time Schedule Order pursuant to CWC Section 13308, or referral to the California Attorney General for recovery of judicial civil liability.

I, Robert Perdue, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on June 21, 2012.


ROBERT PERDUE
Executive Officer